

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
July 12, 2004 – 4:00 PM  
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

Present: Gus Andrews, Chairman  
Frank Tadlock, Vice-Chairman  
Leda Belk, Member  
Steve Blount, Member  
Chad Mitchell, Member

The County Manager, the Clerk to the Board, the County Attorney and the Finance Director were also present.

Chairman Andrews convened the meeting at 4:00 pm.

Commissioner Tadlock provided the Invocation and Commissioner Belk led the Pledge of Allegiance.

**ADDITIONS**

- Attorney Holshouser informed the Board that the leases for Turning Point and Stepping Stone Group Homes expired on June 30, 2004. Mr. Holshouser said the new leases for the Board to consider would be for two-years as opposed to the one-year leases approved in the past and requested to add this item to the agenda. Chairman Andrews added the item as Agenda Item 7a.
- Mr. Holshouser informed the Board that the Court of Appeals rendered an opinion in the Wilhelm-Quarter-Midget case, which remanded the case back to Judge Taylor for a procedural clarification. Mr. Holshouser asked to discuss the case in Closed Session.

**COMMISSIONERS LIAISON REPORTS**

No reports were given.

## **CONSIDERATION OF CONSENT AGENDA**

Commissioner Mitchell moved to approve the Consent Agenda. Commissioner Blount seconded the motion and the motion passed unanimously.

The Consent Agenda consisted of the following items:

- A. Approval of the 6/21/04 minutes
- B. Approval to accept the Kate B. Reynolds grant funding for the Health Department
- C. Approval to purchase two ambulances
- D. Approval for NCDOT to acquire property from the Rowan-Salisbury Schools Board of Education
- E. Approval of Convenience Center Rate Structure
- F. Approval to set public hearings for the following Unanimous Road Name Petitions: Happy Trails Road, Back Side Drive, Yadkin River Drive, Glory Road
- G. Approval to set public hearings for the following Majority Road Name Petitions: Agner Farm Road, Gum Tree Drive, Lab Lane, Running Cedar Drive, Lone Mountain Trail, Undercover Drive

## **PRESENTATION ON THE CHANGES AND CHALLENGES AT ROWAN VOCATIONAL OPPORTUNITIES**

Carl Repsher, Executive Director of Rowan Vocational Opportunities introduced Mark Perry, Board Chair; Bob Loblein, Board Member; Glen McDonald, Marketing; and two clients.

Mr. Repsher provided a power point presentation that highlighted Rowan Vocational Opportunities and its services, which was included in the Board's packet.

Chairman Andrews praised the job being done by Rowan Vocational Opportunities and thanked Mr. Perry for his service on the board. Chairman Andrews described the facility as an "asset to the county." Chairman Andrews also encouraged citizens to schedule an appointment to visit the facility.

## **PUBLIC HEARING FOR Z-08-04**

Shane Stewart of the Rowan County Planning Department provided the Staff Report. Mr. Stewart explained that approximately two (2) months ago, David Corl had presented staff with a proposal for a retail store to be located off of Highway 52.

Mr. Stewart said the site currently contains two (2) structures that were permitted as retail stores in the 1950's and total approximately 2,000 square feet. Mr. Stewart reported that since the previous use had ceased operation for 360 days, the property had lost its non-conforming status.

Mr. Stewart said Mr. Corl was requesting a rezoning of 1.43 acres from RA to Neighborhood Business (NB) in order to operate an antique business.

Mr. Stewart referred to Item #3 of the Specific Criteria in the Staff Review and pointed out that the Board had the ability to reduce the minimum requirement since the applicant does not own adjacent property. Mr. Stewart said the applicant meets the requirements listed in Items #4 through #13. Mr. Stewart referred to Item #14 and said the applicant would have to provide sufficient screening on the northern side of the lot.

Mr. Stewart reviewed the Zoning Criteria in the Staff Report.

Mr. Stewart said staff recommended approval of the rezoning request from RA to NB and also said the Planning Board voted unanimously to recommend approval.

Chairman Andrews opened the public hearing to entertain citizen input regarding Z-08-04.

With no citizens wishing to address the Board, Chairman Andrews closed the public hearing.

Commissioner Blount moved to allow the rezoning from RA to NB as suggested by staff. Commissioner Tadlock seconded the motion and the motion passed unanimously.

#### **PUBLIC HEARING FOR Z-09-04 & CUP-09-04**

Chairman Andrews read the Chairman's Speech (Exhibit A) and declared the public hearing for CUP-09-04 and Z-09-04 to be in session. Chairman Andrews said the hearing would focus on applications submitted by Rockwell Granite Company for the rezoning of Tax Parcels 427-006 and 007 from Rural Agricultural (RA) to Industrial (IND) and includes an accompanying conditional use permit for the expansion of the current mining area.

The Clerk swore in Shane Stewart to provide testimony in the case.

Shane Stewart of the Rowan County Planning Department used a power point presentation (Exhibit D) to present the Staff Report (Exhibit B). Mr. Stewart said the Rockwell Granite site was located at 3399 Earnhardt Road and referred to the map (Exhibit C) to point out the site's location and access.

Mr. Stewart said there were three (3) mines on the site: one (1) for pink granite and two (2) for white granite. Mr. Stewart described the mining as mostly "surface mining," extracting rock from approximately thirty-five (35) to fifty (50) feet. Mr. Stewart pointed out the tree line in the map (Exhibit D) saying the expansion was requested beyond the tree line. Mr. Stewart said there were twenty-one (21) employees on site that extract the stone and continued to explain the mining process used and said the employees extract forty- (40) twenty-ton blocks per month, which is shipped to Savannah and then to Asia.

Mr. Stewart said the company was requesting to rezone the two (2) parcels totaling approximately one hundred acres. Mr. Stewart said the NC DENR permit was issued in 1994 and had expired on April 15, 2004. Mr. Stewart said NC DENR regulations allow a facility to continue operation if an application for renewal has been submitted prior to permit expiration.

Mr. Stewart said the company was found to be in violation of its NC DENR mining permit in 1998. Mr. Stewart reported that four (4) months later the property was brought into compliance. Mr. Stewart said the management of the company had changed and no complaints to Staff's knowledge had been received since 1998.

Mr. Stewart highlighted the Zoning Review (Exhibit B) as follows:

- Item #2 - Mr. Stewart said the area was an industrial but was zoned RA. Mr. Stewart said the daily operations at the site would produce noise and dust typical in industrial areas. Mr. Stewart said due to the tract size and the central location of the mining area, staff did not feel there would be a major impact on the neighbors. Mr. Stewart said the application seeks to make an existing operation a conforming use.
- Item #3 – Mr. Stewart said the closest residence was approximately 1200 feet. Using the power point presentation (Exhibit D), Mr. Stewart pointed out the surrounding residences. Mr. Stewart said there were four (4) mines located in the area: Carolina Quarry, two (2) Granite Quarry sites and one (1) located off of Shive and Shuping Mill Roads.

Mr. Stewart reviewed the Conditional Use Criteria (Exhibit B) as follows:

- a. Adequate transportation access to the site exists. The site has adequate transportation off of Hwy 152 via Earnhardt Road.
- b. The use will not significantly detract from the character of the surrounding area. The character of the area for the last decade has included the four (4) quarry sites previously mentioned and also a general mix of residential and commercial businesses such as the Anchor House restaurant and other CBI businesses along Hwy 152; Rockwell Farms Greenhouses along the east side of Hwy 152. Mr. Stewart said management changes in the last five (5) years have helped change perceptions of this quarry and made its operations tolerable.
- c. Hazardous safety conditions will not result. According to quarry manager, Kellie Wilhelm, no injuries at this site have occurred in the past four (4) years.
- d. The use will not generate significant noise, odor, glare or dust. Mr. Stewart said staff had measured the noise level at the site and the decibel reading from seventy-five feet away from the blast was 85.5 decibels. Mr. Stewart said from two hundred feet away, the noise level dropped ten decibels and based on this, Staff was of the opinion that decibel measurements at adjoining property would be within the acceptable limits.
- e. Excessive traffic or parking problems will not result. Mr. Stewart did not discuss.

- f. The use will not create significant visual impacts for adjoining properties or passersby. Mr. Stewart said visual separation exists from residential properties on Earnhardt Road as well as on the tracts that border the site on all sides.

Mr. Stewart discussed the following Specific Conditional Use Criteria (Exhibit B):

- a. Site plan. Mr. Stewart said the applicant had submitted a site plan with all of the ordinance requirements.
- b. Access. The access is on NC Hwy 152, a major collector.
- c. Setbacks. The setbacks are at least three hundred feet from any zone.

Mr. Stewart reported that based on the application and the information provided, staff supports the request for zoning to IND with a Conditional Use Permit.

Mr. Stewart said one citizen had spoke in opposition to the request at the Planning Board courtesy hearing due to the water discharge from detention ponds onto his property. Mr. Stewart said the citizen had also mentioned that the surface blasting was annoying. Mr. Stewart said NC DENR would have to address the water runoff issue and not the county.

Mr. Stewart said the Planning Board voted 9-1 to recommend approval of the request.

With no citizens wishing to address the Board, Chairman Andrews closed the public hearing.

Commissioner Blount moved to approve the rezoning from RA to IND per staff's recommendation. Commissioner Tadlock seconded the motion and the motion passed unanimously.

Commissioner Blount moved to approve CUP-09-04 per staff's recommendation. Commissioner Tadlock seconded the motion and the motion carried unanimously.

#### **APPROVAL OF A REQUEST FOR A SUBDIVISION WAIVER, SW-01-04**

Shane Stewart of the Rowan County Planning Department provided the information regarding the request for SW-01-04.

Mr. Stewart said Jimmy Johnson had presented staff with a proposal for a subdivision on a property located off of Hwy 150 on London Road. Mr. Stewart said the property consisted of four (4) parcels totaling approximately one hundred acres. Mr. Stewart said the proposal was for twenty-eight lots and a few common areas. The initial request was to have private roads as part of the subdivision. Mr. Stewart said the first step in the process was approval of a subdivision waiver that would allow the roads to be private. Mr. Stewart said the roads would be built to DOT standards but due to the fact that Mr. Johnson wanted an exclusive, gated community with a homeowners association, the subdivision waiver was required for the private road. Mr. Stewart said the members of the homeowners association would pay for the road improvements in the future.

Mr. Stewart said staff recommended approval of the subdivision waiver.

Mr. Stewart said it was up to the developer and the various emergency services departments regarding access to the homes within the gated community.

Marion Lytle, County Planner, responded to a query from Commissioner Blount. Mr. Lytle said a private engineer would “sign off” concerning whether the road met DOT standards.

Commissioner Blount noted that it would be listed in the property owner’s deed that the community was responsible for the roads and Attorney Holshouser noted that most covenants would impress a lien against the property of a homeowner that did not pay the required homeowners association dues.

Commissioner Mitchell moved to approve SW-01-04 as requested. Commissioner Tadlock seconded the motion and the motion passed unanimously.

### **PUBLIC HEARING FOR Z-22-03 & CUP-10-04**

Chairman Andrews read the Chairman’s Speech (Exhibit A) and declared the public hearing for CUP-10-04 and Z-22-03 to be in session. Chairman Andrews said the hearing would on applications submitted by Andy Frick on behalf of Blandy Hardwoods at 735 Gin Road, Gold Hill, North Carolina. The applications are for the rezoning of Tax Parcel 370-004 from Rural Agricultural (RA) to Industrial (IND) and include an accompanying parallel conditional use district limiting uses on the property to lumber stacking and sorting, addition of two (2) dry kilns and a planer operation.

The Clerk swore 11 (eleven) citizens wishing to provide testimony in the case.

Marion Lytle, Rowan County Planner provided the Staff Report (Exhibit B) and explained that the application was concerning a 20,000 square foot lumber sorting and storage facility at 735 Gin Road in Gold Hill. Mr. Lytle said the facility was classified as SIC 2421 (Sawmills, Planning Mills, etc.) and is allowed only in the Industrial District.

Mr. Lytle said Planning Staff contacted Mr. Frick in December 2003 to discuss plans for the facility and encouraged him to seek rezoning when it appeared evident that the facility would evolve into operations other than sorting and stacking.

Mr. Lytle said a previous Planning Board consideration of a rezoning request for the site occurred on December 22, 2003 and received an unfavorable recommendation due primarily to neighbors concerns about the uncertainty of any future expansions. Mr. Lytle said at that time there were no firm development proposals.

Mr. Lytle reported that Mr. Frick had reactivated the rezoning application to make the existing facility a conforming use and allow for future expansions. Mr. Lytle said the request was for the entire 26.18-acre site.

Mr. Lytle used a power point presentation to review a map (Exhibit C) of the site and surrounding properties. Mr. Lytle pointed out the areas that had been rezoned for a mini-storage warehouse on Johnson Dairy Road; a rezoning next to Donnie's Western Wear for a small retail facility; a rezoning to permit the mining of clay shale for brick mining; a rezoning at Cromwell Lumber for expansion of a similar existing facility. Mr. Lytle also named several nearby businesses including other lumber-related facilities. Mr. Lytle repeated that the rezoning was for the entire 26.18-acre site and that there was also an associated conditional use permit for a parallel conditional use district classification to allow two (2) dry kilns and a planer operation. Mr. Lytle continued using the power point presentation (Exhibit C) to show where the two (2) kilns and the planer operation would be located. Mr. Lytle showed several residences (Exhibit C) located in the vicinity to the proposed site.

Mr. Lytle highlighted the Zoning Review (Exhibit B) in accordance with Article XV Section 2 (j) as follows:

1. Relationship and conformity with any plans and policies - Mr. Lytle said there are no specific plans for the area although US 52 relocation project may provide connectivity for a new route through eastern Rowan County to I-85. There are no formal policies for the area.
2. Consistency with the requested zoning district's purpose and intent - Mr. Lytle said while the site is bordered by residentially developed properties, it is within a half-mile radius of two (2) other lumber-related industrial sites, has direct access to a railway line at the rear of the property, access to US Hwy 52 and Old Beatty Ford Road.
3. Compatibility of all uses within the proposed district classification with other properties and conditions in the vicinity - Mr. Lytle referred to the aerial photograph (Exhibit D) to depict the properties surrounding the facility. Mr. Lytle said the facility is bordered on the north, west and south by residentially developed tracts. However, the facility is well buffered from these properties on the northern boundary and along the road frontage. The lack of screening along the southern property line provides no visual separation for the Beck residence.
4. Potential impact on facilities such as roads, utilities and schools – Mr. Lytle said there would be no additional impact to these facilities.

Mr. Lytle referred to page 3 of the Staff Report (Exhibit B) and discussed the Conditional Use Criteria as follows:

- a. Adequate transportation access to the site exists – Mr. Lytle said the site has 1070' of frontage along Gin Road and an existing entrance with adequate sight distance. Mr. Lytle said the tract also has direct access to an east-west rail line that may be further utilized with the addition of a rail spur.
- b. The use will not significantly detract from the character of the surrounding area – Mr. Lytle explained that compatibility issues with adjoining properties will be limited through the use of the parallel conditional use district to three (3) specific uses (stacking and sorting, dry kilns and planer). Mr. Lytle said “the whole

concept here would be that if you apply fair and reasonable conditions you may further reduce the potential impacts to the area.”

- c. Hazardous safety conditions will not result – The facility will be constructed to all applicable codes.
- d. The use will no generate significant noise, odor, glare or dust – Mr. Lytle said the facility must comply with the noise standards of 65 decibels from 6 am to 7 am and 70 decibels from 7 am to 6 pm. Mr. Lytle said the information provided in the handout (Exhibit B) should read “6 pm to 7 am and 7 am to 6 pm.” Mr. Lytle said Mr. Muire had visited the site to take decibel measurements and that he had also visited the site on a separate occasion with Mr. Muire to take readings. Mr. Lytle said decibel measurements obtained from a similar kiln operation found that noise from the fans generated 70.2 dB at a distance of 15’ away; 300’ away produced 57.1 dB. Mr. Lytle reported that decibel measurements obtained 400’ from a planer operation produced 61.5 dB. Mr. Lytle said any additional facility or security lighting must be positioned to prevent glare spillover onto the adjacent residentially occupied property. Mr. Lytle said existing pavement tends to keep dust at a minimum and emissions from the dry kilns or particulate matter from the planning operations must comply with NC DENR’s Air Quality Section as applicable.
- e. Excessive traffic or parking problems will not result – Mr. Lytle said Gin Road has adequate capacity to handle the traffic generated by the facility.
- f. The use will not create significant visual impacts for adjoining properties or passersby – Mr. Lytle said the existing facility has good visual separation from Gin Road traffic and adjoining properties with exception of properties to the south. Although the two (2) dry kilns will be located to the rear of the existing facility, the adjacent residential tract occupied by the Beck residence may prompt screening and buffering of any expansion.

Mr. Lytle continued to review the Staff Report (Exhibit B) and discussed the Community Concerns listed on page 4. Mr. Lytle said due to concerns from residents of the Gin Road area, Planning Staff met with them to discuss the proposed expansion of Blandy Hardwoods. Mr. Lytle said the issues tended to focus on increased noise levels resulting from the dry kiln fans and operation of a planer, provision for additional screening if approved and the notion that “the introduction of an intensive land use” to their community is spot zoning. Mr. Lytle said there was attached corresponded from Mrs. Karen Ingram (Exhibit E) that discussed those issues.

Mr. Lytle said he and Mr. Muire had met with the residents in the area and the issue with the use of a planer was that it would not likely be in violation of the county’s noise standards, but was a high-pitched, whining noise that carries a great distance. Mr. Lytle said the noise could reasonably be considered as annoying to a lot of people. Mr. Lytle said, “Clearly it would be annoyance to the neighbors; it is something that can be heard and it is a continuous whining noise.”

Mr. Lytle discussed the May 24, 2004 Planning Board hearing and said the following people spoke:

1. Mary Austin – Presented a petition to the Planning Board with signatures of neighboring property owners requesting the Board deny a favorable recommendation for the case.
2. David Ingram – Opposed the rezoning because of issues related to noise, dust, traffic and devaluation of property in the area.
3. Andy Frick – Owner of Blandy Hardwoods spoke in favor of his request.

Mr. Lytle said the Planning Board voted 11-0 to forward a favorable recommendation for the rezoning from RA to IND(CUD) for the property provided that additional screening is used to visually separate the expansion and to help buffer any noise created.

Mr. Lytle said staff supports the request for the IND(CUD) district to allow the addition of two (2) dry kilns and building expansions. Mr. Lytle said staff had approached Mr. Frick several times about providing information on the noise level produced by the planers. Mr. Lytle said, “We are concerned about that.” Mr. Lytle said the planer would most likely be within the regulated noise limits. Mr. Lytle said Mr. Frick had not yet provided staff with this information and until he has done so, staff cannot support the request. Mr. Lytle emphasized that Mr. Frick had been asked two (2) or three (3) times to provide the information.

Mr. Lytle highlighted the following Staff Recommendations (Exhibit B) in consideration of the application:

1. Type A screening and buffering along the common property line with Beck for the expansion.
2. Construction and design of the dry kilns should have roof-mounted fans and be similar to the facilities at Cronland Lumber.
3. Require asphalt paving along the north side of the existing building to dry kiln locations.
4. Obtain determination from NC DENR that the dry kilns are in compliance with air quality standards.
5. Mr. Lytle noted that approval of the parallel conditional use application in whole or in part “locks in” the site plan and uses for a period of twelve (12) months where no amendments may be considered by the Board of Commissioners.
6. Maintain existing trees on site, with the exception of those removed for placement of dry kilns.

Mr. Lytle said Planning Staff notes that the input from the community is very important in making the decision. Mr. Lytle noted the numerous people signed up to speak during the current public hearing.

Commissioner Blount inquired as to whether any sound measurements had been taken from a planer in an “enclosed room.” Mr. Lytle responded no. Mr. Lytle said Mr. Frick plans to put the planer in an enclosed room with “soundproofing” but staff has not yet seen data indicating the noise level from the enclosed room.

Commissioner Belk asked if the recommended buffering would be adequate for current and future expansions, particularly for the Beck residence. Mr. Lytle said the Type A screening would provide a good visual break but would “not do a lot for the noise.” Mr. Lytle said if the dry kiln fans were required to be on the roof, a beam would not help. Mr. Lytle said there were issues raised from the fans starting and stopping. Mr. Lytle said the fans could be heard but they were not “real loud” and were “fairly quiet.” Mr. Lytle said the neighbors might have a different opinion regarding the fans.

Chairman Andrews asked if the fans ran constantly at the sites visited by staff. Mr. Lytle responded that he was uncertain if the fans ran “24/7” but said he believed they ran most of the time. Mr. Lytle said he was sure the fans run “around the clock because their purpose is to dry the lumber.” Mr. Lytle mentioned that Mr. Frick had indicated that installation of the dry kilns might reduce the traffic along the dirt road between Gin Road and Zion Church Road. Mr. Lytle said the neighbors had complained about tractor-trailer trucks and said that “theoretically” the traffic on the dirt road might be reduced. Mr. Lytle explained that trucks currently take lumber to Cronland Lumber to be dry kilned.

Chairman Andrews asked those that had been sworn in to raise their hands and explained that he would call them forward to address the Board. The speakers were:

1. The applicant, Andy Frick, of 1215 Shive Road, said the planer was vital to his operation and said the reason lumber “goes down Brown Road is because it has to go to a planer over at Cronland.” Mr. Frick said he had told Ed (Ed Muire of the Rowan County Planning Department) that the neighbors had visited Cronland Lumber, “probably a worst-case set-up for a planer.” Mr. Frick said he disliked noise more than his neighbors and said his planer would be enclosed in a building and enclosed in yet another house. Mr. Frick said, “I can’t stand dust and I can’t stand noise.” Mr. Frick said he wished the neighbors had come to him with their concerns as opposed to visiting Cronland Lumber. Mr. Frick said it was “getting too costly to wait on them to do things that I’ve got to bring it in on site.” Mr. Frick said his children are also interested in the business, which is making it necessary to expand “or go home.” Mr. Frick said he would like to stop spending so much money on freight to bring the lumber in. Mr. Frick said the fans for the dry kilns “cycle” and when they run it is “not much noise.” Mr. Frick said, “All of this is at the back of my property.” Mr. Frick said he didn’t know if his nearest neighbor, “Jeff,” could hear the noise from the fans. Mr. Frick said he would do whatever he could to eliminate any noise. Mr. Frick said trucks are bypassing his operation because it is so concealed.

Commissioner Belk said she had received information that trucks were parking overnight at Mr. Frick’s facility waiting on him to open.

Mr. Frick said this happens “very seldom” and that he could not understand this to be a major issue “where they’re at.” Mr. Frick said the trucks were not running loud enough to bother anything and that he didn’t have a problem with it. Mr. Frick said, “That’s just a nit-pick.”

Commissioner Tadlock asked Mr. Frick if he had documentation on the success of the innovative methods used for blocking sound at other facilities.

Mr. Frick referred to sites in Lexington and Marshville, saying the site in Marshville had the planer in a warehouse. Mr. Frick said the Marshville site was probably the best site to visit. Mr. Frick said he would talk to NC State and ask if they were aware of any enclosed facilities.

Commissioner Tadlock said the noise appears to be a major concern and asked Mr. Frick if he was willing to work with the NC State Extension Service.

Mr. Frick said he currently works with NC State and West Virginia regarding wood and wood related issues.

Commissioner Belk asked if Mr. Frick had selected a design or plan for enclosing the planer.

Mr. Frick said the planer would be enclosed in an insulated room inside of a building. Mr. Frick said the noise level also depends on the type of wood being used. Mr. Frick added that his business mostly used softer wood, which is not as loud as running oak or hickory.

Chairman Andrews asked Mr. Frick if he had a site plan that reflected his plans for the facility.

Mr. Frick responded that Mr. Lytle had shown a map during his presentation that reflected the intentions for the site. Chairman Andrews asked if Mr. Frick had the dimensions for the shed and Mr. Frick said, "not yet." Mr. Frick said he was trying to keep everything to the back of the property and Chairman Andrews asked if there might be adjustments that would cause Mr. Frick to move the equipment towards the front. Mr. Frick said, "I cannot come forward."

2. Randy Reamer said he, along with the neighbors, respected Mr. Frick's opinion and said he hoped to be persuasive as he discussed the neighbor's side of the issue. Mr. Reamer said he represented David and Karen Ingram and some of their neighbors. Mr. Reamer said a good number of the neighbors were at the Planning Board meeting. Mr. Reamer recalled that the Planning Board had voted 11-0 "against it" and said he was not representing the group at that time. Mr. Reamer asked the neighbors in attendance to please stand if they were in opposition to the request.

Chairman Andrews asked for a count of those standing and the Clerk reported that number to be approximately twenty-two (22) (1 child).

Mr. Reamer said the city handles the zoning issues somewhat differently by allowing a protest for petition to be submitted by a certain percentage of landowners in the area. Mr. Reamer explained that receiving the “certain percentage” on the petition changes the requirement for the vote. Mr. Reamer said, “We have filed such a petition (Exhibit F) with the Clerk knowing that it doesn’t have any affect other than to let you know that all but one of the surrounding area residents has signed the petition in protest of this particular request.”

Mr. Reamer said he understood that Gin Road was a residential road and there are no other industrial uses on the road. Mr. Reamer said in 1994 or thereabouts, Mr. Frick built a house on the front of the site. Mr. Reamer said the house turned into an office and the office turned into a storage yard and sorting facility to what it is now. Mr. Reamer said Planning Staff looked at the site and advised Mr. Frick that the use was non-conforming and that he must “change the zoning or get a permit.” Mr. Reamer said the neighbors were “sort of de-sensitized” to the situation. Mr. Reamer said the neighbors didn’t object to a house being built, or a couple of years later in 1998 when the shed or wood yard was built. Mr. Reamer said, “Now you’re talking about kilns and planers” and this is what is upsetting the neighbors. Mr. Reamer said staff did a good job but that he found fault with every one of staff’s recommendations on the issue. Mr. Reamer urged the Board to note the area was residential and that there were no industrial uses on Gin Road.

Mr. Reamer said the use is industrial and it could not be compatible with “what’s out there now.” Mr. Reamer said there was no question that the traffic would increase and the character of the area would change due to the industrial use on twenty-six (26) acres. Mr. Reamer said there would be a visual impact and that noise would be a problem. Mr. Reamer said changing the zoning to industrial would be “opening the door to all industrial uses” and not just a sawmill. Mr. Reamer said the citizens that planned to speak would be addressing these concerns. Mr. Reamers said from a legal standpoint, it “looks to me like you’re putting this five-acre site right down in the middle of a residential area and you’ve done that before.” Mr. Reamer said there is no comprehensive plan that says there are industries in the area. Mr. Reamer said the Commissioners should consider if they want, the area to be residential, agricultural or industrial. Mr. Reamer referred to Mr. Frick’s comments that he is “missed” by trucks. Mr. Reamer said there is no reason for a truck to go down Gin Road and the neighbors want to keep it that way.

Chairman Andrews explained the procedures for calling those forward that were sworn in to speak.

3. Karen Ingram of 780 Gin Road read a prepared statement (Exhibit E) and said she had lived in the area since 1982. Ms. Ingram said the following:

- ❖ She had moved to the area because it was a rural agricultural/residential community and at the time the property in question was a vacant field. Ms. Ingram said with the exception of the Taylor and Martin residences, all other homes were in existence.
- ❖ Mr. Frick began his operation in 1994 by constructing a “really nice looking brick house, it’s very well landscaped.” Ms. Ingram said it turned out to be an office instead of a house. Ms. Ingram said nobody knew it was a business because Mr. Frick had never put a sign up. Ms. Ingram said construction started in 1998 and the site turned into a warehouse. Ms. Ingram said in 1998 zoning laws were just starting many were opposed to zoning. Ms. Ingram said citizens now realize zoning is in place “to protect us and that is what we’re asking you” is to protect the RA area.
- ❖ Buffering exists on three (3) side of the property but does not exist on the south side where Ms. Ingram resides. Ms. Ingram said that she, Mr. Beck, as well as James Bryant, see the site clearly. Ms. Ingram said lumber is being stacked over two (2) stories high. Ms. Ingram said, “We’re asking that if he be required to put buffering, that it be Type B buffering, that it’s tall enough buffering to hide those stacks of lumber that we see.”
- ❖ Does not oppose the business as it is now but does not want any further expansion. The increased noise and dust created by the dry kilns and planer would be in direct opposition to the rural agricultural area in which we live.
- ❖ Mr. Frick states his current hours of operation are from 7:30 am until 4:30 pm, which is fine, but he leaves the gates open and trucks do come in at 2:00 to 4:00 in the morning. Ms. Ingram said the trucks park with their engines running and explained that even though her property “is pretty far back” she has been wakened during the night due to the trucks running, banging and lights flashing. Ms. Ingram recalled that one night she woke up and thought someone was stealing or vandalizing the property and she called the Sheriff’s Department. Ms. Ingram said the Sheriff’s Department told her, “Oh, no, it’s common practice for those trucks to come in. Don’t worry about it.” Ms. Ingram said she spoke with Mr. Beck and he agreed that the trucks come in all night. Ms. Ingram asked that the operation of the trucks be limited and not to allow trucks to come in after 4:30 pm and not be allowed to come in before 6:00 am.
- ❖ A group of unmarked graves believed to be graves of mineworkers located at the northwest corner of the Frick property. Ms. Ingram said she was concerned that the graves would be disturbed if Mr. Frick were allowed to add a railroad spur. Ms. Ingram said the aerial maps indicate the railroad access is on the northeast corner of the property. Ms. Ingram said “neighborhood members” have seen the graves and “know exactly where they are.”
- ❖ A petition of protest was submitted with 82 signatures of residents asking for help to keep the area RA and that the Board deny the request for rezoning of Z-23-03 and add conditions to the current operation that

would limit the hours that trucks could arrive and depart from the business.

In response to a query from Commissioner Blount, Ms. Ingram said she moved into her house in 1982 and that Mr. Frick's first building was constructed in 1994. Ms. Ingram said the large building was built in 1998.

Commissioner Blount asked Mr. Lytle if the 1998 construction was prior to the enactment of zoning. Mr. Lytle said he was unsure if "it was done then or done under the old ELSR requirements." Mr. Lytle said Mr. Frick originally "did not have to live there to build."

4. David Ingram of 780 Gin Road said he lived diagonally across the road from Blandy Hardwoods. Mr. Ingram read a prepared statement (Exhibit F) and said the following:
  - ❖ He would "like to try to improve upon the Planner's classification of our neighborhood. Although there are two other lumber related businesses within a half-mile radius, there are at least twelve homes within a quarter of a mile." Mr. Ingram said the homes are well kept and used a power point presentation (Exhibit F) to depict aerial photographs of the homes in the area. Mr. Ingram said it wasn't mentioned that on the Horton property there are three (3) separate single-family residences. Mr. Ingram showed photographs of the Blackwelder and Martin residences. Mr. Ingram showed a view from his front yard of Mr. Frick's property and pointed out the lack of buffering along the south border.
  - ❖ His opposition is with the "arbitrary rezoning" of this single tract in the neighborhood. No county plan exists to justify the rezoning.
  - ❖ The Rowan County Zoning Ordinance was adopted to protect the public from intense land uses, such as a sawmill operation.
  - ❖ Mr. Frick wanted a small Industrial district created for him, allowing intense use, free from the land use restrictions of the RA district.
  - ❖ Rezoning the tract Industrial will create a district within a district, which is not compatible with the surrounding area and the adverse impact does not serve the public good.
  - ❖ Processing lumber is intense industry. The Type A buffer, recommended by the Planner is inadequate. A Type B buffer is more suitable and should apply between a Sawmill Operation and a Single Family Dwelling. Mr. Ingram said there are tables in Section VI of the ordinance with these specifications; "although there is allowance to waive that in Section IX, we just feel that it really doesn't apply."
  - ❖ Spot zoning in itself is not illegal. In some cases it may be acceptable. When it is practiced to benefit only one owner while subjecting surrounding residences to the adverse impacts of the lowered restrictions, spot zoning conflicts with the purpose and intent of the

Rowan County Zoning Ordinance, to protect residential areas from intense use, to ensure the overall public good. This is the basis of my opposition to the rezoning proposal.

- ❖ I understand that economic growth is important to Rowan County, but not at the citizens expense. I respectfully request that you reject this rezoning item in order to serve the public good. I will continue to strongly oppose any further introduction of industrial uses within a Rural Agricultural district.
- ❖ Mr. Ingram said he went to the Cronland site on June 15<sup>th</sup> with Mr. Lytle and Ed Muire to measure the decibel levels with the planer running a few feet from the property line. Mr. Ingram said the decibel levels for the eight (8) minutes, as stated in the noise ordinance, was over the 70 decibel level, at 70.5 decibels. Mr. Ingram said Mr. Muire's decibel "instrument" was reading ten (10) decibels lower than the instrument he was using. Mr. Muire questioned the calibration and Mr. Ingram said he showed him the internal calibration; Mr. Ingram said Mr. Muire had verified "it was calibrated internally. He had a device to calibrate it externally so he checked with that and it measured what it was supposed to." Mr. Ingram said, "After that, of course Cronland was aware that we were standing out there. Things started to quiet down and the decibel levels were reduced."
- ❖ Using the power point presentation (Exhibit F) Mr. Ingram pointed out the twenty-six acres of the Frick site in close proximity to the homes. Mr. Ingram said he worked nightshift half of his life and he is home during the day. Mr. Ingram said Mr. Beck had worked nightshift and that he was also concerned with the location. Mr. Ingram said the planers could be placed anywhere on the twenty-six acres and "noisy" machinery could be added at any time. Mr. Ingram questioned the negative impact the site could cause in the area.

Commissioner Blount referred the petition (Exhibit F) and noted that several signatures appeared more than once. Mr. Ingram responded that he was unaware that anyone had signed the petition twice. Mr. Ingram explained that the signature appeared along with the printed name. Commissioner Blount thanked Mr. Ingram for the clarification.

Commissioner Blount said people had signed from Mooresville, Salisbury, etc. Mr. Ingram said the Mooresville address was actually on the western outskirts of Rowan County. Mr. Ingram said the citizens were concerned that "if this can happen to us, it can happen to anybody in the county." Mr. Ingram confirmed to Commissioner Blount that some of the citizens did not own land in the area but were just concerned.

5. Mary Austin read the following prepared statement (Exhibit G) in opposition to the re-zoning of Blandy Hardwoods:

- ❖ Noise that the kiln dryer and lumber planer makes. Dryers run 24 hours a day with a humming noise. Ms. Austin said she had verified

this with Cronland Lumber and “they” run 7 days a week, 24 hours a day. A planer is a shrill noise and it disturbs all residents. The planer at Cronland Lumber is in a separate building and “I was told that it runs 3 to 4 days a week.” Ms. Austin said she learned the information from the “lady that answered the phone at Cronland Lumber.” Ms. Austin said Cronland Lumber is approximately ½ mile from her house and “we can hear this noise.” Blandy Hardwoods is in my backyard and I know the noise would be very disturbing. Also, a kiln dryer puts out moisture in the air and is that healthy? Ms. Austin said, “My husband has emphysema and my son has asthma and just about everyone in the neighborhood has allergies.” If this is allowed it will diminish our peace, quiet and quality of life in our neighborhood. There is a cluster of 12 houses and other lumberyards do not have neighbors as close as we are to Blandy Hardwoods. Ms. Austin said her son and his friends hunt on their property, which has approximately 4 ½ acres of woods. Ms. Austin said, “This will disturb the wildlife.”

- ❖ Ms. Austin said Dave Ingram told her spot zoning was illegal and asked what purpose zoning serves if “someone with money can come in and get zoning changed on a small parcel of land in an RA neighborhood.” Ms. Austin said when she moved into her home in 1978 the property belonging to Arnold Lesley was grown up in woods and open fields. The property was sold to Andy Frick and he built a house to be used as a business. Then he built a lumberyard in the middle of a residential neighborhood without input from neighbors. If we had known this was going to be built, we would have opposed it then.
- ❖ In December 2003 Planning Staff contacted Mr. Frick encouraging him to seek rezoning of his property. At that time, Mr. Frick contacted Planning Staff about additions to his business and not about rezoning.
- ❖ There is an old cemetery on Mr. Frick’s property with people buried that had worked in the Gold Hill Mines. The graves are marked with stone markings. Mr. James Lee Brown, who owns the property next to the Austin’s, verified that his father and grandfather lived on George Brown Road verified this and we were told that these graves were never to be disturbed. Ms. Austin said she visited the cemetery and there are indentions in the ground where the graves exist, with “periwinkle planted there to keep the woods from growing.” Ms. Austin said this practice was done “years ago in old family cemeteries.”
- ❖ My son and several other people in the neighborhood work at night and sleep during the day. Ms. Austin said there are also babies and retirees in the neighborhood. If this rezoning is permitted and a kiln dryer and planer are allowed to be added, the noise would disturb sleeping during the day.

Chairman Andrews emphasized that all information being provided must be factual.

6. James Bryant of 885 Gin Road, Gold Hill, read prepared comments as follows:

- ❖ “We as a group are not here just only to protect our community but to help all Rowan County communities protect their neighborhood by ensuring that the zoning laws of Rowan County are followed specifically.” Mr. Bryant said it was his understanding that zoning laws would stop zoning in residential communities. Mr. Bryant said, “We are not opposed to the present operation of Mr. Frick but any further expansion which will bring more noise, dust and heavy vehicle traffic to the community is very much not suited for this area.” Mr. Bryant said, “We are also opposed to the conditional use permit which only gives a green light to further expansion.” Mr. Bryant encouraged the Board to vote no to further expansion of the area.

7. Jeff Beck of 755 Gin Road said he lived beside the property in question. Mr. Beck said there wasn't much he could say that hadn't already been said. Mr. Beck said none of the neighbors “actually knew what was going on.” Mr. Beck referred to the comments made by Commissioner Belk and said, “None of us really know what exactly is going on and from what I've heard this afternoon, nobody in here does.” Mr. Beck said there appears to be a plan to do “something but they don't know what.” Mr. Beck suggested that the plan “go back to square one” and said Mr. Frick should notify the neighborhood of what his intentions are. Mr. Beck agreed with Commissioner Belk “that it's hearsay right now.”

Chairman Andrews allowed the applicant to address the Board a second time. Chairman Andrews again requested that only factual information be provided.

1. Andy Frick, (who made previously addressed the Board) of 1215 Shive Road, said Gin Road received its name due to being a cotton gin. Mr. Frick said there were two (2) sawmills on the road and farmers use the sawmills at times.

Mr. Frick referred to the graveyard and said it was near the Taylor residence. Mr. Frick said some of the graves were on the Taylor property. Mr. Frick said he understood that “Catawba went in there and dug into these things and that's why they're mounded out.” Mr. Frick said the area was too far and he would not use it.

Mr. Frick recalled purchasing the property around 1986 or 1987. Mr. Frick said the name of the company, Blandy Hardwoods, was indicative of a hardwood company and the intent was to “build.” Mr. Frick said he built the office in a “house style” to blend in with the neighborhood. Mr. Frick said office style would also allow him to sell the site as a “house” and he could “drop back” over

to his other property. Mr. Frick said he had observed the property on the market for over 2-3 years before making the purchase. Mr. Frick said a railroad spur would “not even be close” to the graveyards. Mr. Frick said he wanted to clear up those few issues.

With no additional citizens wishing to address the Board, Chairman Andrews closed the public hearing.

Chairman Andrews asked Planning Staff if the request were to be passed as presented, would Mr. Frick have to seek approval for the addition of future planers. Mr. Lytle responded that if the planer shed were approved, he assumed planers could be added within the shed, unless there is a limitation placed on the number of planers within the shed. Mr. Lytle said Mr. Frick was “tied to what is on the site plan for the entire twenty-six (26) acres” and approval would encumber the entire tract. Mr. Lytle said it would be in the Parallel Conditional Use District and there are no permitted uses in a Parallel Conditional Use District. Mr. Lytle said the only uses are allowed by the issuance of conditional use permits on the site.

Commissioner Blount asked if the conditional use permit covered the entire area being rezoned. Mr. Lytle explained that Mr. Frick was requesting an IND/CUD (Conditional Use District) and by definition that meant there were no permitted uses in that district. Mr. Lytle said if the entire twenty-six (26) acres was rezoned IND/CUD the only uses allowed would be the uses on the site plan, which involves the small area.

Mr. Lytle confirmed to Commissioner Blount that Mr. Frick could not put “anything” on the remainder of the property without requesting a conditional use permit. Mr. Lytle said if anything were approved, a form would be signed by Chairman Andrews and Mr. Frick agreeing to those conditions. Mr. Lytle indicated Mr. Frick could not come back for a full year to make any changes.

Chairman Andrews questioned if the proposal was considered a site plan. Mr. Lytle confirmed (Exhibit D) was considered a site plan. Chairman Andrews also questioned when the fans were running if they could be heard in Ms. Austin’s neighborhood. Mr. Lytle indicated the planers could be heard from Ms. Austin’s driveway. Chairman Andrews then questioned how far Ms. Austin’s driveway was to the neighborhood. Mr. Lytle stated it was 1000 feet.

Chairman Andrews opened Z-22-03 and CUP-10-04 for discussion.

Commissioner Belk expressed her concerns of the lack of planning that had gone into it before presenting to the Board. Commissioner Belk indicated the planer was going to be enclosed and was not sure the decibel readings were. Commissioner Belk stated she was not comfortable with this because of the lack of information. Commissioner Belk also stated she had a problem with trucks parking and idling in a residential neighborhood.

Commissioner Blount agreed with Commissioner Belk's concerns. Commissioner Blount questioned if the Board could cut the hours of operation completely. Chairman Andrews answered by saying it would interfere with current business. Commissioner Blount indicated it could give the Board a level of control on these types of permits.

Commissioner Tadlock mentioned his concern regarding noise. Commissioner Tadlock stated the Board did not have the necessary information concerning noise and mentioned the plan seemed a little premature.

Chairman Andrews stated there was a prior concern regarding noise and professionals were brought in to determine exact decibels. Chairman Andrews stated this case was more "hearsay" about noise and did not have enough information regarding noise.

Commissioner Mitchell questioned if staff had knowledge regarding a planer shed similar to the one described by Mr. Frick, which readings could be obtained. Mr. Lytle mentioned Mr. Frick mentioned one in Marshville.

Commissioner Belk questioned if that would be the same thing Mr. Frick proposed to build. Commissioner Belk stated Mr. Frick hadn't presented a plan that would be exact to the planer shed in Marshville.

Commissioner Tadlock stated he felt experts could test the noise, rather than the responsibility of staff. Chairman Andrews mentioned getting experts to know exactly what the Board was testing and getting a complete plan.

Commissioner Blount questioned if the Board should allow Mr. Frick to withdraw his plan and come back with a more complete set of plans. Mr. Lytle stated there were no specific times to delay this.

Commissioner Blount made a motion to delay decision until Mr. Frick was able to provide staff and Board adequate information concerning exact construction of planer shed, exact noise readings estimated by engineer on planer shed and drying kilns. Commissioner Tadlock seconded the motion.

Commissioner Mitchell questioned if the Board could accept new evidence. Mr. Lytle stated he would have to re-advertise the hearing.

John Holshouser mentioned Mr. Lytle was absolutely correct in having to re-advertise the hearing. Mr. Lytle indicated the Board would have to allow a new public hearing for people to come and speak on the new information provided.

Commissioner Blount indicated Mr. Frick might want to meet with the neighborhood prior to the next public hearing.

Mr. Frick stated he was mostly concerned with the dry kilns. Chairman Andrews indicated to Mr. Frick that it was not the presentation given today.

Commissioner Blount indicated to Mr. Frick he would need to make another application packet for the dry kilns.

The motion passed unanimously.

Chairman Andrews called for a 5-minute break.

The Board reconvened at 6:20 pm.

### **DISCUSSION OF BUDGETING FOR THE NC GOVERNOR'S HIGHWAY SAFETY GRANT**

Major Tim Bost and Lt. John Sifford, from the Rowan County Sheriff's Department, addressed the Board concerning the Governor's Highway Safety Grant. Major Bost mentioned the Sheriff applied for the Governor's Highway Safety Grant a few months ago and this grant would allow for two (2) additional officers. Major Bost stated the Sheriff wanted to enhance the Youth Services and were currently re-organizing the Child Abuse Services by arranging the hours and indicated changes are also being made in the D.A.R.E (Drug Abuse Resistance Education) as well as the Resource Officer programs. Major Bost mentioned the concerns about teen driver accidents and these tragedies underscored the necessity as a public safety agency.

Major Bost indicated this grant would be for an officer which would better prepare the Sheriff's Department with schools, the community and the wreckless driving around schools after/before hours.

Major Bost also mentioned the Sheriff added two investigators and indicated the Sheriff's office gets complaints everyday and needed to be proactive. Major Bost informed the Board that on June 1<sup>st</sup>, 2004, Willy Wright was hired by Sheriff Wilhelm to be a Child Abuse Coordinator. Deputy Wright is to work with DSS on a daily basis and added that Deputy Wright's wife works for DSS in child protector services.

Lt. John Sifford reviewed the funding and stated that the first year's cost would be \$99,262. Lt. Sifford said that the County would need to provide only \$13,762, in which the Sheriff plans to draw these funds from the forfeiture money. Lt. Sifford mentioned the County would need to provide \$11,053 or twenty-percent for the second year. Lt. Sifford stated the third year would cost fifty-percent from the County. Lt. Sifford stated the fourth year would call for a hundred-percent of personnel costs. Lt. Sifford confirmed the grant would end up costing the County \$77,371.

Commissioner Belk questioned where the second year funds would come from. Lt. Sifford responded that the Sheriff was respectively asking the County to pick up the cost.

Lt. Sifford mentioned the Sheriff's office would have to reapply for the grant each year and indicated the County would be responsible for 25% of personnel the second year, 50% of personnel the third year and 100% of personnel the fourth year respectively.

Commissioner Mitchell questioned if this was a commitment for four years. Lt. Sifford responded that "yes" and added that the grant was for four years.

Commissioner Mitchell made a motion to approve the grant. Commissioner Tadlock seconded the motion and the motion passed unanimously.

Chairman Andrews acknowledged and appreciated the hard work from Child Protective Services.

### **ADDITION: LEASES**

John Holshouser, County Attorney, informed the Board of a phone call received from the attorney for Piedmont Behavioral Healthcare, Mike Taylor, regarding the two leases (Stepping Stone and Turning Point), which expired on June 30, 2004. Mr. Taylor questioned Mr. Holshouser if the lease agreements could be revised for two-year terms instead of annual renewal. Mr. Holshouser mentioned these leases were identical to the past lease agreements. Mr. Holshouser recommended dating the documents to July 1, 2004.

Commissioner Mitchell made a motion to approve the leases. Commissioner Tadlock seconded the motion and the motion passed unanimously.

### **SELECTION OF VOTING DELEGATE TO THE NCACC ANNUAL CONFERENCE**

Commissioner Belk made a motion to elect Commissioner Blount as voting delegate to the NCACC Annual Conference. Commissioner Mitchell seconded and the motion passed unanimously.

### **BOARD APPOINTMENTS**

#### **Criminal Justice Partnership Program**

Commissioner Belk made a motion to accept Earle Koontz, Trudy Gale, Rev. Taylor and Angie Banther. The motion passed unanimously.

#### **Senior Services Advisory Council**

Commissioner Tadlock made a motion to accept Frank Scarborough, Robbie Davis, Manie Richardson, Mary Ann Johnson and Jonette Powell. The motion passed unanimously.

**Rowan County Tourism Development Authority**

Commissioner Belk made a motion to approve Buddy Gettys. The motion passed unanimously.

**PUBLIC COMMENT PERIOD**

There were no citizens present wishing to address the Board.

**EXECUTIVE SESSION FOR ACQUISITION OF PROPERTY ON 2 ISSUES**

Chairman Andrews called for the Board to go into Executive Session to discuss the acquisition of property on 2 issues at 6:40 pm.

Chairman Andrews called for the Board to go back into open session at 7:15 pm.

Commissioner Blount made a motion to approve to purchases land from DJB, LLC. Properties. Commissioner Tadlock seconded and the motion passed unanimously.

**ADJOURNMENT**

With no further business to be brought before the Board, Chairman Andrews adjourned the meeting at 7:15 pm.

Respectfully Submitted,

Rita K. Foil, CMC  
Clerk to the Board