

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
April 3, 2006 – 7:00 PM
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

Present: Arnold S. Chamberlain, Chairman
Jim Sides, Vice-Chairman
Steve Blount, Member
Frank Tadlock, Member
Chad Mitchell, Member

County Manager William Cowan, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Chamberlain called the meeting to order at 7:00 pm.

Chairman Chamberlain provided the Invocation and also led the Pledge of Allegiance.

ADDITIONS/DELETIONS

There were no additions/deletions to the agenda.

APPROVAL OF THE AGENDA

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to approve the agenda passed unanimously.

APPROVAL OF MINUTES

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to approve the minutes of the March 20, 2006 meeting passed unanimously.

CONSIDERATION OF THE CONSENT AGENDA

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

The Consent Agenda consisted of the following:

- A. Set Public Hearing for April 17, 2006 for Consideration of Unanimous Petition for Winterberry Place
- B. Set Public Hearing for April 17, 2006 for Consideration of Unanimous Petition for Loafers Glory Lane
- C. Set Public Hearing for April 17, 2006 for Consideration of Majority Petition for Rabbit Patch Drive
- D. Set Public Hearing for April 17, 2006 for Consideration of Majority Petition for Greatful Drive
- E. Order of Collection to Tax Collector
- F. Set Quasi-Judicial Hearing for April 17, 2006 for PCUR 01-06
- G. Set Quasi-Judicial Hearing for April 17, 2006 for CUP 03-06
- H. Acceptance of Subdivision Guarantee for 5 Roads in Sunset Pointe

REPORT ON THE ROWAN COUNTY CHILD ABUSE PREVENTION TASK FORCE

Chairman Chamberlain reported that the Rowan County Child Abuse Prevention Task Force met on Wednesday, March 29, 2006. Chairman Chamberlain read from a plaque that hangs permanently in the Commissioners meeting room. The plaque stated that the first Monday in April had been selected by community leaders in 1997 to forever more remember the children of Rowan County and to review the Child Abuse Prevention network.

Department of Social Services (DSS) Director Sandra Wilkes discussed the community protocol, which was developed in 1997. Ms. Wilkes said the protocol describes the process from the reporting of child abuse and neglect, to the screening/investigation of the allegations that were made. Ms. Wilkes said the document also describes the working relationship between various agencies. Ms. Wilkes thanked the Board for keeping children a priority.

Chairman Chamberlain said many hours had been dedicated to the protocol document. Chairman Chamberlain said April was known as Child Abuse Prevention Month. Chairman Chamberlain stressed the importance of child abuse prevention and asked the Board to nod in acceptance of the presentation.

US MOTTO ACTION COMMITTEE

Commissioner Sides said the Board had received a letter and information in their agenda packets relating to the US Motto Action Committee. Commissioner Sides introduced Rick Lanier, Vice-Chairman of the US Motto Action Committee to make a presentation.

Mr. Lanier recognized other committee members and then read a handout that had been distributed to the Board by a committee member.

Mr. Lanier requested that the Board consider allowing "In God We Trust" to be placed on the front of the Rowan County Administration Building. Mr. Lanier said the lettering and installation would be professionally done and would be paid for by the US Motto Action Committee.

Commissioner Sides moved that subject to the approval of the Salisbury Historic Commission, that we allow the US Motto Action Committee to place "In God We Trust" on the front of our county building. The motion was seconded by Commissioner Mitchell.

Chairman Chamberlain asked if the lettering would be etched into the building or attached. Mr. Lanier responded attached. Mr. Lanier said Costco Signs of Lexington would perform the work in either baked enamel or cast aluminum. Mr. Lanier said the company could contact the County Manager after approval is received from the Salisbury Historic Commission.

Commissioner Mitchell questioned the cost for the project and Mr. Lanier estimated approximately \$750.00.

Commissioner Blount said he hoped that any lettering to be placed on the building would match the quality of the existing letters.

Mr. Lanier said the committee would adhere to using the lettering desired by the Board.

Commissioner Sides amended the motion to include that the letters would match what is currently on the building. Upon being put to a vote the motion passed unanimously.

A round of applause followed the presentation and Board's approval.

Mr. Lanier asked that those in attendance and who supported the request to please stand and it appeared that the majority of the room supported the request. There were two hands raised in opposition.

Mr. Lanier provided the Board with tags to place on the front of their vehicles.

PUBLIC HEARING FOR CONSIDERATION OF INVESTMENT GRANT FOR FOOD LION EXPANSION

Randy Harrell, Executive Director of the Economic Development Commission and Teross Young, Director of Governmental Relations for Food Lion were present to address any questions pertaining to the investment grant.

Chairman Chamberlain opened the floor for questions from Board members. With no questions, Chairman Chamberlain read the notice that had appeared in the Salisbury Post regarding notification of the public hearing.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the investment grant for Food Lion. With no citizens wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved to allow the incentives but based on staggered year terms. Commissioner Sides said they get the incentive one year but don't get it the next. Commissioner Sides said instead of Food Lion receiving all of the incentives in the first five years, they would receive it the every other year for a period of 10 years. The motion died for lack of a second.

Commissioner Blount moved to grant the incentive grant for Food Lion and their expansion per the terms of our previously adopted incentive grant policy. The motion was seconded by Commissioner Tadlock.

Commissioner Sides said incentives were a reality that he would like to see done away with. Commissioner Sides said if incentives were provided over a 10-year period, the County would have money for other programs.

Commissioner Mitchell found Commissioner Sides' suggestion intriguing and said he would have liked to have received the information sooner.

Upon being put to a vote, the motion passed 4-1 with Commissioner Sides dissenting.

CONSIDERATION OF HOME PROGRAM / SELECTION OF PROGRAM ADMINISTRATOR / PUBLIC HEARING

Rowan County Planning Manager Ed Muire referred to the information in the agenda packet and said the Board needed to select a program administrator for the HOME Program due to HUD requirements. Mr. Muire said Staff had spoken with 3 potential administrators. Staff recommended Benchmark CMR, Inc. to administer the program.

Gary Wilson from Benchmark CMR, Inc. proposed, subject to public comment, an action plan for the use of HOME funds. Mr. Wilson said time was of the essence to submit the documents and he asked the Board to approve, again subject to public comment, a basic program so that an action plan could be prepared for the Chairman's signature.

Chairman Chamberlain read a portion of the notice that had appeared in the Salisbury Post regarding notification of the public hearing. Chairman Chamberlain then opened the public hearing to entertain citizen input. With no

one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved to approve the plan that was submitted with the idea that they write the plan for the Chairman to sign and submit it in order to meet the deadline.

Mr. Wilson said the funds would not be available until July and that Benchmark CMR, Inc. would come back before the Board and ask for parameters to be set for the policy.

Commissioner Mitchell seconded the motion and the motion passed unanimously.

PUBLIC HEARING FOR SPECIAL CONSIDERATION OF PROPOSED ROAD NAME OF MINERS WAY

Fredda Greer of the Rowan County Planning Department presented the request for the proposed road name of Miners Way. Ms. Greer said the road was found to meet the criteria for naming by ASI in 2004. Ms. Greer said the petition had been presented to the Board during the final special hearing for road names. Ms. Greer said due to opposition from the Guzzetti family, the Board had delayed the naming of the road and had asked Staff to check the number of structures along the road.

Ms. Greer referred to the map in the handout as she described the area.

Ms. Greer said Staff had made a field check in December 2005 and found that the road does meet the road-naming criteria.

Staff recommended approval of the proposed road name of Miners Way.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the proposed road name of Miner's Way. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved, Commissioner Blount seconded and the vote to approve the road name of Miners Way passed unanimously.

PUBLIC HEARING FOR SPECIAL CONSIDERATION OF PROPOSED ROAD NAME OF CROWDER DIXON ROAD

Fredda Greer of the Rowan County Planning Department presented the request for the proposed road name of Crowder Dixon Road. Ms. Greer reported that the road in question begins in the City of Salisbury and was recognized by the City as York Road. Ms. Greer said the road runs for a very short distance before crossing into the county.

Ms. Greer said there is one house that qualifies for an address on the road and that the lone resident was using a Crowder Dixon Road address.

Staff proposed renaming the road to Crowder Dixon Road.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the proposed road name of Crowder Dixon Road.

- Tonya Dixon Neely, a resident of Salisbury said the road was named after her grandfather. Ms. Neely recognized other family members in the audience and she also expressed her appreciation to Ms. Greer for her assistance in the road naming process. Ms. Neely said the road name would be an honor for her family.
- Sam Castle had questions regarding the portion of the road being named. Ms. Greer used the map as she explained the proposed road. Mr. Castle said the road was named after his grandfather. Mr. Castle said he is now the owner of the property and that it would be a “great honor” to have the road named after his grandfather.

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

Commissioner Sides moved to approve the road name of Crowder Dixon Road to alleviate the duplicate road names in the county and to honor these individuals with leaving the road so named. Commissioner Blount seconded and the motion passed unanimously.

PUBLIC HEARING FOR UNANIMOUS PETITION FOR PROPOSED ROAD NAME OF SWEET PEA LANE

Fredda Greer of the Rowan County Planning Department presented the unanimous petition and said the proposed road services a 14-lot mobile home park. The property owner requested the proposed road name of Sweet Pea Lane. Staff recommended approval.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the proposed road name of Sweet Pea Lane. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to approve the request as presented passed unanimously.

Chairman Chamberlain called for a short break at 7:55 pm. Chairman Chamberlain reconvened the meeting at 8:00 pm.

PUBLIC COMMENT PERIOD

Chairman Chamberlain opted to hold a Public Comment Period at this point. Chairman Chamberlain announced that he would hold a second Public Comment Period if someone came in later and wished to speak.

The following individuals addressed the Board:

1. Howard Andrews of Kannapolis said he had heard for years that our country was “one nation under God” and he asked, “what God?” Mr. Andrews asked, “What exactly do we trust in God for, our money?” Mr. Andrews provided different scenarios as he referred to trusting in God. Chairman Chamberlain advised Mr. Andrews that his time was up when he specifically addressed Commissioner Sides and called him a bigot.
2. Chris Crowell of the Summerfield Subdivision located on Highway 150 said he shared some but not all of the sentiments of Mr. Andrews. Mr. Crowell said he took exception to the notion of “one nation under God.” Mr. Crowell said it was clearly stated in early documents that this is not a Christian nation. Mr. Crowell said he was familiar with the case in Davidson County where “In God We Trust” was placed on a government building. Mr. Crowell provided a clarification regarding the Supreme Court passing on a ruling for the Davidson County case. Mr. Crowell said the law must have a clear secular purpose; it cannot advance religion and must not needlessly entangle government with religion. Mr. Crowell said one Commissioner had stated that putting “In God We Trust” on the county’s building would add much to the recognition of our belief in God. Mr. Crowell said he felt this was an endorsement of religion and that he was unsure if the instance would withstand the scrutiny that the Davidson County case had withstood.
3. Carl Ford thanked the Board for voting on the issue of “In God We Trust.” Mr. Ford said this country was founded on Christian values and that anyone who reads history books realizes this. Mr. Ford felt that “if it’s good enough for the federal government and good enough for our money, I figure it’s good enough for the citizens of Rowan County.” Mr. Ford again expressed appreciation to the Board for support of the matter.

PUBLIC HEARING TO CONSIDER ADOPTION OF 3-YEAR UPDATE TO SOLID WASTE MANAGEMENT PLAN

Lori Swaim of the Rowan County Environmental Services Department presented the 3-year update for the Solid Waste Management Plan, which she said is a state-mandated update.

Ms. Swaim highlighted the plan and asked if the Board had any questions.

In response to a query from Commissioner Sides, Ms. Swaim said that when the law comes into effect in 2009, establishments that hold an ABC permit would have to recycle alcoholic containers.

Chairman Chamberlain asked Ms. Swaim's opinion pertaining to building a transfer station and Ms. Swaim thought it was a good idea.

Chairman Chamberlain asked Ms. Swaim if she thought it was a good idea to have a "buy recycled" county policy and Ms. Swaim said, "Absolutely." Ms. Swaim felt this policy was desperately needed. Chairman Chamberlain asked Ms. Swaim to contact him regarding this issue.

Chairman Chamberlain recalled how impressed he had been on a visit to see a composting machine. Chairman Chamberlain questioned Ms. Swaim about composting and she also agreed it would be a good idea for Rowan County to have the machine at some point.

Chairman Chamberlain praised Ms. Swaim for the hard work that went into preparing the document.

Commissioner Sides said he did not see direction in the plan pertaining to accepting waste from other counties. Commissioner Sides said he had also noticed the tipping fee was down from \$31.00 to \$28.00. Commissioner Sides said the fee had been \$28.00 for several years and he questioned a potential increase in the fee. Commissioner Sides discussed white goods (stoves, refrigerators, etc.) and fees that are paid for disposal of these items. Commissioner Sides said the fees go to the state but that the County should apply to get these funds back. Commissioner Sides commented on the state requirements for schools to purchase a certain percentage of recycled goods and said he felt the Board should consider the requirement for the county. Commissioner Sides said all county schools were not participating in the recycling program. Commissioner Sides felt the Board would be remiss if it did not make it clear to the Board of Education that it would like for all schools in the county to participate. Commissioner Sides expressed an interest to see increased efforts in cleaning up the County. Commissioner Sides suggested the possibility of a free day for citizens to use the landfill.

Chairman Chamberlain asked Ms. Swaim to share the Board's comments with her director and to compose a letter of encouragement to be sent to the schools pertaining to participation in the recycling program.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding adoption of the plan. With no citizens wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to approve the solid waste 3-year update and resolution passed unanimously.

CONSIDER APPROVAL OF SNIA 01-06 PERMIT APPLICATION

Shane Stewart of the Rowan County Planning Department presented the request from William Sims for Special Non-Residential Intensity Allocation (SNIA) 01-06.

Staff recommended approval based on the site plan.

Commissioner Sides moved, Commissioner Blount seconded and the vote to approve the request as presented passed unanimously.

CONSIDER APPROVAL OF SNIA 03-06 PERMIT APPLICATION

Shane Stewart of the Rowan County Planning Department presented the request for Special Non-Residential Intensity Allocation (SNIA) 03-06 for property owner Pilot Rack Company.

Staff recommended approval of the request.

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to approve the request as presented passed unanimously.

CONSIDER SW 01-06 PRIVATE ROAD APPROVAL FOR THE RESERVE AT HIGH ROCK LAKE

Shane Stewart of the Rowan County Planning Department reported that Mark and Toney Honeycutt were requesting approval to allow the construction of a new subdivision street as a private road dedicated to the residents of the proposed The Reserve at High Rock Lake subdivision. Mr. Stewart said the development was comprised of 11 single-family lots on 39 acres located at the 1300 block of Kern Carlton Road.

Mr. Stewart said the subdivision would be a gated community with a Homeowner's Association to collect fees for road improvements as required by the subdivision ordinance.

Staff recommended approval.

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to approve the request passed unanimously.

QUASI-JUDICIAL HEARING FOR CUP 02-06

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for CUP 02-06 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Carol File for her property located at 285 Stolz Road in the Litaker Township. The purpose of the application is to allow a 6-unit Campground/RV Park on her 3.5-acre tract referenced as Tax Parcel 433A-042.

The Clerk swore in those wishing to provide testimony in the case.

Shane Stewart of the Rowan County Planning Department provided the Staff Report (Exhibit B). Mr. Stewart said several months back Staff had received information regarding property located at 285 Stolz Road. Mr. Stewart said Code Enforcement discovered 5 RV units on the site without zoning, environmental health or building inspection approval.

Mr. Stewart used a power point presentation (Exhibit C) as he described the site and the surrounding area. Mr. Stewart discussed the site history and said the property was part of a major subdivision of 10 lots created by Johnny Fletcher, most likely for mobile home development. Mr. Stewart said lot 8 was the largest lot in the subdivision likely due to the presence of Vance soil, which typically provides difficulties for septic tank suitability. Mr. Stewart said in 1993 Mr. Fletcher put in a well and septic tank. Mr. Stewart explained that approximately one (1) year later Ms. File bought the property and 4 years later she put in a septic system. Mr. Stewart referred to Attachment A listed in the Staff Report (Exhibit B), which he said does not reference camping units being part of the proposal but rather was for a mobile home permit.

Mr. Stewart reviewed the request and said Ms. File was requesting approval for the 5 sites in addition to 1 extra camper for a total of 6. Mr. Stewart referred to the site plan that was prepared by Ms. Lynn Chivington and listed as Attachment B in the Staff Report (Exhibit B). Ms. Stewart used the power point presentation (Exhibit C) to show the site plan and where the existing and proposed campers would be located. Mr. Stewart said Ms. File had indicated the sites are not for recreational use but for temporary residences where monthly fees would be collected.

Mr. Stewart referred to the checklist (Exhibit D) that had been handed out at the beginning of the hearing. Mr. Stewart used the checklist (Exhibit D) as he highlighted the following Specific Conditional Use Criteria listed in the Staff Report (Exhibit B):

- Item #3 Density. Mr. Stewart said Environmental Health did approve the 2 septic systems but they were not based on camping units and would require some type of inspection verification to determine if it was suitable for the 6 units. Mr. Stewart said it was doubtful that the current hookups met the standards for above ground utility lines. Mr. Stewart said both Environmental Health and Building Inspections must perform site evaluations to determine code compliance.
- Item #4 Interior Drives. Mr. Stewart said the existing driveways measure 12' in width and do not contain the necessary gravel depth.
- Item #6 Screening and Buffering. Mr. Stewart said the applicants have 3 options to choose from in regards to screening within 200' of property lines. Mr. Stewart said there are 3 residences that meet those criteria. Mr. Stewart used the power point presentation (Exhibit C) as he discussed the screening and buffering along the southern and eastern boundaries.

Mr. Stewart reviewed the Conditional Use Criteria listed in the Staff Report (Exhibit B). Mr. Stewart mentioned that Attachment C in the Staff Report (Exhibit B) was the applicant's response as to how she would address the following conditional use criteria:

1. *Adequate transportation access to the site exists.* Mr. Stewart said initial requests for a commercial driveway permit were denied several months ago in terms of the application process. Mr. Stewart said there were 3 drives currently on site and the permit was denied based on 2 locations not having proper sight distance. Mr. Stewart said after a revised site plan indicated the driveways would be removed, the site easement established, and lowering the bank to meet the proper sight distance, they did approve a commercial driveway contingent upon those repairs and changes.

Mr. Stewart said Stolz Road is a recently paved state-maintained dead end road approximately .3 miles long and providing access to 9 residences. Mr. Stewart said Stolz Road connects to another dead-end road in Carter Loop Road, which is approximately .6 miles from Old Beatty Ford Road. Mr. Stewart said based on the request, it was doubtful that transportation would not be adequate.

2. The use will not significantly detract from the character of the surrounding area. Mr. Stewart used the power point presentation (Exhibit C) to show the property in question, as well as homes in the area. Mr. Stewart also showed 2 existing campsites. Mr. Stewart pointed out the mix of single and doublewide homes. Mr. Stewart showed what he described as typical RV hookups and above ground utilities. Mr. Stewart showed a picture of a residence, which he felt important to include in the power point presentation (Exhibit C). The picture was of the personal property belonging to an individual with Texas tags on a rollback, a car and a motorcycle. Mr. Stewart continued with the power point presentation (Exhibit C) as he described the area. Mr. Stewart said most of the surrounding properties appeared mostly owner-occupied and were in existence before the campers were on site.

Mr. Stewart discussed the definition of RV Parks/Campground defined by the Standard Industrial Classification (SIC) code. Mr. Stewart said the definition did suggest short-term sites for recreational use or for transients. Mr. Stewart said the ordinance "does not call for what short-term is." Mr. Stewart said the proposal would be somewhat similar to a mobile home park in that there is a fee being issued for payment to stay, a mailbox for deliveries, satellite hookups and also a phone line.

3. *Hazardous safety conditions will not result.* Mr. Stewart skipped this item in his review.

4. *The use will not generate significant noise, odor, glare or dust.* Mr. Stewart said the property was subject to the noise ordinance standards as a service use.
5. *Excessive traffic or parking problems will not result.* Mr. Stewart said based on the Rowan County Thoroughfare Plan (2000), there were no suggested capacity levels or traffic count data for either road (Stolz and Carter Loop Roads).

Mr. Stewart said Ms. File's property was located $\frac{3}{4}$ miles back from Old Beatty Ford Road, which does have a capacity of 8,500 vehicles per day. Mr. Stewart said estimates were that the request could generate 32 daily trips based on 6 RV units categorized as short-term rental units.

6. *The use will not create significant visual impacts for adjoining properties or passersby.* Mr. Stewart said there were not many other uses in the area that were not residential, other than Brown's Nursery, which was mostly vacant; a gas station approximately 1 mile away at Organ Church Road and Old Beatty Ford Road. Mr. Stewart said other than these uses, there were scattered residences along Carter Loop.

Mr. Stewart said the Chairman had read the Procedural Issues listed in the Staff Report (Exhibit B). Mr. Stewart asked the Board to be aware of the 4 options and also the Findings of Fact.

Mr. Stewart said if approved, it would be the third SNIA request considered by the Board during the current meeting. The SNIA 02-06 request was listed as Attachment D in the Staff Report (Exhibit B).

Mr. Stewart referred to the Staff Comments listed in the Staff Report (Exhibit B). Mr. Stewart noted that some Board members had seen an increase in concerns and also in applications regarding campgrounds with more than short-term residency. Mr. Stewart said most campers are not generally constructed to support long-term habitation. Mr. Stewart said the Board might want to look at the campground issue.

Mr. Stewart again stated that most campers are not constructed for long-term habitation and he mentioned that most campgrounds, including Dan Nicholas Park, provide a time limit of approximately 14 days on the length of stays. Mr. Stewart said the Board might want to consider a time limitation.

Mr. Stewart said some developments do allow permanent placement but the rent is higher as well as the appearance standards. Mr. Stewart said there are also fulltime employees to monitor the area.

Mr. Stewart said if semi-permanent RV occupancy is deemed compatible in residential locations, a precedence may be set in similar requests. Mr. Stewart said many of the semi-permanent style campgrounds contain permanent modifications to units associated accessory buildings and personal belongings on site.

Mr. Stewart said Staff had received 2 calls, one from an adjoining property owner in Tennessee who could not be present for the public hearing. Mr. Stewart said the property owner's main concern was that Mr. Fletcher had said the area for would be for mobile, modular or stick built only; he said there were restrictions otherwise. Mr. Stewart said he did not find the restrictions in his search on the Register of Deeds website. Mr. Stewart said the caller had also stated that the owner did not follow the laws before.

Mr. Stewart referred to a handout (Exhibit E), which was a fax he had distributed to the Board at the beginning of the public hearing. Mr. Stewart said the fax (Exhibit E) was received from the Stolz family on the previous Friday.

Chairman Chamberlain asked Mr. Stewart if the RV area was located in a major subdivision. Mr. Stewart said in 1993 the county did not have a subdivision ordinance.

The applicant, Carol File, came forward to answer any questions the Board might have. Ms. File stated that the driveways Mr. Stewart had discussed had been moved.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding CUP 02-06.

Katie Setzer, a local attorney, said she had been retained by the Stolz family for the purpose of objecting to the conditional use permit at 285 Stolz Road. Ms. Setzer said the Stolz family is an adjoining landowner, who is currently in Colorado due to a prior engagement. Ms. Setzer said the landowners preferred to be present but instead had consulted her services to communicate their objections to the Board and to hopefully answer any questions the Board might have. Ms. Setzer said she had distributed an informational packet (Exhibit F), which contained a letter from Whit Stolz, reference to the applicable sections in the code of ordinances, a map of the surrounding area and pictures of the area that she had personally taken on March 30, 2006.

Ms. Setzer discussed the history of the property and said the Stolz family has owned the 103-acre property across the street from the subject property for more than 30 years. Ms. Setzer said the road was obviously named for the family who had it admitted into the state road system.

Ms. Setzer said it appears the applicant has been in violation of the ordinance for many years and it was her understanding from the Stolz family that RV's had been on the property for more than a decade. Ms. Setzer said there had been evidence, as indicated in the pictures (Exhibit F), that 5 campers were located at the property. Ms. Setzer said the owners had rented the campers for lengthy periods, which would qualify the campers as longer-term residences as opposed to a true campground. Ms. Setzer said this was the issue the owner had with whether the true intent was to circumvent the ordinances.

Ms. Setzer referred to Section 21-32 of the Zoning Ordinance (Exhibit F) regarding General zoning districts and read the following: "It is the intent of this district to rely upon development standards to protect residences from potential adverse impacts of allowed nonresidential uses. Ms. Setzer contended that the campground located near and around residential homes would in fact be allowed nonresidential use.

Ms. Setzer said if comparing the intent with the possibility of the campground and increased traffic on Stolz Road, a total number of 6 RV's on 3 acres would mean there would be an RV unit per $\frac{1}{2}$ acre. Ms. Setzer said the surrounding parcels are approximately 1 acre each.

Ms. Setzer when looking at the pictures (Exhibit F) there are several things indicating the campground would be out of character with the surrounding area.

Ms. Setzer said there were health and safety concerns associated with having the permanent nature of the campground. Ms. Setzer requested that in lieu of not denying the actual permit, to request that the inspection take place to ensure there is an appropriate septic system to handle the increased waste.

Ms. Setzer referred to Section 21-59 of the Zoning Ordinance (Exhibit F) pertaining to the Evaluation Criteria and reviewed the following:

1. Adequate transportation access to the site exists. Ms. Setzer said this is a dead end street and any traffic coming in creates twofold traffic coming out.
2. The use will not significantly detract from the character of the surrounding area. Ms. Setzer contended that homes around the area are residences and the alleged campground would detract from the area.
3. Hazardous safety conditions will not result. Ms. Setzer said with the increased garbage and waste, the Stolz' would like to request an inspection.
4. The use will not generate significant noise, odor, glare or dust. Ms. Setzer contended that it would with 6 additional RV's on the property.
5. Excessive traffic or parking problems will not result. Ms. Setzer contended that it would with the increase in people.
6. The use will not create significant visual impacts for adjoining properties or passersby. Ms. Setzer if history tells anything, the applicant has had

campers located on the property for many years and is currently in violation of several Rowan County Ordinances.

Ms. Setzer contended that the conditional use permit should be denied because it is contrary to the intent of Rural Agricultural zoning, and fails to comply with the 6 Evaluation Criteria (Exhibit F). Ms. Setzer said ordinances and the Evaluation Criteria (Exhibit F) exist for a reason. Ms. Setzer said the Stolz family was asking the Commissioners to apply the facts to the Evaluation Criteria (Exhibit F) and to deny the conditional use permit. Ms. Setzer said if allowed, the Stolz family believed it would set a precedence in the belief that citizens may place campers on property, rent them out for long-term and mask it as a campground. Ms. Setzer said this was a concern for the Stolz family.

Larry (could not understand last name) said he owns the gas station that was mentioned earlier. Larry said he also owns a house that is surrounded by the Stolz property. Larry said the camping spot that Ms. File wanted to establish would actually be an improvement to what is there. Larry said what currently exists on Stolz Road is like the trash Commissioner Sides discussed in an earlier agenda item. Larry said Ms. File's property is well-maintained and she is well aware of what is going on around her. Larry said the Files were hardworking people and he felt the campground would be an asset to the community. Larry said there is a need for the campground. Larry said there were people in his station everyday looking for a site such as the one being proposed. Larry said he owns a camper and that sometimes he finds it difficult to find a facility to camp at. Larry said there is a call for this type of business in this portion of the county.

Cynthia Bass of 440 Stolz Road said she owns adjoining property to the File's and lives on the other side of the road. Ms. Bass mentioned Mr. Stewart's power point presentation (Exhibit C) and said the photograph of the property with the fence was her property. Ms. Bass said the File property is nice and is kept clean. Ms. Bass said she never hears of noise or trouble from the File's. Ms. Bass referred to comments by Mr. Stewart and said she didn't realize there was a subdivision on the road. Ms. Bass said the mobile homes there are terrible and that the File property is an asset to the community. Ms. Bass said 2 years ago she took a truck and picked up 175 pounds of trash along the road. Ms. Bass said, "That's what we live in." Ms. Bass said the File property is well-maintained and would be an asset to leave it in the community

Lynn Chivington came forward and said she was the surveyor if there were any questions from the Board.

Commissioner Mitchell asked Ms. File when it came to her attention that she was in violation of the County's ordinance? Ms. File responded that she had received a letter from the enforcement officer around February 8th. Commissioner Mitchell asked how long the campground had existed. Ms. File said she had bought the property 12 years ago and she estimated the campground had existed for 10

years. Commissioner Mitchell asked how long the campers had been there and Ms. File responded, "they come and go but it could be up to 10 years." Ms. File said she had a camper there and that there was a camper there before she bought the place. Commissioner Mitchell asked if that camper was still there and Ms. File said no. Commissioner Mitchell questioned the average length of stay and Ms. File said anywhere from 1 month to 2 years. Ms. File said the people who stay in the campground have another residence. Ms. File said most people work and stay at the campground during the week and go home on weekends. Commissioner Mitchell referred to those who had been at the campground for 2 years and asked where they live and what their circumstances were. Ms. File said one lives in Morganton and the other lives in Virginia. Ms. File said they were engineers that are working on the additions to the Rowan County Schools. Ms. File said there were "2 guys that preceded them that were doing the same job." Commissioner Mitchell asked Ms. File if she was aware of the expense that might be incurred to bring the facilities up to code and she replied, "somewhat." Ms. File said she would do more research after meeting was over.

With no one else wishing to address the Board, Chairman Chamberlain closed the public hearing.

Chairman Chamberlain said he could understand how people could do things that they are not supposed to on their property but he said rules and regulations should be followed.

Commissioner Blount expressed concern about setting a precedent for future cases. Commissioner Blount said if this case were approved, that precedent would be carried forward and the County would have a hard time defending itself if it chose not to approve a case in the future. Commissioner Blount said he sympathized with the situation. Commissioner Blount also agreed with Staff's recommendation that the Board should start considering where these campgrounds should go in the community. Commissioner Blount said he would have a hard time approving the proposed application as it stands.

Commissioner Tadlock expressed mixed feelings with the application. Commissioner Tadlock said he could see how the campground was needed but he agreed that Commissioner Blount had raised a good point. Commissioner Tadlock said he felt the Board should "do all we can for this one."

Chairman Chamberlain suggested that based on some of the information received from Staff and what is being seen with potential campgrounds, that he would like to delay the issue to the next Board meeting. Chairman Chamberlain said he would like to review the information in more detail as well as discuss it with Staff. Chairman Chamberlain suggested deferring the issue 30 days unless it could be done more quickly.

Commissioner Tadlock agreed with Chairman Chamberlain.

Mr. Stewart announced that he would not be available to discuss the case at the next meeting (May 1st) as he was getting married.

Commissioner Mitchell moved to defer to May 15th.

Commissioner Tadlock asked if the delay would exceed the time limitations for consideration of the case. Chairman Chamberlain responded that he thought the Board had 60 days and he questioned Planning Manager Ed Muire about the timeframe. As Mr. Muire responded that his first inclination was 30 days, he began to look at his notes to verify the time limitation.

Chairman Chamberlain asked the Board to delay the issue to the May 15th Commission meeting.

Commissioner Tadlock said the Board should consider the issue at the first meeting in May and Chairman Chamberlain said if Mr. Stewart was not available that Mr. Muire could discuss the case.

Commissioner Mitchell moved to amend the motion to defer the issue for 30 days to the first meeting in May. Commissioner Blount seconded the motion.

Commissioner Sides asked if the Board could visit the site since this was a quasi-judicial hearing. Commissioner Sides said he assumed the Board should not have any communications with the owner but he wondered if the Board was precluded from visiting the site. County Attorney Jay Dees responded that the Board was not precluded from visiting the site. Mr. Dees said Board members could generate any information on their own as long as they disclosed it to the Board; likewise with exparte communications. Mr. Dees said the rule technically is for "undisclosed." Mr. Dees said Board members could talk to anyone as long as it was disclosed to the Board and others.

Commissioner Mitchell questioned the approximate cost to have the Health Department to look at the site and provide an estimate of what would be incurred to bring the site up to code. Commissioner Mitchell said it would be nice to have this information before 30 days if possible. Mr. Stewart responded that he would speak with Lynn Aldridge in Environmental Health.

Commissioner Blount asked Mr. Stewart to also be prepared in his presentation to elaborate on the issue of setting a precedence.

Mr. Stewart said the Planning Manager (Ed Muire) had brought it to his attention that there is no time limitation listed for the Board to act on the issue.

Commissioner Sides then suggested deferring the issue for 45 days to May 15th and Commissioner Mitchell pointed out that this had been his original motion.

Commissioner Sides seconded and the motion to defer the issue to May 15, 2006 passed unanimously.

QUASI-JUDICIAL HEARING FOR Z 23-99 AND CUP 17-99

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for Z 23-99 and CUP 17-99 and declared the public hearing to be in session. Chairman Chamberlain said the hearing would focus on applications submitted by Pablo Velazquez for his property located at 1710 Campbell Road in Woodleaf. The applications are for the rezoning of a portion of Tax Parcel 815-033 from Rural Agricultural (RA) to Commercial, Business, Industrial with a Condition Use District (CBI-CUD) for an expansion of an existing produce warehouse/distribution facility.

The Clerk swore in those wishing to provide testimony in the case.

Shane Stewart of the Rowan County Planning Department located at 402 North Main Street provided the Staff Report (Exhibit B). Mr. Stewart said Mr. Velazquez was previously approved approximately 6 ½ years before by the Board for a 5,000 square foot wholesale produce and distribution facility at 1710 Campbell Road. Mr. Stewart said the Board unanimously approved the conditional use district with 2 conditions, 1) the hours of operation being 5:00 am to 10:00 pm, and 2) the warehouse use would only be used for wholesale produce and distribution at the site.

Mr. Stewart used a power point presentation (Exhibit C) as he explained that Velazquez and Hinkle Produce collects bulk shipments of produce and re-packages on site, sending the produce out to local and some regional consumers. Mr. Stewart said there were various sized vehicles used to transport the produce.

Mr. Stewart said the Planning Board had suggested 6 ½ years ago that the applicant submit a rezoning for only a portion of the parcel. Mr. Stewart used the power point presentation (Exhibit C) as he pointed out the site. Mr. Stewart said the remaining 4 acres were zoned RA and the applicant was now petitioning to remove the existing singlewide and 25' back from the existing building, to add a 100' x 100' to triple the size to 15,000 square feet. Mr. Stewart said the proposed facility was shown in Attachment A in the Staff Report (Exhibit B).

Mr. Stewart continued with the power point presentation (Exhibit C) to depict the site and surrounding area.

Mr. Stewart reviewed the Zoning Criteria in the Staff Report (Exhibit B) as follows:

- Relationship and conformity with any plans and policies. Mr. Stewart said the Thoroughfare Plan did not provide much input for projects of this size. Mr. Stewart said anticipated growth will likely be limited mostly to

residential uses but the plan does project small employment increases in small businesses. Mr. Stewart said Mr. Velazquez did produce a site-specific proposal in the previous application and was also submitting for an amendment. Mr. Stewart said approval was basically amending a previously approved concept plan establishing a CBI zone and site plan amendment for the new building.

- Compatibility of all uses within the proposed district classification with other properties and conditions in the vicinity. Mr. Stewart said not much had changed since the last application in 1999. Mr. Stewart said other than the Spring Meadow subdivision, which is approximately 53 lots of doublewide development, there was not much residential development. Mr. Stewart said the Woodleaf Speedway and County Landfill were nearby. Mr. Stewart said many of the other uses were farmland, wooded tracts, and a cluster of homes off of Potneck Road.
- Potential impacts on facilities such as roads, utilities and schools. Mr. Stewart said Campbell Road is deemed local with no design capacity specifications. Mr. Stewart said the traffic count data for the road was 280 vehicle trips per day. Mr. Stewart said the International Transportation Engineers (ITE) manual estimates the expansion could create 49 additional trips based on the building size.

Mr. Stewart referred to the Conditional Use Criteria and stated that Attachment B in the Staff Report (Exhibit B) was the response submitted by Ms. Cruz, the applicant and also by Mr. Velazquez, the owner. Mr. Stewart continued reviewing the Conditional Use Criteria as follows:

- *Adequate transportation to the site exists.* Mr. Stewart said with the commercial driveway permit approved and the small number of trips, it appears to be adequate.
- *The use will not significantly detract from the character of the surrounding area.* Mr. Stewart said he had not received concerns from the neighbors through the years and in talking with various staff members, there was no opposition previously. Mr. Stewart said the use appears to have adapted well within the community. Mr. Stewart said based on the nearby uses and also the farming community, the request is an amendment and not likely to detract from the area.
- *The use will not create significant visual impacts for adjoining properties or passersby.* Mr. Stewart referred to Attachment B and the site plan listed in the Staff Report (Exhibit B), which suggests a row of emerald pine trees 10-15 feet in height. Mr. Stewart said the northern lot is the closest developed parcel and the trees would screen this closest neighbor. Mr. Stewart used the power point presentation (Exhibit C) to point out the highest spot on the property. Mr. Stewart said the property has great visibility. Mr. Stewart said based on the screening the proposal was not likely to detract from the area.

Mr. Stewart referred to the Procedural Issues in the Staff Report (Exhibit B) and said he did not include the first item to address, which is the conditional use district. Mr. Stewart suggested that the Board review the Checklist (Exhibit D) and include this as the first item to be considered - Mr. Stewart explained that the Board would “pick up the conditional use permit, after the district would be established.”

Mr. Stewart referred to page 5 of the Staff Report (Exhibit B) and reported that the Planning Board had voted unanimously to approve with one condition:

1. Move dumpster pad to the rear of the property with a 6’ opaque screen.

Mr. Stewart discussed the procedures and said since the request was for a small scale rezoning, that the Board might wish to consider Attachment C in the Staff Report (Exhibit B), which was the recommendation from the Planning Board dealing with both the statement of reasonableness and consistency for adoption.

Applicant Cynthia Cruz was present to answer any questions.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding Z 23-99 and CUP 17-99. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Mitchell moved, Commissioner Tadlock seconded and the vote to approve zoning request 23-99 passed unanimously.

Commissioner Mitchell moved that the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety. The motion was seconded by Chairman Chamberlain and passed unanimously.

Commissioner Mitchell moved that the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity. Chairman Chamberlain seconded and the motion carried unanimously.

Commissioner Mitchell moved that the location and character of the development in accordance with conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans. The motion was seconded by Commissioner Blount and passed unanimously.

Commissioner Mitchell moved to submit Attachment C (Exhibit B) as the Statement of Reasonableness and Statement of Consistency. The motion was seconded by Chairman Chamberlain and passed unanimously.

In response to a query from Commissioner Blount, Chairman Chamberlain said the motion was inclusive of the condition to move the dumpster and installing an opaque fence subject to Staff approval.

Ms. Cruz said she agreed to the condition.

QUASI-JUDICIAL HEARING FOR PARALLEL CONDITIONAL USE REQUEST (PCUR)-02-06

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for PCUR-02-06 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Carolina Siteworks, Inc. for the rezoning of Tax Parcel 126-052 from Rural Agricultural (RA) to a Commercial, Business, Industrial (CBI) parallel conditional use district for an office and repair shop for a road construction company, building and special trade contractors, and used automotive sales.

The Clerk swore in those wishing to provide testimony in the case.

Ed Muire, Planning Manager of the Rowan County Planning Department, 402 North Main Street, provided the Staff Report (Exhibit B). Mr. Muire said in the Chairman's opening remarks, the Chairman had explained that the request was from Carolina Siteworks. Mr. Muire said the parallel conditional use request (PCUR) involved Tax Parcel 126-052. Mr. Muire said the request was from Rural Agricultural (RA) to Commercial, Business, Industrial (CBI) conditional use district (CUD) for an office and repair shop for a road construction company. Mr. Muire said the request also includes potential use for building contractors; special trade contractor and perhaps even a used automotive facility.

Mr. Muire provided a power point presentation (Exhibit C) as he described the site and surrounding area. Mr. Muire said the site is currently owned by Jerusalem Baptist Church and is a 3.2-acre tract located at 1435 Wade Drive in China Grove. Mr. Muire said the site is currently zoned RA and that there are several buildings that total approximately 28,000 square feet collectively. Mr. Muire said according to the County Assessor's records, the first building was built on site in 1966.

Mr. Muire said the area was in the Cold Water Creek Watershed and was a WS4 protected area. Mr. Muire said the development project requires an erosion control plan and that the Board would most likely see a site plan come back before the Board for approval.

Mr. Muire said the County's Thoroughfare Plan was adopted in 1999 and he said the transportation analysis zone (TAZ) was similar. Mr. Muire used the power point presentation (Exhibit C) to point out #53, the parcel in question. Mr. Muire continued with the power point presentation (Exhibit C) as he discussed the traffic count for the area. Mr. Muire said that Hwy 152 has a design capacity,

based on the Thoroughfare Plan, of 8,000 vehicles per day. Mr. Muire said the 2004 ADT information showed 8,700 vehicles. Mr. Muire said just past Beaver Loop Road was 8,400 vehicles. Mr. Muire said another count was taken during the same time and it showed 8,000. Mr. Muire said there was a lot of traffic moving in and off of Hwy 152 in that particular area.

Mr. Muire referred to page 2 of the Staff Report (Exhibit B) and pointed out the comparison for dwelling units from 1995 to 2025. Mr. Muire said the comparison also inventories other commercial uses in the area. Mr. Muire said the projections offered by the County back in 1995 or 1996 focused on dwelling unit projections as well as minor industrial growth, which was more or less related to Hitachi.

Mr. Muire discussed the purpose and intent and said the CBI district is to accommodate commercial, business and light industrial uses. Mr. Muire said CBI is a "catch all" type of allowance for this district. Mr. Muire said it could be located in areas where the overall public good is served or is compatible with the surrounding area. Mr. Muire said the intent is to make it compatible with the surrounding area through the use of the parallel conditional use permit.

Mr. Muire said last Friday Carolina Siteworks had submitted a revised site plan. Mr. Muire said there was a copy in the Staff Report (Exhibit B) but that it did not show the parking areas or the proposed turnaround. Mr. Muire said these had been listed as requirements from the Planning Board. Mr. Muire said there was a narrative in the Staff Report (Exhibit B) supplied by the applicant that covers the general criteria that relates to the site plan.

Mr. Muire showed a 2002 aerial photograph (Exhibit D), which depicted the various buildings and also buildings to be demolished. Mr. Muire said in this case, removal of some on-site structures that encroach into the setbacks would decrease the nonconformity with the setbacks. Mr. Muire said the application of screening and buffering may improve the existing appearance of the site. Mr. Muire said one of the buildings pre-dates the adjacent residential uses.

Mr. Muire discussed the conditions in the vicinity and said there is a rural residential district bounded on the east by Menius Road and on the South by Hwy 152. Mr. Muire pointed out the Timberfield subdivision, zoned Residential Suburban (RS), a manufactured home park located south of the site on Brookwood Road, a paintball facility, an Industrial district, commercial properties and the Jesse Carson Senior High School site. Mr. Muire said China Grove's influence in their zoning jurisdiction is continually moving this way. Mr. Muire pointed out an area in discussions for voluntary annexation of a residential property. Mr. Muire said when looking at the uses in the area, there was a representative mix of all types of county zoning in the ½ mile area.

Mr. Muire used the power point presentation (Exhibit C) as he showed a 1994 aerial photograph of dwellings/residences surrounding the property under consideration, as well as entrances into the site.

Mr. Muire said Staff did have concerns regarding the adequacy of Wade Drive to handle the traffic. Mr. Muire said based on the employee projections alone at 41, Staff arrived at 124 trips per day. Mr. Muire pointed out, however, that this is a road construction company that can make improvements to the road and has indicated as such at the Planning Board hearing. Mr. Muire said the narrative addresses this as well. Mr. Muire encouraged the Board to put this forward to Carolina Siteworks when they present their case.

Using the power point presentation (Exhibit C) Mr. Muire showed a view of one of the buildings on the site. Mr. Muire said there was 2 dump trucks on the site and that he was uncertain as to what business it was. Mr. Muire said to some degree, it could be representative of what may be going to occur as a result of the rezoning.

Mr. Muire confirmed to Chairman Chamberlain that he was unaware of what business the dump trucks belonged to.

Mr. Muire said for the record he would address Staff's summary of the General Conditional Use Criteria listed in the Staff Report (Exhibit B). Mr. Muire said he would also like to draw the Board's attention to attachment in the Staff Report (Exhibit B) provided by the applicant in response to the criteria.

Mr. Muire reviewed the Conditional Use Criteria listed in the Staff Report (Exhibit B) as follows:

- *Adequate transportation to the site exists.* Mr. Muire said the applicant's proposal to upgrade the road is a necessary component for application approval. Mr. Muire said Hwy 152 has some design capacity limitations.
- *The use will not significantly detract from the character of the surrounding area.* Mr. Muire said there are changes in the retail and service sector categories that are anticipated based upon the construction of the Carson High School and pending China Grove annexations in the area.
- *Hazardous safety conditions will not result.* Mr. Muire said in Staff's opinion these were addressed more to the demolition and expansion to the facility that would be in accordance with the NC Building Code.
- *The use will not generate significant noise, odor, glare or dust.* Mr. Muire said the dust should be eliminated with upgrades to Wade Drive. Mr. Muire said glare would be related to security lighting that should be positioned to prevent spillover into adjacent residential property.
- *Excessive traffic or parking problems will not result.* Mr. Muire said he had addressed this issue previously.
- *The use will not create significant visual impacts for adjoining properties or passersby.* Mr. Muire said Staff encouraged the use of Type A screening

and a 20' buffer. Mr. Muire said location of the site at the end of a private drive reduces the visual impacts for the general public.

Mr. Muire encouraged the Board to note on the Checklist (Exhibit E) the items that had been discussed. Mr. Muire said if the Board had not heard specific information listed on the Checklist (Exhibit E), it was the applicant's job to explain.

Mr. Muire said the Planning Board had prepared a Statement of Consistency and Reasonableness, which was included in the Staff Report (Exhibit B) and the Board could accept, amend or create its own statement.

The applicant, Darrell Shell, Secretary/Treasurer of Carolina Siteworks came forward to address the Board. Mr. Shell said the company was excited about the opportunity to redevelop the site. Mr. Shell said they had searched for some time for a suitable location for the business. Mr. Shell felt that with the proposed plan the company had put together, it would serve the needs of the business and improve the appearance and conformity of the site in question. Mr. Shell said Mr. Muire had reviewed all of the points he had included in the application. Mr. Shell mentioned one clarification regarding daily traffic. Mr. Shell said with the business being a construction business rather than a manufacturing facility, the primary time for traffic at the site would be in the mornings with the arrival of the employees. Mr. Shell said approximately half of the employees ride in a crew cab or with other people to the office or job site.

Chairman Chamberlain asked Mr. Shell if he was convinced that the company would fix the road to handle the traffic. Mr. Shell responded yes and said it was approximately a 30' piece of property there. Mr. Shell said he had consulted with the property owner, Mr. Beaver, about improving the road with an asphalt surface and also ensuring that the drainage is handled properly. Mr. Shell said a speed limit would be enforced for employees for safety on the road and the asphalt should take care of any dust/erosion problems.

Chairman Chamberlain asked how long Mr. Shell anticipated before the company would have 41 employees working at the site. Mr. Shell said it would be after such time as the demolition and construction phases on the property. Mr. Shell said the company hoped to begin soon, pending approval and closing on the property.

Chairman Chamberlain asked if the company was doing work for the DOT and Mr. Shell said the company was currently in negotiations to install the turn lane at the new high school. Mr. Shell said Rowan DOT and the County of Rowan were frequent customers. Mr. Shell said the company had been in business since March of 1999.

Commissioner Mitchell asked Mr. Shell if he had any problems with the recommendations by the Planning Board? Mr. Shell said at the time of the Planning Board meeting the company did not have an issue with the recommendations.

Mr. Shell said it was the company's intent to secure a right of way or to purchase the property that Wade Drive is situated on. Mr. Shell the company planned to put a perimeter fence around the edges of the property for security. Mr. Shell said the company planned to maintain the existing trees as well as add to them to ensure proper screening. Mr. Shell felt the company would be able to have the lights placed so they would not be a nuisance to anyone. Mr. Shell said noise should not be an issue since the facility would not be a manufacturing operation.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding PCUR-02-06. The following citizens addressed the Board:

- Pastor David Bracken of Jerusalem Baptist Church, property owner, said the church was located at 1570 North Long Street in Spencer, NC. Mr. Bracken said at the time the property was acquired, there was concerns with people coming into the property and signs had been posted to keep them out. Mr. Bracken said people still came onto the property and were seen dumping trash on the property. Mr. Bracken said, "At that time, Mr. Thomas, who lives across the street, his son approached the church" about using the building for storage and had agreed to secure the building until the church was ready to sell the building. Mr. Bracken said he was also interested in purchasing the building when the church arrived at a decision as to what to do with the property. Mr. Bracken said the church had decided to sell the property and had informed Mr. Thomas' son that they were prepared to sell the property. Mr. Bracken said Mr. Thomas' son made an offer on the property, which was not considered to meet the fair market value. Mr. Bracken said a realtor was hired to list the property and Carolina Siteworks made an offer to purchase. Mr. Bracken said Mr. Thomas' son is still a tenant on the property and that they were not charging him rent. Mr. Bracken said he had visited the site since the son had been on the property and he had noticed the dump trucks, a Bobcat loader, and a lift inside the building. Mr. Bracken said he also believed there to be some activity going on similar to what Carolina Siteworks was proposing. Mr. Bracken said he was unsure of the magnitude of the activity but that it seemed there might already be some zoning violations in place. Mr. Bracken said he wanted the Board to understand the circumstances behind the opposition of the rezoning based on the circumstances of Mr. Thomas' son being in the building and that the property was initially offered to him. Mr. Bracken said since the church is not in the area, its only desire was to do something with the property that could improve the integrity for the whole community. Mr. Bracken said

Carolina Siteworks proposed to put the road in and he felt these were proposals that would benefit the community as a whole.

- Thomas O'Kelly, Chairman of the Trustee Board at Jerusalem Baptist Church, said he hoped the Board would favor the zoning change for the property. Mr. O'Kelly said he was available to answer any questions the Board might have.
- Audra Beaver said she and her husband own Wade Drive, the road in question. Ms. Beaver said they approved of Carolina Siteworks coming in and paving the road to make it a better road.
- C.M. Thomas, owner of M & K BBQ said he lived directly across the street from where Carolina Siteworks wished to locate. Mr. Thomas asked Mr. Muire to show a slide in the power point presentation (Exhibit C) and he pointed out a building that was put in by Ms. Beaver's father-in-law for an airplane hangar. Mr. Thomas said there was a runway and a private landing strip directly to the left of the building. Mr. Thomas said it was an airport for years. Mr. Thomas said he believed it to be a 3-acre tract and he referred to the power point presentation (Exhibit C) as he pointed out various tracts of land. Mr. Thomas mentioned a property in the process of being developed by Bruce Allen Properties. Mr. Thomas said he had been approached by Mr. Allen "this week" and had been told that he was purchasing the Stirewalt and Charles Lentz property. Mr. Thomas said this would be giving Mr. Allen 100-plus, including a section he pointed out in the power point presentation (Exhibit C). Mr. Thomas said he had resided for 40 years on the property. Mr. Thomas said he realized Ms. Beaver wanted the road paved but said he didn't know why because "she lives on down the paved road." Mr. Thomas said he had been approached about 10 years ago by "Gene" because he knew Mr. Thomas kept up the road and because he knew his father and Mr. Thomas' wife's father gave each other 15' from the center of the road. Mr. Thomas said he had tried to give him the road and Mr. Thomas said he had told him, "Whatever you want to do." Mr. Thomas said Gene had gone to "his lawyer 'cause he was cutting off them lots to put his different people and trailers up there." Mr. Thomas said he and his wife had been approached and asked, "if we'd allow for his son to be out there." Mr. Thomas said they had told him that he could. Mr. Thomas said Gene had told him that if he ever sold the road, he'd give Mr. Thomas the first option. Mr. Thomas said he had never been approached for it and "all I've done is kept it up for 40 years." Mr. Thomas said no one else had. Mr. Thomas said if Carolina Siteworks was bringing in heavy equipment, Beaver Loop itself was not wide enough for 2 trucks. Mr. Thomas referred to the new high school and said the road was not ready for the students and equipment. Mr. Thomas said he was firmly against the request. Mr. Thomas said children play on the road and you "never had to worry about

them getting run over 'cause everybody looks after everybody." Mr. Thomas said if you put a company where it's zoned RA - and from what he's read, this was spot zoning. Mr. Thomas said the equipment that had been mentioned earlier belonged to his son. Mr. Thomas said he couldn't "see putting heavy equipment coming up and down the road and building a business out there." Mr. Thomas said, "You got a trucking company right up the road, it's empty, it's got a paved lot, paved road, plenty of room; been setting there for a couple of years empty."

- Cathy Thomas said she had raised her children there and she said, "I've got grandkids that come out there and play." Ms. Thomas said, "If they put that business out there, it's not safe for anybody's kids." Ms. Thomas said she didn't want to see any of the children get hurt. Ms. Thomas said there were "plenty of places that they could go." Ms. Thomas referred to the empty trucking business her husband had mentioned and said it was for sale. Ms. Thomas said she hoped the Board would not allow Carolina Siteworks to locate on the site. Ms. Thomas referred to the Beaver's and said, "Maybe they do own that driveway but they have never upkept the driveway. My husband and I paid for the gravel, the widening of it where you could at least go up and down it. Nobody was out there but us." Ms. Thomas said she hoped the Board would not agree with the "transition."
- Jody Thomas said he leased the building from Jerusalem Baptist Church. Mr. Thomas said it was his equipment stored at the site. Mr. Thomas said as far as the dump truck, he had bought it in June of last year and he had put 2,000 miles on it. Mr. Thomas said it was only used for cleaning up around job sites when needed. Mr. Thomas said the other dump truck had been "parked" since he had bought the newer one. Mr. Thomas said Carolina Siteworks had a lot of heavy equipment and that semis bring in "big trackhoes." Mr. Thomas said his parents have horses and the noise would disturb the horses. Mr. Thomas said there were a lot of kids that play on Beaver Loop and he said the Board should also consider the school that would soon open. Mr. Thomas said school buses would be pulling in and that there would be "equipment coming in and out." Mr. Thomas said the school traffic would cause traffic problems.

With no one else wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Blount addressed Mr. Muire and said he had referred to several different businesses occupying the building through the years. Commissioner Blount asked if there was any zoning use at this point that would be considered a conforming use. Mr. Muire said, not unless it was totally agriculture related. Commissioner Blount noted that in order for a business to use the property, the owner would have to demolish the buildings for a use that is allowed in the RA district.

Commissioner Sides questioned the notification requirements for a PCUR. Mr. Muire explained that since it was a rezoning, adjoining property owners are notified. Mr. Muire said he believed there were 13 who should have received notices. Commissioner Sides asked if this was handled through regular mail and Mr. Muire responded yes. Commissioner Sides asked if there were posting requirements pertaining to signs on the property and Mr. Muire said the posting had occurred on March 24th for this case. Commissioner Sides said this established that the County had followed all of the necessary procedures prior to the hearing and Mr. Muire said yes.

Commissioner Mitchell asked Mr. Muire if he had a picture looking down Beaver Loop Road and Mr. Muire said he did not. Mr. Muire said it was a very short distance down Beaver Loop Road to Hwy 152; he said he believed it to be less than ¼ mile.

Commissioner Mitchell asked if Beaver Loop Road was adequate to accommodate the equipment. Mr. Muire said this was a good question. Mr. Muire pointed out that Mr. Thomas had equipment on the site. Mr. Muire said he had not witnessed Mr. Thomas parking the equipment and didn't know what kind of issues he might have experienced. Mr. Muire said Mr. Thomas also had tandem, and maybe even triple-axle trailers there – 2 of them used as horse trailers. Mr. Muire said he spoke with David Lipe with the DOT and who at the time was the Assistant District Engineer. Mr. Muire said Mr. Lipe had indicated that they had concerns about the weight of the equipment at a particular location on Beaver Loop Road. Mr. Muire said there was some talk about them requiring a performance bond to be placed for repairs that might be necessary to Beaver Loop Road during the first year of operation. Mr. Muire said he did not know where this issue stood at the moment. Mr. Muire said Carolina Siteworks did not need a commercial driveway permit but he thought the DOT was concerned about the impacts to the secondary road.

Chairman Chamberlain gave the scenario of a company being on the site for 20 years as a non-conforming use and then closing for 1 year. Chairman Chamberlain asked if the County would let them “go back in there.” Mr. Muire said a large part of that would focus on how they had been as a neighbor. Mr. Muire said, “We’ve got a bare bones Zoning Ordinance that’s got 6 or 8 districts. The RA district is a term that they use in planning is an open district but it’s wide open.” Mr. Muire said if Wade Drive were a state road, it might be they could petition the DOT to take it over, if they can show when the right of way was created. Mr. Muire said the state road ties some of the use to it as well.

Commissioner Sides asked if the question raised about spot zoning had any bearing. Mr. Muire said it was always an issue. Mr. Muire said if you look at what has gone on in North Carolina with regards to spot zoning, there have been instances where ½ acre is not spot zoning and 17 acres is spot zoning. Mr. Muire said it really goes back to the compatibility of uses there.

County Attorney Jay Dees asked Mr. Muire to show a slide in the power point presentation (Exhibit C). Mr. Dees said when discussing spot zoning, parallel conditional use districts are almost designed to alleviate that argument. Mr. Dees said you eliminate a lot of the uses that would otherwise be permitted there. Mr. Dees said in this case there is already a relative mix out there within fairly close proximity.

Mr. Muire again mentioned that the RA district is an open district and he said he believed that the 4 uses that were proposed were also allowed in the RA district. Mr. Muire said if Mr. Shell "lived on the property, we wouldn't be here tonight." "We couldn't make them pave the road, we couldn't make them put up screening, we couldn't talk about lighting and things of that nature." Mr. Muire said he thought with the basic zoning ordinance the County has, spot zoning is an issue that the Board needed to be aware of "but a lot of our things are compatible." Mr. Muire said back in 1995 when the County looked at the Thoroughfare Plan, it didn't foresee the significant interest in water/sewer. Mr. Muire said Mr. Thomas had mentioned property sales in the area and that Staff had not been aware of this. Mr. Muire said it was highly likely that in one year the whole area would be in China Grove's zoning jurisdiction and that in two years Darrell Shell would then be a non-conforming use. Mr. Muire recalled the Commissioners Planning Retreat where it was mentioned that the County's zoning jurisdiction is continually shrinking.

Commissioner Mitchell said he would like to hear from the applicant about the condition of Beaver Loop Road. Mr. Shell said he had met with Chris Corriher from the Division of Highways on the site "last week." Mr. Shell said Mr. Corriher had indicated that a commercial driveway permit would probably not be required due to the existing nature of the bonds that were discussed with the Planning Board. Mr. Shell said it was Mr. Corriher's opinion that the road did not appear to be in bad condition. Mr. Shell said it was anyone's guess whether "there will be a problem with it or not." Mr. Shell said being in the road construction business, one would obviously not expect to have potential customers drive to the office on an unpaved or rough road.

Commissioner Blount questioned the last SIC 5521, which is used auto dealers. Mr. Shell responded that he and his partner are prone to buying and renovating old cars. Mr. Shell said if this was something they became interested in doing on a larger scale, the permit would aid this. Mr. Shell said the cars were not part of Carolina Siteworks. Commissioner Blount said if the Board were to approve the SIC code and Carolina Siteworks was to move, a used car dealership could locate there.

Chairman Chamberlain asked Mr. Shell if he would agree to take the used car portion out of the request. Mr. Shell said this would be no problem.

Commissioner Mitchell moved for approval of the rezoning request from RA to CBI CUD. Commissioner Sides seconded the motion.

Commissioner Blount suggested that as part of approval the Board should ask that SIC 5521 be deleted or modified if there was a more restrictive SIC code.

Commissioner Blount moved to amend the motion to delete SIC code 5521. The amendment to the motion was seconded by Commissioner Mitchell and passed unanimously.

Commissioner Mitchell referred to the Checklist (Exhibit E), specifically the impact on facilities such as roads, utilities and schools, and the compatibility of all uses with the proposed district classification with other properties and conditions in the vicinity. Commissioner Mitchell said he thought Staff had presented that the buildings and therefore the nature of the business existed before the residential nature of the area.

Commissioner Blount said he thought this to be the first time in his service as a Commissioner that the Board had encountered a road capacity issue. Commissioner Blount said the Board had been presented with a case where the carrying capacity of the road is exceeded by the actual use of the road. Commissioner Blount said approval of the permit would add more vehicles and he felt technically this would be in violation.

Commissioner Mitchell asked if the trip estimates included the operation of the new high school coming down Hwy 152 and Mr. Muire responded no. Commissioner Mitchell asked if there was an estimate as to how many would be added. Mr. Muire said the Board might want to delay its decision. Mr. Muire said the Board might wish to ask for guidance from the DOT in terms of their rationale in issuing a driveway permit for a school for a road that was probably over capacity anyway. Mr. Muire said the Board might want to look at the current location of Carolina Siteworks to see how their equipment is stored, etc.

Chairman Chamberlain said he liked the idea of delaying a decision. Chairman Chamberlain said if he had to vote on the issue tonight he would have to vote against the application based on the road capacity issue.

Commissioner Tadlock said he also would have to vote against the application.

Commissioner Mitchell asked how long it would take to get answers from the DOT and Mr. Muire said he could probably have answers by the April 17th meeting. Mr. Muire said the hearing could be continued until that date and possibly DOT representatives could be present.

Commissioner Mitchell moved to table his motion for no more than 30 days for the purposes of continuing the hearing preferably at the next meeting, if not

certainly at the next so that we can get more information. Chairman Chamberlain seconded and the motion passed unanimously.

Mr. Muire said the applicant might out of town. Mr. Muire said there was nothing in the ordinance that sets a time limit. Mr. Muire said the only time limit associated is if the Board approves a CUP contingent upon something, they have 45 days to produce that material. Mr. Muire said if the applicant were going to be out of town, he would let the Clerk know.

Chairman Chamberlain said this would not be a problem.

PUBLIC HEARING FOR CONSIDERATION OF FY '07 RURAL OPERATING ASSISTANCE PROGRAM (ROAP)

Rowan County Senior Services Director Clyde Fahnestock and Department of Social Services Director Sandra Wilkes discussed the application package for the FY '07 Rural Operating Assistance Program (ROAP). Mr. Fahnestock explained that the program consolidated 3 different transportation programs into a single application.

Mr. Fahnestock said the Rowan Transit System Advisory Committee made the following recommendations:

1. Apply for \$73,626 in Elderly and Disabled Transportation Program. No match is required. The followings sub-allocations were recommended for Human Service Agencies:

Senior Services	\$22,087	Abundant Living	\$13,253
Special Populations	\$ 7,363	Vo. Opportunities	\$22,087
SSD out of town	\$ 3,682	Piedmont Behav.	\$ 5,154

2. Apply for \$84,765 in Rural General Public, which requires a 10% match in the amount of \$9,418.
3. To apply for \$11,865 in the WorkFirst Employment Program. No match is required.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the ROAP. With no citizens coming forth to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to approve the 2007 Rural Operating Assistance Program passed unanimously.

BOARD APPOINTMENTS

City of Salisbury Planning Board

At the March 20, 2006 meeting the Board deferred a request by The City of Salisbury to appoint Tommy Hairston as an extra-territorial member of the

Salisbury Planning Board. Mr. Hairston's term would be for 3 years, expiring on March 31, 2008.

Commissioner Sides nominated Tommy Hairston and the nomination was unanimously approved.

Commissioner Sides mentioned the previous meeting and said the Board had delayed the appointment of Mr. Hairston due to the City of Salisbury not having submitted a board application for Mr. Hairston. Commissioner Sides said since that time he met Mr. Hairston and was satisfied that he was a qualified applicant.

Commissioner Sides said he would like for the Board to receive board applications for any nominations put forth.

Town of Rockwell Planning Board

The Town of Rockwell has recommended the appointment of Richard Terrell to fill a slot vacated by the resignation of Dr. Stephen Furr. According to the Deputy Clerk/Secretary to the Planning Board, the remainder of the term expires on February 28, 2007.

Commissioner Mitchell moved to accept the resignation of Dr. Stephen Furr and the motion passed unanimously.

By consensus the Board agreed that the applications should be received for anyone being considered for appointment by the Commissioners.

The Board agreed to delay the appointment of Richard Terrell to the Rockwell Planning Board until an application was received.

Franklin Township Fire Commissioner

The Franklin Township Fire Department Board of Directors has requested the appointment of Al Paterno as a fire commissioner to fill a vacancy due to the death of one of its members.

Commissioner Tadlock nominated Al Paterno and the nomination passed unanimously.

Industrial Facilities & Pollution Control Financing Authority

The terms for Dwight Fraley, Sturges Bryan and John Fisher expired April 2, 2006. Mr. Fraley and Mr. Bryan would like to be reappointed. These appointments would be for a 6-year term, expiring on March 31, 2012.

John Fisher does not wish to be reappointed.

Commissioner Mitchell nominated Dwight Fraley and Sturges Bryan for reappointment. The nomination passed unanimously.

Nursing Home Advisory Committee

Harold Belk has submitted his resignation to the Nursing Home Advisory Committee. Centralina Council of Governments has submitted an official request to have Mr. Belk removed from this committee.

The Nursing Home Advisory Committee has nominated Mary Johnson Hartley for appointment. This would be an initial one-year term, expiring on March 31, 2007.

Commissioner Sides moved to accept the resignation of Mr. Belk and the motion carried unanimously.

Commissioner Sides moved for the appointment of Mary Johnson Hartley and the motion passed unanimously.

Adult Care Home Advisory Committee

Centralina Council of Governments has submitted an official request to have several inactive members removed from this committee. Those members are Chris Chaney, Frieda Nikolai and James Talton.

Commissioner Sides moved for the removal of inactive members Chris Chaney, Frieda Nikolai and James Talton and the motion carried unanimously.

Rowan County Zoning Board of Adjustments

There are 4 vacancies on the Zoning Board of Adjustments, including one alternate.

PUBLIC COMMENT PERIOD

Chairman Chamberlain opened the Public Comment Period to entertain citizens' comments and with no one wishing to address the Board, Chairman Chamberlain closed the Public Comment Period.

County Manager William Cowan discussed the issue of a reward leading to the arrest and conviction of anyone involved in the fire of the petting barn at Dan Nicholas Park. Mr. Cowan said Major Tim Bost of the Sheriff's Department had recommended a reward in the amount of \$5,000. Mr. Cowan said an attorney had also contacted the District Attorney and offered a \$1,000 reward.

In response to a query from Commissioner Blount, Major Bost recommended that the Board implement a reward.

Commissioner Blount moved to approve a \$5,000 reward for the case. The motion was seconded by Commissioner Mitchell.

Commissioner Sides expressed concern for setting a precedent and Commissioner Blount said rewards had been offered in the past.

Upon being put to a vote, the motion passed 4-1 with Commissioner Sides dissenting.

CLOSED SESSION

Commissioner Mitchell moved at 10:42 pm for the Board to enter Closed Session pursuant to North Carolina General Statutes G.S. 143-318.11(a)(1) for the purpose of approving Closed Session Minutes to prevent the disclosure of information that is privileged or confidential; and G.S. 143-318.11(a)(3), Attorney-Client Privileged Communication regarding the Wilson Properties Hangar.

Before moving into Closed Session, Chairman Chamberlain called for a short break.

ADJOURNMENT

The Board returned to Open Session at 11:00 pm. No action was taken.

Commissioner Blount moved, Commissioner Tadlock seconded and the vote to adjourn at 11:00 pm passed unanimously.

Respectfully Submitted,

Carolyn Athey
Clerk to the Board