

Commerce Department
Planning Division

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting

May 18, 2006

7:00 P.M.

County Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval/Correction April 2006 Minutes
3. New Business – Planning Board Function:
 - A. Preliminary Subdivision Plat Approval
 1. Petition C06-02 (S)
Hartsell Brothers – The Bluffs at Mill Bridge
 - B. Zoning Atlas Amendment
 1. Petition C06-04 (R)
Louie Thomas Looper, Jr.
4. Director's Report
5. Adjournment

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
Thursday, May 18th, 2006

Petition: C2006-02 (S) Preliminary Plat Approval

Subdivision Name: The Bluffs at Mill Bridge

Subdivision Type: Conventional Residential Subdivision

Applicant Information: Hartsell Brothers
12407 Old Camden Road
Midland, NC 28107

Zoning: CR – Countryside Residential

Township: Number 10 - Midland

Property Location: Along US HWY 601

PIN#: 5547-94-5464, 5547-84-1179, 5547-83-1974, and 5547-73-9954

Proposed Lots: 20

Area in Acres: +/- 52.11

Site Description: The site is currently vacant and wooded.

Adjacent Land Uses: Surrounding properties are vacant, wooded, or residential in nature.

Surrounding Zoning: The subject property is surrounded by CR-Countryside Residential.

Infrastructure: The proposed subdivision will be served by private wells and septic tanks.

Exhibits:

1. Site Map
2. Preliminary Plat
3. List of Permitted Uses
4. School Adequacy Worksheet
5. Comments Received

Code Considerations: The CR-Countryside Residential district is a low density residential zoning district. Development standards are:

- Principal Setbacks
Front- 50 feet

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
Thursday, May 18th, 2006

Side- 10 feet minimum, 40 feet total
Rear- 30 feet

- Accessory use setbacks are the same as principal setbacks
- Minimum average lot width- 150 feet
- Maximum building height- 40'
- Maximum impermeable surface- 20%
- Maximum structural coverage- 15%
- Lots range in size from 2 acres to 2.9 acres

Adequate Public Facilities: **Cabarrus County Schools- Robert Klutz:** Schools that serve this area are inadequate at this time. Please see attached school adequacy worksheet for details.

Soil and Erosion Control- Thomas Smith: The applicant will be required to submit soil and erosion plans before commencing any land-disturbing activities.

NCDOT- Ritchie Hearne: The proposed driveway access location is permissible. A right turn lane with 100 feet storage will be required as part of the access permitting process.

WSACC- Tom Bach: Since wastewater collection will be through septic systems, the capital recovery fee does not apply.

City of Concord Engineering Department - Sue Hyde: The developer is not requesting any public utility service. This area is not in Concord's five-year annexation area, but does fall within their service area.

Cabarrus County Fire Marshall's Office- Steve Langer: The applicant will be required to submit plans showing utilities prior to construction. Should the applicant pursue the gated community option, the preference is for a siren-activated gate-opening device for emergency access.

Staff Analysis: Staff finds that the proposed subdivision meets all the development standards of the Cabarrus County Subdivision Ordinance.

Staff Recommendation: Staff recommends *Approval* of The Bluffs at Mill Bridge subdivision. Should the Planning Commission grant approval of the subdivision, it is requested that they apply the following conditions:

1. The developer shall enter into a consent agreement with the Cabarrus County Board of Commissioners to address school adequacy. (Schools/APFO)

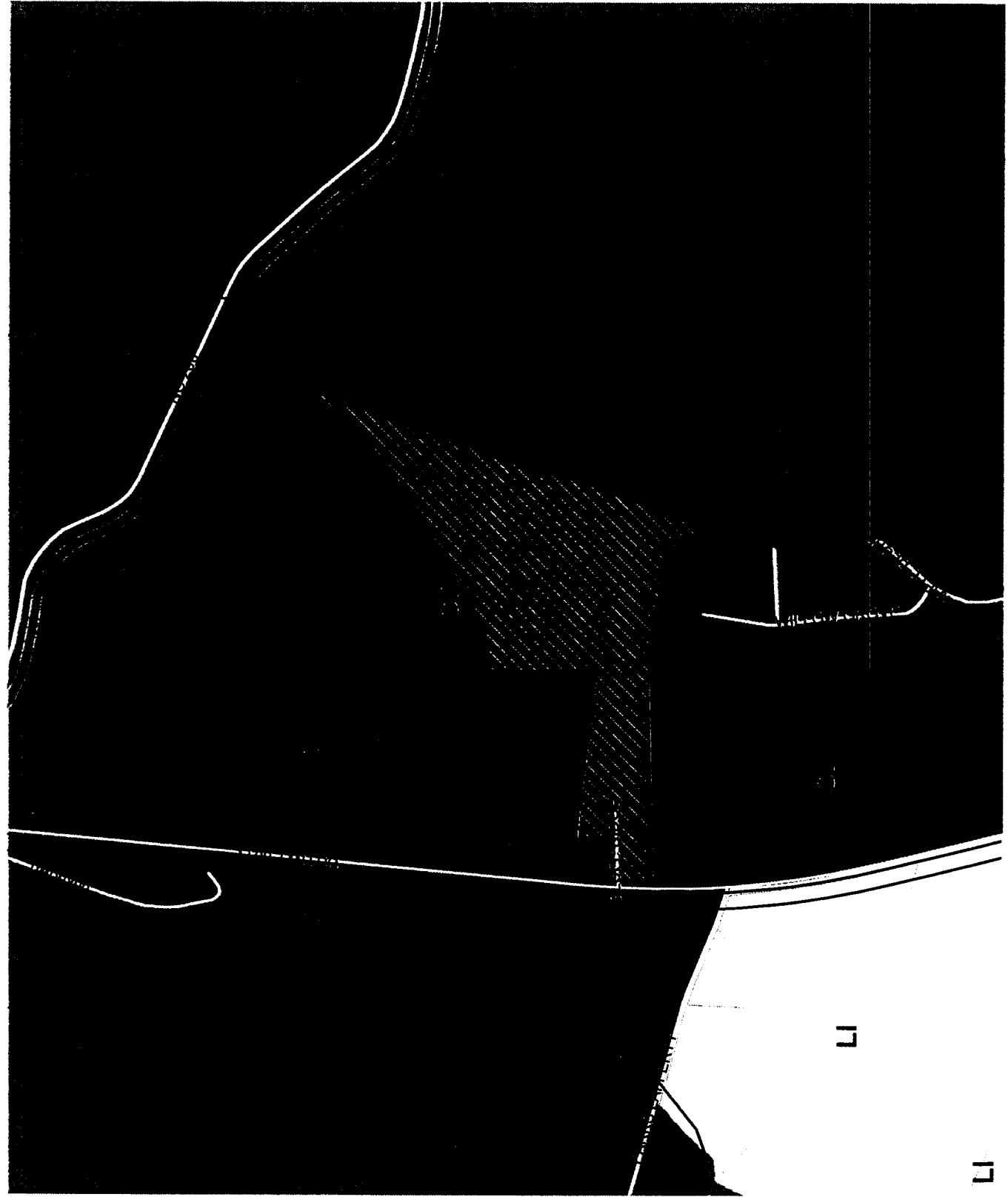
PLANNING STAFF REPORT

CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Thursday, May 18th, 2006

2. The developer shall complete all off-site roadway improvements prior to final platting. The developer shall install a right turn lane in the northbound lane of US 601 and a left turn lane in the southbound lane. (NCDOT/APFO)
3. The developer agrees install a siren-activated emergency gate device as requested by the Emergency Management Office. (Fire/APFO)
4. Developer agrees to retain vegetation and champion and specimen trees within lots except in building envelope (see note # 17 on plat). (General)

Proposed The Bluffs at Mill Bridge Subdivision Site



Legend

- Centerline
- Subject Property
- Parcel
- Streams



USES IN THE COUNTRYSIDE RESIDENTIAL ZONE:

Permitted

Agriculture excluding livestock
Agriculture including livestock
Dairy processing
Family care home
Group care facility
Livestock sales
Nursery/greenhouse
Single family detached residential

Permitted based on Standards (PBS)

Accessory apartment
Auction house
Bed & breakfast
Cemetery
Civic organization facility
Convenience store with petroleum sales
Convenience store without petroleum sales
Gas station
Home occupation
Home occupation, rural
Kennel, private
Landfill, demolition (one acre or less)
Mobile home class I
Mobile office, temporary
Nursery/daycare
Public cultural facility
Religious institution (total seating capacity 350 or less)
Rest/convalescent home with 10 or fewer beds
Restaurant excluding drive-thru
Sawmill
Stables, commercial

Conditional Uses

Colleges & universities
Communications tower
Elementary & secondary schools
Multimedia distribution & production complex
Public service facility
Public use facility
Recreational facility, outdoor
Religious institution (total seating capacity 351 or more)
Religious institution with school
Rest/convalescent home with more than 10 beds
Slaughter house/meat packing
Veterinarian/animal hospital/commercial kennel

Adequate Public Facility Worksheet – Schools

Please fill out the following questionnaire regarding the **The Bluffs at Mill Bridge**. This preliminary plat is up for review. The zoning is Cabarrus County CR. The proposed subdivision will have 20 lots and is located off U. S. Highway 601. Your response is required by Tuesday, May 2, 2006 for inclusion in the staff report to the Commission.

Please see the enclosed proposed preliminary plat for location and information regarding the proposed development. If you need additional information for this project please contact **Chris Moore**.

Questions

1. At present students from the proposed development would attend the following schools:

Elementary - Bethel

Middle - C. C. Griffin

High - Central Cabarrus

2. Using the most recent attendance figures, these schools are at what percent of their stated capacity? **Month 7, April 4, 2006.**

Elementary - 64.84%

Middle - 111.36%

High - 122.65%

3. How many students are expected from this development?

Based on 20 lots

Elementary - 6

Middle - 3

High - 3

4. Including previously approved subdivisions these schools will be at what percent of their stated capacity when the proposed development is completed?

Elementary - 87.53 %

Middle - 161.54%

High - 186.12 %

5. The schools currently available in this area can or **cannot** accommodate the additional students expected from this development? (if the answer above is "can", please stop here)
6. If this development cannot be served by existing schools, are any steps planned within the next two years to address this service delivery issue? Yes / No. If yes, please describe the steps that will be taken (use an additional sheet if necessary). Are these changes in an adopted capital improvement plan or has funding been identified?

Note Hickory Ridge High School projected to open in August 2007 will provide relief at Central Cabarrus High School. Funding for this school was approved in the 2004 School Bond.

15-Year Facility Plan includes a new elementary school in 2009 southeast of Rocky River Elementary if Grace Dev. Corp. land donation is finalized and another one in 2010 south of Harrisburg but funding has not been identified. These schools would relieve A. T. Allen, Bethel, Harrisburg, and Rocky River. A new middle school is included in the plan for 2009 south of NC Highway 49 that would relieve C. C. Griffin and Mt. Pleasant but funding has not been identified.

7. If there are not plans for new school facilities in the next two years, please describe the additional resources required to adequately serve the proposed development (attach an additional sheet if necessary)?

Additional capital funding needed for two new elementary schools and a new middle south of Harrisburg.

8. Are the improvements described in question 7 above included in an adopted capital improvement plan or has funding been identified? Yes / No

The three schools mentioned in question 7 have been included in the Revised Critical Facility Projects presented to BOE on April 27, 2006. **Funding has not been identified.**

This form was completed by: Robert C. Kluttz Date: May 2, 2006

Chris Moore

From: Shawn P. Riggs [spriggs@dot.state.nc.us]
Sent: Wednesday, May 03, 2006 11:27 AM
To: Matt Weiss
Cc: Chris Moore; Leah Porch Wagner
Subject: The Bluffs at Mill Bridge, US 601

These are the revised comments for the Bluffs at Mill Bridge off of US 601.

The following items must be addressed prior to preliminary plat approval:

- The existing US 601 right of way must be shown on the preliminary plat.
- A southbound left turn lane on US 601 with 100' of storage will be required in part of the subdivision's access permit. The turn lane design must be shown on the preliminary plat.
- 10' X 70' sight distance triangles at all intersections must be shown.
- If the proposed subdivision is to incorporate a gate, the gate must be located beyond the required 100' traffic stem.
- The preliminary plat must include a note stating that all lots including the area to be retained by owner, are to be served internally .
- The preliminary plat must include a note stating that NCDOT Access Permit is required. The Access Permit is required as a condition of approval

If you should have any questions or require additional information, please advise.

Shawn Riggs
Assistant District Engineer

Chris Moore wrote:

Shawn,
Do you want to see the turn lanes and traffic stem on the preliminary plat or as conditions of approval? Also, do you want the access permit to be granted prior to approval or do you want this added as a condition of approval? Please let me know asap, as the developer wishes to be heard at this month's meeting and the staff report must be finalized this week.
Chris Moore
Planner
CabarrusCounty Planning Services
PO Box 707
Concord, NC28026
P: 704-920-2181
F: 704-920-2144

From: Shawn P. Riggs [mailto:spriggs@dot.state.nc.us]

Sent: Friday, April 28, 2006 4:07 PM

To: Chris Moore

Cc: Matt Weiss

Subject: The Bluffs at Mill Bridge, US 601

Preliminary Comments for the Bluffs at Mill Bridge off of US 601 are as follows:

- A southbound left turn lane on US 601 with 100' of storage will be required in part of the subdivision's access permit.
- A Performance and Indemnity Bond will be required to cover the roadway improvements for the subdivision entrance (amount to be determined).
- Must submit 5 copies of a completed NCDOT access permit with 5 plan sets that show the intersection geometry, turn lane design, and drainage plan.
- All lots are to be served internally. A 100' minimum traffic stem must be maintained. PIN 5547-74-9251 may be required to take access from the proposed entrance.
- If it is the intent for the subdivision roads to be placed on the State Maintenance System, complete subdivision plans must be submitted and reviewed.

These comments are just preliminary and are subject to change upon further review.

Shawn Riggs
Assistant District Engineer

DISCLAIMER:

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

Chris Moore

From: Steve Langer

Sent: Monday, May 01, 2006 2:24 PM

To: Chris Moore

Subject: Mill Bridge Subdivision

Siren activated gates preferred. Gate access on both sides must be min. of 20 feet. Turn around radius looks good no issues.

If water is available in this area future site plan should show location of hydrants and water main size.

Planning Staff Report
to Cabarrus County Planning and Zoning Board
May 18th, 2006

Petition: C2006-04 (R) Zoning Atlas Amendment

Property Owner: Louie Thomas Looper Jr.
11180 NC Hwy 73 W.
Huntersville, NC 28078

Existing Zoning: O-I Office Institutional

Proposed Zoning: CR – Countryside Residential

Purpose: To build two single family homes on the property.

Township: Number 3 – Odell

Property Location: Property is located on Shiloh Church Rd. in
between Stanley McElrath Rd. and NC Hwy 73

PIN#: 4672-41-2528 & 4672-41-5122

Area: Approximately 19 acres

Site Description: The subject properties are currently vacant.

Zoning History: The property was rezoned during the June 2005
countywide rezoning from MDR-Medium Density
Residential to OI-Office Institutional.

Area Relationships: North: CR
South: C-2
West: Rural Planning Area (Mecklenburg
Jurisdiction)
East: OI

Exhibits: 1. Vicinity Map-submitted by staff
2. Comments from Kannapolis-Richard Smith
3. Comments from Davidson-Parviz Moosavi.
4. Adjacent Property Owners
5. List of Permitted Uses
6. Northwest Area Plan-Future Land Use Map-1990
7. Northwest Area Plan-Future Land Use Map-Draft

Comments:

NCDOT- Shawn Riggs: The Department sees no issues and has no comments regarding the rezoning of the subject parcels from OI to CR.

Cabarrus County Schools- Robert Kluttz: We see no problem with this 19 acre parcel being rezoned from OI to CR since the property owner is constructing his own residential structure on it.

City of Kannapolis- Richard Smith: See attachment

Town of Davidson- Parviz Moosavi: See attachment

Code Considerations:

Per the Cabarrus County Zoning Ordinance, lands in the Countryside Residential district have a strong rural, pastoral feel. Natural environmental elements such as tree lines, small ponds, rock formations, and manmade elements such as pasture fencing are to be retained, if at all possible. Although the area is capable of handling higher densities of development, development is kept at very low overall densities. Development includes only the standard single family detached dwelling. The site sensitive design concept is carried out through performance based standards on residential development with the technique of "clustering". In general, clustering is an arrangement of physical structures on land with an emphasis on retaining natural areas as open space. It is the primary way in which development can be successfully blended into the rural landscape.

This is a land use district created as a direct result of the County's systematic area planning process. As a reaction to the growth of the past decade (as much as 80% in some townships) many residents are anxious to see their areas retain the appeal that inspired the resident to make his/her original investment. This district helps implement a growth management philosophy before the fact rather than after. Even when the area has access to public utilities, the overall density will remain relatively low. In summary, the principle purpose of this district is to provide some land area in the County for a permanent country/rural residential life style.

Other Considerations:

NC 73 Small Area Plan: The NC 73 Small Area Land Use & Economic Development Plan designates this area to be Residential in nature. It further specifies that this area should be considered as Neighborhood General, a smaller component of what could become a Neighborhood Center. This NC 73 plan depicts a long-term build out of 20 to 30 years, "To address the unforeseen possibility of development occurring in a way that is not identical to the Master Plan, a Framework provides a guide to long-term growth so that the initial goals of the Master Plan are met."

The framework for the Neighborhood General component of this plan is as follows:

- Intent: Create areas that are predominantly residential.
- Location: The Neighborhood Centers are located throughout the study area, indicated on the Zone Map.
- Intensity: Building heights ranging from 1 to 3 stories are required, with a minimum density of 3 to 5 units per acre.
- Frontage Requirements: Buildings must define 60 to 80 percent of the frontage of the block face. Operable doors are required a minimum of every 60 feet.
- Mixture of Uses: Residential and live-work units are allowed. Operable doors are required a minimum of every 60 feet. Civic uses are allowed.
- Building Types Allowed: Live work, Townhouses, Duplex or two family homes, Single Family detached, Civic buildings

Under the proposed rezoning request, the maximum density permitted under the CR zoning designation is 1 unit per 2 acres if developed as a conventional subdivision.

The NC 73 plan also shows the lower portions of each of these properties designated as open space preservation through Neighborhood Greens.

The 1990 Northwest Area Plan calls for the subject properties to be developed as medium density

residential uses with densities up to 4.5 units per acre. It also indicates that the intersection of NC 73 and Poplar Tent Rd. should develop with commercial uses. The newest draft of the Northwest Area Plan calls for this area to be developed residentially at 1-3 units per acre. The draft plan indicates that the intersection of Poplar Tent Road and NC 73 should develop as a Neighborhood Center. The draft plan was used as a basis for the rezoning map adopted by Cabarrus County in 2005.

Conclusions:

The NC 73 Small Area Land Use Plan and map support the development of the subject properties as residential. However the NC 73 plan defines these properties as part of a larger possible Neighborhood Center. Per the current zoning designation (C-2) to the south and general development trends in the area, it appears that a neighborhood center is already starting to develop. A medical office has been developed on PIN# 4672-40-3559 and additional plans have been submitted to the City of Kannapolis for a drug store, a bank, a grocery store and other general retail. These uses are all part of the approved Renaissance Square Retail Center.

This rezoning could be considered an extension of an existing CR zoning district. Under the Countywide Zoning Atlas Amendment, adopted in June 2005, the general consensus was that residential densities in this area of the county should not be increased due to school overcrowding and traffic congestion issues.

Recommendation:

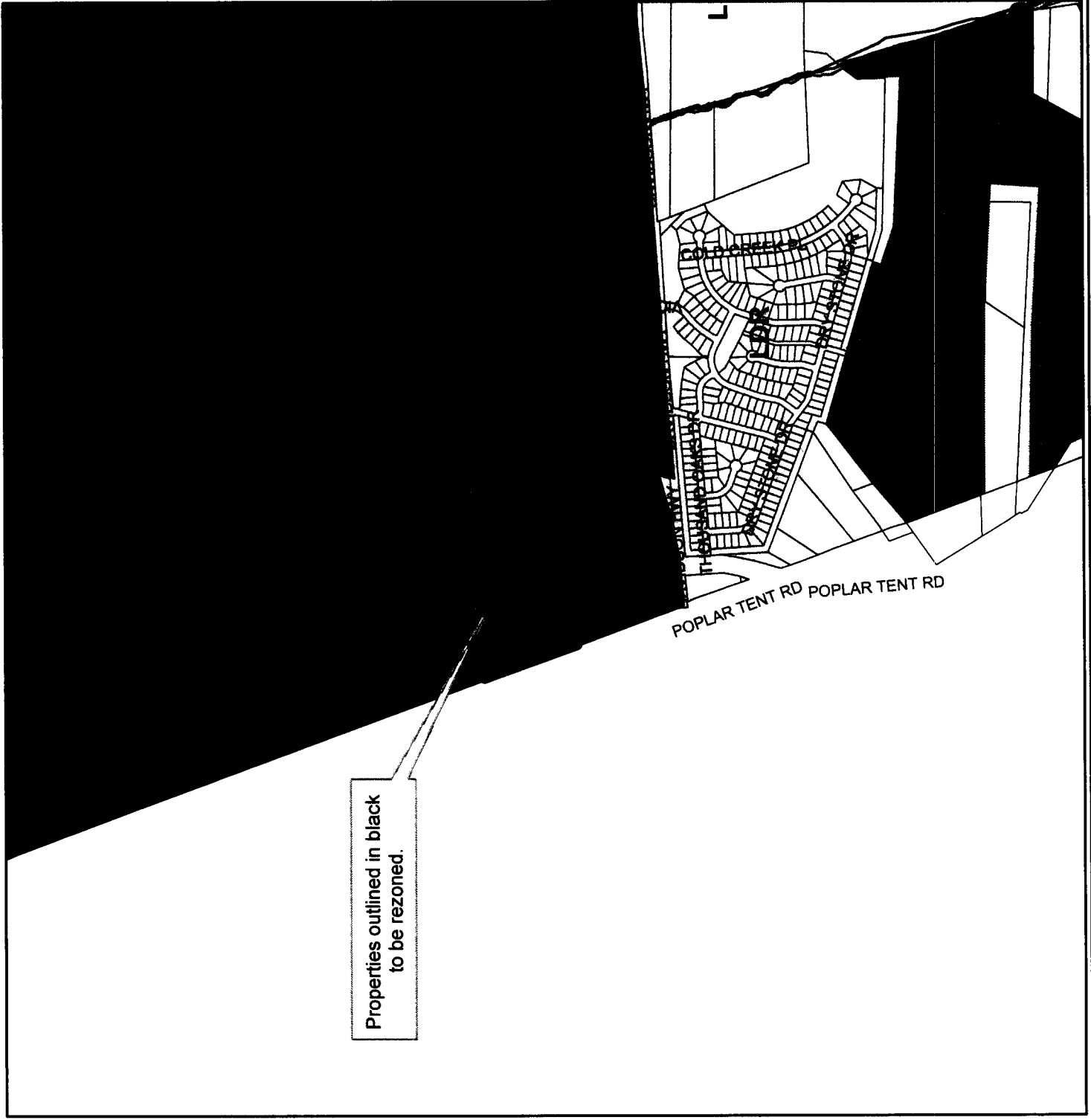
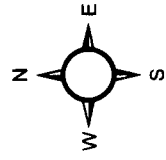
The proposed rezoning meets the overall residential component of the NC 73 Small Area Land Use Plan. However, it does not meet the intensity of residential development specified in the plan for the parcels under consideration. Since the proposed rezoning request is not compatible with all elements described in the NC 73 plan, the Board should consider the information presented and decide whether or not amending the subject property's zoning classification to CR is appropriate as it relates to the Planning and Zoning Board's vision for this area of Cabarrus County. In addition, development trends in this area already support the

10/15/71
10/15/71
10/15/71
10/15/71

proposal set forth in the NC 73 plan for this area (including the subject properties) to develop as a neighborhood center.



Petition C2006-04
Looper Rezoning
O1 to CR



Properties outlined in black
to be rezoned.

Comments by the City of Kannapolis-Richard Smith

I agree with the Davidson comments on this request for rezoning. It does seem to be an odd area to down zone to CR. Also, as I mentioned in our phone conversation, this doesn't appear to be consistent with the Davidson Highway 73 Small Area Plan that was also adopted by Cabarrus County. Based on the current trends in the immediate area, the property seems better suited as it is presently zoned. Please let me know the outcome of this request.

Richard Smith, Director
City of Kannapolis
Planning & Community Development

Comments by the Town of Davidson-Parviz Moosavi

Please be advised that the Town of Davison Planning Department finds the proposed rezoning inconsistent with the NC 73 Small Area Plan adopted by the Town in 2005. The proposed rezoning request is to allow Countryside Residential within the area of the Plan Central Business District (CBD) and Neighborhood General & Edge land uses. Should you have any questions, please contact me.

Parviz Moosavi, Town Planner
Town of Davidson
P.O. Box 579
Davidson, NC 28036
Phone: 704-940-9627
Fax: 704-892-3971
E-mail: pmoosavi@ci.davidson.nc.us

List of Adjacent Property Owners

Louie Looper
11180 NC Hwy 73 W
Huntersville, NC 28078
PIN# 4672-41-2528
PIN# 4672-40-8468
PIN# 4672-40-2805
Mecklenburg County Parcels
00720108
00720204

Cabarrus Memorial Hospital
Northeast Medical Center
45 Lake Concord Rd.
Concord, NC 28078
PIN# 4672-40-3559

Johnny Franklin Shinn
213 St. Christopher Walk
Rocky Mount, NC 27804
PIN# 4672-32-7160

Procedo Investment LLC
9548-D Mt. Holly/Huntersville Road #224
Huntersville, NC 28078
PIN# 4672-42-2160

Valarie Denise Thrasher
2468 Shiloh Church Rd.
Davidson, NC 28036
PIN# 4672-42-4210

Maggie Thasher
2482 Shiloh Church Rd.
Davidson, NC 28036
PIN# 4672-42-5331

Estate of John Mercer
c/o Shirley Elizabeth Mercer
2531 Shiloh Church Rd.
Davidson, NC 28036
PIN# 4672-42-8486

Ronald Gold Overcash
P.O. Box 5030
Concord, NC 28027-5030
PIN# 4672-41-8671

List of Permitted Uses

Permitted

Agriculture excluding livestock
Agriculture including livestock
Dairy processing
Family care home
Group care facility
Livestock sales
Nursery/greenhouse
Single family detached residential

Permitted based on Standards (PBS)

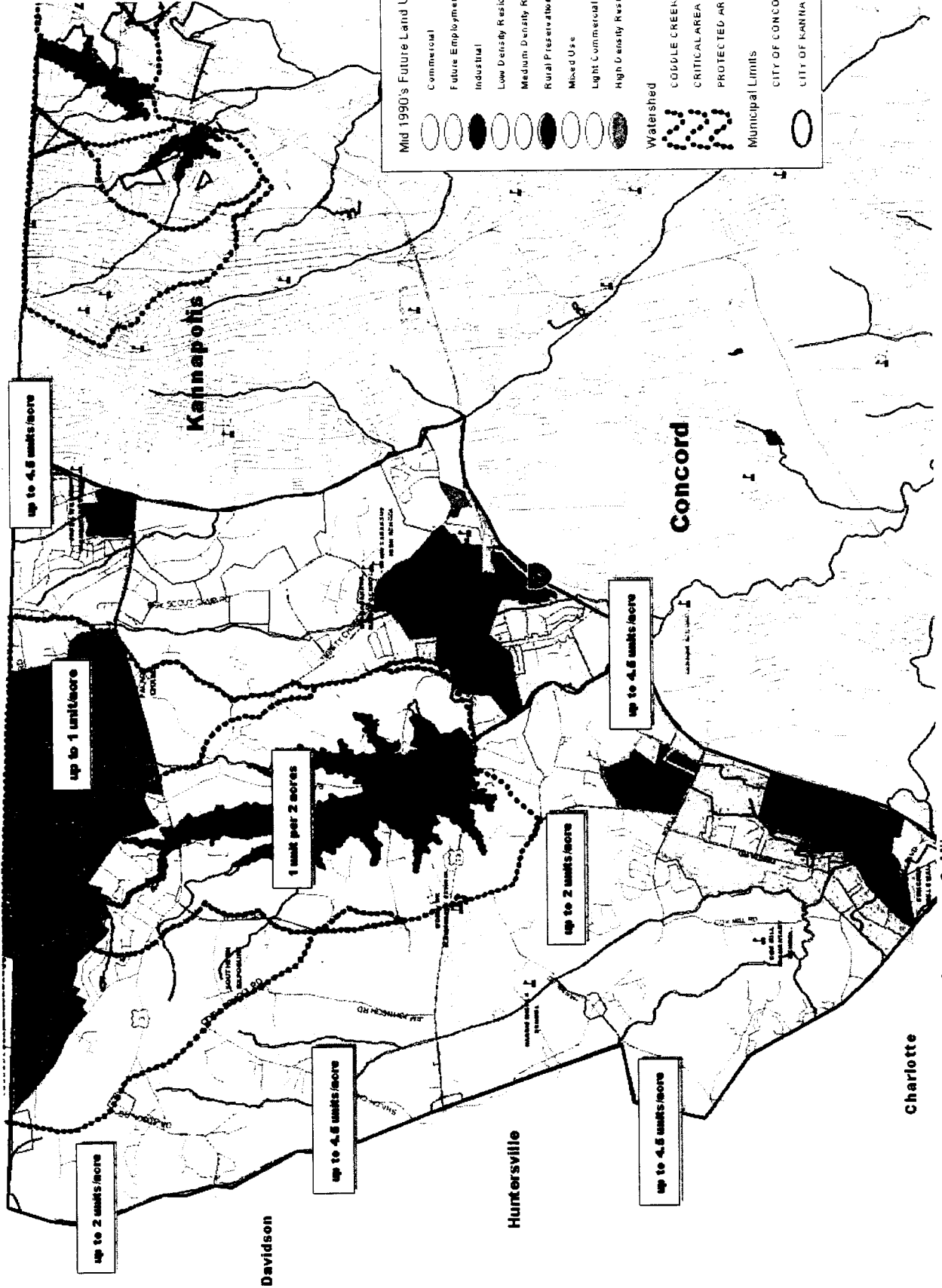
Accessory apartment
Auction house
Bed & breakfast
Cemetery
Civic organization facility
Convenience store with petroleum sales
Convenience store without petroleum sales
Gas station
Home occupation
Home occupation, rural
Kennel, private
Landfill, demolition (one acre or less)
Mobile home class I
Mobile office, temporary
Nursery/daycare
Public cultural facility
Religious institution (total seating capacity 350 or less)
Rest/convalescent home with 10 or fewer beds
Restaurant excluding drive-thru
Sawmill
Stables, commercial

Conditional Uses

Colleges & universities
Communications tower
Elementary & secondary schools
Multimedia distribution & production complex
Public service facility
Public use facility
Recreational facility, outdoor
Religious institution (total seating capacity 351 or more)

Religious institution with school
Rest/convalescent home with more than 10 beds
Slaughter house/meat packing
Veterinarian/animal hospital/commercial kennel

Northwest Area Plan



Mid 1990's Future Land Use

- Commercial
- Future Employment
- Industrial
- Low Density Residential - up to 2 units/acre
- Medium Density Residential - up to 4.5 units/acre
- Rural Preservation - up to 1.5 units/acre
- Mixed Use
- Light Commercial
- High Density Residential - greater than 5 units/acre

Watershed

CODDLE CREEK RESERVOIR

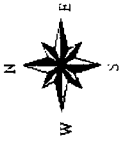
CRITICAL AREA - no more than 1 unit per 2 acres

PROTECTED AREA - no more than 1 unit/acre

Municipal Limits

CITY OF CONCORD

CITY OF KANNAPOLIS





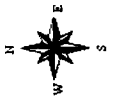
Northwestern Plan Area Future Land Use

DRAFT

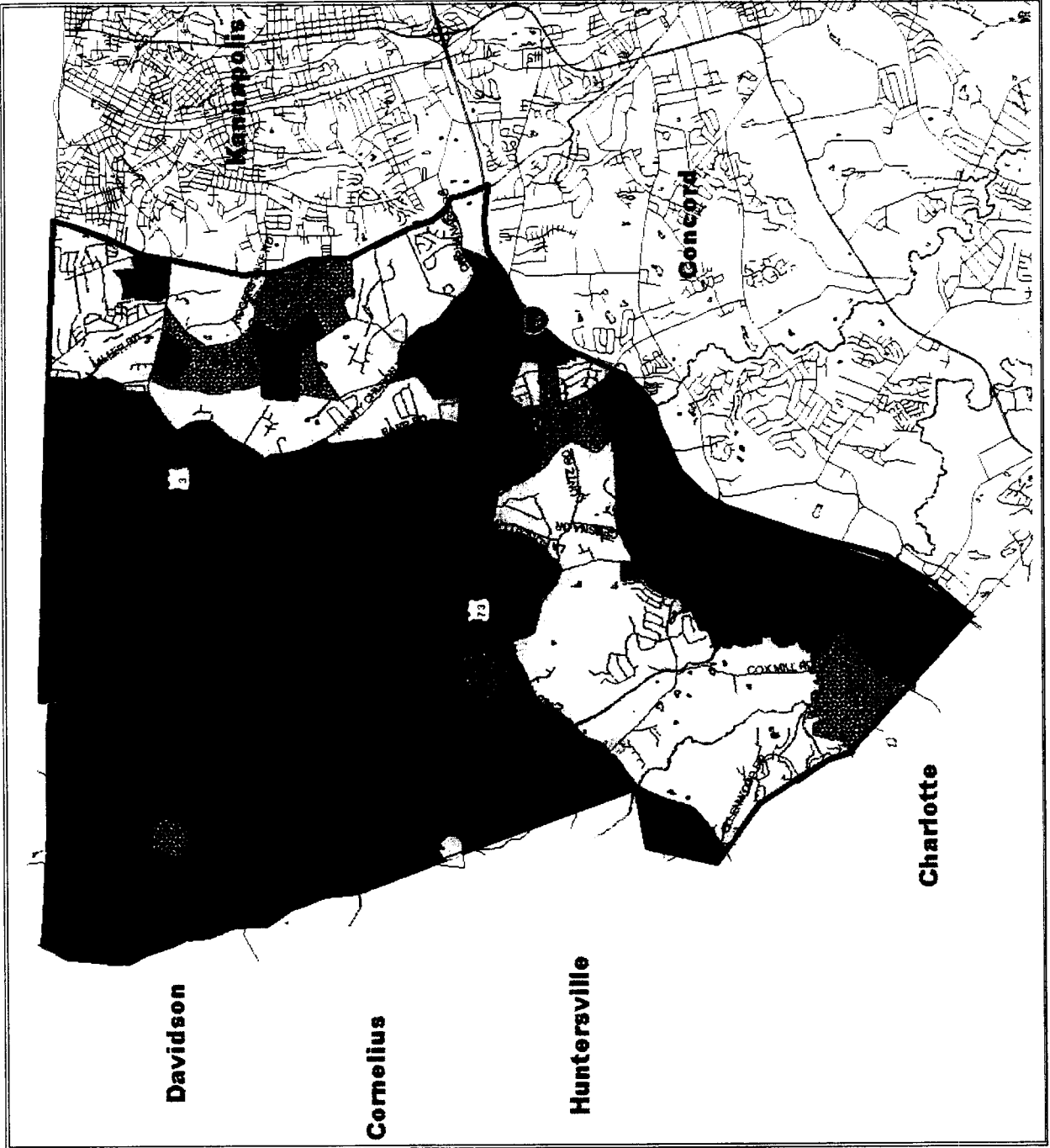
Legend

Future Land Use Categories

- 1 unit per 2 acre
- 1-3 Units per acre
- 2-4 Units per acre
- 5+ Units per acre
- Mixed Use
- Commercial
- Employment
- Neighborhood Center



1 0 1 2 Miles





May 16, 2006

Cabarrus County Planning Division
 c/o Ms. Kassie Goodson
 PO Box 707
 Concord, NC 28026

Re: Rezoning Petition: C2006-04 (R)
 Shiloh Church Road
 NW Cabarrus County

Dear Ms. Goodson:

In connection with the above referenced Rezoning Petition, NorthEast Medical Center supports Mr. Looper in his rezoning request. NorthEast Medical Center is the owner of adjacent property on which we have a substantial investment in medical facilities. We have no objection to the CR zoning designation (from OI) on Mr. Looper's remaining property or his intentions to build a private home on a portion of this property.

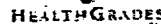
If you have any questions, please do not hesitate to contact me.

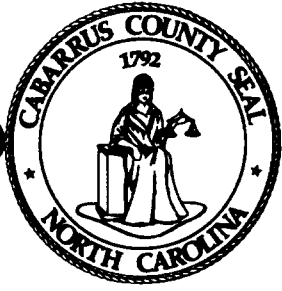
Sincerely,

Lawrence C. Hinsdale
 President/CEO

LH/sw

Cc: Mr. Buddy Looper





Planning and Zoning Commission Minutes
May 18, 2006
7:00 P.M.

Mr. Larry Griffin, Chairman called the meeting to order at 7: 07 p.m. Members present in addition to the Chair were Mr. Todd Berg, Ms. Brenda Cook, Ms. Karen Daugherty, Mr. Danny Fesperman, Mr. Thomas Porter and Mr. Ian Prince. Attending from the Planning and Zoning Division were Ms. Susie Zakraisek, Planning and Zoning Manager, Ms. Kassie Goodson, Planner, Mr. Chris Moore, Planner, Ms. Arlena Roberts, Clerk to the Board.

The Chair stated that the first case requires a simple majority the second case asking for rezoning requires super majority and it would take six out of the seven members to approve it. He said the petitioners need to be cognizant of that, and it is up to the petitioners whether they wish to proceed.

There being no corrections to the April 20, 2006 Minutes, Mr. Fesperman **MOTIONED, SECOND** by Mr. Berg to approve the minutes as mailed. The vote was unanimous.

New Business

Planning Board Function:

The Chair introduced the first item on the Agenda, Petition C2006-02 (S)

1. Applicant: Hartsell Brothers
Request: Preliminary Subdivision Plat Approval – The Bluffs at Mill Bridge

Mr. Chris Moore, Planner, addressed the Board stating that this is Petition C2006-02(S) a Preliminary Plat approval for The Bluffs at Mill Bridge. It is designed under the conventional residential subdivision standards. The applicant is Hartsell Brothers out of Midland, NC. The zoning on the property is Countryside Residential (CR) and the Petitioner is not requesting a rezoning on this project. The township is Number 10, Midland, NC located off US Highway 601.

Mr. Moore said the petitioner is proposing 20 lots on approximately 52.11 acres; the site is currently vacant and wooded as are the surrounding properties. The subject property is surrounded by Countryside Residential (CR) zoning. The proposed development will be served by private wells and septic tanks. The Countryside Residential (CR) district is a low density residential zoning district. The development standards are included in the staff report including set backs, the average lot width requirements, and lot coverage. Cabarrus County Schools report that the schools that serve this area are inadequate at this time. The Soil and Erosion Control department has requested that the applicant be required to submit soil and erosion control plans and have approval before commencing

any land disturbing activities. The NCDOT says that the proposed driveway access location is permissible but a right turn lane with 100 feet of storage will be required as part of the access permitting process. The capital recovery fee for the Water and Sewer Authority does not apply since they are using septic tanks. He said it is within the City of Concord service area but they are not requesting any utilities from the city at this time. The development is designed as a private gated community with private roads, for this reason, the Fire Marshall's office has requested that the applicant be required to use a siren-activated gate-opening device for emergency access.

He said staff finds that the proposed subdivision meets all the development standards of the Cabarrus County Subdivision Ordinance and recommend approval for Bluffs at Mill Bridge. He said should the Planning Commission grant approval of the subdivision, it is requested that they apply the following conditions:

1. The developer shall enter into a consent agreement with the Cabarrus County Board of Commissioners to address school adequacy (Schools/APFO).
2. The developer shall complete all off-site roadway improvements prior to final platting. The developer shall install a right turn lane in the northbound lane of US 601 and a left turn lane in the southbound lane (NCDOT/APFO).
3. The developer agrees to install a siren-activated emergency gate device as requested by the Emergency Management Office (Fire/APFO).
4. Developer agrees to retain vegetation and champion and specimen trees within lots except in the building envelope (see note #17 on plat). (General)

Mr. Moore said included in your packet is a map showing location of the site which is along Rocky River, uses that are permitted in the Countryside Residential zone, the school adequacy worksheet, comments from variance agencies and a copy of the proposed site plan. He said the developer and the applicant are here this evening if you have any questions for them and he is also available if you have any questions.

The Chair asked if there were any questions for the staff.

Mr. Prince asked if the consent agreement for the adequate public facilities was going to be based off the old version or the new version.

Mr. Moore said the existing version, what is in place today.

Mr. Prince said he guess he is considering that as the old version. He asked if the new version had been adopted yet, the one that we put forth?

Ms. Zakraisek said no the new one has not been adopted yet.

Mr. Berg said he wanted to make sure that the NCDOT comments had been addressed; he is trying to understand the sequence. He said you included in our packet an email from Shawn Riggs that had a number of bullet points on it one of which was the turn lane which obviously has been added to the drawing. He asked if Mr. Moore verified that the others have been taken care of.

Mr. Moore said yes, the gate location in relation to the traffic stem has been addressed. He said you can see on the development plan the gate is over 300 feet from the intersection of 601 which provides more than adequate storage area.

The Chair asked if there were any further questions.

Mr. Fesperman asked with this being private were the roads internally going to be provided and built by the developer.

Mr. Moore said yes.

Mr. Fesperman said with the idea that they are going to be taken over, will that be made with state specs as they are putting them in place?

Mr. Moore said they are required to meet state standards but they will be maintained by the homeowners association.

The Chair asked if there were any questions for the petitioner.

Mr. Paul Campbell with North East Engineering said they are planning to build a covered bridge. He showed a rendering of the bridge of what they are planning to do. He said that Chris covered everything, unless the board has further questions.

Mr. Berg asked Mr. Campbell to address the issue of trees. He said he knows that was one of the recommended contingency items; there is a note on the drawings but asked Mr. Campbell to elaborate on the intent with trees.

Mr. Campbell said it is a wooded site with large trees and is one of the selling points for the area the intent is to leave as many trees as possible.

Mr. Fesperman asked showing the bridge, have they have permitted out with the Corp or with crossing that stream and if the environmental issue has been dealt with.

Mr. Campbell said yes that it has been reviewed, and the environmental engineers have been out there completed their findings. He said there is only one crossing. The actual crossing where the bridge is going to be it is an intermittent stream so it is not jurisdictional. He said the first little crossing at the edge of lot one is actually a perennial stream but we will keep them crossing at 150 feet and do the notification to the Corp.

Mr. Fespersman asked what the square footage of the homes will be and if there will be one builder.

Mr. Jeff Hartsell of Hartsell Brothers Inc. stated that what they are trying to do is bring in three different builders and they will be three exclusive builders in the county. He said most of the homes in there will be a minimum of 3,500 square feet, a single story ranch can be 2,800, and most of the homes will start at a minimum of \$500,000.00 and up. He said they have three tiers of builders in there now starting at about \$500,000.00 to \$750,000.00 and from about \$600,000.00 to \$800,000.00 and then they have \$750,000.00 to \$1 million Builder coming in.

Mr. Hartsell said the way they came up with the theme on the bridge, just kind of unique to the area, he does not know where a neighborhood like this would be in the county, try to tie a little bit of history back because we are close to Gold Mine so they are trying to keep a little bit of the history in the county.

The Chair asked what kind of buyer do you anticipate here in terms of there age and families.

Mr. Hartsell said most of who they have been selling too are in their mid 40's, second or third time home buyers. He said people who are into racing or some of the doctors coming into the new NorthEast Hospital.

The Chair asked if there were any further questions for the developer.

Ms. Daugherty said concerning the fact that it fails the APFO; she will go back to what she has said before if the facilities are not adequate they are not adequate. She said even with the two year look forward it fails and she would like for the board to consider that.

There being no further comments Mr. Fesperman **MOTIONED**, to approve Petition C2006-02(S) with staff recommendations and conditions, **SECOND** by Mr. Berg. The vote was 6 to 1 to **APPROVE** Petition C2006-02 (S). Petition C2006-02 (S) **APPROVED**.

The Chair introduced the second item on the Agenda, Petition C2006-04 (R)

2. Applicant: Zoning Atlas Amendment
Request: OI Office Institutional to CR Countryside Residential

The Chair informs the petitioner that they would need 6 of the 7 board members vote for approval.

Ms. Kassie Goodson, Planner asks the petitioner if he wants to proceed or table until next month.

The Petitioner wishes to proceed with the 7 member board.

Ms. Kassie Goodson Watts, Planner, addressed the board presenting Petition C2006-04 (R) – Zoning Atlas Amendment. The Petitioner and property owner is Mr. Louie Thomas Looper, Jr. The existing zoning is Office Institutional (OI) and the proposed zoning is Countryside Residential (CR) and the purpose of this rezoning is to build two single family homes on the property. It is in the Odell Township, located on Shiloh Church Road in between Stanley McElrath Road and NC Highway 73. It is approximately 19 acres and is currently vacant. This property was rezoned during the mass rezoning in June 2005 from Medium Density Residential (MDR) to Office Institutional (OI). She said NCDOT sees no issues and has no comments regarding the rezoning of the subject parcels from OI to CR. Cabarrus County Schools sees no problem with this 19 acre parcel being rezoned from OI to CR since the property owner is constructing his own residential structure on it.

She said comments from the City of Kannapolis (Richard Smith) were that they agree with the Davidson comments on this request for rezoning. It does seem to be an odd area to “down zone” to CR and it does not seem to be consistent with the Davidson Highway 73 Small Area Plan that was adopted by Cabarrus County. Based on the current trends in the immediate area, the property seems better suited as it is presently zoned.

She said the comments from the Town of Davidson (Parviz Moosavi) were as follows: Please be advised that the Town of Davidson Planning Department finds that the proposed rezoning inconsistent with the NC 73 Small Area Plan adopted by the Town in 2005. The proposed rezoning request is to allow Countryside Residential (CR) within the area of the Plan Central Business District (CBD) and Neighborhood General and Edge land uses.

Ms. Goodson-Watts said the NC 73 Small Area Plan designates this area to be Residential in nature, it further specifies that this area should be considered as Neighborhood General, a smaller component of what could become a Neighborhood Center. The NC 73 plan depicts a long term build out of 20 to 30 years. It gives you a frame work to follow: intent, location, intensity which would be something we would focus on tonight. She said it specifies that intensity building heights ranging from 1 to 3 stories are required, with a minimum density of 3 to 5 units per acre. She said under the proposed rezoning request, the maximum density permitted under the CR zoning district is 1 unit per 2 acres if developed as a conventional subdivision. She said that is in the County zoning ordinance it is not part of the 73 plan. She said if it were to be rezoned that would be the maximum density that would be allowed.

She said the NC 73 plan also shows the lower portions of each of these properties designated as open space preservation through Neighborhood Greens. The 1990 Northwest Area Plan calls for the subject properties to be developed as medium density residential uses with densities up to 4.5 units per acre. It also indicates that the intersection of NC 73 and Poplar Tent Road should develop with commercial uses. The newest draft of the Northwest Area Plan calls for this area to be developed residentially at 1-3 units per acre. The draft plan indicates that the intersection of Poplar Tent Road and

NC 73 should develop as a Neighborhood Center. The draft plan was used as a basis for the rezoning map adopted by Cabarrus County in 2005.

Ms. Goodson-Watts said the NC 73 Small Area Land Use Plan and map support the development of the subject properties as residential. However the NC 73 plan defines these properties as part of a larger possible Neighborhood Center. Per the current zoning designation (C-2) to the south and general development trends in the area, it appears that a neighborhood center is already starting to develop. A medical office has been developed on PIN# 4672-40-3559 and additional plans have been submitted to the City of Kannapolis for a drug store, a bank, a grocery store and other general retail. These are all part of the Renaissance Square Retail Center that was originally approved in the county and annexed into the City of Kannapolis. This rezoning would be considered an extension of an existing CR zoning district. Under the Countywide Zoning Atlas Amendment adopted in June 2005, the general consensus was that residential densities in this area of the county should not be increased due to school overcrowding and traffic congestion issues.

Ms. Goodson-Watts said the proposed rezoning meets the overall residential component of the NC 73 Small Area Land Use Plan. However, it does not meet the intensity of residential development specified in the plan for the parcels under consideration. Since the proposed rezoning request is not compatible with all elements described in the NC 73 plan, the Board should consider the information presented and decide whether or not amending the subject property's zoning classification to CR is appropriate as it relates to the Planning and Zoning Board's vision for this area of Cabarrus County. In addition, development trends in this area already support the proposal set forth in the NC 73 plan for this area (including the subject properties) to develop as a neighborhood center.

She attached a list of permitted uses. Because this is a straight rezoning, everything on the list of permitted uses must be considered. She said the petitioner is here this evening and would like to speak to the board and she would be happy to answer any questions the board may have.

The Chair asked if there were any questions.

The Chair said this is one of those situations where the Western Area Plan and 73 Plan envision this area as a multi-use kind of area and the county does not really have a zoning that seems to fit that. He said you talk about PUD's and those kinds of things but at that intersection is that a reasonable and accurate description of what the intent was for zoning for that area? He said it is kind of a meales area that consists of commercial and residential development.

Ms. Goodson-Watts said it is her understanding that any specific project that did not fit into Office Institutional would be requesting a rezoning. She said this area is designated to be sort of commercial and sort of residential; a mix of uses. She thinks the 73 plan defines it that way, that it is part of an overall kind of idea of a neighborhood center with residential.

The Chair said the Western Area plan certainly does develop coordination with Mecklenburg, Huntersville and Davidson, he asked if the Small Area Plan had been approved by the County Commissioners, not the 73 Plan, but the last one that Rodger presented that we passed on to the Board of Commissioners.

Ms. Goodson-Watts said the Northwest Area Plan has not been officially adopted, she said that map is included in your packet. She said that is in draft form right now but it was used for the mass rezoning last year.

The Chair said that is fundamentally why that was zoned OI.

Mr. Fesperman said he is glad that all the surrounding municipalities had been contacted. He said it is a very important consideration, because they may be coming back to us also on certain situations and asking our opinion on that. He is pleased to see that Davidson and Kannapolis had been contacted.

Ms. Goodson-Watts said it had been sent to the other municipalities as well but did not receive a response.

Mr. Fesperman asked if Huntersville had responded.

Ms. Goodson-Watts said no, but there was communication among the planning departments so she knows that it was being talked about but they did not send in an official response and she did not receive any phone calls from Huntersville.

Mr. Looper said he found out last month that his property had be rezoned OI, he thought it was still residential. He said approximately two years ago he signed a paper with NorthEast Regional Hospital giving them the option to buy 2 to 3 more acres to expand what they have already started out there. He said at that time his plan was to relocate to a different portion of the property, when he found out he could not, it really put him in a bind because he has the house he lives at right now and he needs to relocate for them to move forward which he understands they want to do. He said NorthEast is really looking hard at starting their second project, another medical building. He does not want it rezoned to put a development on it; it would actually be 2 houses, his and his son David who has had an area picked out and has looked forward to putting a house on since he was 8 years old. Mr. Looper said he does not want to put a development on it he just wants to put 2 houses on it, and is reasonably requesting that it be rezoned back to residential.

Mr. Fesperman asked Mr. Looper when he sold the land did he sell any tracts across the road or was he just dealing with NorthEast.

Mr. Looper said no, he sold a little over 2 acres to NorthEast and then Renaissance Square Shopping Center for a Lowes Food Store, CVS Pharmacy and First Charter Bank. He said they have started grading and construction on it. He thinks everything they are

doing out there will benefit the area. He said he has lived there for 36 years and every time they need to buy groceries they had to drive about 8 miles each way, so he thinks everything he has agreed to do has been really good for the area. He said he is stuck with a house that might be tore down pretty soon.

Ms Daugherty asked Mr. Looper if he had already sold the 2 additional acres that NorthEast wants.

Mr. Looper said he has not actually sold it to them yet but they have the option to purchase it within he thinks 3, 4, or 5 years, he is not sure but he has been told that they want to move forward pretty quick.

Ms. Daugherty asked if these 2 acres are within this piece that you are asking to be rezoned.

Mr. Looper said no, that 3 acres has been annexed into Kannapolis city limits, plans have already been made for those 3 acres. He said he needs to get rezoned back so that he can put him a house on one section of it and his son wants a house on the other section that is all he is planning, not anything else being developed.

Mr. Fesperman said you have almost created your own situation there which is it is becoming a village type situation there and the commercial aspect of that is what he is sure all of the municipalities want to see is taking place, a lot of the land behind yours, it is a tough situation.

Mr. Looper said at the time that he signed the option with the hospital there was not a problem and he could go back in here anywhere and build him a house. He did not know until last month that it had been rezoned to OI.

Mr. Porter said the CR residential it already backs up, from the map he is looking at that is outlined in black, it backs up to what you are wanting rezoned or to down zone back to CR.

Mr. Looper said yes, everything behind and joining his property that he is talking about is zoned for residential.

Mr. Porter said he personally looks at what Mr. Looper wants to do; to down zone it benefits the county. He said Mr. Looper owns the property, his son wants to build a home on it and he wants to build a home on it and maintain it that way for many years to come he assumes. Mr. Porter said he cannot see holding Mr. Looper hostage so the city of Kannapolis or Davidson can get more tax revenue by putting commercial development there.

Mr. Fesperman thinks that everyone is trying to think down the road here 10 to 20 years as to what is going to take place as all of this is being built into. He said there is going to be plenty of residential already out there and the support area is not that wide right now

really for what is being put in there, but he thinks it is almost needed and he understands what Mr. Porter is saying about it.

Mr. Looper said he has 16 more acres that is in Mecklenburg County that could be used for some sort of business and so forth, offices what ever becomes necessary but it is controlled by Davidson and it might be hard to get them loose to do something but we could try.

Mr. Prince said his concern is if we were to go ahead and approve this rezoning he thinks before you got the new houses built there would be somebody else on your door step wanting you to sell that land so they could expand this neighborhood center.

Mr. Looper said it would never happen. He asked if Mr. Prince was talking about more residential.

Mr. Prince said no, he is talking about more commercial development as this was originally laid out as a neighborhood center. His concern is that we will be perpetuating the same thing.

Mr. Looper said personally he would lock it in. He said in the area where he is going to put the 2 houses there is a 2 acre lake, he wants to be on one side and his son wants to be on the other. He thinks what we are having out there right now is going to be really fine and all of his neighbors agree with him, that having a grocery store that close is going to save us all a lot of trips up and down the road. He does not foresee needing a whole lot more.

Mr. Prince asked Mr. Looper if he had spent any time looking at the 73 Area Plan, the study that was done.

Mr. Looper said yes, he has seen some of it.

Mr. Prince understands that is speculative and it is a long way off but that is some rather intense development and concentration in that intersection.

The Chair asked if there were any further questions for Mr. Looper.

The Chair opened the Public Hearing.

Mr. Steve Brumm of Brumm Davis Properties, Developer of Renaissance Square, stated that they purchased the land from Mr. Looper and also represented NorthEast Medical Center in their acquisition and developed that property for NorthEast. He asked the board if they saw the letter from NorthEast or if they received copies of the letter.

The Board said no.

Mr. Brumm read the letter from Lawrence Hinsdale, President/CEO of NorthEast Medical Center. (See attached letter)

Mr. Brumm said when we first spoke with Buddy (Mr. Looper) about buying his land we wanted to put a mixed use development there and we have a shopping center and some offices and NorthEast. He said one of the things NorthEast needed was the ability to expand and that expansion is going to be where Buddy has his house. Mr. Brumm said that Mr. Looper was very clear that he did not want to move off of his land, it is land he's had and has lived on for a number of years. He said Mr. Looper agreed because he knew it was a good thing for the area and obviously it was financially not a bad thing either, but he agreed to it with the plan right up front of moving and building on his other land, so NorthEast knew about this and he did sign a binding contract. Mr. Brumm said NorthEast has such an investment and they are going to need to expand so they are going to need to take his property at some point.

Mr. Fesperman said he can see why NorthEast is saying this because they want his land so they do not object to the zoning across the road being changed because they have theirs basically covered. Mr. Fesperman said he does not particularly care about their comments regardless.

Mr. Brumm said it seems to him that it is property that Mr. Looper owns and he guess the idea that the 73 Plan be a mixed use development, well it is mixed use maybe it is not as intense in part of it. He said they really did not have time to do a comprehensive plan and it sounds to him like we do not have a super majority for this. He asked if there is another way for Mr. Looper to do it so that he could build houses there and still work something out so it is more in-line with the 73 Plan. Mr. Brumm said it just seems wrong that the guy should be kicked off land that he has had for this time.

Mr. Prince said let us clarify that nobody is kicking anybody off.

Mr. Brumm said he did not mean that.

Mr. Fesperman said he knows what you are saying but he would have thought that as professional as your organization and all this, this is really a huge area in there that somebody would have planned better and not have to be in here at this particular time. He is surprised that this has come about; somebody should have made Mr. Looper aware of what was going on.

Mr. Brumm said we did, the whole time he attended the 73 corridor study. He said we knew the planning was in place but we did not realize that there was also going to be the zoning done and that was our mistake.

Mr. Fesperman said yes because if the plan was not adopted you would not be there anyway, because your confidence needed that to put in what you have put over there.

Mr. Brumm said our zoning preceded the plan.

Mr. Fesperman said you understand that five municipalities all hit in this area, it is a very weird situation and he thinks we need to be cognizant of what other municipalities are trying to do. He has some concerns on up on 73 with what Davidson is trying to do and it is the same way all the way down. He said it is a huge area now and it needs to be controlled as best we can but it needs to have infrastructure put in to support what all is going on.

There being no further comments the Public Hearing was closed.

The Chair asked if the whole 19 acres had to be rezoned.

Mr. Looper said he was told by Ms. Goodson-Watts that he would have to survey it off into different sections.

Ms. Goodson said we would require that the piece be cut off prior to filing the rezoning petition, which is standard practice.

Ms. Daugherty asked why that was not an option. She asked Mr. Looper if there was a reason he chose not to do so.

Mr. Looper said he had an option of rezoning it all or hire a surveyor to survey off portions of it. His understanding was that he was going to have pay a surveyor to come out and divide everything up or he could put the petition in and have it all rezoned back. He did not want to wait on it because he did not know when NorthEast Regional was going to call him. He said their agreement (NorthEast) is that he would be given a year notice so that he could relocate and build his other house before they take it over. He was told that he could rezone it all back or wait, have it surveyed and split up.

The Chair said it seems to him that if you were willing to split it up, you still own it even though a part of it would be zoned OI, you would still control its use and could choose to sell it for commercial purposes or not. It seems to him that the issue we are talking about is that there is not much land out there zoned for Commercial or OI use at this point and time and yet there is going to be a demand for it, unquestionably.

Mr. Looper said the property has been under farming for approximately 15 years and when he sold the part for the Renaissance Square Shopping Center he had to take it out of farming. He spoke with a lady that does the farming in Mecklenburg County and was told that it was still zoned Residential in the Mecklenburg County side. He did not find out until last month that his had been rezoned to OI and found out he had a serious problem with what he was planning to do.

Mr. Berg asked staff to explain why the little piece of CR is still zoned CR. If they rezoned all of that OI why did they leave that piece CR?

Ms. Zakraisek said it is existing Residential and the C2 that you are seeing is Kannapolis as far as the OI, and that is Cabarrus County with the CR.

Ms. Goodson-Watts said if you remember at Mr. Misenheimer's rezoning we talked about how his property got rezoned during the mass rezoning and developed his commercial park, this one did not get missed, so it is still designated as CR Countryside Residential. It did not create nonconformity.

Mr. Prince asked if in 2005 the county notified all land owners as to what they were going to do zoning wise.

Ms. Goodson-Watts said yes, we followed state statutes which are very different from when you are doing one or two pieces of property. She said when you are doing one hundred plus properties it requires half page ads in the newspaper, general circulation for four consecutive weeks and posting on the municipal building. She said we were in the moratorium doing the design standards and having workshops and they also sent out approximately 4000 first class notices to any one whose zip code fell outside of the newspaper general circulation.

Mr. Prince asked if staff contacted the owners directly.

Ms. Goodson-Watts said State Statutes says if the zip code falls into the circulation of the newspapers then the half page notice for four consecutive weeks is considered their notification, if the zip code does not fall in the general circulation then they receive a first class mail notice. She said if you are asking if we sent out notices to every property owner in Cabarrus County the answer is no, we followed what is required in State Statutes.

Mr. Fesperman said he wishes that we had the letter from NorthEast before now, and that NorthEast are the ones taking the land that Mr. Looper's house sits on. He said NorthEast is hoping that we will let him go up there and live, but simply won't take his property; to us they want the commercial side of it. He said it is a shame that the option was there because he should stay right where he is or more fore thought should have gone into all of that. He said it is irritating to him NorthEast sending in the letter.

Ms. Goodson-Watts apologized she had not received the letter prior to now.

Ms. Daugherty asked if Mr. Looper's property rights take precedence over what we have decided is for the better good in the long run.

Ms. Goodson-Watts said that is one way you could think about it, he is a property owner and has property rights and we have a land use plan that has been adopted by the Board of Commissioners, there are two sides to the coin there.

Mr. Berg said if we approve it we are required to find that it is consistent with that land use plan.

Mr. Porter said what Mr. Looper is asking to be rezoned to CR backs up to CR and it does not front on Davidson Highway. His opinion is if Mr. Looper owns it and is not asking for more development, for more houses and he wants to build a personal home and his son wants to build a home on his property and we are going to tell him no you can not do that because it is better for Kannapolis, it is better for Davidson, that we have other plans for your property. He said that is where he has a problem.

Mr. Fesperman said he does not have a problem with that. He said this did not happen over night, there were a lot of transactions that have occurred here. He said negligence or what ever is why we are here now although we have to deal with what is in front of us, what it is currently zoned or are we going to lap and go back to a down zone situation? We on this board have to realize and try to do what is best for the overall majority and protect the zoning that is in place or what ever if we feel like it is better for the majority of Cabarrus County versus an individual. He said we all have individual rights of course but he is disappointed that we have the situation in front of us now. He said Mr. Looper or the developers that were involved are big time players they are not rookies in any of this business and he is surprised that this has lapsed into our laps on this. He thought this would have been worked out because a lot of funds has changed hands out there and are changing hands as we are talking. Just his opinion.

Mr. Looper said it was explained to him by Ms. Goodson that the ads ran in the paper. He said this would not have happened if someone had contacted him directly so that he could dispute how it was being zoned at that time. He said he had already made his plans and maybe we could have settled it a lot different if somebody had contacted him directly and let him know that all of this was going to take place. He said he talked with some of his neighbors and none of them saw the ads either.

Mr. Prince said he agrees with that but on the other side of the coin you have to take into consideration what the county goes through when they are doing hundreds and thousands at a time. He appreciates what the county is mandated to do. He said you also have an obligation as a land owner and a resident of Cabarrus County to be in touch with what is going on and clearly in dealing with NorthEast and the other developers you were in tuned with what was proposed for that area and what was being talked about because obviously they were talking to everybody as well. He said whether it was comprehended or not, is something else. He said this is a very troubling one because no one wants to sit up here and tell this gentleman what to do with his land, but we as a board here have been appointed to help guide the whole and hopefully not drop too many pieces off the edge of the table. He thinks there is a better solution than what you are currently proposing, he does not know what that is and he is not here to tell you what that is. He said we will do what we think is best looking at the information that is before us and you have the option of going to the commissioners and appealing our decision, they are elected we are not, so we are going to base what we think is going to be best for everyone.

The Chair said there are two findings required in a rezoning situation. He said they are: the rezoning is consistent with land use plan and it is consistent with the intent of the current zoning ordinance.

Mr. Fesperman asked if the appeal goes to the Board of Commissioners or straight to the Superior Court.

Ms. Zakraisek said to keep in mind that this particular plan is a plan that is multi-jurisdictional and by adopting it the Commissioners have agreed to lead our area of Cabarrus County in that particular direction.

Ms. Zakraisek said as far as the rezoning and to address Mr. Porter's comment, it is a straight rezoning so once that property is back to CR it is up for turn over and to be developed at the 2 units per acre or if they do a different type of subdivision potentially more than that. She said it is a straight rezoning so you cannot place conditions on this particular case.

Mr. Prince asked if it were 1 unit per 2 acres in CR.

The Chair said it is 1 house per acre.

Ms. Zakraisek said for a conventional subdivision it is 1 unit per 2 acres.

Mr. Fesperman asked if his appeal goes to the court or back to the county.

Ms. Zakraisek said if the board votes and it is denied or approved unanimously then your vote stands and the applicant would have to actually appeal it. If it is a split vote then it would be forwarded on to the Commissioners. She said if it goes either way, with the entire vote, then that is a final decision unless the applicant appeals.

Mr. Looper said he asked Ms. Goodson-Watts when they discussed putting in an application for rezoning it, could a portion of it could be rezoned back for the OI and she said that would be no problem. He said he only wants 2 houses and the rest of it could be looked at down the road for office institutional or what ever.

Ms. Goodson-Watts said we talked about in regards to his house obviously not taking up the entire 19 acres and should someone come back and ask for a rezoning then it would go through the same process like this again, that the application could be filed. We specifically talked about the same application being submitted, the same application for the same property cannot be resubmitted if it is denied. She said you cannot come back like the next month and apply for the same rezoning once it has been denied; you have to wait a year. She said she and Mr. Looper had discussed that.

The Chair said what if he wanted to rezone 5 or 6 acres of it to CR.

Ms. Goodson-Watts said he could do that if that is the application he wanted to submit, if he had surveyed off the land. She believes the intent is not to have an application that gets denied and just continue to constantly come before the board with it.

Mr. Fesperman said it still would be him coming back with requesting a down zoning, and we would be right back in the situation we are sitting here in right now with that particular zoning.

The Chair asked if there were any further discussion or questions.

Ms. Zakraisek said she wanted to make one clarification on the CR zoning; if they were to pursue an open space subdivision then that would allow one unit per acre, but on a conventional you need 2 acres.

There being no further comments Mr. Fesperman **MOTIONED** to deny Petition C2006-04 (R) – Zoning Atlas Amendment, we need to stay consistent with the Davidson Highway Small Area plan that the county has adopted and also need stay consistent with our other municipalities on our thinking on that land out there. **SECOND** by Mr. Prince.

The Chair asked if there were any further discussion of the motion.

Ms. Daugherty thinks that the motion needs to be clarified, in terms of rather them being based on the adopted plan because the plan is not adopted it is a draft plan.

The Chair asked Mr. Fesperman if he were referring to the 73 Corridor Plan that was adopted.

Mr. Fesperman said yes that is the one he is referring too.

Ms. Daugherty thinks there should be an addendum that it is also in opposition to the 73 Small Area Plan.

The Chair said it is his understanding that the **MOTION** is that it is inconsistent with the 73 Area Plan and it is inconsistent with the intent of the zoning which was to support the Northwest Area Plan and as a result it is unreasonable and not in the public interest.

Mr. Fesperman said that is correct.

There being no further discussion the vote was cast 6 to 1 to deny Petition 2006-04 (R). Petition 2006-04 (R) **DENIED**.

The Chair said we are bound by the rules and law to show findings to say whether it is or is not consistent with the plan. He encourages Mr. Looper to look into his options that would be consistent with the area plan.

Directors Report

Ms. Zakraisek, Planning Manager addressed the Board stating that she wanted to update the board on a couple of things. She said we are working with and moving forward on the APFO; essentially it is going to be in 2 phases. The first phase will be looking specifically at schools and then behind that will be fire and recreation services, EMS and other services that are impacted with subdivisions and new development. We are moving forward with the same consultant, who did the original study, so hopefully they can take that information and build on it and it will not take us as long to generate those new numbers.

Ms. Zakraisek said the first big new amenity subdivision is coming before the board probably in July, it is located off of Zion Church Road it is a Shea Project. She said it is still out there but they have some issues that they need to get worked out.

The Chair asked if this was low density residential. He said there is hardly any MDR left in the county and that would be a real unique spot.

Ms. Zakraisek said she cannot remember off the top of her head whether it was LDR or MDR.

Mr. Prince asked when she anticipates the study to be completed.

Ms. Zakraisek said the consultant said once we enter into the contract it would probably be about 3 weeks until they can start working on it. She said they had to revise there scope for the project and they have not gotten the revision back yet but once they get a hold of it she would say probably guess not more than 2 months until we started seeing some progress. She said we are working in conjunction with the school board on some GIS information, so depending on how long it takes them to get that information cleaned up and students' assigned addresses and then finding out where the hot spots are and how many students it is actually generating. She is not exactly sure how long that time frame will be so she would say it would probably be some time maybe in the fall.

Mr. Berg said the other component that we asked about was the \$4000.00 amount; somebody was suppose to look into updating that. He asked if the consultant is doing that as well.

Ms. Zakraisek said yes, that is what TischlerBice's role is in this, to come up with those new figures because they were the ones who came up with the original \$8000.00. She said also whether or not it needs to apply new subdivisions, because existing lots and minor subdivisions also impact schools the same way that those subdivisions do. She said once we get the information together it will come back to the board because it will be different information but the Commissioners will have to decide which way they want to go with that information; if they want to extend it to all subdivisions and all lots because they had even talked about existing lots, assessing the same amount.

The Chair asked how they are going to do that, when you have signed consent agreements to pay \$500.00 or \$1000.00. He said that is a two way contract.

Ms Zakraisek said she is talking about existing lots that are out there that do not have anything tied to them.

The Chair said you are talking about the onesies and twosies minors which are about to put the building industry out of business if you slap a \$15 000 or \$20,000 assessment on those lots.

Ms. Zakraisek said those are policy decisions that the Board of Commissioners will have make, but she thinks those are the kinds of things that will come out of the study.

The Chair requests that a substitute lawyer be available to attend the Planning and Zoning Commission meetings if the regular attorney is not available.

There being no further discussion Mr. Fesperman MOTIONED, SECOND by Mr. Berg to adjourn the meeting. The vote was unanimous. The meeting adjourned at 8:22 p.m.

APPROVED BY:

Larry Griffin, Chairman



SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:

Susie Zakraisek
Planning and Zoning Manager