

Commerce Department  
Planning Division

## Cabarrus County Government

---

Cabarrus County Planning and Zoning Commission Meeting  
October 19, 2006  
7:00 P.M.  
County Commissioners Chamber  
Cabarrus County Governmental Center

### Agenda

1. Roll Call
2. Approval/Correction of September 21, 2006 Minutes
3. Update to the Planning and Zoning Commission Rules and Procedures (Second Reading)
4. New Business – Planning Board Function:
  - A. Preliminary Subdivision Plat Extension Approval  
PetitionC03-02(S)  
Shiloh Village  
Shiloh Ridge Development – Bob Stark

Director's Report

Adjournment

# Memo

**To:** Cabarrus County Zoning Ordinance Users  
**From:** Susie Zakraisek, Planning and Zoning Manager  
**Date:** 09/26/06  
**Re:** Text Amendment to Chapter 3

---

- Attached you will find a text amendment to the County Zoning Ordinance that was approved by the County Commissioners on 9/25/06.
- The text amendment adds a nursery/greenhouse use to the O/LC district as permitted by right and to the LDR district as permitted by right.
- Please replace the pages in your Ordinance accordingly.

Rationale. This district is designed to provide permanent protection for those who want to live in a low density residential environment. The district, while focused on single-family residential development, is designed to allow a wide variety of residential types.

**USES IN LOW DENSITY RESIDENTIAL:**

Permitted Uses

Agriculture, excluding livestock  
Family care home  
Group care facility  
Nursery/Greenhouse  
Semi-attached house  
Single family detached residential

Permitted based on Standards (PBS)

Accessory apartment  
Agriculture, including livestock  
Bank/financial institution/ ATM  
Bed and breakfast  
Cemetery  
Civic organization facility  
Convenience store with petroleum sales  
Convenience store without petroleum sales  
Gas station  
Home occupation  
Home occupation, rural  
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 beds or less  
Restaurant, excluding drive-thru  
Stables, commercial

Conditional Uses

Colleges & universities  
Elementary & secondary schools

## CABARRUS COUNTY ZONING ORDINANCE

---

Public service facility  
Public use facility  
Recreational facility, outdoor  
Religious institution (total seating capacity 351 or more)  
Religious institution including school  
Rest/convalescent home with more than 10 beds

**(3) Medium density residential.** This district is intended to permit development with a moderately high density community character. This district allows open space and amenity subdivisions. Residential development options for this zone include a variety of housing types, including townhouses. These zones are located where public utilities either are available or are envisioned available within the next ten years.

**Rationale.** This district is designed to provide permanent protection for those who want to live in a moderately high density residential environment. The district is designed to provide the principal location for a wide variety of residential types.

### **USES IN THE MEDIUM DENSITY RESIDENTIAL ZONE:**

#### **Permitted Uses**

Family care home  
Group care facility  
Semi-attached house  
Single family detached residential

#### **Permitted based on Standards (PBS)**

Accessory apartment  
Agriculture including livestock  
Bank/financial institution/ATM  
Bed & breakfast  
Convenience store without petroleum sales  
Home occupation  
Home occupation, rural  
Landfill, demolition (one acre or less)  
Mobile office, temporary  
Nursery/daycare  
Public cultural facility

Funeral home  
Group care facility  
Hospitals/medical facilities  
Hotels, motels, inns  
Laundromat  
Locksmith/gunsmith  
Mobile home retail sales  
Movie theater  
Nursery/Greenhouse  
Office, professional  
Parking lot, commercial or private  
Pet shop/grooming (enclosed)  
Photographic studio  
Public cultural facility  
Public use facility  
Religious institution (with a total seating capacity of 350 or less)  
Religious institution (with a total seating capacity of 351 or more)  
Restaurant, excluding drive-thru  
Retail sales - shopping centers 10,000 - 50,000 square feet  
Retail sales - shopping centers 10,000 square feet and less  
Single family residential detached  
Taxi stand

Permitted based on Standards (PBS)

Accessory apartment  
Automobile rental  
Automobile sales/new, used  
Bed & breakfast  
Catering service  
Contractor and trade shops  
Home occupation  
Landfill, demolition (one acre or less)  
Mobile office, temporary  
Multifamily residential  
Nursery/daycare center  
Printing & reprographic facility  
Recreational facility, indoor  
Recyclable materials drop-off  
Repair garage, auto  
Repair shop, small engine  
Restaurant with drive-thru facility  
Self-service storage facilities  
Townhouses

Conditional Uses

## CABARRUS COUNTY ZONING ORDINANCE

---

Public service facility  
Recreational facility, outdoor  
Trade & vocational schools  
Veterinarian/ animal hospital/ commercial kennel

**(2) General commercial.** The primary purpose of this zone is to provide locations for large scale commercial activities. This level of commercial activity usually draws clientele regionally as well as from nearby neighborhoods, requires siting on major thoroughfares and requires relatively large-scale off street parking. The zone will accommodate a wide variety of office, retail and lodging land uses. General commercial may border the other less intense commercial zone or either of the two industrial zones. A general commercial zone may border a higher density residential zone but care should be taken to assure a buffer between the two.

**Rationale.** This district is intended to provide the principal location for large scale commercial development in Cabarrus County.

### USES IN THE GENERAL COMMERCIAL ZONE:

#### Permitted Uses

Auction house  
Automobile rental  
Automobile sales/new, used  
Automobile supplies  
Bank/financial institution/ATM  
Barber and beauty shops  
Bed & breakfast  
Boat works and sales  
Building equipment sales/indoor storage only  
Building equipment sales/outdoor storage  
Bus terminal  
Car wash  
Catering service  
Civic organization facility  
Colleges & universities  
Contractor's storage yard  
Convenience store with petroleum sales

◆ Chapter Three Establishment of Zones

ZONE:	Ag/op	CR	LDR	MDR	HD/M	O/I	OF/LC	GEN C	LIM I	GEN I
19) Convenience store without petroleum sales	PBS	PBS	PBS	PBS	PBS		P	P	P	P
20) Drive-in theater								P		
21) Drug store					P		P	P		
22) Dry cleaning/laundry plant								P	P	P
23) Dry cleaning/pick up station							P	P		
24) Gas station	PBS	PBS	PBS					P	P	P
25) Hotels, motels, & inns							P	P	P	
26) Laundromat					P		P	P		
27) Locksmith/gunsmith							P	P		
28) Mobile home retail sales							P	P		
29) Movie theater					P		P	P		
30) Multimedia production and distribution complex	C	C						P	P	P
31) Nursery/daycare	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	C	C
32) Nursery/greenhouse	P	P	P				P	P	P	P
33) Office/professional less than 30,000 square feet					PBS	PBS	P	P	P	P
34) Office/professional 30,000 square feet or more						PBS		P	P	P
35) Parking lot/commercial or private						P	P	P	P	P
36) Pet shop/grooming (enclosed)					P		P	P		

**CABARRUS COUNTY ZONING ORDINANCE**

ZONE:	Ag/op	CR	LDR	MDR	HD/M	O/I	OF/LC	GEN C	LIMI	GEN I
USE:										
37) Photographic studio							P	P		
38) Printing and reprographic facility						P	PBS	P	P	P
39) Race shop/complex	C							P	P	P
40) Radio and television studio								P	P	P
41) Recreational facility/indoor					PBS	PBS	PBS	P	P	
42) Recreational facility/outdoor	C	C	C	C	C	C	C	C	C	C
43) Recyclable materials drop off	PBS					PBS	PBS	PBS	PBS	PBS
44) Repair garage/automobile	PBS						PBS	P	P	
45) Repair shop/farm machinery	PBS								P	P
46) Repair shop/small engine	PBS						PBS	P	P	
47) Restaurant excluding drive-thru	PBS	PBS	PBS	PBS	PBS		P	P	P	P
48) Restaurant with drive-thru facility				C	C		PBS	PBS	PBS	PBS
49) Retail sales, shopping centers/10,000 square feet and less.					P		P	P		
50) Retail sales, shopping centers/10,000 - 50,000 square feet							P	P		
51) Retail sales, shopping centers/50,000 - 100,000 square feet								P		
52) Retail sales, shopping centers/greater than 100,00 square feet								C		
53) Self-service storage facilities					PBS		PBS	PBS	PBS	PBS





## STANDARD PACIFIC HOMES

October 16, 2006

Mrs. Colleen Nelson, Senior Planner  
Cabarrus County  
Commerce Department

Re: The Cascades, Skybrook

Dear Mrs. Nelson:

I am writing to request that the Planning Commission table our site plan approval request for 30 days while we address concerns brought up by the NCDOT. Please call if you have any questions.

Sincerely,

John R. Loberg  
Director of Development

cc: Mrs. Krista Murphy

**Exhibit 1**  
**FINDINGS OF FACT**  
**APPLICATION C-748**

1. The Board adopts as its own findings the responses of the applicant under the general and specific requirements section of the application.
2. The Cabarrus County Zoning Ordinance requires a level 1 buffer for this property, but the Board finds that an opaque buffer with a minimum of 75 feet of buffer is necessary on the side of this property adjacent to Mr. and Mrs. Snodgrass, a condition to which the applicant agrees.

# Memo

**To:** Cabarrus County Planning and Zoning Commission  
**From:** Chris Moore, Planner  
**Date:** October 12, 2006  
**Re:** Request for Extension of Preliminary Plat Approval

---

Attached, please find a letter requesting an extension for the approval of the Shiloh Village subdivision preliminary plat. A copy of the plat map is also enclosed for your reference.

- Per the Cabarrus County Subdivision Ordinance Chapter 3, Section 5, a preliminary plat approval is valid for a period of 24 months from its approval date. In addition, this project is subject to a consent agreement that also expires two years from approval.
- The plat was originally approved on June 19, 2003. It was set to expire in June of 2005, but the developer was granted a one-year plat extension in May 2005.
- The preliminary plat for Shiloh Village expired on June 19, 2006.
- The developer has submitted a letter requesting a one year extension. Approval of this extension would be retroactive to the expiration date, making the plat valid until June 19, 2007 (one year from the first extension expiration date of June 19, 2006).
- Please review the attached materials and be prepared to discuss the request at the meeting.

The Chair introduced the next item on the second item on the Agenda, Preliminary Subdivision Plat Extension Request, Petition C03-02(S):

**2. Applicant: Sam King, Jr.  
Request: Subdivision Plat Extension Request**

This was a request to the Cabarrus County Planning Commission from Sam King, Jr., for an extension request for Shiloh Village Subdivision Preliminary Plat.

Mr. Rodger Lentz, Planning and Zoning Manager addressed the board stating there is a letter in the board's packet requesting that the preliminary plat for Shiloh Village Subdivision be extended. The project is currently under construction and should be completed within the next two to four months.

There being no further comments the Chair MOTIONED to approve a twelve month extension for Shiloh Village Subdivision, Petition C03-02(S), seconded by Mr. Starnes. The vote was unanimous.

Petition C03-02(S) Approved

Old Business

The Chair introduced the first item of old business on the Agenda, Zoning Atlas Amendment, Petition C05-04(R):

**1. Applicant: Cabarrus County Planning Staff  
Request: Zoning Atlas Amendment**

This was a request to the Cabarrus County Planning and Zoning Commission from the Cabarrus County Planning Staff for changes to the Cabarrus County Zoning Maps.

Mr. Rodger Lentz, Planning and Zoning Manager addressed the Board stating tonight all three old business items are related so we can either discuss them all at the same time or take the zoning map first. He said as a result of the meeting the board had today, which essential is everything that was discussed about keeping the CR zone and the watershed in the AO category north of Highway 73.

The Chair said he would like to see what changes have been made since the first draft of the maps.

**King Engineering of Concord, Inc.**  
**Post Office Box 904, Concord, NC 28026**  
**Phone: 704 - 786 - 5464, Fax: 704 - 788 - 6502**

May 30, 2005

Ms. Kassie Goodson  
Cabarrus County Commerce Department  
65 Church Street, SE  
Concord, North Carolina 28025

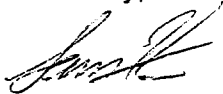
RE: Shiloh Village  
Preliminary Plat

Dear Ms. Goodson:

On behalf of my client, we are requesting an extension to the referenced project. The construction plans have been approved by the City of Kannapolis. Erosion control, sanitary sewer, water and NCDOT permit applications have been approved. The project is currently under construction and should be completed within the next two to four months.

If there are any questions, please contact our office at 704-786-5464.

Sincerely,



Sam King, Jr., PE/PLS  
King Engineering of Concord, Inc.

September 19, 2006

Cabarrus County Planning and Zoning Board  
65 Church Street  
Concord, NC 28025

To Whom It May Concern:

The purpose of this letter is to explain the chain of events that have brought about the current status of the 30 lot subdivision known as Shiloh Village.

On June 19, 2003 the Cabarrus County Planning and Zoning Board approved a 39 lot single-family residential subdivision named Shiloh Village. Based on the approval, I purchased the property. Three months after approval Kannapolis, the utility provider, informed me they were not certain they would provide water sewer for the entire 39 lots. Finally, on December of 2004, Kannapolis agreed to serve 30 lots. The revised preliminary plat was approved by County staff on December 2, 2004.

King Engineering, on my behalf, requested and received a one year preliminary plat extension in May 2005.

King Engineering, on my behalf, prepared engineering plans which were approved in June 2005.

Construction began on the 30 lot subdivision in July 2005. The sewer line Kannapolis originally asked us to connect to was located at the rear of the site. We were asked to revise our plans and connect to an existing line at the front of the site. To do this, the entire site had to re-designed so the sewer would drain in the opposite direction as originally planned. This caused approximately 8 months in construction delays and approximately \$200,000 in additional costs. Because of the additional cost, I began looking for a development firm to take over and complete the project. MAG Land Development has offered to assume the project and complete its construction.

Sam King closed King Engineering and began working for another firm in Hickory in late 2005.

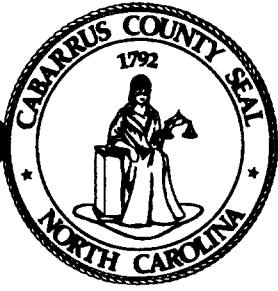
During review of the project for sale to MAG Land Development, it was discovered the Preliminary Plat had expired in May 2006. While Cabarrus County is not at fault for any of the above delays, and is certainly not responsible for the private consultants changing jobs, I humbly request you consider the unique set of circumstances and hardships that have prevented Shiloh Village from being completed within the original timeframe.

Water, sewer and storm drainage has all been installed based on the 30 lot plan. The entire site has been graded based on the 30 lot plan. All utilities have been tested and inspected by the City of Kannapolis. Construction testing firms have tested the grading. The subdivision lacks fewer than 60 days of work to be complete. you grant this extension MAG Land Development assures me they can and will complete this project, as originally approved, in a timely manner.

Respectfully Submitted,



Robert M. Stark  
Shiloh Ridge Development, LLC



Planning and Zoning Commission Minutes  
October 19, 2006  
7:00 P.M.

Mr. Roger Haas, Vice-Chairman, called the meeting to order at 7:00 p.m. Members present, in addition to the Vice-Chair, were Mr. Todd Berg, Ms. Brenda Cook, Mr. Danny Fesperman, Mr. Ted Kluttz, Mr. Leonard Lancaster, Mr. Thomas Porter, Jr., Mr. Ian Prince and Mr. Barry Shoemaker. Attending from the Planning and Zoning Division were Ms. Susie Zakraisek, Planning and Zoning Manager, and Ms. Arlena Roberts, Clerk to the Board, and Mr. Richard Koch, County Attorney.

**Roll Call**

**Approval of Minutes**

Mr. Fesperman **Motioned, Seconded** by Mr. Shoemaker to **Approve** the September 21, 2006, minutes. The vote was unanimous.

**Update to Rules and Procedures (Second Reading)**

Ms. Zakraisek, Planning and Zoning Manager, addressed the board stating that she would like to make an addition to the agenda, under old business, Cascades at Skybrook. She said we would have to go through a formal process for them to be able to table that case.

The Chair stated that is fine.

Ms. Zakraisek said these changes are to get everything in sync with when the new board members come on and when they are sworn in. She said the previous rules said December; the only thing being changed is in the first sentence, "On the date and at the time of the first regular meeting in September of each year, the newly appointed members shall take and subscribe the oath of office as the first order of business." She said the terms use to expire in December so we need to change it to September. She said that is the only change, to make that correction. She said if the Board agrees with this change tonight then we would proceed to elect a new Chair and Vice Chair for the next year, running through next September.

There being no questions, Mr. Berg **MOTIONED, SECONDED** by Mr. Fesperman to **APPROVE** the changes to the Rules of Procedures. The vote was unanimous.

The Chair said the next order of business is the election of Chairman and Vice-Chairman. The Chair opened the floor for nominations for Chairman of the Planning and Zoning Commission for the new year.

Mr. Fesperman **NOMINATED** Mr. Roger Haas as Chairman of the Planning and Zoning Commission. There being no other nominations, Mr. Berg **SECONDED** the **NOMINATION**. The vote was unanimous.

The Chair opened the floor for nominations for Vice-Chairman of the Planning and Zoning Commission.

Mr. Fesperman **NOMINATED** Mr. Todd Berg as Vice-Chairman of the Planning and Zoning Commission. There be no other nominations, Mr. Shoemaker, **SECONDED** the **NOMINATION**. The vote was unanimous.

Mr. Fesperman said he would like to go on record to say what an excellent job Larry Griffin did the past year, it was a new rookie commission basically that was started and he thinks that Larry did an excellent job during his tenure as Chairman.

The Chair thinks that they all would be in agreement with that statement.

#### **Old Business – Planning Board Function:**

#### **Preliminary Subdivision Plat Approval – Petition C2006-03(S) Cascades at Skybrook**

Ms. Zakraisek addressed the Board stating that comments were received back from NCDOT, if you remember, at the last meeting it was determined that the applicant had vested rights and they wanted to go back and look at the old zoning designation to see if they would pick up any units. She said they did a redesign and along with that redesign it was denied by NCDOT. She said they did not have an internal stem length that was appropriate in the design that they were showing, so they will have to address that with NCDOT before they can move forward. She said essentially they are asking for the case to be tabled for thirty days, to try to work out what they need to with NCDOT and to do some redesign.

The Chair said we each have a copy of letter sent to the Planning Department that states this.

The Chair asked if there were any questions. There being no further discussion, Mr. Shoemaker **MOTIONED, SECONDED** by Mr. Porter, to delay the Preliminary Subdivision Plat Approval – Petition C2006-03(S) Cascades at Skybrook decision, for thirty days until they address the concerns of NCDOT.

Ms. Zakraisek asks for clarification that it would be the next Planning and Zoning Board meeting.

Mr. Shoemaker amended the **MOTION, SECONDED** by Mr. Porter, stating it would be delayed until the next Planning and Zoning Commission meeting instead of thirty days. There being no further discussion, the Vote was Unanimous.



**New Business – Planning Board Function:**

**Preliminary Subdivision Plat Extension Approval – Petition C2003-02(S),  
Shiloh Village, Shiloh Ridge Development - Bob Stark**

Ms. Zakraisek said this is a request for an extension for an approval of the Shiloh Village Subdivision. She said some of you may remember that back in 2003 this was approved. She said in 2005, it was going to expire, they came in and they did a 1 year extension, however, they missed this last date to get any plats recorded. She said according to the ordinance, if the plat expires after that 2 years, or after you have opted for your 1 year extension, you have to start over in the process. She said they have done some site work out there, and she believes possibly some of the utility work that they (the applicant) can address. She said what they are asking for is, yes it has expired, so they are asking the Board to grant them another 1 year extension that would be retroactive back to June 2006, which would let the preliminary plat actually expire in June of 2007. She said the Board has a letter from Bob Stark, he is here along with his engineer and she is sure they can answer any questions about the project that the Board might have, or reasons for asking for the additional extension.

Ms. Zakraisek said the Board had a copy of the site plan, so if it is approved they will be able to continue with this preliminary plat and would not be subject to any of the new standards that we have in place today.

The Chair asked if there were any question or would the Board like to hear from the principals first. He said he has 3 cards that were turned in.

Mr. Shoemaker asked Ms. Zakraisek what the differences are between what we have in place today and what they have.

Ms. Zakraisek said essentially the standards that were adopted in 2005, which would be the anti-monotony standards, the different densities standards, and the different type of subdivisions standards. She said they are actually under the old Zoning Ordinance, so it would look like all the other subdivisions, it would not look like the ones you have seen come across your desk recently as far as anti-monotony standards and open space standards and those different types of things. She said it would look like a subdivision from 2003 because that is when it was approved.

Mr. Shoemaker asked if they already have a Consent Agreement.

Ms. Zakraisek said they had a Consent Agreement, but it expires with the plat. If this was approved, they would have to go back and renegotiate that with the County Commissioners.

Mr. Lancaster asked what the amount of the old Consent Agreement was.

Ms. Zakraisek believes that they were at the \$500 donation.

Mr. Porter asked as far the density, what changes would there be from the original to what is in place today.

Ms. Zakraisek believes that area of the County is now mainly zoned CR (Countryside Residential), and their property at that time was zoned MDR (Medium Density Residential). She said it would be a difference in MDR to CR and then the total number of lots that they have right now is 30 lots. She does not have a zoning map with her to tell what it is zoned now.

Mr. Porter asked Ms Zakraisek if some site work and utility work had already been performed on site.

Ms. Zakraisek said she believes so. She said initially it was zoned MDR and she believes since it is in the Odell area, it probably would have the CR zoning designation at this time.

Mr. Shoemaker said yes it does. He has the map.

Mr. Prince asked if the 30 units ever hit the school list, and were they counted.

Ms. Zakraisek said yes, they would have initially been counted and then when the plat expires we do take those off of that list.

The Chair asked if this would in any way set a precedent, that as we go forward for the extension when expirations happen. He asked what impact it would have on future requests, is it a case by case basis or based upon the circumstances involved, that we would make a decision yes or no as to whether they would be approved or denied in the future.

Ms. Zakraisek thinks that would be a legal question as to whether you would be setting a legal precedent.

Mr. Koch does not think it sets a legal precedent because each case would stand on its own merits and be based on the facts of the particular case. He said certainly someone coming in later would try to use the prior decision as support for their decision, but he thinks each one stands on its own.

Mr. Lancaster said he had a couple of phone calls on this situation. He understands the lapse was more of a mistake then anything. He said one thing to keep in mind is that the new Consent Agreements run around \$4000, so even if it was a little mistake, it will cost somebody over \$120,000 or so to get it back up to date, so at least that amount will be going toward the schools that would not have been going toward the schools if they had renewed it normally back in July.

Ms. Zakraisek said if you have seen any of the Commissioners meetings on T.V., you know that when it comes to those Consent Agreements, they do not have to accept it at the amount that it was. She said they can opt to have them meet what it is now, they could opt to have them meet somewhere in between, typically people attempt to get it renewed at whatever it was the first time, but the Commissioners are under no obligation to do that.

Mr. Lancaster asked if they would have the opportunity to attempt to get it back on at the \$500.00 they were at the first time.

Ms. Zakraisek said they could try, but it does have to be renegotiated. She said their new vesting date would be retro back to 2006, and in June 2006 it was \$4034.00. She said that is a decision that is completely up to the Board of Commissioners.

Mr. Porter asked if this board could request that the Consent Agreement extension request be approved with a condition that the Consent Agreement is at today's figures.

Mr. Koch said the Planning and Zoning Commission could recommend it, but you could not require it. He said it is not in the Planning and Zoning Commissions jurisdiction.

There being no questions, The Chair opened the floor.

Mr. Bob Stark, Shiloh Ridge Development, addressed the Board and apologized for being here. He said this is a project that has been very difficult for them. He said they started out in 2003, and came before this Board and got approval on a 39 lot subdivision, based on a letter from the City of Kannapolis saying that they would provide water and sewer. He said shortly afterwards, the City of Kannapolis notified them that they (Kannapolis) would not provide them water and sewer, after they (Shiloh Ridge Development) had bought the property. They tried to negotiate with the City of Kannapolis but there was no negotiation, they just held us off for no reason that could be determined, for over a year, before Kannapolis decided to allow them to put in 28 lots, and they were in no position to say anything but okay. Mr. Stark said they got Sam King to redesign the project for 28 lots; they got all of the approvals and they have built the project out for 28 lots with water and sewer to each of the 28 lots.

Mr. Stark said the project slopes from the front to the back, there is a creek in the back, and they were going to go down the creek to the river to connect to the main sewer line. He said the City of Kannapolis said we could not do that, that we would have to come out the front, so that meant we had to lower the front and raise the back. He said there was a \$200,000 change, and we essentially ran out of money. He was scrambling around trying to find a buyer for the project and found MAG Land. He said during their due diligence, they found out that it had gone over the time limit. He said the project is 90% built, the new buyers could have the streets in by December; the water is approved by Kannapolis, has been tested and is approved; the sewer has been tested and approved. He said this project is ready to go for them.

Mr. Stark said we had to go into bankruptcy and are still going through that process. He said we have had a terrible situation out there and are in right much of a jam. He said we need to get this project approved because time has run out at the bank and they are going to foreclose on this and take the land. He said they have guaranteed this land, so they will not only take the land, but will take his house too. He said we have a deal with MAG Land that they will buy this land, hopefully next week and they will get us out of this. He said we paid for the land and will lose that, but will be out from under the bank. He said these guys are good, established, experienced developers and home builders and will be able to get this thing in the ground, get the streets paved, and get houses going up out there by the first of the year.

Mr. Stark said they do not understand what happened on this project with Kannapolis and have not since 2003, understood, anything about this. He said when we went from 39 lots down to 28 it took all of the profit, when we went from having to go from the front draining to the back on sewer and having to build up the back to drain to the front and that killed us. He said it was his fault, he was trying so hard to get this thing sold that he was not paying enough attention to the time line, it is his error, his fault and he hopes that the Board can understand that. He said he would like for his engineer to address some of the issue as well.

The Chair asked if there were any questions for Mr. Stark.

Mr. Sam King, formerly of King Engineering, addressed the Board. He was the project engineer or designer for the subdivision in the original preliminary plat, and did all the engineering drawings and plans. He said effective April 2005, he shut down his business and moved to another firm in Hickory, he has been out of the county for the last year and a half, and away from this project. He would be happy to answer any questions about the project. He checked with MAG Land's engineering along with Mr. Stark and concurs that the project is 90% complete, and utilities have been installed, the roads are at subgrade and ready to be paved. He finds the estimate of 90% completion to be realistic.

The Chair asked if there were any questions for Mr. King.

Mr. Steve Bailey of MAG Land Development and South Point Homes addressed the Board. He handed out copies of an aerial look of the project. He said as you can see the site has been completely graded, all that is left to do is put down curb, asphalt, and 700 feet of the final sewer. He said all of the sewer and water that has been laid has already been tested by Kannapolis and approved. He said all of the sewer and water taps, for each of the 28 lots have been installed per the plan, so if they were forced to go back and resell this, all of that would have to be pulled out and put in for 1 acre lots per the new Ordinance. He said there would be a substantial loss there and cost in the ground as well. He said if this is approved, they anticipate coming in very quickly, finishing this up and getting built out, they will not be back next year asking for an extension. He would be happy to answer any questions.

Mr. Fesperman asked if NCDOT required a turn lane into that.

Mr. Bailey said yes, we are going to install that and have spoken with NCDOT, that permit has not expired and they are ready to reissue it in our name to finish it.

The Chair asked if there were any questions.

Mr. King said he wanted to add that when he mentioned that he has closed his business down, and that he has been out of town, that is why he was unaware of the lapse of the extension. He meant to make that clear when he said that, that he has been gone and been away, his current job has him all over the state and he has not been here to take care of that and the lapse happened because he was away.

There being no further discussion, Mr. Berg **MOTIONED, SECONDED** by Mr. Lancaster to **APPROVE** the one year extension contingent upon the County Commission working out the Consent Agreement.

The Chair said this motion will be retroactive to June 19, 2006, which would make it valid until June 19, 2007. The vote was unanimous.

Mr. Fesperman said to Mr. Stark that it is a sad commentary to have to hear your situation, the development business is very very tough and things happen and we appreciate your honesty and we feel your pain.

### **Old Business**

The Chair asked Mr. Koch if the Findings of Fact that were given to the Board is the piece that was put together in regards to the park.

Mr. Koch said yes, and the Board should entertain a motion on it because it was left open last time. He said the order has also been prepared for signature.

The Chair read the Findings of Facts for Conditional Use Application C-748, Cabarrus County Parks and Recreation. (See the Findings of Facts at the end of minutes)

Mr. Shoemaker **MOTIONED, SECONDED** by Mr. Fesperman to **APPROVE** the Findings of Fact for Conditional Use Application C-748. The vote was unanimous.

### **Directors Report**

Ms. Zakraisek believes there is another opportunity for training if any one is interested. She received the notice yesterday and it says it is for elected officials, she will find out if it is geared more toward elected officials in decisions that get to them and how to handle it post Planning and Zoning Board or if it going to be general information. She said Bill Duston is very good; Rich Ducker is from then Institute and the person she usually calls when she and Mr. Koch need additional legal advice. She said there is a component

where they are going to talk about conditional zoning, the new zoning district we have. She will find out if it is open to everyone or limited to elected officials.

Ms. Zakraisek said the Looper case will be heard at the October 30, 2006, Board of Commissioners Agenda. She said we had the work session with them and they did not ask a lot of questions, so it will be interesting to see if they ask their questions at the meeting or if they do not have a lot of questions and already have an opinion.

Ms. Zakraisek received 12 sets of plans, each having about 5 elevations to them, if anybody is interested in helping to do architectural review for our anti-monotony standards. She thinks it is going to be a challenge, she has been through 3 sets of the plans and approximately 21 elevations, and none of those elevations thus far qualify to be placed on a corner lot. She thinks it is going to be interesting to see what we get in the progression from what they initially turned in to what we end of up seeing in the end. She thinks all in all, there will be somewhere close to 100 elevations that will have to be reviewed just for that one subdivision.

The Chair asked for motion to adjourn.

Mr. Fesperman **MOTIONED, SECONDED** by Mr. Shoemaker to adjourn the meeting. The vote was **Unanimous**. The meeting adjourned at 7:33 p.m.

**FINDINGS OF FACT  
APPLICATION C-748**

1. The Board adopts as its own findings the responses of the applicant under the general and specific requirements section of the application.
2. The Cabarrus County Zoning Ordinance requires a level 1 buffer for this property, but the Board finds that an opaque buffer with a minimum of 75 feet of buffer is necessary on the side of this property adjacent to Mr. and Mrs. Snodgrass, a condition to which the applicant agrees.

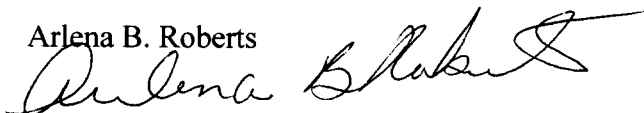
APPROVED BY:



Roger Haas, Chairman

SUBMITTED BY:

Arlena B. Roberts



ATTEST BY:

Susie Zakraisek  
Planning and Zoning Manager