

Commerce Department
Planning Division

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
October 16, 2008
7:00 P.M.
County Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Oath of Office for Reappointed Member
2. Roll Call
3. Approval/Correction of September 18, 2008 Minutes
4. Old Business – Planning Board Function:
 - A. Petition C2008-01(S) - Subdivision Preliminary Plat Approval - Park Creek - Phase III, Section A & B (Request to Table)
 - B. General Board Discussion on Petition C2008-04 (R) - Central Area Land Use Plan Implementation Rezoning (no action will be taken)
5. Directors Report
6. Adjournment

Memo

To: Cabarrus County Planning and Zoning Commission
From: Jeff M. Huss, Planner
Date: 10/9/2008
Re: C2008-01 (S) Preliminary Plat Approval – Park Creek Phase III, Section A & B

- The applicant is asking that this case be tabled until the regularly scheduled November Planning & Zoning Meeting. Please see the attached letter from the applicant.



KECK & WOOD, INC.

*Formerly Doing Business as
Williams Engineering, Inc.*

215 Hampton Street, Suite 100
Rock Hill, South Carolina 29730

Office: (803) 324-3192

Fax: (803) 324-8919

October 7, 2008

Mr. Jeff Huss
Cabarrus County Commerce Department
Planning Division
65 Church Street, SE
PO Box 707
Concord, NC 28026-0707

**RE: Update for Planning & Zoning Commission Meeting on Park Creek,
Phase 3 A & B Preliminary Plat Resubmittal**

Mr. Huss:

As a matter of update, due to the limited amount of time, only two weeks from our original tabling by the Cabarrus County Planning and Zoning Board, we have been unable to resolve our concerns with this plat issue regarding a portion of the subdivision property located in Rowan County.

The Cabarrus County Tax Administrator has officially decided to release the parcel in question to Rowan County. To date that process has not been completed, therefore, the Rowan County Planning Department has been unable to address the issue due to the fact that it was not a Rowan County parcel.

We have been in communication with the Rowan County planning. We initiated the discussions of review and approval for a new parcel in Rowan County. Upon their receipt from Cabarrus County Tax department we can then move forward with protocol for Rowan County.

We anticipate having all the necessary questions answered and resolved prior to the necessary deadlines for the November planning meeting.

Thank you for your assistance throughout this process, and I will continue to keep you up to date as we proceed.

Regards,

David E. Tibbals, RLA
Keck & Wood, Inc.

CC: Carl Anderson. Park Creek

Arlena Roberts

From: Susie Morris
Sent: Wednesday, October 08, 2008 12:35 PM
To: Barry.C.Shoemaker@pmusa.com; brenda e cook; Danny Fesperman; David Baucom; dennisy@ycharch.com; ensley@ctc.net; Eugene Divine; Ian Prince; Larry Griffin [lgriffin2@carolina.rr.com]; tberg@morrisberg.com; Ted Kluttz (jmbbuilding@vnet.net); Tommy Porter
Cc: Arlena Roberts; Susie Morris; Rich Koch
Subject: Map of Parcels Specifically Identified in the Public Hearing

Good morning-



map_for_pz.jpg

Attached you will find a map that shows the specific parcels identified during the public hearing for the Central Area Plan rezoning implementation case. Individual parcels that were brought to your attention are identified with a blue asterisk.

If you have questions about the map, feel free to call me.
Susie

Susie A. Zakraisek Morris, AICP, CZO
Planning and Zoning Manager
Cabarrus County Commerce Department
704.920.2858 (phone)
704.920.2227 (fax)

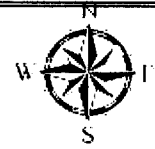
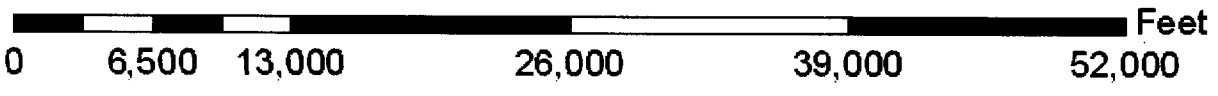


Susie Zakraisek.vcf



Cabarrus County shall not be held liable for any errors in these data. This includes errors of omission, commission, errors concerning the control of the data, and relative and positional accuracy of the data. These data cannot be considered to be a legal document. Primary source from which these data were compiled must be consulted for verification of information contained within the data.

Map Prepared by Cabarrus County Planning Services. 9/30/2008



STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

CITY OF CONCORD- CABARRUS COUNTY
INTERLOCAL AGREEMENT REGARDING
THE CENTRAL AREA PLAN

This INTERLOCAL AGREEMENT REGARDING THE CENTRAL AREA PLAN ("Interlocal Agreement"), is entered into effective June 29, 2008 by, between and among the CITY OF CONCORD ("Concord"), a North Carolina municipal corporation and CABARRUS COUNTY ("County"), a body politic and political subdivision of the State of North Carolina, and the WATER AND SEWER DISTRICT OF CABARRUS COUNTY, ("District"), a water and sewer district formed pursuant to N.C. Gen. Stat. Chapter 162A.

PREMISES

1. The City, the County and the District have been involved in lawsuits (the "Litigation") that are more particularly identified as the cases of Craft Development, LLC, et v City of Concord, et al, 03 CVS 2400, and Morrison et al v City of Concord, 03 CVS 2462 (Cabarrus County Superior Court).
2. All of the claims in the Litigation have been settled, dismissed or otherwise resolved, with the exception of the claims by the City against the County and the District, and the claims of the County and the District against the City.
3. On or about December 6, 2004, the City and the County entered into a Memorandum of Understanding (the "2004 MOU"), in which the City and County set out a framework by which they hoped to resolve the remaining claims in the Litigation and to settle any remaining differences between them pertaining to such claims.
4. On January 21, 2006, the parties reached an agreement (the "Agreement") to resolve all of the differences and disputes between them that were the subject of the Litigation.
5. This Agreement was attached to and incorporated into a Consent Judgment dated January 23, 2006 and signed by Superior Court Judge Clarence E. Horton, Jr.
6. The parties subsequently amended that Agreement by a document termed the "Amended Agreement", which was attached to and incorporated into an "Amended Consent Judgment" dated October 30, 2007 and signed by Superior Court Judge W. Erwin Spainhour.
7. In the Amended Agreement, the parties agreed to modify the Agreement to divide Concord's Utility Service Area into two subareas and set forth temporary rules in each subarea with regard to the provision of utilities to property in the Utility Service Area while they worked on a land use plan known as the "Central Area Plan" (also referred to as "CAP"). The CAP is presently in draft form and has not yet been approved by the parties.
8. This Amended Agreement contained an expiration date of June 30, 2008.
9. The parties now desire to enter into a new agreement regarding the Central Area Plan and for the provision of utilities in Concord's Utility Service Area.

In consideration of these Premises and the Terms below, and the provisions of N.C. Gen. Stat. §160A-460 *et seq.*, which the parties acknowledge make this Interlocal Agreement binding and enforceable, the parties agree as follows.

TERMS

1. The parties agree to use their best efforts to jointly plan for growth in Concord's Utility Service Area, particularly in the geographic area included in the Central Area Plan and located outside of the Concord's planning and zoning jurisdiction. Such planning shall take into consideration the goals of fiscally responsible growth management, rural preservation, protection of farmland, preservation of natural areas, conservation, sustainable development and the impact of the extension of water and sewer utility services with its resultant likely increase in development intensity in that Area. No wording in this paragraph shall be construed to mean that the County has acquired any additional powers to control, manage or direct growth in those areas within the municipal boundaries of and the extraterritorial jurisdiction of Concord.

2. The parties agree to jointly adopt the same CAP for the Central Area outside of the planning and zoning jurisdictions of the Cities of Concord and Kannapolis but only within the Utility Service Area of Concord. Pursuant to the Amended Agreement, the parties have been working on the proposed CAP, which work is being developed and coordinated by LandDesign. The parties agree that the CAP will be diligently completed and then forthwith approved by each of the parties pursuant to the procedures provided in the respective ordinances of the parties. Specifically, the parties agree that each will submit the CAP for consideration to their respective planning and zoning boards no later than the regularly scheduled August, 2008 meeting for each such board (or at the next regularly scheduled meeting if the August meeting is not convened for lack of a quorum) and that the CAP will be considered by their respective governing boards no later than the next regularly scheduled meeting for each board after the respective planning and zoning boards refer the CAP to their respective boards for consideration. The parties acknowledge that each must adopt the same CAP in order for this Interlocal Agreement to accomplish its purposes. The County agrees to assume primary responsibility for finalizing the CAP and initiating any zoning changes as a result in areas outside the extra-territorial zoning jurisdiction of the City. The draft CAP map is attached at Exhibit B.

3. The parties have agreed on two areas in the Utility Service Area referred to as Areas "A" and "B". The location of these areas is shown on a map attached as Exhibit A and incorporated by reference. The line dividing the two areas is referred to as the Utility Service Boundary ("USB"). For all those properties located in Area B the parties agree that Concord at its sole option may extend utility service to owners and developers of such properties. For all those properties located within Area A, Concord shall not extend water and sewer utilities except for those for which Concord has already entered into a construction contract or for extensions required by an emergency, including but not limited to failing on-site waste water treatment systems or failing on-site water wells; or either to (i) properties located within Concord municipal limits or ETJ, or (ii) to individual buildings adjacent to wastewater or water lines as either may exist on June 30, 2008. Concord and the County do consent to the extension of utilities to development owned and operated by the federal, state, county or municipal governments, or to "employment centers" as shown on the CAP now or through amendment approved by both Concord and the County, or to regional utility lines such as a water pipeline from the Yadkin River basin to Concord.

4. The parties each agree to rezone the affected properties in the CAP in their respective jurisdictions to that zoning classification that matches the land use and densities recommended in the revised CAP.

5. This Interlocal Agreement shall commence on the effective date stated above and continue for a period of fifteen (15) years, terminating on June 29, 2023. Notwithstanding, the parties agree to review this Interlocal Agreement at least every five (5) years from the effective date in order to determine if the Interlocal Agreement continues to accomplish its purpose. The parties may amend this Interlocal Agreement at any time by a written instrument agreed to and executed by all the parties.

6. No provision of this Interlocal Agreement shall be construed to impair Concord's right to annex any property in its Utility Service Area, except to the extent that such an annexation by law would require Concord to provide water and/or sewer utility service to a property that would violate the terms of this Interlocal Agreement. In such cases, Concord may annex, but decline to provide utilities.

7. Contemporaneously with the execution of this Interlocal Agreement, the parties agree to amend accordingly the Agreements and Amended Agreement which are incorporated respectively into the Consent Judgment of January 23, 2006 and the Amended Consent Judgment of October 30, 2007. Except as changed by this Interlocal Agreement, the definitions contained in such documents shall retain their meanings.

8. The parties understand and acknowledge that a breach of this Interlocal Agreement would accord the non-breaching party an inadequate remedy at law and that injunctive relief and specific performance would be the only effective remedies. The parties agree that the non-breaching party may seek and obtain injunctive relief and specific performance to enforce the terms of this Interlocal Agreement. The prevailing party in any such litigation shall be entitled to recover its attorneys fees and cost of litigation from the party which defaults or breaches the Interlocal Agreement.

9. Should Concord breach this Interlocal Agreement by extending water and sewer utility services to property located in Area A, other than the provision described in Paragraph 3 above, the County as an additional remedy may withhold issuing building permits for development of such property. Should the County breach this Interlocal Agreement, Concord is not required to extend water and sewer utilities to any development approved by the County in derogation of this Agreement, nor is Concord required to continue to follow this Agreement.

10. This document and the corresponding Second Amended Consent Judgment containing the Second Amended Agreement collectively comprise the entire agreement between the parties with reference to the matters contemplated by such writings. No modification or amendment shall be valid and enforceable unless reduced to writing and signed by all the parties.

IN WITNESS, the parties have each executed this Interlocal Agreement by their respective authorized officials pursuant to the authority specifically granted by their respective governing boards at a joint public meeting held on June 25, 2008.

CITY OF CONCORD

CABARRUS COUNTY

By: J. Scott Padgett
J. Scott Padgett
Mayor

By: H. Jay White, Sr.
H. Jay White, Sr.
Commission Chair

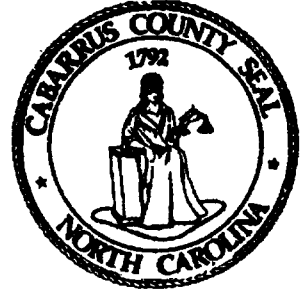
ATTEST:

Kim Deason
Kim Deason
City Clerk



ATTEST:

Kay Honeycutt
Kay Honeycutt
Clerk to the Board of Commissioners



WATER AND SEWER DISTRICT
OF CABARRUS COUNTY

By: H. Jay White, Sr.
H. Jay White, Sr.
Chair

ATTEST:

Kay Honeycutt
Kay Honeycutt
Clerk to the District

WATER AND SEWER DISTRICT
OF CABARRUS COUNTY

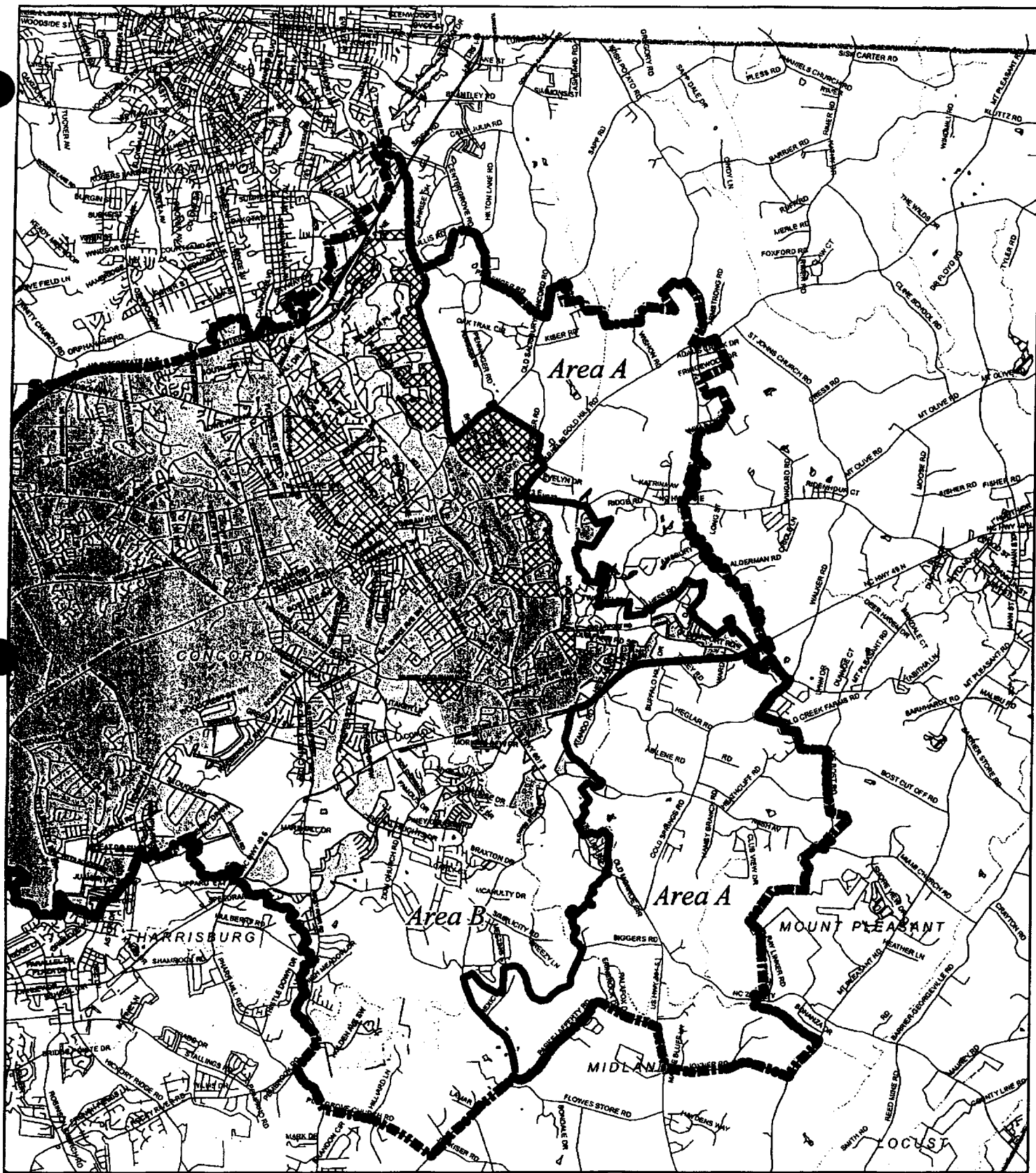









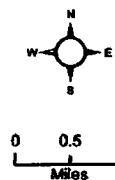
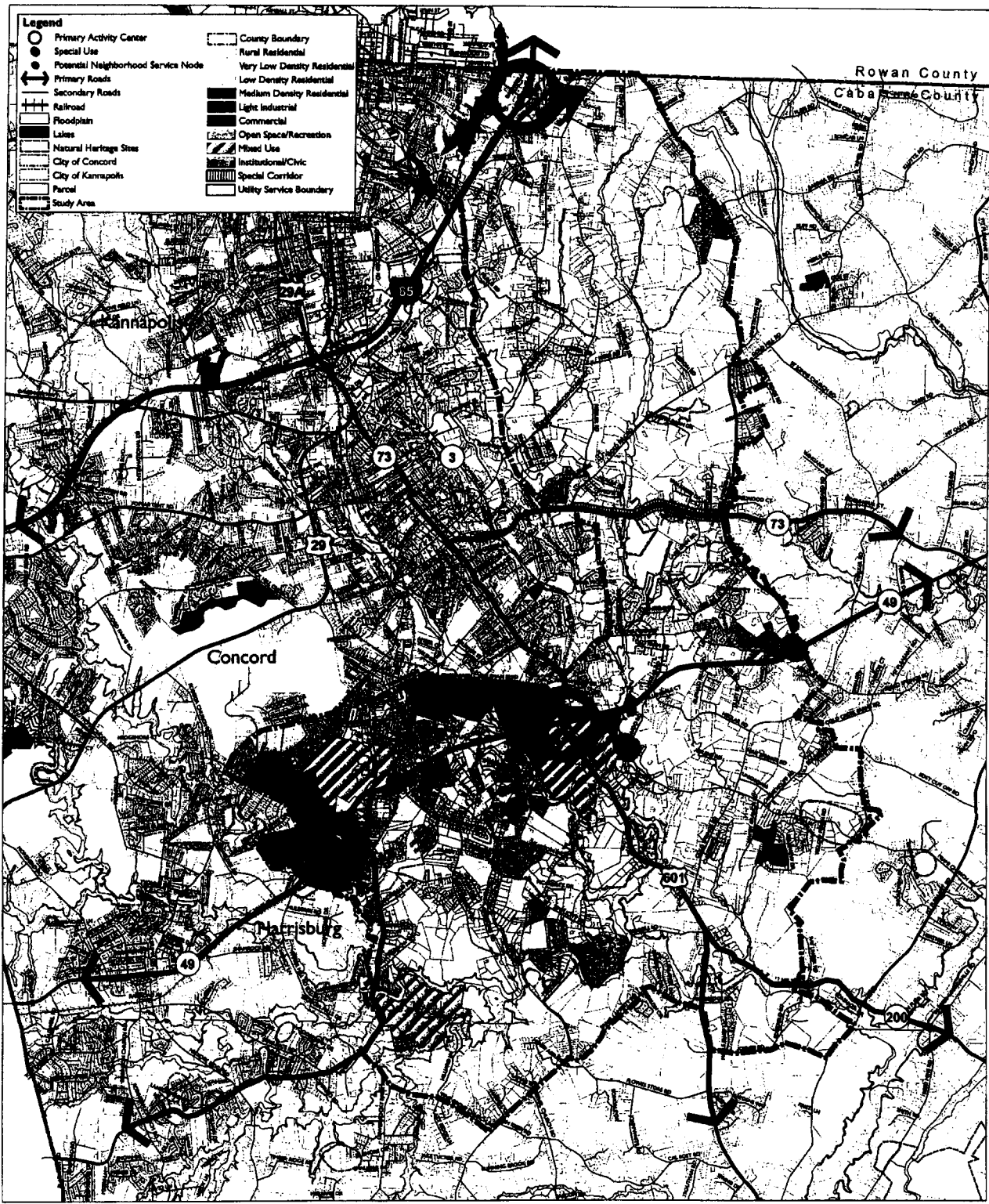


EXHIBIT A

- | | | |
|--|---|---|
|  Planning Area |  Sub Area Boundary (Urban Services Boundary) |  Cabarrus Co. |
|  Concord ETJ |  City of Concord |  Streets |
|  Other Municipalities | |  Rivers |
| | |  Lakes & Ponds |





DRAFT LAND USE PLAN (Figure 10)

Central Area Plan

Cabarrus County, North Carolina

1 inch equals 2,000 feet

0 0.25 0.5 1
Miles

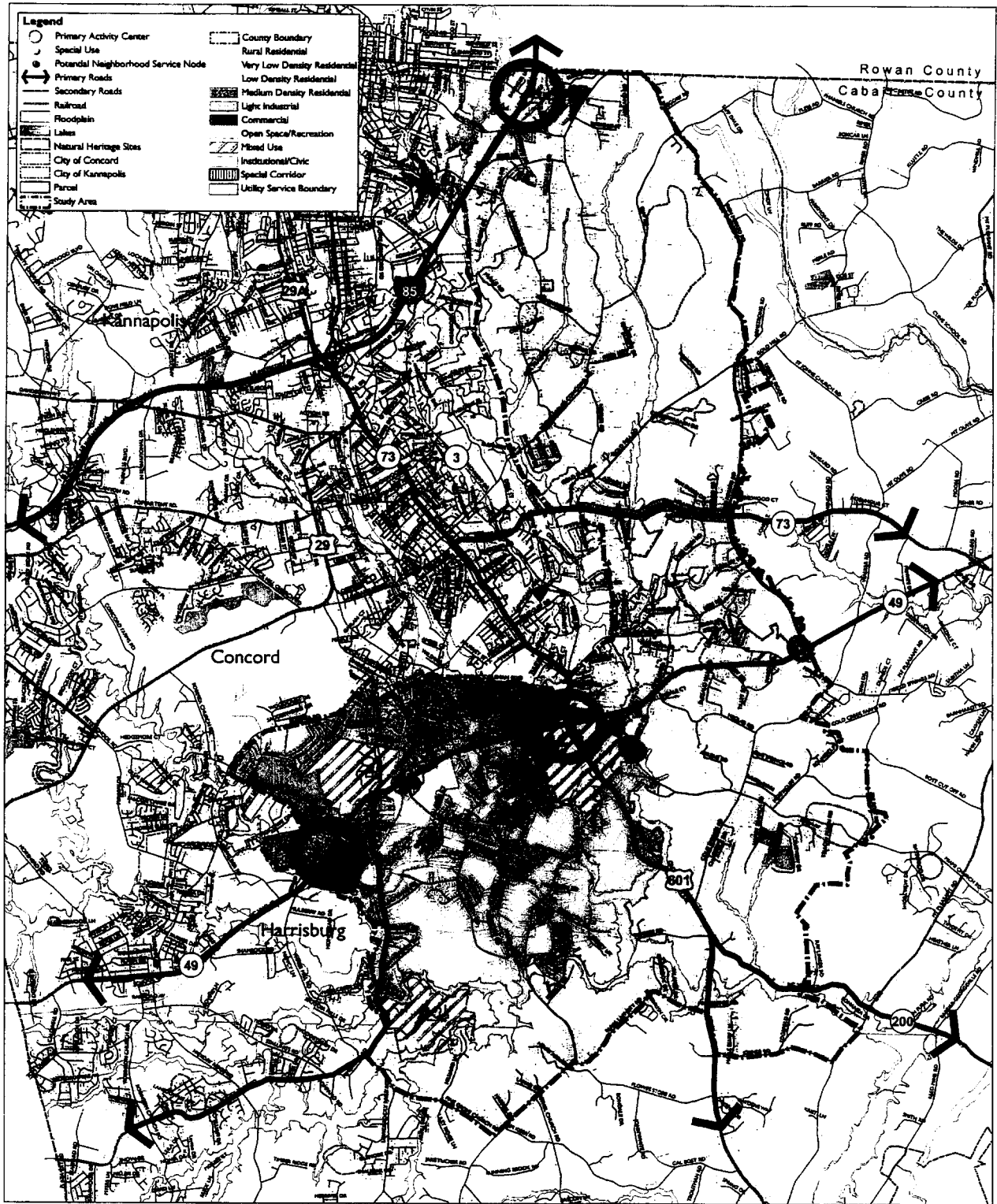


WARREN & ASSOCIATES
PLANNERS ARCHITECTS ENGINEERS
1000 W. HARRISBURG RD.
HARRISBURG, NC 28105
704.738.1100
www.warrencpa.com

CODE STUDIO

DATE: 10/15/2010
DRAWN BY: J. WILSON
CHECKED BY: J. WILSON
SCALE: AS SHOWN
PROJECT: CABARRUS COUNTY LAND USE PLAN
SHEET: 10 OF 12

Exhibit B



DRAFT LAND USE PLAN (Figure 10)

Central Area Plan

Cabarrus County, North Carolina

1 inch equals 2,000 feet

0 0.25 0.5 1 Miles

Map 2002 - LUP # 1000027



WARREN & ASSOCIATES
CODE STUDIO

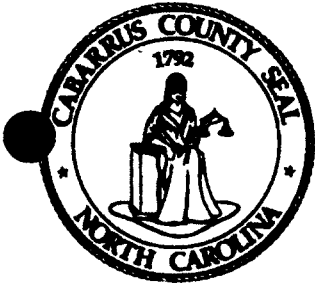
WARREN & ASSOCIATES
1000027

To: Cabarrus County-Board of Commissioners
Cabarrus County-Board of Planning and Zoning
From: John V. Lentz
Re: Rezoning Request
Date: October 1, 2008

I am requesting that my family's property located at the corner of Neisler Road SR#2404 and Gold Hill Road SR#2408 **NOT** be rezoned to AO because of the following:

1. The road frontage on Neisler and Gold Hill Road lies in the City Jurisdiction of Concord Zoned RM1. It does not make sense to split zoning of parcels. The existing zoning district should remain the same LDR. (see Map)
2. Down zoning will only take value away from us as property owners. We are depending on property value for retirement.
3. The overall National, State and local economy is in distress. The Planning Board should recommend to the Board of Commissioners that this zoning change will adversely affect our land and housing value.
4. The Planning Commission should recommend to the Board of Commissioners that any site specific parcels of land placed in Agricultural Open should be done with consent of land owners.
5. Directly across from Neisler Road are Concord Middle School, Irvin Elementary School, Cold Water Lutheran and New Hope Church. Across Gold Hill Road is Cold Water Voluntary Fire Department.
6. I did attend the meetings concerning this matter. I did fill out a blue card to speak on September 18, 2008. The format was a time limit and I did agree to give my time to Mr. Newton. I was recognize and did say that Mr. Newton had addressed my family property request on split zoning. However at a meeting on October 1, 2008 with Mrs. Susie A. Morris, AICP, CZO Panning & Zoning Manager, she stated that I should have given information on my family's property. She recommended that I send my request, map and information on why I am making this request to the boards. Thank you for your time and consideration.

John V. Lentz
2530 Cedar Cove Dr.
Harrisburg, NC 28075
704-455-5229
jvlentz@aol.com



Planning and Zoning Commission Minutes
October 16, 2008
7:00 P.M.

Mr. Todd Berg, Chair, called the meeting to order at 7:00 p.m. Members present, in addition to the Chair, were, Mr. David Baucom, Ms. Brenda Cook, Mr. Eugene Divine, Mr. Larry Ensley, Mr. Danny Fesperman, Mr. Larry Griffin, Mr. Tommy Porter and Mr. Barry Shoemaker. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Board, Mr. Richard Koch, County Attorney.

The Oath of Office was administered to reappointed member Mr. Tommy Porter.

Roll Call

Approval of Minutes

Mr. Larry Griffin, **MOTIONED, SECONDED** by Mr. Larry Ensley to **APPROVE** the September 18, 2008, meeting minutes. The vote was unanimous.

Old Business – Planning Board Function:

The Chair introduced the Petition C2008-01(S) –Preliminary Plat Approval – Park Creek, Phase III, Section A and B

Ms. Susie Morris said a letter was received from the developer in this case, their engineer sent the letter requesting that this Preliminary Plat Approval request be tabled. She said if the Board remembers, part of the parcel was in Rowan County. She the Tax Assessors Office have agreed that 2 ½ acres will be assessed in Rowan County; they will be creating a parcel number for it. She said the applicant is not comfortable moving forward with the project until they have some type of assurance from Rowan County that they will be permitted to design the project the way that they want too, if not, they will have to pull the cul de sac back into Cabarrus County. They have not gotten anything back from Rowan at this point. They are asking that this be Tabled until November and possibly continuing into December if it has not been resolved.

Mr. Larry Ensley **MOTIONED, SECONDED** by Mr. Barry Shoemaker to **TABLE** Petition C2008-01(S) Preliminary Plat Approval, Park Creek, Phase III, Section A and B until the November meeting. The vote was unanimous.

The Chair said the next item Petition C2008-04 (R) - Central Area Land Use Plan Implementation Rezoning is not an action item for this evening; it is an opportunity for additional discussion. He said the Board did not act on the rezoning in conjunction with the Central Area Land Use Plan, but decided to Table it until the November meeting. He said in the mean time, Ms. Morris sent out some maps identifying some parcels. He thinks most of the commissioners, if not all of the commissioners, received an additional

letter from one of the applicants and that Ms. Morris also handed out tonight the Interlocal-Agreement between the County and the City of Concord regarding the Central Area Plan. He said there is no agenda for this other than opening it up for discussion, thoughts and questions or additional information.

The Chair said the map identified each of the parcels that someone spoke specifically about at the September meeting; each of those people opposed rezoning their parcels. He said there was also some general opposition to rezoning of the industrial parcels and they are identified on the map as well, one of those was a specific request and there were some general comments also.

Mr. Shoemaker said in regards to the industrial, when we went to the original Land Use Plan it just said it was intended to provide small scale industrial and office uses and existing industrial, clean and light industrial multi-tenant, but it said existing industrial. He is not real sure whether we should just maintained it as General Industrial (GI) and let it grow as it was, rather than rezoning the entire thing as Light Industrial (LI) which is what he thinks we ended up doing. He asked if that was accurate.

The Chair said yes, it was part of the rezoning. He went through the recommendations and he thinks one of the speakers, Mr. Newton, pointed out that the recommendations section did not really call for down zoning the industrial. The Chair said he would agree with that unless Ms. Morris could point out otherwise.

The Chair said the comment had to do with industrial properties and the recommendations section of the Land Use Plan did not really call for down zoning those, he did not see it.

Ms. Morris said the Land Use Plan calls for Light Industrial (LI) in those particular areas to be consistent with what the Land Use Plan calls for; that is why we are proposing the down zoning to the Light Industrial (LI). She said it was to get it to where it is consistent with what the plan is proposing, because the heavy industrial in the I-2 (Concord Zoning) areas are not consistent with what the folks said that they wanted or what is shown in the plan that is adopted.

Mr. Porter was not at the September meeting but in reading through the minutes he knows there is some concern on some residential areas as well as industrial. He asked if industrial were the primary remarks that was received or was it pretty much all across the board.

The Chair said it was across the board, we just happened to start with industrial. He said there are plenty of other areas for discussion as well. He said the option would be to stick with what was recommended in September which would be to down zone all of those or to pull those out and leave them as they are as General Industrial (GI).

Mr. Griffin thinks the property owners that spoke about specific pieces of General Industrial (GI) made a lot of good points. One in particular was on the edge of an already

General Industrial (GI) area that had been developed that way. He thinks it was essentially the case with the three individuals that spoke about the General Industrial (GI) land. To him it made just as much sense if not more to leave those particular parcels and probably the other areas that are going to Light Industrial (LI) as they are; regardless of what the plan says. The thing that kind of sticks in his craw a little bit is that these folks clearly bought the land when it was zoned General Industrial (GI) anticipating that they were going to be able to develop it that way, it is clearly not out of place when it is adjacent to land that has already been developed as General Industrial (GI).

The Chair said in accordance to comments of the speaker, the adjacent parcel was rezoned to General Industrial (GI) fairly recently.

Mr. Griffin said that would have been during the mass rezoning if it was done recently.

Mr. Shoemaker is inclined to agree with Mr. Griffin. We do not have very large tracts here; talking about complex industrial infrastructures coming in you are not going to get that out of these properties. He said if it were something that required a lot of water or something like that that would have to go through the City of Concord and they would have to have a say in what went in there; if it were a high demand or if it had a lot of waste water or things like that. He said that would be an inhibitor for putting in something that would be destructive to the environment or the area around it; he thinks there would be some checks and balances to keep that area from being too intensely developed as an industrial property, but we would still miss an opportunity if we were to get some clean industrial in here, it is not light but a little bit more on the heavy side, a manufacturing facility of some sort. He does not think Light Industrial (LI) will cover the manufacturing facility.

The Chair said we are not taking any action tonight; we are trying to generate discussion and get some thoughts. He asked if anyone else had any thoughts on industrial properties.

Mr. Porter agrees with what Mr. Shoemaker and Mr. Griffin have said. He does not see that going from Light Industrial (LI) back to General Industrial (GI) would be out of character with what we are trying to accomplish.

Ms. Morris said for clarification the Light Industrial (LI) would permit the manufacturing.

The Chair said look at the group of properties directly across from the fair grounds. He said that was one that made some sense to him to leave that alone as well. He said there is still the issue of utilities which we are not going to deal with; someone else will have to deal with that. He said currently several parcels along Highway 49, across from the Arena are zoned Office Institutional (OI) along the front part and Low Density Residential (LDR) towards the back. He asked if anyone had any thoughts on that. He does not know what the plans are for the property until the utilities get out there, there may not be a whole lot that can be done anyway. It seems to him that the character of the property

directly across from the Arena made some since as its current zoning, which is Office Institutional (OI).

Ms. Cook said her understanding of the public input in the meetings was that they wanted to control the development in certain areas, so you did not have 15 strip malls going down Highway 49; therefore this property makes sense to leave it as it is because if somebody wants to put something in there they can consolidate into that area instead of all up and down Highway 49.

The Chair said that was his thought as well, it goes to Countryside Residential (CR) and he does not see that type of development directly across from the Arena.

Mr. Porter is somewhat familiar with that property in that area. He said there is already a sign out there that says some type of chemical facility across from the Arena; he does not see where it would be inconsistent for that area to leave it. He does not see where that would be going residential right along Highway 49 and the Arena.

The Chair said there were a couple of speakers that talked about property that had already been through the preliminary plat process.

Ms. Morris said that particular project came through Cabarrus County, but it was provided utilities by the City of Concord, so that project is approved. Our policy in the county would be that if you have an approved preliminary plat, if the zoning changes, then we still recognize the approved preliminary plat. As far as she knows that is the City of Concord's policy as well.

The Chair asked if it would be a nonconforming use if you change the zoning.

Ms. Morris said for now, when it comes into the City, that is where the densities that are identified in the plan would be applied. She said that project is being annexed into the City and they have a development agreement in place with the City of Concord.

The Chair said regardless of what we do, the City is going to change the zoning anyway.

Ms. Cook said there was also a gentleman who spoke that had land adjacent to that and wanted it to stay the same.

Ms. Morris said based on the agreement, they can be annexed into the City if they make the utility request.

Mr. Koch said part of the reason this was done this way was to try to deal with the demands for utilities in an area where the City, if he understands them correctly, is feeling a lot of pressure to provide utilities that they don't want to do at this time.

Mr. Ensley asked if the last piece of property was contiguous with the other.

The Chair does not think that it is. He asked if he was talking about the one Mr. Mervin spoke about.

Mr. Ensley said yes.

The Chair said it does not appear that it is from the map, although the way that Mr. Mervin talked about it sounds like it was because he was talking about stubbing streets.

Ms. Morris said there are actually two different parcels there. She said it would be adjacent once Roycroft was developed. She said the County Ordinance does require folks to provide stub outs to the large tracts that have the potential to be developed in the future. That is something that we do; it does not mean that the property will be developed. They are temporarily cul-de-sac until that connection happens. There would be stub outs required to any of the adjacent parcels.

The Chair said at the top of the map there was parcel that was directly adjacent to some property that had been identified as Mixed Use in the Land Use Plan. He recalls that the speaker preferred to go to Mixed Use; basically to extend the Mixed Use area although Mixed Use is not a zoning designation for the County. The other option was to stay as it was.

Ms. Morris said in front of the Board is the Land Use classifications, not zoning designations.

The Chair said it is currently zoned Countryside Residential (CR), proposed to go to Agriculture Open (AO). He asked Ms. Morris to elaborate on the Mixed Used designation from the Land Use Plan, what the thoughts were behind that, if it makes any sense to expand that area any.

Ms. Morris said that area is the area that we agreed upon with Kannapolis; the middle ground between where they saw the development going and based on what the current development pattern is there. That area was defined and is part of the adopted Land Use Plan. She believes Ms. Goodman's argument was that she had 11 to 13 acres and with the proposed densities she would now have to have a three acre lot. She said there is some room there for transition to that type of residential development, the language does allow for Mixed Use to include residential as well as some commercial type uses. In some of the areas it even identified some Light Industrial (LI), and that was one of those areas because there is currently already some Light Industrial (LI) in the area at the Lane Street exit.

The Chair said the Board received a letter from Mr. John Lentz; the property is on the corner of Gold Hill and Neisler Road. It is currently zoned Low Density Residential (LDR), proposed to go to Agriculture Open (AO). He thinks that parcel is directly across from the entrance to the Concord Middle and Irvin Elementary school area. He said part of that property is already in the city.

Ms. Morris said it is in the ETJ (Extraterritorial Jurisdiction).

There being no comments from the Board the Chair moved on to Mr. Newton's property.

The Chair said Mr. Newton spent a good deal of time speaking in general about the rezoning and the Land Use Plan. For those of you who were not here, at our urging the group kind of selected Mr. Newton as the spokesman; so a lot of those comments were in general but there is also a specific piece of property that he owns that is kind of in the mix of an already developed subdivision. He thinks the thing that he would comment on about that piece of property just in looking at the maps; it is already pretty surrounded by much smaller parcels that would not meet the proposed zoning requirements.

Mr. Shoemaker asked what the current zoning designation is for most of the properties in this dense area.

Mr. Berg said it is Countryside Residential (CR); it is proposed to go from Countryside Residential (CR) to Agriculture Open (AO). He thinks it went to Countryside Residential (CR) as part of the 2005 mass rezoning, it was Low Density Residential (LDR).

There were no comments.

The Chair said there was a piece of property that Mr. Robertson spoke about on the corner of Buffalo and Highway 49, thirteen acres, and is currently Low Density Residential (LDR).

Ms. Morris said that is actually three small parcels.

No comments.

The Chair said the only one we have not talked about is the George Helms parcel on Country Home Road. We have raised, at least for discussion each of the parcels that were spoken about specifically at the last meeting; he asked if anyone had any general thoughts or wanted to go back to any of these pieces of property.

Mr. Shoemaker said when we did this rezoning, what is the advantage of making everything Agriculture Open (AO), versus going through some of these developments, as you can see there are all kinds of pockets of developments throughout the Agriculture Open (AO) zoning that should be Countryside Residential (CR) or Low Density Residential (LDR), and making those what they should be in character and being a little more consistent in the way we describe it and then making more of the wide open areas Agriculture Open (AO) in keeping with their rural areas.

Ms. Morris said to be consistent with the plan and based on the densities that the plan calls for these are the appropriate zoning designations. She said if you remember Agriculture Open (AO) is not specifically 1 unit per 3 acres; they do have those different design options and they can get down to 1 unit per 2 acres. She said Countryside

(CR) starts at the 1 unit per 2 acres but they can also get a density bonus if they meet those additional standards. These are the zoning designations that would correspond to what the Commissioners adopted as the plan.

Mr. Shoemaker asked if Countryside Residential (CR) was a part of that plan or is it strictly Agriculture Open (AO).

Ms. Morris said no, if you look at the map you will see that there are properties that are going to Countryside Residential (CR) as well.

The Chair said to be clear, if we were to rezone to Agriculture Open (AO) a lot of those parcels would become nonconforming because they are currently denser than Agriculture Open (AO).

Ms. Morris said a lot of them currently are nonconforming based on the 2005 rezoning.

Mr. Shoemaker asked what nonconforming meant, do the landowners have to do something to their property, mitigating to make it conforming or is it grandfathered in as the way it was before the rezoning.

Ms. Morris said typically, if there is an approved preliminary plat, that is what we would use to establish setbacks for the development. She said if it is a vacant property and they are trying to develop it there is some relief in the Ordinance based on what's next to them; adjusting the setbacks. If they have an existing lot of record then they are entitled to a building permit. If it is an existing lot of record and you do not meet the setbacks there are some elements in the Ordinance that allow us to make adjustments. She said if those adjustments do not work, then if they wanted to build a house that was larger than being able to meet those particular setbacks, then they would have to apply for a variance. She said this only if it is more instead of less.

The Chair asked if everyone believes that they would be able to discuss this and act on it at the next meeting.

Mr. Shoemaker said part of the frustration that he feels in this is not having the ability to sit down and talk about it, other than this one meeting. We have to meet in smaller groups in order to do that type of discussion because of the open meetings law and that type of thing and then that inhibits us from really having some discourse that probably we need to be able to have in smaller groups.

Mr. Koch said as long as you do not have a quorum, which would be five. He said you can meet in groups of four or less.

Mr. Shoemaker asked if they can entertain meeting with other people other than just themselves.

Mr. Koch said sure, this is a legislative decision so you can talk to people outside the meeting, but you cannot have what would constitute a quorum for this Board meeting together at one time to discuss it. He said you also cannot, if it involves some sort of a contemporaneous email or conference call or something like that that involves a quorum; that would also arguably constitute an open meeting under the statute.

Mr. Shoemaker asked if there were actually zoning designations in the Central Plan that the Commissioners approved or was it just more broad based and more descriptive. He said in the document that was handed out, he did not see anything about zonings per se in that.

Ms. Morris said the document that this Board recommended be forwarded to the Board of Commissioners is the same document that they acted on. It has those recommendations in there with the implementation of the actual plan being to make sure that the zoning corresponds with what the plan would call for, where it is less dense. She said remember, we are only looking at the less dense zoning designations, we are not up-zoning any of the parcels. She said the orange areas on the map are higher densities that allow the density bonuses up to three per acre; we are not performing any up-zoning. She said it is in the area where a current zoning by right would permit densities that are not now consistent with the Land Use Plan. She said if the Board remembers, in your staff reports now, when you vote, you have to give that consistency statement one way or the other if someone is trying to rezone that property. She said the document you forwarded and that was approved, would be the document that we would use to analyze any proposed developments or rezonings in this particular area.

Mr. Shoemaker asked if the spirit of the plan was to prevent development along corridors that Concord was unwilling to supply the infrastructure to support.

Ms. Morris said the spirit of the plan was that the folks who lived in that area said they wanted it to remain rural. She said there was a lot of input from the public and what we kept hearing over and over was that they wanted it to stay the same. She said the folks that were with us from the beginning to the end of the process understood that it would not stay the same without a plan because it would just continue the way that it was. She said it was two fold: 1. the public participation we had and 2. the agreement we had in place with Concord that essentially said that if someone asks them for utilities regardless of where it was they had to provide utilities. She said that was not working because all it was doing was causing sprawl, so the County and the City went back and looked at that agreement and said that this is not working and came to this compromise establishing that new utility service boundary line.

Mr. Shoemaker said right, which was part of the spirit of the plan to create a controlled infrastructure expansion, a process for that.

Ms. Morris said that is more of what came out in the agreement. We could have done this Land Use Plan without establishing that utility service boundary line, because regardless of that line, the densities that are proposed and what folks wanted, the utilities are not

permitted there based on the County's Zoning Ordinance. She said Countryside Residential (CR) and Agriculture Open (AO) do not allow utilities, if someone wants to develop there, they will have to do so with a well and septic system. She said just based on the densities that is what would happen with this plan regardless. She said the yellow and orange areas on the map permit utilities based on our zoning designations and those densities, it is expected that there would be utilities provided to those developments.

Mr. Porter asked how this would work at a meeting when we are voting on this. He said it would be simple to say we want to leave the General Industrial (GI), we do not want to mess with that or the Office Institutional (OI), leave them as existing. He said when you get into the residential areas and just take the ones we have talked about and say okay we agree with this particular tract and pull it out, there is a never ending process. He said you will have people who did not get to speak the last time come up and say we did not have a chance to speak; that we gave the others an exception and now we do not have an exception. Mr. Porter said to make the plan work, you would have to say okay, we can pull out the Office Institutional (OI), the Industrial and leave that like it is. He said that satisfies some of the people, but the others, how do you go in and satisfy part of them, you cannot just go in and cherry pick this unless you say we are going to pass the Central Area Plan as it is, as far as the residential and give them a period of time to come back and ask for a rezoning and maybe not charge them a fee for that. He does not understand how it works where you can go in and pick out pieces like we talked about, individuals when there are other individuals that may not have had an opportunity to speak on their particular parcel.

Ms. Morris said as far as showing you those individual parcels, it was just a tool to try to show you what the folks were talking about based on the number of parcels that we are rezoning and the folks that were here and expressed individual concerns; as far as taking out those parcels she will let Mr. Koch address that.

Mr. Koch said the way the Inter-local Agreement is written; it came out of two prior pieces of litigation. It involves some developers, but ultimately there were cross claims between the City and the County concerning control over development and the provision of utilities. The agreement the Board has before them basically is a commitment on the part of each of the two jurisdictions the City and the County to adopt the Central Area Plan; which the County has done and the Planning and Zoning Commission recommended previously. He said that was the first step in the process, the agreement also provides that properties would be rezoned consistent with the plan. If all of the properties are not rezoned consistent with the plan the language in the agreement considers that to be a breach of the agreement and it could very well cause the agreement to essentially not be honored by Concord.

He said this Board is the first Board to consider the rezoning, and you do have as one of your options to not rezone any of it, to rezone most of it but pull out certain parcels, or rezone all of it. He said you do have several options; if you rezone any parcel not consistent with what is in the plan then there may be some impact on the agreement.

The Chair asked if the consequences of breaching the agreement were just that the City of Concord will not extend utilities to the area that they have already said they will not extend utilities too.

Mr. Koch said that could be one consequence, it may not be the only one. It may be that we really have no agreement on what is going to occur. He said it would be inconsistent with what they have already agreed to do. He said then we would have to drop back and figure out where we go from there.

Mr. Griffin said it fascinates him that you can get an inter-local agreement that before anything is rezoned the city and the county have already decided it will be rezoned to be consistent with the plan.

Mr. Koch said all they have agreed to do is say that is the way they would like for it to be; but it specifically implies that you still have to go through the process and consider everything as you typically would under state statute.

Mr. Griffin said when you start telling folks that we have this agreement with the City of Concord and Cabarrus County and if we don't rezone it consistent with the plan, the agreement is going to fall apart. He said that might not be a bad thing.

Mr. Koch cannot comment on that other than to say it would have an effect on the agreement, potentially.

Mr. Jim Scarborough, Attorney, addressed the Board stating that he does not have a whole lot of knowledge of the agreement. He has read it, but is not sure if he has read the most recent one. He is a common law property lawyer, what people use to call a Deed Lawyer. He always heard that there was such a thing as contract zoning that was illegal. He said you cannot enter into a contract to rezone something with developers, but yet the governments get to do that. He does not quite understand what is going on.

He was originally involved in a law suit with Craft and Crosland who bought the suit because the City was trying to dictate the construction standards outside the city limits. They had the water and sewer because the county sold it to them. He does not see why it has to do with the lawsuit. He knows the City and County kept going, but it seems to him there is a whole lot of stuff being piled on to this as an explanation which he does not get. He doesn't get the purpose of all of this, frankly, it seems to be a growth boundary, just call it that. He said Concord never had any trouble turning somebody down for water and sewer. He does not see why they are under any pressure; they have never been under any pressure from us or the County. He doesn't quite get any of this, but it does seem like contract zoning.

The Chair said it still seems to be a lot of stuff to sort through and wade through. He knows some people want to do some additional research on their own. He said based on that he is not optimistic that we will be ready to act on this next month, but we have

tabled it until next month, so he guesses we will leave it on the agenda. He asked if it could be tabled again.

Mr. Koch said if that is what the Board wishes to do.

The Chair said we are looking for our options.

Mr. Jerry Newton addressed the Board. He said the agreement that he had been given by staff was dated January 21, 2006, if there is a different agreement that Mr. Koch is talking about he would like to know what that agreement is because what is being described is different from what he is reading.

The Chair said this agreement is June 29, 2008.

Mr. Newton said as of right now this is the first he has gotten it. He was able to follow what the Board was talking about up until that point. He said there are a lot of things that he could say but it is the Boards' meeting and he is not going to interrupt it; other than to say he thinks going through and talking about the individual parcels is a good way to start talking, remember we were kind of put on the spot at that meeting and there are a lot of people whose individual parcels are not on that dot map now who otherwise would have said something.

The Chair said he understands.

Mr. Shoemaker asked if it would behoove them to have a smaller committee get together with other parties and just talk about this and come back to the Board with some revelations.

The Chair thinks that would be helpful if some folks would like to spearhead that. He would also like to encourage everyone to continue to do their own homework so that we will be prepared to talk about it in November. He said Mr. Koch set the ground rules as far as what we can and cannot do. He thinks it is pretty open other than a quorum getting together either personally or by email. He said Ms. Morris and staff have been very available in this last month in putting together what sort of documentation that you request.

Mr. Shoemaker said one thing he did note was in comparing the Limited Industrial (LI) to General Industrial (GI), he would like to get a better side by side so that he can really understand it. It looked like to him that the only real differences were asphalt and concrete plants and race complexes, versus race shops. He said race complex being like a speed way, drag strip kind of thing and then an asphalt concrete plant. He does not know if there would be a way to compare those two, but if those are the only two real differences between Limited Industrial (LI) and General Industrial (GI) then that is not much of a restriction as what he thought. He thinks it may have been a chemical plant in there too. He said when you go to look at chemical plants and in this area you are talking about a lot of water and those types of facilities are difficult to establish. What would be

good is if we could just compare those two side by side so that we could really understand what the differences truly are.

Ms. Morris said the list and the table are in the Ordinance. She said you can also look in the table where it lists all of these, so you would see comprehensively what is permitted in each of those districts. She said the City and the County have differences; the County's Ordinance to some extent is more liberal than the City's Ordinance because it is geared toward a more urban environment. She said there is not a whole lot of difference between our Light Industrial (LI) and General Industrial (GI); there may be a little bit more between a Municipality having I-1 and I-2 just because of the way that they may use the I-1 district as a transitional district. Ms Morris said staff can put that together for you, but you have those lists in your Ordinance.

Mr. Shoemaker does not know if it is incumbent upon them to know what Concord has, but that would be something that probably could be brought back to the next meeting to at least help us understand what the differences are between the two. He said glancing over it he did not see but three or four differences, everything else was exactly the same. He said it would be good for the folks that are hearing that their properties are being down-zoned to Limited Industrial (LI) to understand what that really means and what the restrictions are for that.

The Chair asked if anyone had any addition thoughts or comments.

Directors Report

Ms. Morris said the NC3 plan was taken to the Board of Commissioners to try to get a feel from them on some issues that have come up. She said the City of Kannapolis and Cabarrus County as well as Iredell and Mooresville were involved in that plan. She said Cabarrus County and Kannapolis have some differing opinions on how they see the NC3 corridor growing or not growing. It was taken to the Board of Commissioners to try to get some direction from them as far as going back to the CCOG (Centralina Council on Governments) with how the County sees that plan developing. She said it will be a part of the Boards meeting on Monday, October 20, 2008. We will be talking about view sheds and whether or not the County would support view sheds to maintain the rural character in that area. We will be talking about the difference between a four lane road and a two lane road. A two lane road will currently have a 60 foot right of way; if you remember, that is something that came up during the Wayne Brothers rezoning case. She said there is some right of way along NC 3; there is some maintained right of way, some dedicated right of way; so that corridor is not necessarily consistent in how that right of way exists.

The other item that they will be talking about is the land use, what the County is looking at currently is Agriculture Open (AO) from Kannapolis Parkway out to the County line. She said the group as a whole agreed that commercial should be done in nodes instead of along the corridors so it does not look like Independence Boulevard or even along Highway 29 here in Cabarrus County. She said the Wayne Brothers is the only

commercial site that is proposed in Cabarrus County because that was annexed into the City of Kannapolis and they do have a plan to move forward with Kannapolis.

She said the Agendas are on line now for the Board of Commissioners meetings and the Board can look at the materials if they want too. She said once everything is settled here, we will go back to the CCOG; there will be another public meeting and then eventually that document will make its way back to the Planning and Zoning Commission for comment and then on to the Board of Commissioners to consider it. She said the study area is about a mile out from the NC 3 corridor.

Mr. Shoemaker asked if she said it would be an agreement between Cabarrus County and Kannapolis eventually on the development of this corridor or is Cabarrus County just doing it for them selves?

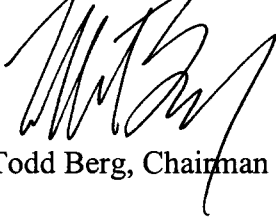
Ms. Morris said it is a joint plan, the CCOG is spear heading the plan and Iredell, Mooresville, Cabarrus and Kannapolis are all participating in the development of the plan. She said right now the County has different ideas about how that corridor will develop. The County perspective is that it should stay a two lane road; it's rural in character and is what the folks out in Odell have expressed. With the four lanes they were actually talking about the Super Street concept. She said, if you have been down to Locust she thinks the Super Street is being used in front of the new Wal-Mart. It is also what is proposed for Bruton Smith Boulevard when it gets realigned and extended. It is a boulevard that would not necessarily have traffic lights anymore, you would have through traffic lanes and then those folks would go down to another traffic light and they make u-turns. It almost functions as a very elongated round about. They are proposing a modified version of that, which is very different from what is out there now. If you can imagine Highway 29 now being Highway 3, and nothing on the TIP any time soon, so we are trying to hammer that out. One compromise is for the County to adopt a larger view shed than what the other jurisdictions are adopting; that way if the property did get annexed into Kannapolis for development, the entire view shed would not be eaten up in that right of way.

Ms. Morris said they are working through those things right now with the Commissioners to get a feel for what their view is and their vision for that area. Hopefully, it will be back to the Planning and Zoning Commission around the first of the year if not in December.

She said they will take it back out to the public; depending on the public comment, it may be a longer process, we are just trying to work through these items right now. She said if you hear any folks talking about it please direct them to our office so that we can explain to them what the differences are between the two views and that the plan is not adopted yet. There is still a lot of time and there still will be a lot of public input on that plan. She said they can contact CCOG and she is not sure if the CCOG has all the information up on their website, normally if they are working on projects, they do put it up on the website.

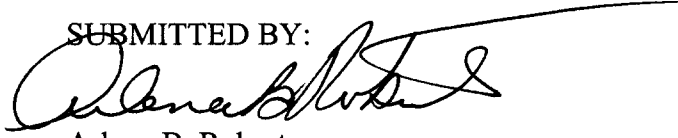
There being no further discussion, Mr. Larry Griffin **MOTIONED, SECONDED** by Mr. Shoemaker to **Adjourn** the meeting. The vote was unanimous. The meeting ended at 8:08 p.m.

APPROVED BY:



Todd Berg, Chairman

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager