

**MINUTES OF THE
SUMMERFIELD ZONING BOARD
SUMMERFIELD ELEMENTARY SCHOOL
January 26, 2009
7:00 P.M. Public Hearing**

NOTE: The official minutes are a CD recording of the meeting. The following is a summary of the events of the meeting.

The meeting was called to order at 7:04 pm by Chair Nancy Hess

INTRODUCTIONS:

Nancy Hess, Chair

Dick Fuelner, Vice Chair

Trudy Whitacre

Ken Dunham

Rich Lovett

Alternates Present: Rick Burguieres, Kathy Rooney

Michael Brandt, Town Manager/Acting
Planner

Bill Hill, Town Attorney

Carrie Spencer, Planning Technician

3. CONSENT AGENDA

Trudy Whitacre made a motion to approve the agenda, the motion was seconded by Ken Dunham, and it passed unanimously.

Dick Fuelner made a motion to continue the minutes of the October 27, 2008 Zoning Board, Rich Lovett seconded, and it passed unanimously.

Trudy Whitacre made a motion to approve the minutes from the December 27, 2008 Zoning Board, Dick Fuelner seconded, and it passed unanimously.

Mr. Hill reviewed the process that the meeting will follow. Per agreement with the applicant, staff will present all three cases, the developer will have the opportunity to present their side, then we'll have the public hearing. Anyone who wishes to speak is requested to sign in at the back of the room. There will be 60 minutes for and 60 minutes against, 15 to 20 minutes for rebuttal, and 3 minutes for each individual to speak.

Copies of a handout were available to members of the audience along with the agenda. Ms. Hess gave the audience an opportunity to review the displays around the room and add their names to the sign in sheet, and the meeting resumed at 7:12.

4. NEW BUSINESS:

A. Rezoning Cases #01-09, #02-09, and #03-09

Mr. Brandt presented all three rezoning cases, reading from the staff reports. He referred to all three cases when discussing the Public Open House, stating that the majority of comments concerned the shopping center rezoning. He did not repeat zoning district standards when they applied to more than one case. He used the rezoning sketch to point out the parcels included in each of the cases.

Mr. Brandt responded to questions from the board about individual cases as follows:

Case #01-09 AG & AG-SP to CU-LO

Scenic Corridor standards require that any sign placed within the corridor would have to meet those standards. The road through the property could be located on either side of the building.

There is no limitation in the ordinance on the size of the building in LO zoning. The properties are located outside the watershed. The developer would be responsible for a private road. There are questions about the suitability of the road as public or private.

Case #02-09 AG & RS-30 to CU-SC

Two sections of the parcel are not requested for rezoning: at the southwest corner and an area along Lake Brandt Rd and Hi Lo Lane. The ordinance does not specify if offsite septic areas must be zoned along with commercial development, or allowed to maintain in their existing district. There are examples of both having been allowed in Summerfield. There would no buffering required on those sections of offsite septic that fall outside the scenic corridor. Although the requests have been commonly known as “Harris Teeter” anything in the SC district would be allowed on the property other than those uses excluded in the application.

There is no limit as to when the developer would have to build, as the zoning never expires.

There was a lot of discussion about the traffic study submitted by the applicant, with discrepancies suggested by the board. It was pointed out that there is only a 900 trip difference in traffic count attributed to the development. The traffic count projections were based on projections from just this development. Mr. Hill stated that the traffic study was done after school was out, so it is up to the discretion of the board how much weight to give the study. There is currently a 100 foot right of way row planned for Lake Brandt Rd that would be available for road widening. DOT has reviewed the studies, but no driveway permits have been requested. Road upgrades can, to a certain extent, be included in conditions only if agreed upon by DOT.

Oak Ridge Commons includes about 130,000 sf to 140,000 sf of building, including outparcels. Signage referenced in the conditions would not count toward the 50sf maximum sign size required by ordinance.

Parking is determined based on use, so the parking requirement will be reviewed as particular uses are proposed. The shared parking requirement in the ordinance is geared toward sharing parking among uses that operate at different times.

Case #03-09 AG & RS-30 to CU-OSRD

There is a small portion of the parcel that would be included in the scenic corridor, although the standards of the scenic corridor mostly apply to commercial development. As an OSRD district, the portion of the zoning exhibit for this case does act as a master sketch that locates open space and development areas.

The ordinance does not address the allowance of open space under power lines. If that situation is a concern of the board, they should be very clear on their concerns as the town has not had to address the issue before.

The developer is not recommending additional turn lanes, but there may be additional signaling required and the DOT would discuss public vs. private cost at the time when it is required.

Well heads would be allowed in the open space. The protected wellhead area cannot be developed except for what would be associated with the well.

The trail credit is of no consequence since the number of lots is conditioned. Public sidewalks shown along the highways would be permitted as long as they are allowed public access.

Easements would be used to define public access sidewalks that occur on private property. The developer could also install curb and gutter to reduce the required width.

The cul-de-sac on the north does exceed our development standards and would have to be addressed as a waiver or redesign during the site plan phase. It is not unusual for subdivisions to include such a cul-de-sac.

Public Hearing:

In Favor:

The following representatives of the applicant spoke in favor of the requests:

Henry Isaacson, 101 W Friendly Ave, made statements in support of the case, as the attorney for the developer Mark Pierce Poole as follows: He described the acreage for each of the three proposed cases, and asked the owners of the properties to raise their hands. There were two open houses during which they listened to both pros and cons, and came away with a better understanding and respect for citizens' concern. The main concerns were traffic, water, and sewer. He introduced consultants hired to address those concerns: Wilbur Smith Assoc will speak about traffic, civil engineer Homer Wade will speak about the site, the water distribution system, and the overall layout. Mr. Jim Beeson of S&EC will speak about soils and the proposed septic system. They will be followed by the developer who will make remarks about their vision for the development.

Mr. Terry Snow, chief transportation engineer for Wilbur Smith, 4135 Mendenhall, spoke in favor of the requests as follows: He has over 20 years experience and has done over 500 surveys including the CVS in Summerfield as well as the Hwy 150 relocation feasibility study. The study for this project was done in accordance with NCDOT and IAE required standards. The traffic count was done when asked, with a 3% annual growth rate over a 10 year period, higher than the state percentage of 2%. The ADT count from 2001 to 2008 equates to a 2% increase. They submitted a memorandum of assumptions to the DOT and town, and received concurrence from the DOT but did not receive concurrence or comments from the town. They consider that a 3% growth rate should take into account traffic from the schools.

They took another count on Jan 22 to include a school impact, and the overall capacity and results for the intersection did not change. The counts were: morning southbound: 1070, and evening southbound: 1401.

Standards require a worst case analysis for any components associated with the proposed development. For the worst case scenario, the entire site of about 1000 parking spaces would have to completely fill up and empty over 17 times in a 24 hour period, which will not happen. On Jan 23, Lane Hall of NCDOT sent an email indicating that he had reviewed the project and recommended a southbound and northbound turn lane.

There are times of cueing at the intersection during the day, but changing the timing of the lights would help. The cost would not necessarily be a public cost. It is a multimodal development that would allow some pedestrian access that would get people out of their cars. It is his professional opinion that the mitigations they recommend are adequate to help the traffic situation and will not materially endanger the public.

There was concern from the board about the school counts, and additional retail uses not yet in operation and not included in the traffic count. Mr. Snow stated that they did a traffic count last week to ensure the schools were included and saw that the count was the same. The build out over a 10 year period produces much smaller numbers than a 3 year build out. The town did not give any feedback about proposed or planned development that would affect the traffic count. There was concern that trips coming from outside Summerfield were included and he stated that those trips are included as "new trips".

Mr. Snow added that the count for the southbound cue on Lake Brandt Rd in the morning is 21 feet on left and 289 feet on right lane, with the school traffic. The northbound cue between 4pm and 6pm is 135 feet. The projected cue length is:

Southbound left turn 52 feet

Southbound through traffic 313 feet

Northbound left turn 106 feet

Northbound through traffic 229 feet

They are projecting 17,000 trips over a 24 hour period in 2018.

Mr. Brandt stated that this is the first traffic impact study the town has received and the planner who was on staff during the submittal is no longer with the town. He stated that Northern High School does not have all its' classes in attendance yet.

When asked to comment on Page 22, Mr. Snow stated that the figures are revised to reflect the current timing and phasing of the signal (information from DOT), which were taken into account during revisions this week.

Homer Wade, principal of Borum Wade, 621 Eugene Ct Suite 100, spoke on behalf of the requests as follows: This is a well balanced environmentally sensitive development with only a total of 90 acres, with 46 percent of the total being left as open and /or protected space. This project is similar to older neighborhoods with residences close enough to commercial development to allow walking. This is intended to create an old style of development, with fencing like that of neighboring horse farms. The commercial layout is zoned to be 21 acres, but 6 acres are proposed as landscape buffers and other undeveloped space. The shopping center will be over 1000 feet from Hwy 150; will feature interconnectivity between the shopping center, houses, and the parcel on Hwy 150. Most of the parking is associated with the village shops, with a small amount at the out parcels. The OSRD tract includes 35 lots at an average of 35,000 sf, several acres of conservation area, and lots set back with meadow and fencing similar to adjacent horse farms. Water will be provided via community water system at 32,000 gallons per day. 2 test wells were drilled and pumped at 1.9 times the needed capacity. Draw down tests included contacting all homes within 1000 feet of the 2 wells drilled, and resulted in no adverse affects. Mr. Wade believes the project is environmentally sensitive and well balanced with open spaces and well planned water and sewer services. They hope it will serve as a model for mixed use development in Summerfield.

When asked by the board, Mr. Wade did not know what Guilford County Department of Environmental Health considers to be an adverse affect. He stated that if there had been an adverse affect Environmental Health would have notified the developer and possibly required re-drilling at another site, or limiting the amount of water that could be drawn at that location. Total well depth for Well#1 was 496 ft with a casing depth of 492 ft. Well #2 depth is 805 ft with a 150 ft casing depth.

Jim Beeson, 5401 Thacker Dairy Rd, spoke in favor of the requests as follows: They are working with a system that will serve the commercial section of the development. The expected daily capacity is 15,000 gallons a day: equivalent to about 31, 4- bedroom houses. It's roughly equivalent to .1 inch of rainfall in a day, 36.5 in. per year equating to 22 to 25 gallons per year per sq foot. The drain field and backup totals about 10 acres in size. The soils vary from unusable to best available. They would be allowed to use trench systems for disposable water, but they would choose to use subsurface irrigation systems for better distribution of water over the drain field. This system was installed at Northern High School.

Mr. Beeson stated that they will treat water to standards that would be much cleaner than typical of a home. An operator will visit the system twice a week, with an alarm to alert the operator immediately if needed. The state must review this system since it handles over 3,000 gallons per day.

Mr. Brandt stated that the system is not currently a condition of the rezoning.

Mr. Beeson continued to speak in favor of the requests and answered questions from the board as follows: The parking lot runoff is not allowed to enter the waste water system. The storm water management system will likely be required to include devices to control the runoff with discharge into a nearby creek. The repair field (located at the southwest corner) would have to be equal to the primary, evaluated by the state, and not allowed to be disturbed. The primary

field is designed to accept the wastewater, with the secondary area as a backup (as for individual homes) if and when the primary fails. There is a deep stream which would have to be crossed with a pipe, and then returned to its natural condition. The state requires some type of pressure distribution for systems of more than 3000 gallons.

Chip Mark, Partner Mark Pierce Poole, 1001 Morehead Square Dr Charlotte, spoke in favor of the requests as follows: Mark Pierce Poole is a 10 year old development company that specializes in commercial development. He has over 20 years experience, and has developed over 2 million sq ft of commercial development. They look for areas that are underdeveloped and underserved. The research that was done for his customer determined that the Hwy 150 / Lake Brandt Rd intersection is a good location for concentrating their development. The company has seen the site and wants to locate there. They have had a productive and candid dialogue about the rezoning and have listened to input. The area is planned for a future commercial node. There was discussion from the board about specifying the use as a Harris Teeter, when the rezoning itself does not necessarily mean that Harris Teeter would be the user of the development.

The town mailed over 97 letters to property owners to help the developer host an open house. A second open house indicated a lot of positive energy as well as concerns about traffic, water, and septic. They did further studies to understand the impact of those concerns. Their plan clearly understands the rural nature of the community, and the pride the citizens have in their town. He listed the acreages included in open space, stating that less than a quarter of the acreage is in the shopping center. They have tried to create a village environment, buffered on all sides. He listed all the buffers and setbacks of the development from the roadways. He stated that there are almost 2 miles of walking trails, capable of walking, biking, and jogging. There is connectivity between the proposed housing development and the commercial area. He feels that it does not have the feel of a retail center, with space between retail buildings. Materials are mainly brick, proposing architectural elements and fencing to add the feeling of connectivity to the local community.

The grocery store would be distinctly Summerfield with a sushi bar, gourmet food and fine wine sections, and possibly Starbucks. They project providing 150 to 200 new jobs to the community. Harris Teeter supports education in the community by helping with donations to schools and teachers. They keep information about local community events. In 2007 they made \$4.8 mil in community contributions. His parents live in Davidson NC within a mile of a Harris Teeter and it provides a shuttle service to take seniors between home and shopping.

35 homes are also proposed for people who want to be close to shopping and potential jobs. He has already been contacted by a group of doctors who are interested in locating in the Hwy 150 building. The plan is for a community within a community.

He is an experienced developer who has dealt with the town from the outset, and is proposing a development that has a greenbelt around it, a park like setting with a retail center at the corner, and split rail fencing. The architecture will follow the vernacular of Summerfield.

Mr. Mark distributed architectural rendering handouts to the board.

Ms. Hess announced that she would extend the allowed speaking time in the public hearing, to allow members of the audience to speak.

The following members of the audience spoke in favor of the requests:

Nancy Wilson, 6637 Lake Brandt Rd. stated that Summerfield needs another grocery store in the town. As a senior citizen, she wants to be able to shop close to home. Her doctor has recommended items to purchase for her health that local grocery stores do not provide. It will also create jobs for people in the community.

Margaret Wilson, 6637 Lake Brandt Rd lives 3 miles from the proposed shopping center. She is mostly in favor as a strong believer in individual property rights who are invested in land that is not economically feasible to farm or own at all. There are issues like traffic but there are advantages like increasing the tax base and the providing of services.

Jeannette Gann, 170 Marshall Rd Colfax attends church in, and grew up in, the community and spoke on behalf of the property owners. They are honest hard working people who care about the community and land and did not come on the decision to develop lightly. They are interested in seeing development that preserves open space, speaks to the uniqueness of Summerfield, and provides a service to the community.

Chris Bennett, 6200 Tether Ct (adjacent to the proposed development) has been here for 30 years and is happy about the proposal.

Don Bennett, 7601 Peaceful Ln is very much in favor of the request. It will help Summerfield with a large impact on available jobs. It will bring in building, in a good location.

Bob Johnson, 7586 Cassidy Ln is in favor of the proposal.

Ken Miller, 6367 Lake Brandt Rd owns property on the northern corner of the requested properties. He spoke for himself and stated that his neighbor, owning 300 acres near the property, is in favor. He had talked to the Stacks about buying the property and attests to the fact they do care about the property. He has heard good things about the developer and believes they have integrity and can deliver a Harris Teeter is they say they will.

Don Wendelken, 3406 Windswept, is in favor after listening to the proposal and seeing that the developer has it all together. We need a stimulus for the economy. It's already in a commercial area. There will be a traffic impact but things can be done about it.

Leslie Gunter, 5900 Church St, is not a resident but attends church in Summerfield and travels through the intersection 4 or 5 times a day. She grew up with the Bennetts. Food Lion is not serving its purpose and she drives to Harris Teeter to shop. It would make Summerfield a proud place to live in, unlike the old Food Lion shopping center.

Chris Gunter 5900 Church St supports the project because Lake Brandt Rd is a major thoroughfare to Rockingham County. Combined with a residential property, the property will be better maintained. The owners have been paying taxes on the property and now have an opportunity to "cash in" as long as it doesn't hurt the community. It is well within the owners' rights to develop their property.

Ann Powell, 4609 Tiarella Dr. has listened to comments and was not speaking for or against the proposal but wanted to share comments from members of the real estate industry from dealing with relocation clients. When she began to sell real estate, everyone wanted to buy in Summerfield, but now people want to locate in Oak Ridge. She wants to sell this community because she likes to pick her neighbors. Summerfield is getting passed over without the infrastructure and services that Oak Ridge offers. She asked those present to consider their property values and someday needing a buyer for their home, and remember their decision will impact them in the future.

Kimberly Whiting, not currently a resident of Summerfield, cannot imagine any more traffic to the shopping center than is there currently. She imagines a lot of people who did not want the current commercial development but everyone uses it. Summerfield has separated itself from Greensboro, so it would mean taking care of its own people. Summerfield's motto right now should be "Great place to live but you're going to have to shop somewhere else".

Nancy Hess called a 5 minute break from 9:32 to 9:40 before beginning opposition.

Ms. Hess reminded the audience that the Zoning Board is a recommending body to the Town Council, who will hear the case on February 10, 2009 at a location to be determined.

In Opposition:

The following members of the audience spoke in opposition to the requests:

Ken Yarboro, 6158 Lake Brandt Rd, is not against Harris Teeter but feels it is in the wrong place and too large. The intersection is supposed to be a minor node but this is a major development. The existing development already fulfills the minor node. We should not accept this before the comprehensive plan process is completed. He passes 3 Harris Teeter stores going to and from work. He would support it if it were in a different location. It is difficult now to get out of his driveway. He is concerned with the impact on water, infrastructure, and schools.

David Lehman, 981 NC Hwy 150 W, pointed out that the Guilford County Department of Health came up with a number of 60 gallons/minute on pump 2, and 20 gallons per minute on pump 3. Whatever goes in will be a 24 hour operation. He calculated the water use over the course of a year. There are parts of the property that are less than 300 feet from the critical watershed. He questioned the calculations of water use –vs. - output. He moved here because of the copy of Summerfield's Long Range Plan given him by his real estate agent. He suggests building ball fields there, and building Harris Teeter on Hwy 220.

Mark Bell: owner of 992 Hwy 150W and the corner lot with Dominoes and the Grill, and previous owner of the Hillsdale Brick Store and Vet Clinic spoke against the requests. He stated that the Long Range Plan calls for large development along Hwy 220. When the intersection was widened before, the Hillsdale Brick Store property was not touched due to its place on the national registry. If there is any additional road widening, the property with the Grill and Dominoes will be out of compliance and potentially unusable since the septic repair fields would be affected. The "community in a community" concept is nice, but 35 homes will not support the proposed level of commercial development. The people who bought properties from him had to comply with town requirements for fee standing buildings etc and this proposal does not fit the bill.

Sonya Marino, 6913 Lake Brandt Rd, stated that Lake Brandt is a 50 mile an hour road that supports 2 fire departments. The proposal's entrances will negatively impact Lake Brandt Rd. She spent a lot of time working on the Long Range Plan to ensure the intersection would be a low impact location.

Jorge Pacheco (?) spoke on behalf of Salvador Salazar, 6204 Tether Ct saying that the project is too massive in his back yard. He had moved to Summerfield to avoid the industrial nature of a project like this.

Rich Schlobohm has lived at 6162 Lake Brandt Rd for 20 years. The original proposal for Hillsdale Village was much bigger, and was denied in favor of a smaller development. This

rezoning is for a large scale high density shopping center which is out of character for the area. The traffic would add to an already bad situation. He lives at least 1000 feet from the intersection and the traffic backs up at least to his house. The 3 schools that have opened will grow a lot more and next years' seniors will add cars to the road. The environmental study does not address the flow of wells adequately in that it doesn't test what will happen to the water table. Who will take responsibility when wells fail in surrounding homes? This is the wrong development, in the wrong place in the wrong time, without a new plan being done for the town. Why would a developer propose such a large project knowing that the Long Range Plan and Commercial Needs Assessment do not support it?

Don Norman has lived at 6154 Lake Brandt Rd for 16 years, enjoys the neighborhood, and wants to keep it as it is now. He has concerns with traffic and water usage. A project of this size would affect the water table in a way that is unpredictable.

Penny Wasmund is the owner of the business icoffee, located at Hillsdale Village. She is concerned as a local business owner who can be adversely affected. If you divide the money between local businesses and chain store like Starbucks with bigger signs and drive throughs, it will put local businesses out of business. All the businesses at Hillsdale Village are owned and operated by neighbors. The market described by the developer will be able to drive to the grocery stores down the road.

Jeff Johnson, 6106 Bascom Dr agreed with all the points already made. What disturbs him most is if this project goes into a designated minor node "god help us with what would go into a major node". He added that this is not a horse farm.

Mark Helms, Reata Dr, lives near the property and owns one of the wells that were tested. He is concerned that, if there is another drought, what recourse he would have if his well ran dry as it almost did during the last drought.

Rebuttal:

Jim Beeson spoke as follows: He stated that the projected 15,000 gallons a day does include all the commercial development. He is not a licensed hydrologist but feels that the well pump out data was taken out of context. The well pump out test is to try to make surrounding wells drop their water level. That is not what they will be pumping out every day. Just as all septic systems operate, that water is reintroduced to the aquifer after being treated. The residential wells are about 150 deep on average. The 800 foot wells are trying to intercept large fractures. There was no adverse affect from the pump out, which means that the water level was not drawn down. The 2 wells on site are planned for commercial and residential. 480 gallons per day for a 4-bedroom house is very conservative, and assumes 8 people living there.

Terry Snow, Wilbur Smith Assoc. clarified points about growth rates. The growth rate applied to the existing traffic grew over 10 years. The addition of the development is considered to be the build out.

Ms. Hess passed a copy of a citizen's email to the clerk for recording.

There were no further speakers in favor or opposition and Ms. Hess closed the public hearing.

The Zoning Board discussed the cases together.

Mr. Brandt answered questions from the board as follows:

There is a Land Use Plan adopted by the town of Summerfield in 2000, which is to be used to make a decision tonight. The future impact of the Jordan Lake rules have been adopted by the State but are still under review. The long term affect on this site or another, would have to come into watershed compliance on a retroactive basis which would potentially require upgrading or adding facilities. Depending on how quickly the site gets developed would dictate if those rules are already in place or not, and it is not clear who would be responsible for paying for the upgrades.

Members of the board had the following comments, questions, and concerns:

The intensity of the office zoning is a problem with the Salazar parcel. The commercial area is going to produce a large amount of runoff. Does the duke energy utility easement qualify as open space for the residential development? The layout is not bad.

Why is the AG land not being rezoned when it is designated as offsite septic? Leaving it as AG zoning, there could be homes placed there and it would seem patchwork. If it were zoned commercial, it could be better tied as a septic area for the development.

Is offsite septic appropriate for RS-30 zoning?

(Mr. Brandt stated that the utility easement owner will not be responsible for septic lines. The area under the utility lines meets other requirements for open space.)

The trail network would have to come back for review at the time of site plan/subdivision approval. The road east of the well seems to be just a connector road with no purpose, but eliminating it would create a longer cul-de-sac with no access. The road over the 20/25 foot deep gully is also a concern. That gully would be considered primary conservation area in a residential development and commercial development is not held to that standard. The gullies there were created by poor use of the land many years ago.

The Environmental Inventory is odd where there are 2 locations along the same stream (DP1 and DP2), since they are both in the same stream channel and the other tributary was not addressed. It's interesting that it is so close to being an intermittent stream and would like to hear from the environmental engineer. John Townsley, S&EC. ECS, conducted the wetlands delineation and spoke to the comment. The proposed road crossing is at a perennial stream. He could not answer why the points were chosen as they did not do the work.

How is major development in a minor node going to affect the Town Core? Will the center of town now be at the intersection of Hwy 150 and Lake Brandt Rd? Would those businesses near the Town Core be impacted? Don't we want to develop the Town Core first before we have completed a Comprehensive Plan? I am concerned about the town's identity and cohesiveness, New urbanism development like this will serve other counties, but not in the proposed eastern border of Summerfield. I am afraid Summerfield's identity will shift and create fragmentation rather than cohesiveness.

(Mr. Hill stated that there will have to be 3 separate votes for the 3 cases.)

There was concern with the gross square footage of the proposed LO property. The next zoning district has a maximum building size of 3000 sq ft yet this development has no size restriction other than what the property will allow.

There was concern with traffic along Hwy 150, and the use of the LO property for a private or public road to the property behind.

In answer to a question, Mr. Brandt stated that buffering next to the residential area would be based on the use list, and is likely to be a type B (average width 30 feet with 3 canopy trees per 100 feet).

The Zoning Board discussed the cases individually.

Case #01-09: Ms. Hess asked the applicant if he would consider removing the through roadway on the LO property and he said he could not as the sale of the vet property is reliant upon access from the back of the property to the shopping center.

Mr. Fuelner made a motion to deny Case #01-09 based on the applicant's refusal to cut off access to the land behind, and on the Long Range Plan's goal of safe and efficient transportation. Mr. Dunham seconded. It was suggested that the board vote on the second case first due to its impact of the through road, and Mr. Fuelner withdrew his motion.

Case #02-09: Mr. Lovett asked Mr. Brandt if it is appropriate for the AG property to be incorporated into the rezoning and conditioned to be used for remote septic only and Mr. Brandt stated that the concern is that it would guarantee a rezoning of a piece of land that was not advertised.

Mr. Dunham stated that the proposal does not meet the Long Range Plan or Commercial Needs Assessment.

Mr. Dunham made a motion to deny rezoning Case #02-09 based on not meeting the goal of the Long Range Plan to "Allow safe and efficient transportation", and on the Commercial Needs Assessment's identification of the intersection as a Minor Commercial Node. Ms. Whitacre seconded, and the motion passed unanimously.

Case #01-09: In answer to questions from the board, Mr. Brandt stated that there could be a road put through the property, regardless of the zoning. If a residential development was approved behind the property, there is nothing in the ordinance that would prevent a road there. The vet clinic would remain AG-Special Use Permit as a vet clinic. Mr. Hill stated that all property owners have signed the application requesting the rezoning

Mr. Dunham made a motion to approve rezoning Case #01-09 based on meeting the goal of the Long Range Plan to "Allow for a range of housing and commercial opportunities" As this case is a logical extension of uses in the area. Ms. Hess seconded. The motion passed 4 to 1 with Trudy Whitacre voting against.

Case #03-09: Mr. Brandt confirmed a comment that a secondary access would not be required for a 35 lot subdivision. Mr. Brandt stated that it is his opinion that to take the Duke Power utility easement out of open space would remove all possible right to develop that land and the area creates such a small impact that the owners should be able to derive some value from it. There was discussion about a utility easement in Ridgewood and that the board was told they could not locate a sports field under it, and Mr. Brandt reminded the board that the sports field had been a clay tennis court. He added that it is staff's interpretation that the easement under the Duke Power easement does qualify as open space.

Mr. Dunham stated that he does not like the arrangement of open space and the location of one of the walking trails.

Mr. Lovett asked if there is a trespass issue to part of the trails and Mr. Hill stated that the private lane would act as an assess easement.

Ms. Hess stated that as a residential development there are a lot of areas that are being protected, including the area under the high tension lines near Hi-Lo Lane.

Mr. Lovett made a motion to approve rezoning Case #03-09 based on meeting the goals of the Long Range Plan to “Preserve the individual property owner’s rights” *and* “Allow for a range of housing and commercial opportunities”. Ms. Hess seconded, and the motion passed 3 to 2 with Ms. Whitacre and Mr. Fuelner voting against.

5. OTHER BUSINESS:

The board voted unanimously to continue the appointment of Chair and Vice-Chair to the next meeting of the zoning board.

Ken Dunham made a motion to adjourn, Dick Fuelner seconded, and it passed unanimously. The meeting adjourned at 11:06pm.

Nancy Hess, Chair

Carrie Spencer, Clerk to the Board