

Minutes
Catawba County Board of Commissioners
Regular Session, Monday, March 19, 2007, 7:00 p.m.

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The Catawba County Board of Commissioners met in regular session on Monday, March 19, 2007 at 7:00 p.m. in the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Barbara G. Beatty and Commissioners Dan Hunsucker, Glenn E. Barger and Lynn M. Lail.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen Daley, Assistant County Manager Lee Worsley, County Attorney Debra Bechtel, Deputy County Attorney Anne Marie Pease and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m.
2. Commissioner Lynn M. Lail led the Pledge of Allegiance to the Flag.
3. Chair Barnes offered the invocation.
4. Commissioner Dan Hunsucker made a motion to approve the minutes of the Regular Meeting of Monday, February 19, 2007. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes recognized everyone present as special guests and specifically recognized Danny Hearn, President, Catawba County Chamber of Commerce and Jerry McCombs, President, Catawba County NAACP.
6. Comments for Items not on the Agenda.
George Lutz came forward to oppose the closing of a portion of Shuford Road. He said Dotty Shuford's access to her farm and pond would be shut off if that portion of the road was abandoned.

Bill Coley, a resident and business owner (Lee Industries) from Conover, voiced his concerns regarding incentives granted to incoming businesses without like funds for the expansion of existing, established businesses in the County. Chair Barnes encouraged him to contact the County's Economic Development Corporation which is responsible for these types of incentives.

Tom Millican of Conover came forward to question the County's policies on illegal aliens and the enforcement of laws pertaining to these aliens. He was advised that these laws were generally Federal in nature and directed him to contact the Sheriff to discuss how these laws were enforced in Catawba County.

7. Presentations.
 - a. Commissioner Lail presented Yerby Ray, Executive Director of the Catawba Valley Chapter of the American Red Cross, with a proclamation recognizing the 90th anniversary of the founding of Catawba County's chapter of the American Red Cross. On April 5, 1917, 60 citizens formed the Hickory Auxiliary of the American Red Cross, which would later evolve into the Catawba Valley Chapter of the American Red Cross. From the beginning, their goal was to provide relief to victims of disaster and help people prevent, prepare for and respond to emergencies. The fledging chapter participated in recovery efforts following the devastation of back to back hurricanes, supported the troops involved in World War I, and responded to the ravages of a worldwide flu epidemic responsible for over 40 million deaths. Over the past ninety years, the Catawba Valley Chapter of the American Red Cross has served, and continues to serve, all residents of Catawba and Alexander Counties through its disaster services, Armed Forces Emergency Services, blood collection, and health and safety classes. Mr. Ray invited all citizens of Catawba and Alexander Counties to attend the Red Cross Birthday party at the chapter's headquarters.
 - b. Mr. Mark Sigmon, Chair of the Southeast Catawba County Area Council, came forward to ask the Board to call for a referendum on liquor by the drink, to be voted on by registered voters in the Mountain Creek Township. He stressed the reasoning for the request was based on safety and consumption control issues, as well as being a good economic/growth decision for the area. Members

of the Southeast Catawba County Area Council (Ralph Starling, Leslie Alton and Bradley May) also addressed the need for sewer service along Highway 150/16 corridor due to anticipated growth. They stressed the need for this service to cultivate business growth in this area and requested the Board study the cost and feasibility of such service. The Board was thanked for having the foresight to sign an agreement with Mooresville for future sewer needs but Mr. May said the future was now and the service should be utilized now. The Board then voted to approve the referendum to be voted on by the registered voters of Mountain Creek Township. The Board asked Larry Brewer, Board of Elections, to summarize the procedures and cost of referendum. Mr. Brewer said if the Board approved this request, the Catawba County Board of Elections would meet on March 21 to set a date for the referendum, which must be held between 60 and 120 days after the referendum is authorized. He indicated the cost for the referendum would be approximately \$20,000. He went on to say that there were approximately 6200 registered voters in the Mountain Creek Township and registration would be open until 25 days prior to the election. Early voting would be required as with any election. Commission Glenn Barger made a motion to approve the referendum. Commissioner Barbara Beatty said her mother had been hit by a drunk driver over 30 years prior and still lived with the results of that accident so she would vote against the referendum. Chair Barnes pointed out that a referendum was the choice of the people, not the Board's decision – the Commissioners were not taking a position on liquor by the drink, just the right of the people of Mountain Creek Township to vote on the issue. The vote carried four in favor, one opposed.

Chair Barnes called on County Manager J. Thomas Lundy to comment on the request for sewer service. Mr. Lundy said the first step would be to get some good engineering numbers on the cost to provide the sewer and the second piece would be the options available to the County to finance the sewer and taking a look at the number of businesses that might be willing to hook on to sewer. He said he envisioned bringing that report back to the Board sometime in the future with the cost and options for financing. Mr. Lundy noted that the Southeast Catawba County Area Council had offered to help the County in terms of approaching businesses that might be willing to sign a pledge to connect to the sewer. Chair Barnes said what Mr. Lundy proposed seemed an appropriate place to start and asked that Mr. Lundy proceed. Vice-Chair Barbara Beatty added she wanted the 16 corridor also looked at in the staff's research.

8. Public Hearings:

a. Cal Overby, Planner, presented a request of Mr. Mark Leatherman for Leatherman Grading, Inc., to rezone a 5.12 acre parcel, located at 5838 East Greedy Highway in the Mountain View Small Area Planning District, from the R-20 Residential District to RC Rural Commercial. The subject parcel is currently vacant. Properties to the north are currently zoned R-20 Residential and either occupied by single-family residences or vacant; properties to the south are zoned R-20 and R-40 Residential and occupied by single-family residences or are vacant; the property immediately to the east is owned by the applicant and is vacant, while properties further to the east across Highway 127 South are zoned R-20 Residential and PD Planned Development and are either vacant or occupied by commercial structures; while the property to the west is zoned R-40 Residential and occupied by a single-family residence.

The stated purpose of the RC Rural Commercial District, under the County's Unified Development Ordinance (UDO), is to provide for the location of business, office and service uses in rural settings that serve immediately surrounding residential neighborhoods. Uses permitted within the RC Rural Commercial District generally consist of smaller retail and service uses targeting the immediate surrounding neighborhoods.

The property proposed for rezoning is 5.12 acres in size. The RC Rural Commercial District, which was being requested, would permit a maximum floor area ratio of 1:5, which would calculate into 1.02 acres, or 44,605 square feet of total floor area (numbers rounded). The subject property is also located in a WS-III-BW watershed protection area, which places specific use and density standards on development.

The Mountain View Small Area Plan serves as the current land use plan for this area. The plan identifies the area around the intersection of Highway 127 South and East Greedy Highway as an area for high density residential land uses, typically consisting of residential zoning districts that accommodate higher density residential land uses, but not land-uses related to Rural Commercial zoning. Staff did not consider the request to be consistent with the Mountain View Small Area Plan and did not recommend approval of the request because of 1) the isolation of the subject property from other adjacent commercial zoning; 2) the consideration of spot-zoning; and 3) the recommendations of the Mountain View Small Area Plan. The Catawba County Planning Board held a public hearing on this rezoning on February 26, 2007. A total of twelve citizens spoke during the public hearing, four in favor of the rezoning and seven in opposition, with one person neither for nor against the proposal. The County also received two letters opposing the rezoning. The Planning Board voted unanimously to recommend this request not be approved, on the basis of the staff recommendation noted above.

Mr. Overby added to the staff's statement that during some early conversations with Mr. Leatherman, staff did have some discussions regarding rezoning a portion of the property near the intersection of Hwy 127 and Greedy Hwy – so even though if they were looking at a inconsistent rezoning regarding the Mt. View Plan, they would be looking at the continuation of existing commercial district which probably could have, in some form or fashion, received a positive recommendation from staff but this was not entertained in the end and the recommendation stands on the petition that was submitted.

Commissioner Barger asked Mr. Overby to go back to the map that showed the property. He said he thought what was proposed in the Mt. View Plan was a commercial node from Hwy 127 – and asked if it included parcel #14 (this was a parcel that housed one of the existing commercial businesses) – Mr. Overby said no – it was not designated a commercial node – and said the nearest commercial node was to the south at the intersection of Hwy 10 and Hwy 127. Commissioner Barger said he wanted to be clear on his understanding – what was proposed in the Small Area Plan was a commercial node and outside of the commercial node were existing businesses – Mr. Overby confirmed they were existing businesses that are not in compliance with the existing plan. Chair Barnes then said if she understood correctly if the portion of the property which says Part of 1 that faces Hwy 127, if it had been basically reversed, there would have been support by staff and probably the Planning Board because it would have been an extension of the existing commercial properties. Mr. Overby confirmed this understanding. Commissioner Hunsucker asked what the distance was from the other commercial property – Cal thought it was 500-700 feet, and Commissioner Hunsucker confirmed it wasn't that far – and Mr. Overby agreed. Commissioner Hunsucker went on to ask that if this was a bonafide farm (and also asked for confirmation that this was a rural area) and there are farms behind that, then he would be able to build this structure – and Mr. Overby confirmed this if the building were for farm operations. Commissioner Hunsucker continued – “but he is not planning on doing this work in this building, from what I understand, for other people but strictly for his business” – Mr. Overby agreed and said the purpose was for the maintenance and upkeep of the grading equipment that Mr. Leatherman uses for his daily business. Chair Barnes clarified it was not farming equipment. Mr. Overby confirmed that it was commercial grading equipment. Chair Barnes then asked if Mr. Leatherman wanted to make a statement and none was made.

Chair Barnes then opened the public hearing and noted the public hearing had been appropriately advertised. The following people spoke:

George Lutz: He saw nothing wrong with the rezoning.

Michael and Laura Saenger: 5886 Greedy Hwy. Live behind where the rezoning is requested and are opposed to the rezoning. They felt it would ruin the quality of area – pollution would result from the big, heavy equipment. They have a son with asthma and worry about the effects of the diesel fumes would have on him. Their well is approximately 50 feet from where the commercial building is proposed as are the neighbors' wells. Requested that the rezoning be denied.

Chair Barnes closed the public hearing when no one further wished to speak. She then asked County Attorney Debra Bechtel to comment on the notation in the notes that this was also somewhat

problematic because of the location creating a situation of spot zoning – and asked if she was correct. Debra responded: “That was an issue that was raised in concern. You really can’t know for certain until a court obviously decides that issue. I think it’s close enough that it really could go either way as far as being near 127. Another issue though is because it is separate and further back, there certainly could be an argument made that it is not consistent with the Plan – it is not identified as a node in the current Small Area Plan. With that presented to you, you are under the Statutes permitted to deviate from the Plan but you have to articulate reasonable reasons for doing so. It’s possible to do that but I think it would be somewhat challenging and it would face possible overturning. But I think it is within your discretion to do what you feel is appropriate.”

Commissioner Barger then said one of the provisions they had talked about in the UDO was conditional zoning for small businesses and asked Attorney Bechtel to talk about that possibility.

Attorney Bechtel said the advantage that conditional zoning would have in this particular case would be that the County would, as staff worked with him, be able to dictate a lot of the specificities related to this particular business and the proposed use. The way it was before the Board currently was just a general broad commercial rezoning and so, while the applicant has said what he desires to do right now, there would nothing that would prevent him or someone in the future from changing that use to anything that’s currently permitted that commercial district. If it were done conditionally, then those issues would not be present and it would be restricted to whatever specifically was approved. Commissioner Barger asked if the applicant was told of the possibility of using conditional zoning and Mr. Eubanks, Planning Director, Jacky said that the policy with staff now was when every applicant comes forward staff always talks about general zoning opportunities and also go into great detail about conditional zoning and talk about the merits of going that way so staff clearly have that opportunity and did give the applicant every opportunity to consider submitting a conditional zoning request. Commissioner Hunsucker asked why the applicant did not use conditional zoning and Mr. Eubanks replied that at the time conditional zoning was presented to the applicant he wasn’t prepared to really bring in a site plan that might identify not only his particular use but also the uses of some potential out parcels near the intersection at Greedy and 127. He had been talking to some potential businesses but had not firmed up any of those details at that time.

Commissioner Hunsucker said he would speak in favor of the rezoning and thought that conditional use would be better but as far as the noise and pollution from an operation if they are just doing service work and working on equipment, they were not going to be running the equipment that much. In as far as the view, he said he could sympathize with neighbors over the view but he had the same problem with some of his own property and if they can’t buy it, they can’t protect the view. He was in favor of the rezoning. Commissioner Barger said he tended to agree with Commissioner Hunsucker and he would rather see conditional zoning there but with the proximity of other commercial businesses where they are, he would vote in favor of the rezoning.

Chair Barnes said she had difficulty with the whole notion of spot zoning and the fact that this was not brought to the Board as conditional. She said she would like to see a buffer because it was so close to residential zonings or to have the parcel reversed and have this apply to the part close to the major highway. Commissioner Hunsucker pointed out that the parcel at issue was a better fit for what they were planning to do since there was a gully about thirty feet deep on the right hand side of the property and they could probably buffer between the Leatherman operation and the Saenger property. Commissioner Lail asked if the buffering could be required and this was not possible since this was not conditional zoning. Mr. Eubanks explained that there would only be a basic site plan but there wouldn’t be the same standards and same buffering conditions that would come before the Board with conditional zoning – there would just be basic requirements but not to the extent that the Board could negotiate. Commissioner Hunsucker made a motion to approve the rezoning. Commissioners Barger and Lail voted in favor, Chair Barnes and Vice-Chair Beatty were opposed. The motion carried with a 3-2 vote. Chair Barnes added a statement of consistency: The Board of Commissioners finds that while the requested rezoning is inconsistent with the recommendations of the Mountain View Small Area Plan and with the comprehensive plan of Catawba County, the prevailing non-residential development patterns of nearby areas warrant the approval of the requested rezoning.

The approved ordinance read as follows:

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described property from R-20 Residential to RC Rural Commercial.

The 5.12-acre parcel located at 5838 Greedy Hwy, in the Mountain View Small Area Planning District, Bandy's Township, and further identified as Parcel ID Number 2699-13-13-7838.

PLAN CONSISTENCY STATEMENT:

The Board of Commissioners finds that while the requested rezoning is inconsistent with the recommendations of the Mountain View Small Area Plan and with the comprehensive plan of Catawba County, the prevailing non-residential development patterns of nearby areas warrant the approval of the requested rezoning.

b. Cal Overby, Planner, presented a request of Mr. James R. Davidson for JWSJRD LLC, to rezone a 0.84 acre parcel, located at 6706 Highway 150 East in the Sherrills Ford Small Area Planning District, from the R-30 Residential District to O-I Office and Institutional. The subject parcel is currently vacant. Properties to the north across Emerald Isle Drive are zoned R-30 Residential and currently occupied by single-family residences; properties to the south across Highway 150 East are zoned R-30 Residential and HC Highway Commercial and either occupied by a single-family residence or vacant; properties to the east across Emerald Isle Drive are zoned R-30 Residential and either vacant or occupied by a single-family residence or recreational vehicle (RV) campground; while properties to the west are zoned R-30 Residential and are occupied by single-family residences.

The stated purpose of the Office-Institutional District, under the County's Unified Development Ordinance, is to provide for the location of office, institutional and low intensity commercial uses; which act as buffers between low and higher intensity land-uses in some instances. Permitted uses generally consist of professional offices and services, as well as civic and institutional land-uses. The property proposed for rezoning includes 0.84 acres. The Office-Institutional District, which is being requested, would permit a maximum floor area ratio of 1:5, which would calculate to 0.168 acres or 7,318 square feet of total floor area (numbers rounded). The property is also located in Mixed Use Corridor Overlay, Watershed Protection Overlay and Catawba River Corridor Overlay districts, each of which places specific use, site and building design standards on construction development.

The Sherrills Ford Small Area Plan serves as the current land use plan for this area. The plan designates this area of Highway 150 as an Office Institutional/Mixed Residential Corridor. Staff recommended the rezoning be approved, based on: 1) the Sherrills Ford Small Area Plan recognizing this portion of Highway 150 as an Office-Institutional/Mixed Residential Corridor; 2) the purpose of the Office-Institutional District; and 3) the close proximity of existing Highway Commercial zoning. The size of the parcel in question would not permit large-scale Office-Institutional uses. The Planning Board conducted a public hearing on February 26, 2007. Two citizens spoke during the public hearing, with one in favor and the other not indicating support or opposition to the request. The Planning Board voted unanimously to recommend approval of this request, based on the issues cited in the staff recommendation.

Chair Barnes asked Mr. Overby said since the ownership of redeveloping RV park belongs to the same LLC, what the intent was for Emerald Isle Drive. Mr. Overby said the applicant confirmed with DOT that the part of the road in question was an unimproved right of way and the intent was to close it.

Chair Barnes noted the public hearing had been duly advertised and opened the public hearing. No one came forward to speak for or against the rezoning and Chair Barnes closed the public hearing. Commissioner Barger made a motion to approve the rezoning. The motion carried unanimously. Chair Barnes read the consistency statement included in the following ordinance.

The approved ordinance read as follows:

AMENDMENT TO THE CATAWBA COUNTY ZONING MAP

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described property from R-30 Residential to O-I Office-Institutional.

The 0.84 acre parcel located at 6706 East NC Hwy 150 in the Sherrills Ford Small Area Planning District, Mountain Creek Township, and further identified as Parcel ID Number 3696-08-78-5823.

PLAN CONSISTENCY STATEMENT:

The Board of Commissioners finds that the request is consistent with the land use patterns established in the Sherrills Ford Small Area Plan and is consistent with the comprehensive plan for Catawba County.

c. Cal Overby, Planner, presented the request of Ms. Daphne Wagner, for Mr. Carl and Ms. Frankie Spencer, to rezone a 1.59 acre parcel, located at 8021 Highway 150 East in the Sherrills Ford Small Area Planning District, from R-20 Residential to RC Rural Commercial. The subject parcel is currently occupied by a single-family residence. The property to the north across Highway 150 is zoned R-20 Residential and currently includes several small buildings. The property to the northwest across Highway 150 is zoned RC Rural Commercial and is vacant. The property to the northeast across Highway 150 is zoned R-20 Residential and occupied by a single-family residence. The property to the south is zoned R-20 Residential and is vacant. The property to the southeast is zoned PD Planned Development and occupied by a recreational vehicle (RV) sales and service facility. The properties to the east are zoned R-20 Residential and occupied by a single-family residence and an out building. The property to the west is zoned PD Planned Development and occupied by a RV sales and service facility.

The property proposed for rezoning includes 1.59 acres. The RC Rural Commercial District, which is being requested, would permit a maximum floor area ratio of 1:5, which would calculate to 0.318 acres, or 13,852 square feet of total floor area (numbers rounded). The property is also located in both a WS-IV-CA watershed area and Mixed Use Corridor Overlay District, which places specific use and density standards on development.

The Sherrills Ford Small Area Plan serves as the current land use plan for this area. The plan designates approximately 750 acres at the intersection of Highway 150 and Sherrills Ford Road as a "Village Center", envisioned as a mixture of commercial, office and residential uses. Staff recommended the rezoning be approved, based upon: 1) the Sherrills Ford Small Area Plan recognizing the area as a Village Center; 2) the purpose of the RC Rural Commercial District; and 3) the close proximity of existing RC Rural Commercial, HC Highway Commercial and PD Planned Development zoning. The Planning Board conducted a public hearing on February 26, 2007. No one spoke in favor of or in opposition to the requested rezoning. The Planning Board voted unanimously to recommend this request be approved, based on the issues cited in the staff recommendation.

Chair Barnes noted the public hearing had been duly advertised and opened the public hearing. No one came forward to speak for or against the rezoning. Chair Barnes closed the public hearing. Commissioner Lail made a motion to approve the rezoning request. The motion carried unanimously. Chair Barnes read the consistency statement included in the following ordinance.

The approved ordinance reads as follows:

AMENDMENT TO THE CATAWBA COUNTY ZONING MAP

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described property from R-20 Residential to RC Rural Commercial.

The 1.59 acre parcel located at 8021 East NC Hwy 150 in the Sherrills Ford Small Area Planning District, Mountain Creek Township, and further identified as Parcel ID Number 4617-10-25-6279.

PLAN CONSISTENCY STATEMENT:

The Board of Commissioners finds that the request is consistent with the land use patterns established in the Sherrills Ford Small Area Plan and is consistent with the comprehensive plan for Catawba County.

d. Cal Overby, Planner, presented a request of 5-Star Land Development, for Mr. Hurshel Teague, to rezone two parcels totaling 23.06 acres, located at 6640 and 6641 Monford Drive in the St. Stephens/Oxford Small Area Planning District. The subject parcels are currently occupied by a recreational vehicle (RV) park or are vacant. Nearby parcels located in all directions are currently zoned R-40 Residential and are either occupied by single-family residences or are vacant; except for one parcel that has a large vacant building. Monford Drive is a private roadway, which connects to the south with St. Peters Church Road. Information provided by the applicant's consultant indicated the width of the right-of-way/easement for Monford Drive has an average width of 26 feet. Testing provided by the consulting engineers (Hayes, Seay, Mattern and Mattern) indicates the pavement width, depth and core densities are in conformance with NC Department of Transportation standards.

The stated purpose of the PD Planned Development District, under the County's Unified Development Ordinance (UDO), is to provide a mechanism that allows developers the opportunity to master plan development in a manner that values flexibility, while protecting neighboring properties and land uses from negative impacts. Uses, intensities, buildings and other types of physical improvements or infrastructure are permitted within the PD Planned Development District, in accordance with an approved site plan.

The properties proposed for rezoning are 23.06 acres in size. The PD Planned Development District, which was being requested, clearly outlines maximum intensities for non-residential and single-family detached residential, but does not contain similar language concerning multi-family residential. However, UDO Section 44-443.04 (a)(1) clearly identifies one, two, and multi-family (attached and detached) as permitted uses in a PD Planned Development District. Given the intensity of the current RV park (180 campsites), the proposed plan, with 120 units, has a lower intensity in terms of land-use density. The overall density proposed for town home development is 5.2 units per acre, while the current RV park calculates to a density of 8.2 units per acre. The subject property is also located within the Catawba River Corridor Overlay and Floodplain Management Overlay, each of which place specific use and site design standards on construction and development.

The St. Stephens/Oxford Small Area Plan serves as the current land use plan for this area. The plan designates this area as a Catawba River Corridor, which recommends residential densities at a rate of one unit per one acre, on the basis of on-site septic systems and not municipal sewer systems. Staff recommended the request be approved, based on: 1) the St. Stephens/Oxford Small Area Plan recognizing this area as a residential area; 2) the impact of changing conditions (the City of Hickory has agreed to provide municipal sewer service for the proposed development); 3) the intent of the PD Planned Development District; and 4) the master planning of the properties outlined in the proposed site plan. The staff recommendation added two qualifiers: 1) that public utilities, both water and sewer, must be utilized; and 2) that final development plans complying with all applicable development requirements must be provided for review. The Planning Board conducted a public hearing on February 26, 2007. Fourteen citizens spoke during the public hearing. Two spoke in favor and twelve spoke in opposition. The Planning Board voted five to one in favor of recommending approval of this rezoning request, based on the staff recommendation noted above.

Mr. Overby, in response to Commissioner Hunsucker's request, indicated where the proposed sewer line would run under the lake and indicated this would not occur unless the Department of Environmental Resources approved the whole plan. Commissioner Hunsucker questioned the report indicating the road was an average of 26 feet wide – he understood the average to be approximately 20 feet. Commissioner Barger questioned the statement that landuse purpose would be less – going from 180 campsites to 160 units – Commissioner Hunsucker also questioned this and said it did not take into consideration that the people who camp at the site are not there year round. Commissioner Barger said he thought it would be a stretch of the imagination to believe there would be less traffic over the road with what was being proposed (180 campsites down to 160 condo units).

Chair Barnes said she thought, after talking with County Attorney Bechtel earlier in the day, that there doesn't have to be all three criteria from the table on the UDO – an exception may be allowed by the Subdivision Review Board subject to the following conditions: the tract has an active development which is proposed to be redeveloped or a less intense usage is proposed for the tract or a determination is made that practical difficulties exist and all opportunities has been exhausted.

County Attorney Bechtel said those were all certainly subjective and open to interpretation and it could go either way. Mr. Eubanks pointed out that a townhouse generally generates about 5.6 trips per day which is about half of what a single family home would generate but they did not have any traffic counts in the DOT manuals which talk about campground facilities so there was no way to compare the amount of traffic a campground generates vs. a townhouse. He pointed out there clearly were residents who lived at the campground year round.

Chair Barnes opened the public hearing and asked that people keep their remarks to three to five minutes. She noted the public hearing had been duly advertised.

Alice Williams – Monford Dr. – lived there since 1985 – property is adjacent to the campground. In favor of the rezoning since the road will be maintained by the developer and water and sewer will be paid for by the developer. She believes the improvements will raise her property value. She did not believe the traffic problems would be as bad as when the campground is fully utilized in the summer. She has a proposal to sell a small piece of property to the developer (4.6 acres).

Wilson Sigmon – Monford Dr. – Opposed rezoning – due to the status of Monford Dr. – not appropriate for the amount a traffic which would result. Presented a petition signed by property owners in opposition of the rezoning.

Larry Pitts – Newton – Opposed rezoning – inadequacy of the road – not paved to NC DOT standards; not wide enough – not 26 feet wide as indicated in reports – questioned what type of easement applied to the road – school buses cannot use private road – children would have to walk a mile to meet the school bus.

Tom Morphis – Atty – Young, Morphis, Bach & Taylor – represents 61 citizens – asked those against the rezoning to stand – numerous people stood – Mr. Morphis noted he was not there for any citizen who was a leasee. Presented letter from Brough Law Firm – problems that were outlined – UDO prohibits PD zoning on small, private, local roads; PD zoning of multi-family housing can only be located in commercial or mixed-use area designated in the Small Area Plan (the nearest is 2.5 miles away), the UDO prohibits the proposed development because the installation of sewer and water line would result in both a higher public cost and an earlier incursion of public cost than other types of development permitted on the property and if even if the PD zoning were permitted on the site, it was not clear that future townhome owners would have the use of Monford Dr. Mr. Morphis noted that Catawba County was a model for other counties with progressive zoning ordinances.

T.C. Morphis – Atty – Brough Law Firm – co-counsel – represents same 61 citizens – his firm's practice is almost exclusively local government law. Catawba County should be very proud of its Planning Department and Board and the UDO. Planning report on this rezoning incomplete. Water and sewer alone do not address the inherent intensity of a planned development. He noted the UDO stated that no planned development could be created except where direct access to an arterial street

is available or is made available at convenient location at the edge of the property at issue – he noted this was over three miles and three roads away from the proposed planned development. He went on to other portion of the UDO that also stated this need to be near an arterial street. He added that the UDO stated that a PD district with multi-family dwellings could be located in a commercial, office, institutional, mixed-use or multi-family areas in the Small Area Plan and the nearest commercial area is over 2.5 miles away. He went on to say he did not think that there had been a showing that all the infrastructure requirements had been met and questioned the forced main sewer line under the lake and the safety of this sewer line. Asked that the Board at least delay the vote until more information was gathered.

Walt Cornwell – Reitzel Dr. – enjoys his neighbors now – likes the campground. Lives across the cove from the campground. Concerned about water activities and water traffic. Doesn't want more intense development. Those people who use campground cannot afford townhouses.

Lee Moritz – 1st Ave, Conover – lack of information from the developer – pushed forward prematurely by Planning Staff. Five points – 1) access to the property via Monford Dr. – previously covered. 2) Raw sewage – not gravity feed – has to be a forced main – no discussion with DENR. 3) Lake Hickory RV park is only place to have recreational camping in Catawba County. 4) Five-Star Development – who are they – are they from here – what qualifications do they have? – need to protect natural resources. 5) Stormwater plan – does not appear to have a stormwater plan.

Mike Turner – Adams Gate Rd – maintains a spot within the campground. Talked about the road – Virtually no traffic now – but when you do encounter a car, one car has to pull off to the side. The road is inadequate to handle any more traffic.

Larry Deal – Ram St. – resides at campground. The campground only has parking for one car per campsite – the townhouses would have more than one car per unit – and more traffic.

Ron Lay – Monford Rd – engineer – has an RV in the campground – as an engineer worried about the sewer going under the water and the possibility of a leak or break.

Linda Hoke – owns the last three houses at the head of the cove. Her concern is the sewer pipe going across the cove. The pipe will be exposed when they drain the lake. It will break. Also concerned about boat traffic – against intense development.

Linda Hoke Huffman – own property – concern is traffic on the road and boat traffic.

Gene Haynes – represents HSMM – represents the RV Resort – did evaluation on road – said it exceeds DOT requirements for density – there will only be 32 boat slips. The water and sewer will be designed with a directional bore under Duck Cove and will be over 300 long – the forced main would be inside the bore so there would be double protection – there would be alarms if there was any leakage. There are current pipes under Lake Hickory and Lake Norman. Commissioner Beatty asked about water and Mr. Haynes replied that water would be coming off St. Peters Church Road, down Monford and there would be fire hydrants along Monford Drive.

Michael Williams – drives a 72 foot trailer on the road – owns property right next to the campground – has not had a problem with the road – not opposed to the rezoning.

David Loehr – lives on Reitzel Cove – is against the rezoning on basis of erosion.

Scott Matthew – atty – represents Hurshel Teague – spoke on the easement – the right to access Monford Drive created by easement by plat – Chicago Title has issued a Title Policy referencing the road. Proposed use is less than current use. (T.C. Morphis refuted the description of easement by plat)

Bill Coley - Conover – his concern is the 90 degree turns on the road in question – there are two dangerous curves on the road.

Lynn Morrow – retired from Hwy Patrol – concerned about the intersection of St. Peters Church Road and Springs Road – another traffic problem caused by the proposed development – believes fatalities will rise.

Hurshel Teague – request for rezoning. The road situation has never changed in the 16 years he has been there. Tried to buy land to straighten up curves – but was not successful. Most of the people who stood up against the rezoning are leasees. He said he was going to sell the land no matter what was approved tonight.

Chair Barnes closed the public hearing.

Commissioner Barger said they had heard many of the issues that related to the rezoning request and the thing that kept coming back to his mind was the road issue. He noted the provisions regarding if the traffic was not to be greater than the existing use then it could be done. He said he thought it wasn't a good guideline to start with because there could be a problem with traffic with the existing use. He said he could not be convinced that there wasn't going to be an increase in traffic and he was going to vote against the rezoning. Commissioner Hunsucker agreed with Commissioner Barger and said even if the road handled the traffic it wasn't designed to do that. He said the development looked good on paper but needed a different access to it and he could not support the rezoning.

Chair Barnes said it had been enlightening and she felt that the request seem premature because she would want to know the disposition of the right-of-way as well as the engineering and would prefer if sewer were put in the land. She said the proposal needs more definition, more certainty and she was not convinced that the development lessens the impact to the area. She said 120 units is fairly intense and she had difficulty accepting that intensity without having the appropriate right-of-way for the road which would be similar to a subdivision which would be 40-45 feet. Commission Hunsucker added that if this was the only property that was going to be developed, then he might look at a little differently but who was to say that in a few years more people sell property in that area and want to do the same thing and the road will not handle that kind of traffic and how could the Board say no to another landowner when they supported this.

Commissioner Barger made a motion to deny the request for the rezoning. The motion carried unanimously. Chair Barnes read into the record "We find the request to be consistent with the land use patterns, however, the rezoning would not be reasonable because of issues related to sewer, an increased or more intense use and while there are some difficulties, all opportunities to remedy them have not been exhausted."

Chair Barnes indicated the Board would take about a three minute break while the audience exited the courtroom. When the meeting resumed, Chair Barnes stated that appointments would be done after departmental reports.

9. Consent Agenda: There was no consent agenda at this meeting

10. Departmental Reports.

a. Social Services.

Jo Sloan, Family Support Program Manager, presented the Board with an update on the National Association of Counties (NACo) Prescription Drug Discount Plan, which was launched on March 1, 2006, giving the County the opportunity to make free prescription drug discount cards available to citizens under a program sponsored by NACo. The cards may be used by all county residents, regardless of age, income or existing health coverage, and are accepted by all of the county's pharmacies. A cardholder may use the card when prescriptions aren't covered by insurance. To date, the program has saved Catawba County citizens \$1,134,045.20 and 1400 citizens use it on a monthly basis. Cards are available at the Catawba Co. Department of Social Services, the County Health Department, all Catawba County public libraries, all Hickory City public libraries, the West Hickory Senior Citizens Center, Cooperative Christian Ministry of Hickory, Eastern Cooperative Christian Ministry, Salvation Army, Faith Task Force on Poverty,

Centro Latino and the United Hmong Association. The Catawba County Chamber of Commerce also offers the cards to its members. Chair Barnes said the Board was pleased to see the program well used.

b. Sheriff's Office.

Susan Branch, Business Manager, presented a request for the Board to approve the allocation of insurance funds totaling \$19,280 received for two wrecked Sheriff's Office patrol vehicles, so the Sheriff's Office may purchase one replacement vehicle. One 2004 Ford Crown Victoria was totaled on July 13, 2006 when an officer swerved to avoid an oncoming vehicle that had crossed the centerline in a curve on Old Shelby Road. Another 2004 Crown Victoria was totaled on November 12, 2006 when a deer was hit on Highway 321. Insurance has subsequently paid claims on these vehicles totaling \$19,280, which was added to the County's Self-Insurance Fund. The officers who drove these vehicles are currently assigned very high mileage spare vehicles. Allocation of the insurance funds would provide the Sheriff's Office with enough funds, along with funds already in the department's budget, to purchase one replacement vehicle. Commissioner Hunsucker asked if the equipment from the wrecked vehicles were retrieved for use in the new vehicle and this was confirmed. Commissioner Hunsucker made a motion to approve the following allocation. The motion carried unanimously.

SUPPLEMENTAL APPROPRIATION:

Revenue

115-150120-690100	\$19,280
Fund Balance Applied	
110-210050-695115	\$19,280
From Self Insurance Fund	

Appropriation:

115-150120-995110	\$19,280
Transfer to GF	
110-210050-984000	\$19,280
Vehicles	

c. Planning:

Jacky Eubanks, Planning Director, presented a request for the Board to adopt a resolution recommending to the North Carolina Department of Transportation (NCDOT) the abandonment of maintenance of the last 0.26 miles of Shuford Road (State Road 1145). Under NC General Statute 136-63, the Board may, on its own motion or on petition of a group of citizens, request that the North Carolina Board of Transportation change or abandon any road in the secondary system when the best interest of the people of the county will be served. NCDOT is requested a review and recommendation from the Board of Commissioners relating to the abandonment of maintenance for a portion of Shuford Road where it dead-ends into property owned by Mooseland, LLC. The request came to NCDOT from Mr. Wade Moose, registered agent for Mooseland LLC. The section of road requested for closure serves as a private driveway which provides sole access to Mr. Moose's property. NCDOT requires that a cul-de-sac be constructed at the property owner's expense prior to NCDOT's action on the abandonment request. Staff reviewed this request and recommended the Board adopt a resolution requesting the closing of the last 0.26 miles of Shuford Road. A citizen came forward earlier in the evening and indicated the abandonment would not be in the best interest of an individual who lived on and utilized the road and requested the Board vote against the request.

Chair Barnes asked Mr. Eubanks about the question that had been raised about access to adjoining properties. Mr. Eubanks said he had no knowledge of the access Mr. Lutz was talking about and DOT had provided all the road information. He said there may have been a private agreement regarding access but DOT did not know of this agreement. Commissioner Barger said he had some knowledge of the property and there was a pathway down to where Mr. Lutz was describing. He went on to say the Board's action tonight had no bearing on the final decision by DOT – and Mr. Eubanks replied that

DOT was just asking for the Board's comments and recommendations but DOT makes the final decision. Commissioner Hunsucker said he had received information that afternoon that the cul-de-sac was in swampy, wetland area. Chair Barnes asked if anyone had driven down the road and Mr. Eubank said staff had not driven down the road but the existing road was where the cul-de-sac is proposed. Chair Barnes said she didn't think they had enough information to support the request. Commissioner Barger made a motion to deny the request for a resolution in support due to lack of information. The motion carried unanimously.

d. County Manager's Office.

County Manager J. Thomas Lundy presented a request for the Board to approve an application for a grant for funding of the Criminal Justice Partnership Program (CJPP). The Criminal Justice Partnership Board is charged with administering a grant from the State of North Carolina for the CJPP. The current year's grant is in the amount of \$116,897 and an application for the same amount is proposed for the next fiscal year. The CJPP provides an effective bridge between the criminal justice system and community agencies for Intermediate Sanction offenders on supervised probation who are at risk of incarceration. Through a detailed needs assessment, appropriate referrals, treatment services for substance abuse, and cognitive skills and transportation when needed, the program seeks to combine the influence of community-based legal sanctions and non-incarceration punishments with structured services in the community. Using the State's accepted offender management model, the program seeks to provide services that will decrease criminal involvement and increase productive, socially acceptable behaviors. A new component of the grant this year will be for substance abuse services for sentenced offenders in a jail setting. Since July 1, 2006, 20 participants have successfully completed the program, and were diverted from jail and have increased their odds against returning to jail. Other participants are continuing in the program, while four have been incarcerated. The program's successful completion rate of 56% far exceeds the statewide average rate of 30%. Chair Barnes made a motion to approve the application. The motion carried unanimously.

11. Appointments:

Vice-Chair Barbara Beatty made the recommendations for the following appointments/reappointments to the Volunteer Fire Department Fireman's Relief Fund: The appointment of Darrel Turbyfill for a first term to replace Dwight Caldwell (Bandys); Allen Biggerstaff for a first term to replace Troy Stallings (Propst) and Mike Weaver for an unexpired term to replace Billy Leonhardt (Propst) and the reappointments of Glenn Boston for a 7th term (Oxford); Bill Hefner for a 7th term (Mt. View); Steve Mains for a 7th term (St. Stephens); Danny Setzer for a 2nd term (Sherrills Ford) and Fitzhugh Young for a 7th term (Cooksville). Chair Barnes stated that the Board had been asked by the University of North Carolina General Administration and North Carolina Community College System to submit the names of a County Commissioner and the Mayor of Hickory to serve on the Advisory Board for the four higher education centers in this area. The Task Force on which Chair Barnes participated made a proposal, which was endorsed by the two higher ed systems, that the Advisory Board shall consist of sixteen members representing elected officials from a region, one commissioner from each of Alexander, Burke, Caldwell and Catawba Counties plus the Mayor of Hickory, four trustees selected from the Boards of Trustees of the Community Colleges (Caldwell, CVCC, Western Piedmont) as well as Lenior Rhyne College and six business leaders who have been nominated by Future Forward. Chair Barnes submitted her name as the Commissioner to represent Catawba County and submitted Rudy Wright as the Mayor of Hickory. These recommendations came in the form of a motion. The motion carried unanimously.

12. Other Items of Business.

13. Attorneys' Report. None.

14. Manager's Report. None.
15. Chair Barnes adjourned the meeting at 9:55 p.m. The motion carried unanimously.

Katherine W. Barnes, Chair
Board of Commissioners

Barbara E. Morris, County Clerk