

Senator Smith thanked the Board of Commissioners for allowing Mr. Grubiak to come here and present this award to him. He stated the ACCG asked him if he would like for them to present it to him here or in Atlanta, and he asked what kind of question is that. He stated he had learned a couple things very quickly when he started serving in Atlanta and that was, very few things, in fact no things that he is aware of, are done individually and so it is a little bit awkward to receive an individual award because everything they do in Atlanta is the product of some sort of teamwork. He stated there has to be an awful lot of people on the team working together, across the isle to be successful, and he learned that very quickly. He stated to the extent that you are successful as part of a team depends on the relationships that you build with other people. He learned that the very first year he started serving, and it is a real pleasure of his to have a relationship with each one at the meeting. He stated he considers them his friends, they are leaders in the county, and he is a part of the team of county, local leaders, state leaders and also part of the team that includes our federal representatives as well. He stated he does not think that he could be successful without their leadership here and he knows just from the small amount of time that he has served in this part time position that they go above and beyond the call. He stated he does appreciate the award, and he does appreciate the opportunity to be friends with them and to be a part of the team that helps locally in Floyd County and hopefully he will have a chance to continue doing that in the coming year.

Chairman Hufstetler thanked Senator Smith. He stated they do not know that this Tort Reform would have happened without Senator Smith's leadership in Atlanta, so they are glad that he was there.

PUBLIC PARTICIPATION

Tom Young, 8 Polaris Terrace, stated the reason he is here is that in the Rome News last Thursday, November 17, 2005, there was a Public Hearing announcement regarding an annexation application and a re-zoning request for property at 394 Woods Road. He stated last March 22nd they had a meeting right here, same property, same discussion and after a long discussion it was unanimously denied by the Board of Commissioners and they appreciate that. He stated they had 15 or 20 people at the meeting. They had 90 signatures on the petition that they passed around to them. He stated setback and road space was questioned, drainage ditch running through the property, that type of thing. He stated comments were made by a commissioner like it sounds like the property would be good for 2 or 3 nice large suburban houses which that is suburban rural and the request is for duplex like it was then. He stated they opposed the rezoning then and they do now and they, he is representing everybody, they could not be here, are really wondering what seems to be going on. He stated it looks like this application for annexation into the city and then the city, will vote on rezoning and it looks like you folks have no more to say about it and of course they do not either. He stated since this annexation and rezoning is going to be handled by the city, their First Reading is December 1, 2005 and December 5, 2005 is Public Hearing. He stated maybe he has it backwards, Planning Commission meeting is December 1, 2005, First Reading the 5th and the Public Hearing the 19th all with

the City Commission. He stated he does not really understand that. He stated the Board of Commissioners voted that it would not be approved and it is going somewhere else now for approval and they just do not understand, they did not want annexation then and they do not now. He stated he will pause there. He has some other items of interest that he found out since then. He will not bring them up, he would like to unless anybody has any questions. He stated he hopes they remember voting on this.

Chairman Hufstetler stated if they do annex into the city then eventually it could be a time frame from 1 to 4 months. He thinks it would probably be no more than 4 months from now. It will be in the City Commission jurisdiction. It will be out of the county at that point. Mr. Young stated it says the meeting is on the 19th, and Chairman Hufstetler stated that is correct. They were asking to go forward now is what he is starting to understand or they could go forward in 3 or 4 months but either way it will be heard by the city if the annexation is approved. Mr. Young stated, who does the annexation that is his question, and are they out of the picture. Chairman Hufstetler stated the property owner, if they meet the requirements of adjoining property, etc. can petition to be annexed into the city. Mr. Young stated the property owner can, so they just throw all of this away and give up, is that it? Commissioner Jennings stated additionally, the ULDC allows for the county, if the city decides to rezone the property and the application, the county commission has fifteen days to make comments to the city if they chose to rezone the property.

Mr. Young asked is there any help they can give them. County Attorney Manning stated if the applicant does go forward with an attempt to have the property annexed into the city and in doing that seeks to have the property rezoned, as he did before then there would be a hearing with the opportunity for him to provide input like he did before in the same manner. Mr. Young stated he does not live in the city. County Attorney Manning stated that they would still hear him as a surrounding landowner, and he would still have the opportunity to speak at that point. County Attorney Manning stated there would be another procedure to rezone similar to the one before. Mr. Young stated so the county cannot do anything. County Attorney Manning replied the county as he said, he thinks the rule is if the Planning Commission ruled one way or recommended one way with the regard to the zoning request for a change and the city decided another way then the county has an opportunity for input and an objection. Under the ULDC if they cannot come to an agreement there is an arbitration provision. County Attorney Manning stated he just wanted Mr. Young to know that there would be an opportunity for him to speak. Mr. Young asked if that would be the only opportunity. County Attorney Manning stated there will be a hearing at the Planning Commission, like they had before, and there would be a hearing before the City Commission if they move forward with this annexation proposal. Mr. Young stated that is it, the County Commissioners cannot do anything. Chairman Hufstetler stated once it is annexed into the city and it has met the time requirements then it would be in their jurisdiction. Mr. Young stated all he is saying is it is in the county now, they voted to leave it in the county but they cannot do anything about it. Chairman Hufstetler stated they can annex if they meet the requirements. Mr. Young then thanked the Board for their time.

Josh Tullis, 2400 Garden Lakes Blvd., stated he is here representing the owner of 394 Woods Road. He thanked the Board for the opportunity to speak to them this evening. He stated eight months ago to the day the County Commission voted to deny their rezoning application for 394 Woods Road. Due to a procedural mix up they were not present at that meeting to present their position. He stated they recently submitted a new annexation and rezoning application to the Planning Commission and the City Commission. He stated two weeks passed by and just last Thursday they were notified that City and County Attorneys had determined that they must wait a full 12 months before resubmitting a rezoning request for 394 Woods Road. He stated that is why they immediately contacted county offices to request the opportunity to speak with the Board this evening. He stated when they submitted their annexation and rezoning application, they and the Planning Department were unaware that last March's denial prevented another rezoning request within one year. He stated two weeks went by, public notice signs were posted and advertised and letters to adjoining property owners were sent. He stated everyone is currently primed and ready to discuss the matter at next weeks Planning Commission meeting as evidence by their previous speaker. He stated due to the fact that their current rezoning application has already been received, posted, advertised and communicated and in special consideration of March's procedural mix up, they respectfully request that the County Commission take action this evening to either reduce the waiting period between rezoning applications from 12 to 6 months or to clarify the March 22nd denial vote to a denial without prejudice. He stated neither action this evening would overturn the County Commissions March 22nd decision, but instead would allow them, our neighbors in opposition and the neighbors that are in support of their application, to further discuss their proposed project at next week's Planning Commission meeting. He stated as a side note, three distinct changes have been implemented to the Planning Commissions process as a result of their procedural mix up that he talked about earlier. He stated first, at the time an applicant submits an application he is given a form stating when his three hearings will take place, that did not happen before. Second, the applicant is further notified by mail of the dates, times and locations of all three meetings. Previously the adjoining landowners were notified by mail, but the applicant was not. Third, the Planning Commission agenda now includes pertinent City and County meeting dates. They were not on there before. He stated the Planning Department has taken the necessary steps to prevent future procedural confusion. He stated now they come before the Board this evening to request that the County Commission provide them with a second chance for their position on the rezoning application to be heard for the first time. He stated he would also like to take the opportunity this evening to formally invite Mr. Tom Young and any of their other neighbors to stop by Garden Lakes Realty office to discuss their plans. He stated they have a 50-year track record of being a good neighbor in West Rome. He stated they have the very best intentions at heart, and they would like the opportunity to address their concerns. He thanked the Board once again for the opportunity to speak.

**ADOPTION OF
MINUTES:**

Chairman Hufstetler asked if the minutes were in order. County Attorney Tommy Manning stated the minutes had been reviewed and were in order.

Commissioner Mayes made a MOTION to adopt the minutes of the Regular Meeting of November 8, 2005 as presented. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

**PUBLIC HEARINGS
(FIRST READINGS HELD
NOVEMBER 8, 2005)**

- 1. FILE #80-2005Z, REQUESTS REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO C-C (COMMUNITY COMMERCIAL) TO CORRECT SPLIT ZONING TO MARKET ENTIRE PARCEL FOR COMMERCIAL USE ON PROPERTY LOCATED ON MARTHA BERRY HIGHWAY, U.S. 27 NORTH. ZONING MAP J11Y – PARCEL 064. (PLANNING COMMISSION RECOMMENDATION: APPROVE WITH CONDITIONS [VOTE: 7 – 2]).**

Chairman Hufstetler called for a motion to open the Public Hearing. Commissioner Jennings made a MOTION to open the Public Hearing. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler reviewed the procedures for Public Hearings. He stated those that wish to speak in support have up to 10 minutes to present their reasoning. Those in opposition have 10 minutes. Then those in support are offered a time for rebuttal. He stated they cannot bring in new evidence but can only rebut anything that has been brought up during the Public Hearing. Chairman Hufstetler asked Sue Hiller, Rome/Floyd Planning Department Director to make a brief review on this request.

Sue Hiller stated the subject property actually has two parts right now. The western portion, which fronts on Martha Berry Highway, is zoned C-C (Community Commercial). The eastern portion, which is almost identical in size, is zoned S-R (Suburban Residential) and it extends into a single-family residential area. She stated the request is to correct this split zoning in order to market the property for commercial use. She stated the entire lot is undeveloped at this time. To the north of this property is vacant property and suburban residential property developed with dwellings. To the south the State Patrol Office zoned O-I (Office Industrial). To the east is single-family residential as well. To the west, across the highway, they do have some commercial uses in the Martha Berry quarter. She stated this is an area where all services and utilities are available to the site. She stated Martha Berry Highway is classified as an arterial and this does not appear to be within a flood plain. She stated this is a somewhat difficult situation because normally with split lot zoning that is something that they want to see corrected, and it is unlikely that the front part of the property would be developed with single-family residences even if they were to zone it back to S-R (Suburban Residential). She stated the option then becomes whether they rezone the back portion of the lot, the eastern part, to C-C (Community Commercial) with the situation that that would intrude into that residential area. She stated for that reason staff recommended denial of this request. However, staff recommended that if it was approved there would be some conditions placed on it. She stated the Planning Commission actually voted twice on this. There was an original motion to deny that was turned down by a 2 – 7 vote. A second motion was then offered to approve with the following conditions: (1) 30-foot buffers on all sides that are adjacent to residential; (2) down lighting on the property; and (3) access only via Highway 27. She stated that is the recommendation that comes to them from the Planning Commission on an 8 – 1 vote to approve with those three conditions.

Chairman Hufstetler asked if anyone had any questions for Ms. Hiller. Commissioner Jennings asked what is the size of the front portion of that property, how many acres. Ms. Hiller stated each piece is approximately 200 by 295. She stated it is not a perfect rectangular square.

Support: Douglas Chandler, 2355 Matthew Street, NE, Atlanta, stated with their permission he wanted to speak on behalf of his father, who is there in the wheelchair, who is the actual property owner. He stated a couple of things became apparent at the Planning Commission, and that is when the chairman of the Planning Commission, spoke he made a couple of points and that is with split zoning the code requires correction and that one lot is supposed to be continuous zoning. He stated they have Community Commercial on the front and residential on the back. He stated some of the points that were made at the Planning Commission were that the back parcel is land locked. He stated he does not think that anyone could build a house on the back parcel. There is no access to it from the residence on the north side or on the back of it on the east side. He stated the road that runs, it is not really a road it is actually a little driveway that runs along the State Patrol barracks on the north, would not be sufficient and could not be widened to give them access to that back parcel so effectively it is land locked. He stated one other point that was made by the chairman at the Planning Commission meeting was that rezoning and correcting the split zoning is consistent with prior

decisions where this has come up and applications have been granted. He stated his father, being very reasonable, said they would agree to conditions unequivocally – they want to be a good neighbor. He stated they understand there are 15-foot buffers for side and 30 for the rear and they of course agree to 30 on the side and the rear to protect the residences. He stated he wants to save any other comments he may have for rebuttal but they respectfully request that they go with the Planning Commission recommendation and grant the application.

Chairman Hufstetler asked if there were any questions anyone has at this time, if not they will offer him the rebuttal at the end.

Opposition: Charlie Alford, 8 Glenview Drive, stated his property actually is right at the back of the property in question. He stated he has been living at this piece of property for 11 years. He stated he bought that property because that was single family on the other side of him and he thought that was what it was always going to be. He stated he just totally opposes it. He stated they have probably the best street in the whole neighborhood and he does not know what is going to go in there. He stated he does have a problem with the front part of it. He stated he also has a question about this easement, could they explain that to him. He stated that is an easement off of Highway 27 all the way to the back, is that right and does he have a right to that easement from Highway 27 because it shows it on his plat.

Commissioner Jennings called for Ms. Hiller to answer the question. Chairman Hufstetler stated it is hard for them to answer without knowing the specific easement and conditions to it. County Attorney Manning stated it does not show it as an easement, it shows it as property and he does not know if that is a paper road or what that is. He stated he does not know the answer to the question. Chairman Hufstetler stated he does not know the particulars on that easement.

Mr. Alford stated he does have a problem with it being like it is. It is just going to make his property value go way down and he does not think any one of them would love to buy it with something stuck in their backyard. He stated he just feels it should be left as is right now.

Commissioner Mayes asked Mr. Alford what he thinks about the buffers, a specific kind of buffer like trees. Mr. Alford stated a 30-foot buffer is not very much. He stated he has a neighbor here that is with him and it is going to encroach right up to the back of his house. He stated he does not understand how it got that way in the first place. Chairman Hufstetler stated they have a lot of those unfortunately that come up and they are not sure they understand either. Mr. Alford stated that is about all he has to say and thanked the Board.

Rebuttal: Mr. Chandler stated he had just a few points. He asked Mr. Alford which lot he lives in because he is not sure and if he would point it out to him in which Mr. Alford obliged. Mr. Chandler stated the week before last he took an opportunity to walk this property. He stated this property was purchased in 1981 by his

father with the understanding that at that time he believed it was zoned all commercial, and the intent at that point in time was to build an ACE Hardware store there. He stated the plans changed, and the ACE Hardware store was built in a different location. It is now south of town. He stated he took an opportunity to walk the property because one of the pictures that they were shown at the Planning Commission showed that the vegetation was beaten down quite a bit on the back parcel that backs up against it. He stated what they found is that there are trails running all through this back parcel that is zoned residential. He stated he sees the incentive of the adjacent landowners not wanting this to be rezoned because it is a recreation area for them with four-wheel drive trails all through it. They actually posted the area just so no one gets hurt. If there is any liability issue there it has been posted for no trespassing. He stated the test, as he understands it for rezoning, is whether or not a rezoning would be reasonable. Whether it is inherently reasonable. He stated where the existing zoning inflicts a substantial loss on a particular landowner such as here they have it landlocked. They have no real access to the back. He stated the zoning request should be granted. He stated a couple of examples of zoning which was unreasonable came out of a 1955 opinion. He stated one of the examples is where a small area entirely surrounded by businesses is zoned for residential purposes, that is one example of being unreasonable. He stated to an extent they have that here, where they have this landlocked parcel on the back. He stated another example of being unreasonable is the property is entirely unsuited for residential purposes as it is zoned, and he thinks that is what they have in this case. He stated he thinks with the 30-foot buffers, the down lighting and the conditions that were placed upon the request, he thinks they take care of the diminution in the property value, which they claim they are going to suffer. He stated in fact, he was looking at Pendar's treatise on real estate and looked up buffer zones and these conditions may be required, and they are set up to protect property owner's value. He stated requiring buffers to protect property value has been judicially recognized in the state so he thinks with the Planning Commissions vote to approve with the conditions, the fact that the precedent of correcting split zoning in past decisions, and those considerations is a reasonable request particularly with the conditions. He stated he thinks it is reasonable that the application be granted as recommended by the Planning Commission.

Chairman Hufstetler asked if there were any questions, anyone has. He then thanked Mr. Chandler for his comments. Commissioner Mayes made a MOTION to close the Public Hearing. SECOND by Commissioner Fricks. VOTING:

YES

NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler asked if there was any discussion or a motion. Commissioner Fricks made a MOTION to approve the rezoning to C-C (Community Commercial) subject to the conditions that were recommended by the Planning Commission. In addition to ULDC requirements, (1) 30-foot buffer on all sides that are adjacent to residential; (2) down lighting on the property; and (3) access only via Highway 27. SECOND by Commissioner Bennett.

Discussion: Chairman Hufstetler asked on that back property, would there be any consideration for maybe 50 feet instead of 30 feet. Commissioner Jennings stated he was going to offer a substitute motion for a 50-foot buffer on the hill. Commissioner Jennings asked would they consider amending that. Chairman Hufstetler stated it is 30 feet now so that would be an additional 20 feet. Commissioner Fricks asked what the side setbacks are on community commercial existing so if they did it on two sides, they did the 50 foot on one side what is the other one on the other side. Sue Hiller stated it is 15 on the sides, 30 on the rear and 20 on the front. Commissioner Bennett stated the buffer can be considered part of the setback too. Ms. Hiller stated the buffer and the setback would be identical in this case except the Planning Commission said that the sides should be 30 feet. Commissioner Bennett stated that is what he is saying, there is nothing gained by the location of any structure there to do that already setting a building back that far. Ms. Hiller stated on that side they would only have 15 feet, because that is a side that is not adjacent. Commissioner Bennett stated there was 30 feet on the north side and 30 feet on the east and Commissioner Fricks was suggesting going to 50 feet. Of course the building would be setting back that far anyway. Chairman Hufstetler stated that is 200 feet so that would be about a fourth of it. Commissioner Fricks stated you have that easement too, is that a setback from the easement. Commissioner Bennett stated they are not worried about protecting the Georgia State Patrol building. Commissioner Fricks stated even if their 15 foot setback from there and they have the easement, if they have to set it back from the easement it would give them less of a developable lot there. Chairman Hufstetler stated he does not know that the setback here is any problem. He stated he does not know that they would necessarily have to have one, but he thinks on the neighborhood side they might could even chip that 15 and get a little bit more room over there.

Commissioner Fricks amended his motion to add the requirement that there be a 50-foot buffer to the rear, and on the northern border. Commissioner Jennings stated on the north and east property line, adjacent to (east side) suburban residential property, there would be a 50-foot buffer. County Attorney Manning stated there would be a 50-foot buffer the other two sides and 15 foot on the south. Commissioner Fricks stated he will amend his MOTION to read that way. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings

" Bennett
Chairman Hufstetler

Motion Carried

2. **FILE #82-2005Z, REQUESTS REZONING FROM H-TR (HIGH DENSITY TRADITIONAL RESIDENTIAL) TO C-C (COMMUNITY COMMERCIAL) TO MARKET PROPERTY FOR COMMERCIAL USE ON PROPERTY LOCATED AT 3102 MAPLE ROAD, LINDALE. ZONING MAP J15Y – 095. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 9 – 0]).**

Chairman Hufstetler called for a motion to open the Public Hearing. Commissioner Fricks made a MOTION to open the Public Hearing. SECOND by Commissioner Jennings. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler asked Sue Hiller, Rome/Floyd Planning Department Director to review this request. Ms. Hiller stated to the north of this property across, Alexander Avenue, is single-family residential. She stated there is also an auto repair and pawnshop located to the north of the property. She stated to the south there is an auto repair shop, even though it is zoned H-TR, and further south H-C. To the east single-family residential and a church. To the west single-family residential and H-TR zoning. She stated this is a corridor along Maple Road, and to the north there is a mixture of residential with some commercial uses including auto repair. She stated to the north there is a service station that does auto repair. She stated this is a corridor along Maple Avenue which is a local street. It is not a highly rated street. She stated it is a mix of commercial and residential. However, the auto repair that is to the north is literally almost in the front yard of this property. She stated there was no one at the Planning Committee meeting that spoke in opposition to this, and the Planning Commission did recommend approval. She stated it comes to them with a vote of 9 – 0 to approve the request.

Chairman Hufstetler asked if there was anyone who wished to speak in support or opposition of this issue.

Support: Rita Odom, 137 Donahoo Road, Silver Creek, stated she is here on behalf of the family, because the owner had surgery this morning, if there are any questions.

Chairman Hufstetler asked if there was anyone else who wishes to speak. Seeing none, he called for a motion. Commissioner Bennett made a MOTION to close the Public Hearing. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler called for a motion. Commissioner Mayes made a MOTION to approve the rezoning request. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

3. **FILE #83-2005Z, REQUESTS REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO M-R (MULTI-FAMILY RESIDENTIAL) TO CONSTRUCT DUPLEX ON PROPERTY LOCATED AT 9 WILKERSON ROAD. ZONING MAP I13N – PARCEL 095. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 9 – 0]).**

Chairman Hufstetler called for a motion to open the Public Hearing. Commissioner Jennings made a MOTION to open the Public Hearing. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes

" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler stated the Public Hearing is now open and asked Ms. Sue Hiller, Rome/Floyd Planning Commission Director, to review the request. Ms. Hiller stated to the north, across the street is single-family manufactured homes. To the south there is a single-family dwelling, and it is currently developed with five duplexes and a small single apartment. She stated east and west along the road is predominately a single-family residential area. However, this particular property has been developed with duplexes for sometime. She stated what the applicant wishes to do is remove the small building about half way down the property on the east side which is currently being used as a single apartment and add one more duplex property to this lot and they wanted to get the zoning right in order to do that. She stated she believes this duplex complex has existed for 4 – 5 years based on tax records. She stated this comes with a staff recommendation for approval and a unanimous recommendation to approve from the Planning Commission.

Chairman Hufstetler asked if there were any questions or if there was anyone wishing to speak in support or opposition of this application.

Support: Debra Nelson, 5 Kenswick Place, stated this was zoned duplexes before they rezoned a couple of years ago, and they were ready to demo the one bedroom which is in need of repair. She stated when they went to get their permit they found out it had been rezoned to single-family. She is here to ask for it to be rezoned back to multi-family so she can tear down a small one that is in need of repair and build a new one.

Chairman Hufstetler called for a motion to close the Public Hearing. Commissioner Bennett made a MOTION to close the Public Hearing. SECOND by Commissioner Mayes. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Discussion: Commissioner Fricks asked if that area is developed out as duplexes. He stated he thought she said that, and she referred to that, but on her adjacent properties she put down there are single-family residential on all adjacent property plans. She stated she believes there is on this particular property.

Commissioner Bennett made a MOTION to approve the request to rezone from S-R (Suburban Residential) to M-R (Multi-family Residential) on File # 83-2005Z. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

4. **FILE #85-2005Z, REQUESTS REZONING FROM S-R (SUBURBAN RESIDENTIAL) TO C-C (COMMUNITY COMMERCIAL) WITH SPECIAL USE PERMIT FOR COMMERCIAL SHOPPING CENTER DEVELOPMENT IN C-C (COMMUNITY COMMERCIAL) ZONING DISTRICT ON PROPERTY LOCATED ON HIGHWAY 411 EAST AT CALLIER SPRINGS ROAD. ZONING MAP K15W – PARCEL 005. (PLANNING COMMISSION RECOMMENDATION: DENY [VOTE: 8 – 1]).**

Chairman Hufstetler called for a motion to open the Public Hearing. Commissioner Mayes made a MOTION to open the Public Hearing. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler asked Ms. Sue Hiller, Rome/Floyd Planning Commission Director, to review the request. Ms. Hiller stated the subject property is currently zoned S-R (Single-Family Residential). To the north it is zoned C-C (Community Commercial) with a large retail development there. To the south it is zoned S-R (Single-Family Residential). To the east there is some undeveloped land S-R (Suburban Residential), and to the west single-family residential and a church zoned S-R (Suburban Residential) as well. She stated this was before the Board in June of 2005 and at that time

the Planning Commission recommended denial and the staff report states that the Board of Commissioners denied it. She stated actually, they asked to withdraw it and they granted them permission to do that without prejudice so they are able to come back to them today. She stated she thinks at the time their decision to allow them to withdraw was based partly at least on their working with the neighborhood. She stated they have come back with a different site plan. She stated the site plan reduces the number of access points on Callier Springs Road to two. She stated she believes there were multiple access points before. She stated it shows a significant amount of buffering on the Callier Springs side of the property. She stated they have made a very good effort, in fact, to try to preserve the residential and suburban character of this subdivision while still developing the commercial use on the property. She stated ariel photos show suburban residential undeveloped land and commercial development to the north. She stated this is a site that has all services and utilities available to it. She stated Highway 411 is classified as an arterial. Callier Springs Road is classified a collector. She stated Shady Lane and Honeysuckle Ridge which are subdivision streets that dead-end on Callier Springs are classified as local roads. She stated this is a site that is not within a flood plain according to the FEMA documents that they use to check those sorts of things. She stated the site plan indicates that they can provide a buffer along Callier Springs Road. They can provide adequate parking although they do not know exactly what mix of retail would go in there. They could provide adequate storm water management on the site. Ms. Hiller stated the Planning Department staff would like to point out that they appreciate the effort that was made to provide the buffering along Callier Springs Road that would provide some protection to this area. She stated they still do have some concerns about the kind of traffic and the volume of traffic that could be coming out onto Callier Springs Road from this subdivision. The row of houses on Callier Springs Road that are part of the subdivision will be facing the backside of that commercial development. She stated their driveways will be coming out onto Callier Springs in the same area where traffic will be coming out of this subdivision onto that road. She stated she thinks for those reasons and because of the concerns of the neighborhood the recommendation from the Planning Commission was to deny this request and that is on a vote of 8 – 1.

Chairman Hufstetler stated did the staff have a recommendation. He does not know if he heard that or not. Ms. Hiller stated she does think they stated a recommendation. They stated that although they appreciated the buffering, they still had concerns about the traffic coming out on Callier Springs Road. She stated if he is asking her for a recommendation, her recommendation would have to be to deny it for that reason. She pointed out that they did not get any comments from the Floyd County Public Works Department concerning the traffic on Callier Springs Road. Commissioner Jennings asked Ms. Hiller if she could point out on the site plan the access points because he is unclear where the access is. He stated it looks like there is an entrance off of Highway 411. She stated one of them is up close to Highway 411 and one is further down and she will defer to the applicant and let them explain their site plan.

Support: King Askew, 9 Oakmont Drive, stated he is here representing R. H. Ledbetter Properties, Inc. He stated the developer of the property and R. H. Ledbetter are here on behalf of Mr. Arp who is the owner of the property. He stated he has, prior to

the meeting, given the County Attorney a position statement which puts in writing a lot of the positions that both legal and factual, and he will not belabor those points but he would like for the position statement which has been filed to be made a part of the permanent record of this hearing. He stated he wants to speak very briefly, and he will let Bob Ledbetter, Jr. really kind of show them the extraordinary efforts that the Ledbetter's have undertaken to accommodate the use of this property and at the same time be sensitive to the residential neighborhood which is immediately behind the property. He stated there is a curb cut on Highway 411 proposed which would be ingress and egress out of the front. He stated there are two cuts into the property itself which is different from the original plan. He stated there even is a suggestion that the project could be divided into two parts so there would be a travel through from Shady Lane straight through the project and out onto Highway 411. He stated he will point out as Ms. Hiller has absolutely correctly done that the Wal-Mart development is directly across the street from this property. To the east of Wal-Mart is a cemetery that fronts onto the property. He stated the property to the east of this property, he believes, is owned primarily and principally by Mr. Martin. He stated that property goes all the way to the intersection where there is a large Texaco station which is very commercial and very active. He stated he will also tell them that tonight Reverend Bob Anderson is here. He stated Reverend Anderson is a Senior Pastor of the Day Spring Assembly of God Church which is immediately across Callier Springs Road to the east of this property. He stated that church is in favor of this application.

Bob Ledbetter, Jr., 101 Fieldwood Road, stated they began this process in June. Prior to June, before they even applied for rezoning, he began his discussions with the Chulio Hills community and met at the church there on several occasions to give them an opportunity to voice their concerns with the issues of this development. He stated without having those concerns in the first site plan, they presented to the Planning Commission and were denied. They took extra care this summer to visit with them on numerous occasions in their offices. He stated they had meetings with John Bennett and with Kevin Poe to deal with the issues they have in the neighborhood with the sewer and water, Shady Lane and Honeysuckle in their respective subdivision. He stated they have tried to be a good neighbor. Not only have they tried they will continue to be a good neighbor should this move forward. He stated they have taken great care to deal with the issues of access, buffering, security and lighting that they have voiced to them. He stated they have gone back to the drawing board and presented a new site plan that reduced the number of access points to the site. They initially had five access points. He stated they went back and aligned the cuts back to driveways. He stated they will hear from the opposition about Shady Lane being too narrow. He stated in their discussions with the county, Mr. Poe, they did discuss about possibly contributing to and helping the access point going into Shady Lane. He stated they would definitely, on their side of the road, have the width of the road wide enough to be more than adequate access to the site. He stated they also discussed with the neighborhood group about traffic. Although they have not had discussions with Public Works, they have discussed with the neighborhood about a 4-way stop to deal with the traffic. That is something they are willing to do should Public Works agree with them that that is what needs to go there. He stated additionally on the initial site plan they had the buildings backed up. He stated these buildings were connected and after hearing from the neighborhood committee group they determined a great asset to

this development would be to provide them another way out so they split the buildings and allowed for a drive to go through the property to give them access out through the neighborhood. He stated in addition they are going to move the drives. They are also sensitive to the fact that they are concerned with the visibility of the shopping center or having a shopping center behind them. He stated at their most recent development, Riverbend, they have screened the dumpsters there and it will not be as heavily landscaped as they have proposed here but they can screen certain things and have down lighting. He stated they have to have security lighting in the back but they can down light the security lighting. They have also come to the neighborhood about widening on their side of Callier Springs Road. In addition to widening Callier Springs Road they would curb and gutter their side. He stated the distance from the back of the curb to the building is 75-feet, if they added a road from the neighbors it is over 100-feet. They have also agreed, in the Planning Commission meetings, to elevate an earth and berm, that is over 1300-feet, and plant trees. He stated with trees and a screen here and the rest a security concern is to put a fence there as well. He stated they have talked about down lighting, all of their developments have down lighting and this would be no different. He stated this development is a community development. He is planning community development retail but it is not regional, it is not going to be massive. It is a small development to compliment the community. He stated it is going to be well landscaped, it is going to be well pointed and well done. He stated they want to be good neighbors out there, and they have tried their best to be good citizens out there. He stated those are the things that they have addressed on the second go around with the neighborhood. He stated he has told them directly if there is anything else they can do to work with them, they know where to get him and they will work with them anyway they can to make this development a part of their neighborhood. He stated he thinks the Planning Commission members really did not, in his estimation, think about the highest and best use, and he thinks that that has been overlooked. He stated those are his final comments and thanked the Board of Commissioners.

Discussion: Commissioner Bennett asked if Mr. Ledbetter could describe the berm that he is going to put there. He stated he understands that it is going to be a mounded earth and berm. Mr. Ledbetter stated the property is elevated to a certain point and what they what they would try to do, so the neighbors can not see into the development, they have not engineered it yet but they have probably seen planned developments where they have a berm and it would be an earth and berm, 4-feet or 5-feet tall. Commissioner Bennett stated the description of it would be an elevated berm and landscaped on both sides, or at least on the Callier Springs side with shrubbery and planting grass and that sort of thing. That Mr. Ledbetter would maintain the shoulder along Callier Springs in a landscaped type design. He asked Mr. Ledbetter if that describes what he is talking about. Mr. Ledbetter stated yes, that is correct.

Commissioner Bennett stated also in the buffer he is talking about he noticed trees, and asked if in addition to that is there going to be an evergreen type screen that would further limit the visibility. Mr. Ledbetter stated they would probably do a combination of evergreens and hardwoods. Commissioner Bennett stated sort of like a Leland Cypress or something that would be opaque so to speak. Mr. Ledbetter stated possibly, he is not a landscape person, but he thinks they would try to use an evergreen to

screen the fence. He stated one of the issues they discussed with the neighbors was maintenance. They talked about doing a wood fence, but a wood fence is going to require maintenance. He stated they sent the neighborhood pictures of vinyl coated chain link fence, but it would be on the side they could not see, and then they would screen that fence so they would not be able to see the fence so there would be a hedge, if you will. Commissioner Bennett stated it is going to be a solid buffer type thing to screen the fence and an evergreen type which will have the leaves or needles all year long.

Commissioner Jennings asked how far is it from the new curb and gutter. Mr. Ledbetter stated his best guess is 1300-feet. Commissioner Jennings stated he said 75-feet from the curb and gutter to the back of the building. He asked how far is it from the curb and gutter to this side of the service drive, basically how wide a buffer is that. Mr. Ledbetter stated there is 15-feet, 35-feet, 40-feet and then there is another 35-feet. Commissioner Jennings stated so he is saying it is 45-feet. Mr. Ledbetter stated they actually moved the buildings forward, towards Highway 411, so they could pick up more buffer. They reduced their parking lots down to accommodate a larger buffer. Mr. Ledbetter stated at some point in the future they would have out parcels. He stated they would be single tenant users. It could be a restaurant. It could be a bank. Commissioner Jennings stated if they are going east they have access through Callier Springs or the main entrance but if they are driving west they have to go to the traffic light and then come down Callier Springs Road or a U-turn.

Chairman Hufstetler asked if there were any other questions anybody has, if not, they appreciate Mr. Ledbetter's comments and they will hear from those in opposition.

Opposition: Elana Beeman, 10 Blueberry Lane, stated she is speaking on behalf of the residents in Chulio Hills subdivision in opposition of Mr. Arp and Mr. Ledbetter's proposal. She stated they, the residents within the Chulio Hills subdivision, continue to oppose Mr. Ledbetter and Mr. Arp's application to rezone Callier Springs Road from residential to commercial development with special use permit for a shopping center due to the injustice that the increasing traffic will bring to their established neighborhood and to the current unsafe roads that are adjacent to Callier Springs Road. She stated that if Callier Springs Road is rezoned to commercial instead of residential there will be an increase in traffic on Callier Springs Road. She stated although the rezoning of Callier Springs Road is their main topic it is virtually impossible to address the proposed shopping center without bringing attention to the present unsafe road conditions that exist. They compound each other. She stated Callier Springs Road is currently a one-lane road that sits on the crest of a narrow hill and is unsafe for two large vehicles to travel safely. She stated currently, as they enter off Highway 411, Callier Springs Road is the only road that they have within their subdivision to actually enter to Shady Lane, Blueberry Lane, Mockingbird Circle and Honeysuckle Ridge. She stated if they are coming off of Highway 411 and turning onto Callier Springs Road and that road is widened, although they have houses that sit on the opposite side of Callier Springs Road, those homes that sit on that road right now have no turn around access there. She stated the only way that residents who live on that street can actually get out of their driveways is to back out. They either

have to back in or back out of their driveways. She asked by expanding the traffic on that road, can they tell her how that is going to make it safe? She stated also, as everyone is using Callier Springs Road, that Callier Springs Road is the only service road that they have to enter and exit their subdivision. She stated as they leave that subdivision and they are coming in off of Highway 411 in that turn lane, either turn lane coming from Wal-Mart or coming from their subdivision or coming off of Highway 411, as the cars are coming in there and the cars are backed up, can they explain to her how an emergency vehicle would be able to enter and exit out of that subdivision? She stated although Mr. Ledbetter has proposed putting a 4-way intersection on Callier Springs Road, which sits on the crest of a hill. That 4-way intersection also is adjacent to Shady Lane which is actually a trail that was paved that is now actually used as a service road. She stated the buses use it, the Fire Department, the postman, all of them are using this road right now. She stated Mr. Ledbetter proposed to put a 4-way intersection at Shady Lane, saying that he is giving them another entrance and exit out of their subdivision. She stated that it is totally embarrassing to them as residents within the Chulio Hills subdivision to tell their guests, their family, their friends who want to come visit them that if they travel down Highway 411. They get onto Callier Springs Road and there is traffic and congestion then they turn around and go back on Highway 411, and they turn into Callier Springs Crossing, Mr. Ledbetter's proposed shopping center, and once they get to that 4-way intersection they play russian roulette just to actually try to cross over. Once they cross over they get onto a road that is actually unsafe to travel down and once they get on that road to be careful because there might be another car passing and one of them may have to dodge between trees. Can they tell her how that is making it safe? She stated they are proud homeowners. They do not want to tell their family and friends to drive to a shopping center just to be able to exit out of their subdivision. Is that their only alternative to make their neighborhood safer or to help them avoid traffic and congestion.

She stated she also wants to draw attention to Honeysuckle Ridge. This is the only road that the residents who live on Honeysuckle can use. She stated this is a one way in and a one way out. She stated as they are traveling up the road coming off of Callier Springs Road, when they get on the top of that hill there are no guardrails, there is nothing. They cannot even widen this road. That is what was told to them. She stated now they are coming the opposite way, trying to get to the stop sign, trying to exit out onto to Callier Springs Road. Once they get to that stop sign, can they tell her how a car will be able to stop safely? If traffic is backed up on Callier Springs Road, they do not know what they are faced with until they actually get to the stop sign. She stated this is what she wants them to see. These are their roads. This is how steep and narrow they are. Tell her how, if traffic is backed up in their subdivision where people are trying to exit, how they will be able to safely exit onto Callier Springs Road?

She stated she wants to draw attention to the buses that actually use Callier Springs Road. She asked are they aware of the fact that bus 96-1 stops at 3380 Callier Springs Road and backs up into Honeysuckle Ridge to turn around. She stated the bus driver is aware of the safety issues that exist in Chulio Hills. She stated Shady Lane is a one-lane road, the bus would become trapped if it meets another vehicle. She stated the lower end of Callier Springs Road is also too narrow for two vehicles to pass and exit by

the way of a cul-de-sac on Honeysuckle Ridge which is just too dangerous. She stated the road is steep and dangerous and there are no guardrails. She stated if a bus driver is afraid to actually turn around on the Callier Springs Road, is widening going to make it better? Also, she wants them to see how the homes are on Callier Springs Road. She stated they do not see any turn around access in those homes right there. If one of the residents wanted to leave their home right there, they would actually have to back up. She stated she does not want them to think they are just talking about this. She wants them to see what they are going through. She stated there is another home that has no turn around access. She stated there is another home on Callier Springs Road where the same thing exists. She stated she wants them to see where there was a truck that entered their subdivision this past October and what happened was the big rig truck that entered their subdivision, where there is a sign that says no through access, the truck actually came through there anyway. She stated there were two accidents that took place on Callier Springs Road the month of October within a week of each other. She stated traffic was backed up. They could not enter or exit their subdivision as the ambulance and police tried to come in off of Highway 411. Because the traffic was backed up there, those ambulances, police officers, and the fire department emergency vehicles could not even enter their subdivision. She stated although Mr. Ledbetter's proposal of widening Callier Springs Road is another alternative, how can they widen a road and want vehicles to actually turn into his shopping center without compounding the problem? She stated they have a 4-way intersection onto Shady Lane. They have cars coming off of Honeysuckle Ridge which is steep. Tell her how that is making that safe for them. She stated in closing, she would like to state the fact that Mr. Bennett made an interesting point when he came out to visit them, and he said that he lives in a subdivision that has only one access in and out of his neighborhood. She stated he also stated Mt. Alto has hills and curves and one service entrance into his subdivision. But the interesting point to this is that these subdivisions do have a Wal-Mart that is adjacent to their proposed shopping center. She stated they have a pastor who claims he is part of the community, and he represents Mr. Ledbetter but he has a for sale sign sitting in the front of his church. He does not live in their neighborhood. She stated Mr. Ledbetter stated that he wanted to be a good neighbor. In order to be a good neighbor they have to reside in their neighborhood. If Mr. Ledbetter actually had a home in their subdivision then they would not be here now. She stated the comparison between you gentlemen, Mr. Ledbetter and each of the Commissioners, is that you all can leave this proposed mess. The difference is that they have to come back to it. They live there. She stated they truly believe that each of them are elected to stand for the people and by the people. She stated now they are asking them to please stand for keeping their neighborhood safe and by the people who live within their subdivision. (Ms. Beeman provided a slide presentation to point out some of her comments).

Chairman Hufstetler stated one question he has is a lot of times he will ask this when people are here, what would they propose should be in there. Ms. Beeman stated when he asks what do they propose should be there, their thing is they cannot create traffic on a road. They do not want it. They cannot create traffic on a road that is their only entrance and exit out of there. She stated they have children that will be driving. They have got teenagers and family members that are going to be driving. By increasing traffic in an established neighborhood that has been there, they are talking about 70 homes. She stated

how can they compromise their safety? How do they compromise to something like that? She asked what would they propose to do there. Chairman Hufstetler asked Ms. Beeman what does she think that land should be used for. She stated they are residential. They are a residential established neighborhood. They are not asking to go commercial. They want to stay residential. She stated they are growing, there are 7 additional homes. Chairman Hufstetler asked Ms. Beeman so she is saying that she think that should be a residential neighborhood. She stated she cannot tell him what to put there, but they are an established neighborhood that has been in existence since 1962. She stated she does not feel like they need to compromise their homes, their frontage, anything like that just for a shopping center.

Commissioner Mayes stated he thinks he asked that same question, and her answer to him was she did not care. Her problem was the accessing to the road and to the subdivision. He stated he believes her answer was that she would rather they did not put all of that access onto Highway 411. Ms. Beeman stated they are not trying to stop the development on Highway 411. They would like to see that area grow, but if the only way that area can grow is to use their service entrance then no, that would destroy their neighborhood. Commissioner Mayes stated so she really does not care if they add a subdivision, she just does not want those roads coming into their subdivision. She stated if Callier Springs Road is the only way that all of this development can happen then no.

Commissioner Jennings stated he drove out there today. Callier Springs Road is a marginal two-lane road, and at some point it turns into basically a one-lane road that goes to Mathis. Ms. Beeman stated every road out there, Callier Springs Road, Mockingbird Circle, all of them are one-lane roads. There is only one way in and one way out. She stated they can only use it one way going up Mockingbird Circle. Commissioner Jennings stated he agrees. At some point that road really narrows and has been recently paved but it narrows down. Ms. Beeman stated exactly, and there are homes closer on Callier Springs Road going toward Mathis Road. Commissioner Fricks asked Ms. Beeman if they attended the meetings where they were trying to resolve the issues. She stated yes they did, and they have not changed their opinion. They wanted to sit down and show that they were willing to listen, but when it comes down to their safety, no. Commissioner Fricks stated he understands and asked if the buffer, or vegetated buffers and lighting were issues. Ms. Beeman stated yes those are still issues. She stated the people that live on the front of Callier Springs Road do not want to look at those lights. She stated Mr. Ledbetter proposed to put a fence up. Shoplifters love retail establishments, a fence is only going to slow down a criminal. Eventually they will find another way to be able to come into their subdivision because they are clever. She stated eventually if they cannot enter their neighborhood they will enter their homes. Commissioner Fricks stated she is showing some issues about safety issues because of the size of the road and everything. He asked Ms. Beeman what would be her suggestion in terms of resolving the safety issues that exist currently. He knows that they are talking about additional traffic, but she is saying they are existing now with the bus and everything else. Just widening of the road, or what would be her suggestions to do. She stated their community was poorly developed and can they tell her when is the last time that some development was actually done out there. Commissioner Fricks asked if she means improvements. Ms. Beeman stated exactly, some improvements

to their development. Commissioner Fricks stated he did ride out to see the state of the roads, and the conditions of the roads. Some of the issues he thinks, like the separated graded roads, are really development issues that he does think would take place today. Commissioner Fricks stated unfortunately they fell through the gap before they had actual subdivision regulations. If there are maintenance issues on those roads, they do have a process of responding, so if they will just let them know. Ms. Beeman stated she appreciates that because they brought the attention of the unsafetiness of what is taking place in their subdivision to the city officials and the county officials. They hope that regardless of whether, which they are praying that the shopping center is not allowed in their subdivision, but regardless even if it is denied they are asking that they please do not forget about them. Commissioner Bennett stated did he understand her to say that they do not object to the shopping center except only the fact that it is causing more dangerous conditions on Chulio. Ms. Beeman stated they are against it because they are going to have a Wal-Mart that is across the street that is going to bring a lot of traffic. She stated they are talking about bringing a shopping center right in their back doors. They are talking about putting a restaurant on a corner of Highway 411, she wants them to imagine the type of traffic that will be in that area and the residents that live in that area. She stated she is talking about 70 homes that live there right now and two churches. One is for sale and one is actually in the community. Tell her the traffic that is going to be compounded in that area and tell her how they are going to be able to enter and exit and how they should feel safe and what they would do to their neighborhood. Commissioner Bennett stated but that is the point, if there were no access from this shopping center to Callier Springs Road would she still have an objection to the shopping center going in. Ms. Beeman stated she would honestly say that if development is going to take place on Highway 411, if their entrance and exit which is Callier Springs Road is not used, how can they stop it. Commissioner Bennett stated he does not understand her question there. Ms. Beeman stated they do not want it because it is going to draw shoplifters, thieves, criminals and burglars in their neighborhood. They do not want it, but if the only way that they are going to vote against it then it is saying that they have to meet some type of compromise. She stated they do not want their service road used but they do not want it. She stated they do not want the thieves in their homes because Chulio Hills is known as curves and hills they are really a great location for burglars to actually hide. She stated they are not going to let a bunch of people come in and cut down their trees. She stated that is what drew them to the area is the quiet. This is a neighborhood that has been in existence since 1962. They are talking about generations and generations whose homes and land has been passed down to children. She stated she has family out there and a lot of friends and if anything happens to them she wants to know that she is passing their land down to their children who will be able to raise their children there. She stated she does not want them to think about burglars or thieves trying to come into their homes because their back door is right across from a shopping center. She stated that is why they actually came to the area. They are talking 70 homes that started off with 10. Now it is 2005 and they have got 70 homes with 14 more houses possibly being built.

Chairman Hufstetler asked if there were any other questions. He thanked Ms. Beeman for her comments.

Mardi Haynes Jackson, 3416 Callier Springs Road, stated her home sits directly across the street from the largest parcel on this development. She stated she will be drastically and directly affected by this. She stated these are our homes. These are the homes that are on Callier Springs Road. She stated she wants to tell them about some of the things that she is concerned about being on the Callier Springs Road. She knows that this being in her front door will bring delivery trucks in the middle of the night. She knows that there will be parking lot sweepers out there sweeping throughout the night. There will be big waste trucks coming to pick up those big dumpsters and dump them, and she will get to hear all of that noise. She stated she knows that there will be lighting. She knows that it is going to be down lighting, but there will be constant lighting throughout the night on in that shopping center shining into her yard and into her windows. She stated there will be signs that blink to display to attract people to that shopping center, and she knows that there will be lighting on those signs. She stated she thought that she had privacy in her neighborhood just like everybody else that lived in Chulio Hills. She moved to the county to raise her family, to buy a home for shelter and security. She stated she is a single parent. She has had her home for over 17 years. She stated just 16 months ago half of Callier Springs Road was paved. They all know it is so small that it was a dirt road up until 16 months ago. She stated that is how much traffic they had on it. There was no traffic on one portion of that road. She stated many family activities happen in the yards and at their homes. They are modest homeowners. She stated Ms. Beeman has told them they do not have big circular driveways in front of their homes. She stated when she backs out of her driveway, she has to back out and she pulls back in and wait for all that traffic to go that is going to the Wal-Mart and then she tries to back out again and she does this two and three times a day trying to leave her home. Can they imagine how many times she will do it when there is a shopping center directly across the street from her house? How she will get in and out of her yard? She stated she enjoyed planting flowers in her yard, playing volleyball and playing with her kids. That is not the kind of things that they do when there is a shopping center across the street from their house. She stated they move their privacy to the inside of their house. They do not go outside any more with that kind of traffic. They do not want this either, and she would like for them to recognize that their name is on this petition saying please do not kill their neighborhood. She stated her home is her greatest and honestly it is her only investment. She does not have anything else, and she is just like the rest of them, when she bought her home she thought that she would live there for as long as she wanted to. Then when she got enough equity in it she would be able to sell it for appreciation value, but tell her who would want her home across the street from dumpsters and a shopping and a strip mall. She does not think that she could sell it to anybody that wanted to raise their family there. She stated she thinks that what she would become is a slumlord. She would rent her house to somebody that did not care about where they live and her house would just deteriorate. She would probably sit and hope eventually that one day her property would also become commercial because their community will eventually die. She stated their neighborhood would no longer exist. She stated she thought that she was living the American dream. She worked everyday. She saved her money. She bought her house, and she took care of it but now she feels like she has been sold swampland. She stated she feels like that she is going to have something that she is not going to be proud of and that her children will not want to come home to. She stated her daughter would not want to come home from school and bring her friends to their house to

cut through a shopping center in order to get to their house. She stated she would not want to send out a shower invitation and the directions on it say to get to her house they have to cut through a shopping center, that is not the kind of directions that she wants to give. She stated she just wants them to know that she feels that this proposal will also put their lives at risk and will destroy their homes and the lives that they have all built and she appreciates the time to tell them that.

Chairman Hufstetler asked Ms. Jackson where her home is located. She stated her house would be the one with the double items on it. She has a separate garage in the back. She stated she lives at the crest of the hill and there is a blind spot. Chairman Hufstetler stated she was talking about the Wal-Mart traffic and he is trying to figure out... She stated the Wal-Mart is across the street so there is traffic coming from the community behind them, the Chulio Road community. There are lots of subdivisions back there so a lot of traffic does cut through now from Mathis Road coming down Callier Springs because of the Wal-Mart there. She stated 16 months ago they paved the lower end of Callier Springs Road which was always a dirt and gravel road. She stated they paved because a Wal-Mart was there and that has brought additional traffic. She stated they cannot pass on the road. If they meet a car somebody has to back up on that road. Commissioner Fricks stated most people that enter that subdivision come in and turn right on Honeysuckle, or continue on up and turn right on Shady Lane. Ms. Jackson stated Callier Springs Road was truly a service road for the Chulio Hills community, that was the purpose of this road. She stated there was an accident on the lower end of Callier Springs where two cars collided and they bumped off their mirrors that is just how narrow that road is, they cannot pass.

Rebuttal: Mr. Ledbetter stated he always hears a lot of emotional issues with the access. Commissioner Jennings stated he does not know that they are emotional. It sounds like there are some issues with that road. Mr. Ledbetter stated and rightly so, and they have not taken that lightly. He stated they have been working on this for 8 or 9 months. He has worked harder on this rezoning than he has any project that he has been involved with in the last 15 years, and he has not taken that lightly. He stated he has got personal relationships with some of the people in the neighborhood, and he understands it. He really does. He stated he cannot empathize because he does not live over there, but he can sympathize with what they are dealing with. He thinks the highest and best use for this piece of property is commercial. He stated the issue is how do they direct development properly and appropriately and that is what they are trying to figure out how to do. Widening the road to improve Callier Springs Road, that is not a cheap endeavor. Adding the berm and the buffers, that is not a cheap endeavor. He stated he is not trying to put a price tag on it, but the reality of it is it costs to that. Here again this is not a major development. It is going to be a community center and can be developed in a nice way. He stated he thinks if they travel around the southeast as he does, they see things like this work if people will work together to make them work with the community, with the Public Works commission on the roads. He stated I-20 near Six Flags, those are ten-foot lanes and there is 60 mile per hour traffic that is flowing through there. Turner McCall Boulevard has 50,000 cars a day, those are 11-foot lanes, they can make it work. He stated they can work together to make the issues with the community work, and they have endeavored to try to do that. They have not taken it lightly.

He stated to rebut some of the issues, there will be no blinking lights. He stated if they go to the latest development they did in Riverbend and look at the deliveries, there is 275,000 square feet there. If they go by there tonight they probably will not see any delivery trucks there. He stated the operations of the shopping center will not be 7 days a week 24 hours a day, they will not allow it. He stated they do not allow it in any of their developments. He stated the 4-way intersection is just something they have discussed in their meetings with Ms. Beeman and Ms. Jackson, that is something they can work together on to create a better intersection there. He stated obviously the county has issues with the roads there. He has gotten the neighbors together with Kevin Poe and Mr. Bennett to deal with the sewer and water issues. They have got to bring the sewer line all the way from the bypass all the way up Highway 411. He stated they have agreed to bring the sewer line all the way to the intersection there so they can tie into the neighborhood and have access to the sewers so if they choose. He stated they have really tried to work hard on this and will continue to try to work to make it as safe and secure and aesthetically pleasing to the neighborhood as best they can. He thanked them for taking their time to listen to their comments and asked if they have any questions.

Commissioner Fricks stated he has been meeting with the neighborhood and Kevin as well. He asked Mr. Ledbetter if he could summarize some of the issues that have been brought up in some of the early meetings and how he has addressed those even in the change in the site plan. Mr. Ledbetter stated he thinks the biggest issue is Callier Springs Road. What they have looked at doing is widening this as much as they can on their side to make that road wider to deal with vehicles. They had a clip where the bus was pulling into the left turn lane to Highway 411. They can see the difference between the widened road and the narrow, and they would endeavor to try to make at least on their side or if they can on the other to make the road wider to those standards. He stated obviously they cannot build a road or widen the road to their standards. They have to do it to what the county standards are. They have looked at adding curb and gutter and widening the road. This is something they think they need to do to be responsible and they are willing to make that commitment. He stated another issue was with the security. He stated if they had apartments, or multi-family or another single family, they always have security issues no matter if they have a neighborhood or whether they have a shopping center development and they have dealt with that with the buffer and dealt with that with the screening and fence. He stated regarding the access to Callier Springs, they reduced the number of driveways. They have heard concerns about them. The neighbors on that road backing into the road, and they had curb cuts along Callier Springs Road. They removed those curb cuts and put them at intersections where there is normal traffic patterns. Those are the things they have talked about and looked at.

Commissioner Jennings stated one of the things he thinks they have talked about along Highway 411 are frontage roads. He asked Mr. Ledbetter if he has considered a frontage road that would come right into the property where there would be then no access to the property at the other two proposed areas. Mr. Ledbetter stated before they go to the zoning map to make the access work they need to come back to Shady Lane to a degree. There is about 300-feet from the intersection, so at some point they can have a frontage

road, but where they start it they have got to be able to have adequate access so they will have movements off of Highway 411. So yes, they could do that. He stated the dotted lines in there are just so they can have vehicular movement through these parcels. Mr. Ledbetter referred to the ariel photo, pointing out property he would imagine at some point will become commercial. He stated they are letting them do all of the heavy lifting, and when they settle in on the bypass through here where obviously a frontage would have to run. He stated they have got to run sewer all the way up which is another benefit. The neighborhood will benefit from that as well. He stated the bottom line is they could do a frontage road through there, and they had actually talked to them about that in a very early stage, but at this point in time they could work with the property owner to do that. He stated they have allowed for that to a degree. They could extend a road into that property should the adjacent property owner decide to develop that property at some time in the future, so they could have a lot of inner changes within the properties.

Chairman Hufstetler asked how important, along those lines, would that entrance be? He stated he knows they have got to have some way to get to the light, but could it be through a combination of what he is talking about or something else to try to limit this from exiting back into the neighborhood area. Mr. Ledbetter stated the idea really would stem from giving the neighbors additional access out of the neighborhood. He stated they could study that, and he thinks they could probably make it work. He stated here again, he guarantees, they will use it once it is there it is going to get used there is no doubt about it and so he would say to them would the neighborhood be willing to live without it when they do not have it. He stated when they do not have to go up here to make this movement here and they have better line of visibility and they can make a right turn if they are going to go out just to be a lot easier. Commissioner Fricks stated in comparison, Wal-Mart for example across the street just provides one major access off the intersection, and then no other access and then a right in right out too so he would have about the equivalent amount of access if he used that one. Mr. Ledbetter stated he thinks DOT would give them one but this stemmed from one of his meetings with Ms. Beeman and Ms. Jackson and the other members of the neighborhood about trying to give the neighborhood additional access out of Chulio Hills.

Commissioner Jennings stated he would like to ask Ms. Hiller a question again. He stated they have talked about in developing from commercial space to residential space, that there be something in between commercial development and single-family residential development. That something could be condos, multiple-family kinds of circumstances, what would she consider a transition from commercial to residential. Ms. Hiller stated typically the ULDC talks about a couple of ways of providing some separation between residential and commercial which is considered a fairly intensive use. One of course, is putting some kind of buffer in. As they have seen that that does provide some separation. The other thing the ULDC talks about is transitional types of uses like perhaps something that would be zoned O-I, an office type use that would be an 8 – 5, five days a week during the day type of use, something that might provide a transition between single-family residential and commercial. She stated another use that the ULDC talks about is some kind of multi-family residential use that could be provided. Perhaps on this particular parcel, the light green area may be appropriate as commercial, because it is in the corridor

along Highway 411. It can be accessed via the access point on Highway 411 and maybe a different use on the back of the property might provide that transition. Commissioner Jennings stated they often hear the term the highest, what is that term, the highest and best use of the property would she consider that to be the highest and best use of this property. Ms. Hiller asked if Commissioner Jennings was talking about commercial or doing something more transitional. Commissioner Jennings stated folks come in front of them all the time saying they have got to allow this the highest and best use of the property and that usually supports their argument that they have got to have this commercial strip mall. He stated it seems to him the highest and best use of this property provides for the transition that they are talking about here. Ms. Hiller stated she thinks that highest and best use is somewhat in the perspective a speaker has. Obviously from the applicants point of view commercial in this location is the highest and best use. She stated what they are hearing from this neighborhood is that they feel the highest and best use may be something less intense. She stated their perception is, and she is not saying that is an incorrect perception, that commercial development on this site no matter how carefully it is buffered is going to impact their lives, their property values, their enjoyment of their property in ways that they feel are very difficult to mitigate. So from their point of view the highest and best use would be something other than what is being proposed. Commissioner Jennings stated what they typically would look at some kind of transition from one like a heavy commercial use or commercial use to a residential use. Ms. Hiller stated planning tends to favor residential uses when it comes to that decision, that is correct.

Commissioner Bennett stated of course when they make that transition if they went to office or if they went to multi-family residential traffic. The problem is not really mitigated all that much especially because they are using apartments multi-family about the same time that these people are leaving going to work and coming home, so the traffic patterns would probably be more intense in multi-family. Office would be similar, people going to work and leaving work and so the middle of the day would have less traffic use. He stated there is also the concept of zoning that they now go to villages, which does integrate commercial areas adjacent to residential, so it is according to what perspective they are taking. In fact they are in their land use plan going down Highway 411 trying to come up with a village type concept so that they can concentrate the development in one area and it be mixed use with commercial and residential so that they do not wind up with so much sprawl. It depends on where they start from in their thinking is how they determine is commercial detrimental to residential or is it supportive of residential.

Commissioner Jennings stated he agrees with Commissioner Bennett. He thinks a major issue for them as a county is that road is inadequate. He asked Kevin Poe if part of his thinking is that they, as a county, need to upgrade that road and is that in their long-term plan. County Manager Kevin Poe stated no matter what, the road needs to be upgraded. Chairman Hufstetler asked what kind of width do they have on that road, he has heard it starts off at a certain point and gets narrow, how many feet. County Manager Poe stated it is basically a one-lane road on the backside. Commissioner Bennett stated it is a one-lane road past Shady Lane. Chairman Hufstetler asked what the width is before that. County Manager Poe stated it is another one of their substandard county roads. One of many where they have development occurring that needs to be improved. It definitely, no

matter what, improvements need to be made. They are going to have to work that into their work plan and take care of it. Commissioner Jennings stated it has been noted, and they have the adjacent property that will be right on the new bypass. He stated he is wondering whether they ought to think outside the box on this one and try to figure out how that whole area can and should be developed that creates perhaps a village concept. He agrees with Commissioner Bennett there and he is not sure that doing it piece mill is going to get to that. He has some worry about that.

Chairman Hufstetler stated at this point they may want to close the Public Hearing and go ahead and have their discussion. Commissioner Fricks made a MOTION to close the Public Hearing. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Discussion: Commissioner Mayes asked if they are looking at tabling this today for some more investigation or do they go ahead and vote on it. Commissioner Fricks stated one thing, he thinks, that both parties have been working to try to come to a compromise on this thing for quite a while. He stated he does not know that tabling it is going to give it an extra step or whatever. He stated he thinks they do have a willing party to work with the concerns of the neighborhood, and that is one thing that he is pleased with is that they have that situation. Commissioner Jennings added and a party that has been known in this community for quality development and the willingness to talk and to listen, he certainly appreciates that. Commissioner Jennings stated what worries him is that he does not think they are there yet in terms of division for this area. He does not think they are there yet as far as the county's participation, because they have an inadequate road for the subdivision as it exists right now , not withstanding what would be added to that. Commissioner Fricks stated it was interesting because he thinks the perspective which creates more traffic into the intersection was an effort for them to reach a compromise to provide that second exit so he guesses the question he has is the necessity of that second entrance in that subdivision. If they control all of the access to the first section of that first entrance adjacent to the 4-way stop, they are going to have an expanded intersection there just like they would a widened road like they did on the Wal-Mart development. He stated it would not have as much of a negative affect of the internal portion of the subdivision in that case because they have taken care of that with berms and plantings and security fences. He stated he does not know if that would be workable with the developer or not, but he thinks that would kind of eliminate some of the concerns that they are talking about. Commissioner Bennett stated that is a one-lane road going up into Shady Lane. He stated the 4-way stop there would tend to slow some of the traffic down. It is on a crest of a hill, but they would just have to advertise it with signs or blinking lights or whatever which

would slow traffic down and give the alternate access in and out of the subdivision. He stated traffic is going to be problematic whether or not they do anything because of development in that area. It is going to have to be addressed, and it is going to come through that intersection. He stated his concern is to try to make it as unobtrusive as possible to the existing neighborhood. He stated that in traffic, he thinks the developer is trying to address that at least taking all the right of way on his side of the road to widen the road for turn lanes and to get adequate lanes which is what they have on all parts of the road. There again it is the concept of whether or not this is detrimental to a residential neighborhood and that is what he is wrestling with is what to do about it.

Chairman Hufstetler stated this is a tough one. This is a good established neighborhood and they want to protect it. On the other hand they look at this Highway 411 corridor and it is going to be commercial on the frontage there. Commissioner Bennett stated they just did it up the road. Chairman Hufstetler stated there is no denying the eventuality of that as much as they would like it and he knows how that goes. He stated he lost his back yard growing up to a highway, it happens whether they like it or not sometimes. His thought on that road was, if the entrance just came in there at least until the time that road could be improved or upgraded, then that would keep the traffic out of the neighborhood and have it buffer off. He stated he was not sure if that was acceptable to the developers. Commissioner Bennett stated actually he thinks Mr. Ledbetter left the Shady Lane intersection in there for a couple of reasons. One was to give additional access out of the subdivision so that they would not be forced into using the intersection that now exists. Also to give people from that subdivision, he would think they would hope they would be customers into that shopping center. Plus, if they are going to be putting in the berm and the buffer up through there an widening that road now would be the time to take advantage of it. Commissioner Mayes stated at the same time he is hearing them say that that is going to bring traffic too far into the neighborhood. Commissioner Fricks stated that is the tough part about it, it is hard to figure out what the answer on that one is. Commissioner Jennings stated he does not think they are there yet, he thinks this whole area on the east side of Highway 411 from really even before Callier Springs Road down to where the proposed bypass, he thinks there needs to be a vision for that whole area of what it could become. He thinks the county needs to be involved in that because they have got to consider access. They have got to consider Callier Springs Road. They have got to consider possibly frontage roads and he thinks this is putting a huge round peg into a small square hole and it just does not fit yet. He thinks that if they think with some vision they can create the kind of thing that Sue Hiller is talking about that has commercial but then has something in between commercial and the single-family residential and they are not there yet. Chairman Hufstetler stated he does not think that they have enough space there to do that. The reality of it is that development is close to the highway. Commissioner Jennings stated what he is saying is that they have an additional huge piece of property over here that eventually is going to go commercial, and why not include that in the vision or how all of this works together rather than doing it on a piece mill basis and engage their Planning Department in the process of helping them to do that, to create the kind of community that they want. Commissioner Bennett stated if they go multi-family residential he does not think they solve the traffic problems. Commissioner Jennings stated that is what he is saying, that there needs to be some kind of transition and he thinks they have heard that that is kind of

a highest and best use of this kind of transitional property. The county should consider that whole piece from Callier Springs Road down to the bypass and what could be there as a total package as opposed to this small piece of this.

Chairman Hufstetler called for a motion to approve, deny or table. Commissioner Fricks made a MOTION to approve the zoning change with a Special Use Permit for a commercial shopping center development conditioned upon having only one entrance off of Callier Springs Road, which is the entrance closest to Highway 411 as shown on the site plan, and conditioned upon the applicant participating in road improvements from the intersection of Callier Springs Road and Highway 411 to the entrance to the development. Conditions also include fencing, down lighting, berm, evergreen and hardwoods as shown on the site plan. SECOND by Commissioner Bennett.

Discussion: Chairman Hufstetler asked Ms. Jackson if this were to be approved with only this entrance, would they rather it be approved with both entrances or, he knows that they are going to think that is a 'pick your poison' type thing but he is just asking a question, or with just that one there. Ms. Beeman stated of course they came here with their main objective to oppose the development all together. That end will be just as unjust and it will still have some of the same problems that they addressed, other than the traffic coming all the way up into their neighborhood. But with their approval, they are talking to Mr. Poe about widening the road and improving the lower end of Callier Springs. If they approved it with them entering the shopping center down at that end, then they go back and widen the rest of Callier Springs Road, then the traffic is going to go in both directions and still come up through their neighborhood in front of their homes. She stated they are doing something and then wanting to improve the other end and make the problem exist all together. They will still have the same problem, traffic will be backed up coming into that shopping center and they will still be backed up trying to get in and out of their subdivision. Chairman Hufstetler stated he wanted to get her comments on that. Ms. Beeman stated that entrance by the way is at Honeysuckle Ridge. Commissioner Bennett stated that first one down close to Highway 411 is Honeysuckle Ridge and Shady Lane is the other one. Chairman Hufstetler asked if there was any other discussion on this. Commissioner Bennett stated Commissioner Fricks' motion would include the berm and the permanent buffering. Commissioner Fricks stated yes, conditions identified in the site plan. Commissioner Bennett stated subject to the berm and the permanent buffer. County Attorney Manning asked what would those be just so they can be clear on that. Commissioner Fricks stated they would have the vegetated buffer, the berm and the non-directional lighting, and just again, things that condition them to try to do everything that they can to maintain the integrity of the neighborhood as well and he thinks they were somewhat until now and make that during the development and this may fit into the category for the future, with that access even if they did a frontage road continuation right across there it would fit into that same entrance right there, that would be kind of like the opening and they have got the security fences up. Commissioner Jennings stated he just does not think they are there yet on the vision for this piece of property and the vision for what they are trying to create which is these transitional kinds of spaces and activities. Commissioner Fricks stated in considering what Commissioner Jennings is saying, they always hear him say he tries to plug himself in as if he lived there and considering that if

they put a multi-family residential area over there, if he were a resident across the street looking at it, he would rather have the back of a building where very little activity takes place which kind of serves as a buffer from the mass traffic area separated by the additional service road and then separated by a berm and a vegetated buffer or would he rather have a driveway adjacent to him that might be supplying a multi-family dwelling area. Commissioner Jennings added that might have parks, that might have walking trails, that might have a variety of amenities associated with it. Commissioner Fricks asked what is the density that is available over there currently in the zoning, probably a half acre. How many units could they probably get in there? Commissioner Bennett stated if they did a transition and they wanted multi-family it would be three story probably a garden type units and what is their density. Ms. Hiller stated 14 per acre.

County Manager Poe asked to what extent would they require the developer to participate in the road improvements. Commissioner Bennett stated there would be none required under this except up to that intersection. County Manager Poe stated what about once they pass Honeysuckle Ridge. They are talking about improving Callier Springs Road. Can they require them to give them some additional right of way so that they can make those improvements in the future? Commissioner Fricks stated he cannot answer the right of ways, but to service what the needs of the neighborhood are. Sometimes they think yes we need to do that, then again is it going to promote additional traffic too, so he really does not know the answer to that one. Commissioner Fricks stated it is a pretty good situation for the neighborhood is possible to keep as little traffic, so improving the road was actually one of the questions that Chairman Hufstetler asked is that widening the road would probably create more traffic. County Manager Poe stated then it might come back and the berm would be in the right of way. Commissioner Bennett stated he was saying they need to lay that out now so that the berm can be put in there. Chairman Hufstetler asked do they need to have that as part of the motion that it would be reviewed for the right of way. County Manager Poe stated he does know how much, he guesses if they could take his typical road section that he would show them that they require, just where he is showing the property line, that they require him to give whatever additional right of way will give it back to where he is showing the property line and he does not know how much that is. Commissioner Jennings stated if they have a school bus that is backing down the road to turn around they need more right of way. Commissioner Bennett stated the problem with this is it is not going to change. If they do not improve that road up there that bus, if there is a student to be picked up there will not change, there is still no place to turn around. If he gave them an extra 25-feet they would still have to see-saw the bus around and around trying to turn around, because there is no place to turn unless they go up to Shady Lane and go up into the church parking lot and make a u-turn and come back out, it still will not work. Commissioner Jennings stated so the vision of all this is not there yet. They are not there yet in terms of how this whole project should fit together with what the county needs to do in that particular area and he would then argue that they are premature in approving this rezoning request. Commissioner Bennett stated the point is they will never get there without addressing the improvement of Callier Springs Road at least to Shady Lane or past that. But there seems to be an objection to that, or a perceived objection to that, because in doing that it would promote more traffic on that road therefore do not do it so at any time that they do it if in fact that generates more traffic then improving the road is going to

generate more traffic without improving the roads they do not address the situation of the bus and whatever vision they have is they either improve that road or they do not. Chairman Hufstetler asked if there is any other discussion or is there anything else from the county manager or county attorney on the motions that they think needs to be addressed. Being none, he asked the clerk to call the roll. VOTING:

YES	NO
Commissioner Fricks	" Mayes
" Bennett	" Jennings
Chairman Hufstetler	

Motion Carried

Chairman Hufstetler stated he does want to protect the neighborhood and he really thinks that limiting that entrance will do that and because of that he voted yes.

5. **FILE #14-2005SUP, REQUESTS A SPECIAL USE PERMIT TO CONSTRUCT A DUPLEX IN A H-TR (HIGH DENSITY TRADITIONAL RESIDENTIAL) ZONING DISTRICT ON PROPERTY LOCATED AT 328 ALFRED AVENUE, SILVER CREEK. ZONING MAP J15Y – PARCEL 451. (PLANNING COMMISSION RECOMMENDATION: DENY [VOTE: 6 – 3]).**

Chairman Hufstetler called for a motion to open the Public Hearing. Commissioner Bennett made a MOTION to open the Public Hearing. SECOND by Commissioner Mayes. VOTING:

YES	NO
Commissioner Fricks	
" Mayes	
" Jennings	
" Bennett	
Chairman Hufstetler	

Motion Carried

Chairman Hufstetler asked Ms. Sue Hiller to give a presentation on this property. She stated the request is not to rezone it but to build a duplex on the property. She stated the property immediately to the north has two duplexes on it. The properties to the south, east and west have single-family dwellings on them. She stated this is a residential area that is developed almost completely. They received comments from the Floyd County Water Department that the waterline from Alfred Ave is only a 2” main. The

property is not within a floodplain. She stated the site plan submitted with the application shows that the required four parking spaces could be provided on the property and shows all of the setbacks will be met. No buffers are required. She stated staff recommended approval. There was an adjacent property owner who spoke in opposition in which he said that the existing duplexes are not well kept, and she had photographs to support that. She stated the Planning Commission made a motion to recommend denial. She stated that motion was carried on a 6 – 3 vote.

Support: David Guest, 221 Center Road, Silver Creek, stated he bought this piece of property about six months ago for his daughter. He stated his plans were to build her a duplex there and let her and her husband live in one side until they could afford a new home and rent the other side for the payments. He stated he owns duplexes to the north of it, and that would also give him somebody there to help watch what goes on. He stated the opposition he had at the other meetings is, he has not really cleaned this lot yet. He was not aware of the trash problems at the back of the property but that will be cleaned up. He stated he has got a guy lined up to do the cleaning. He stated regarding the noise problem, he talked to other neighbors and nobody else had any problems. He did find out there was a temporary visitor over there with a loud stereo but that has been taken care of.

Commissioner Jennings clarified with Mr. Guest that there are single-family residences around. Mr. Guest stated he has three lots, with two duplexes to the north, he has three lots that face them.

Opposition: Misty Koon, 331 Flora Avenue, Silver Creek, stated her property is adjacent to that of where Mr. Guest wants to build the new duplex. She stated her position, as well as that of all her neighbors that surround this property, is that they are not happy with the noise and the trash that is the result of his current duplexes. Mr. Guest came to her home several nights ago and told her that he intended to build this duplex for his daughter. He also told her that if he built the duplex it would be at the front of his property, but if he had to build a house that it would be at the back of the property to be up against the fence to her property. She stated he also told her that he intended to clean up the trash that he has not owned the lot behind her for very long. She stated she looked today before she came to the meeting, and as he said he has not cleaned up that property yet. On the way to the meeting she spoke with Ms. Kemp who lives at 327 Flora Avenue, adjacent to the back of the existing duplexes, and he has not cleaned up the trash there either. She stated he said at the last commission meeting he was unaware of that trash problem but then he had complaints. She stated she does not know why he was unaware of that problem, he has not cleaned up the trash there either, and she thought that he would clean that up before he came to this meeting. She stated also the question about the 2” water main which is not sufficient for a multiple family dwelling. She stated she has spoken with neighbors in regard to that as well, they do not have wonderful water pressure. Probably a lot places do not. She has lived in other places that do not. She stated they do not know if that is a result of the existing duplexes. She stated he wants to build a residence for his daughter. That is great. She thinks that that means he is a great father and she is all for him building a house on that property. She stated she looked long and hard before she bought her house. She is a single mother and she fully intended to be buying a house that she will stay in so

that her daughter can grow up there. She stated that she can tell them, and she can speak for the rest of her neighborhood, she will put her house up for sale if another duplex is constructed there. She stated she has pictures of the trash on both properties and she has a petition as well that the neighbors have signed. She thanked the Board for their time and stated that is all she had.

Discussion: Chairman Hufstetler asked any questions anyone has. Commissioner Jennings asked Sue Hiller what was the reasoning of the Planning Commission to deny this. Also, the water issue is concerning. Two-inch waterlines throughout the community are problematic for them and he does not know where this particular street fits on their list as far as upgrading. County Manager Poe stated it is on their list, this is another one of the old communities that are on 2" waterlines. Commissioner Jennings stated and certainly they do not have hydrants for fire protection either. Ms. Hiller responded to Commissioner Jennings' questions stating she thinks there were a couple of things. She stated first of all, the ULDC treats duplexes on the individual lots very similarly to single-family dwellings on individual lots. She stated obviously with duplexes they are talking about rental property. Although single-family dwellings can certainly be rental property, duplexes are almost always rental properties and what that goes back to is if there are occupants in the building who are not good neighbors and if no one is making them be good neighbors then of course that would fall to the landowner. Ms. Hiller stated all public services are available to this property.

Rebuttal: Mr. Guest stated the only other thing he has is that he talked to Ms. Koon, he is going to plant a blinder across the back of the property if that would help. He does have a contractor lined up right now to clean all the underbrush. He stated that property has already been cleared it is just grown up terribly, and of course he will take care of all the trash. He stated if his daughter is living there that will take care of any problems they are made aware of. Commissioner Fricks asked, is this the specific design he is planning on going with. Mr. Guest stated yes but the lower part of that will be a basement. The drawing does not show it exact. He stated that property drops off from the road. Commissioner Jennings asked how long have the existing duplexes been there. Mr. Guest answered since 1985. Commissioner Fricks asked what setback is he looking at proposing. Commissioner Fricks asked if the sewer is in the back of the lot. Mr. Guest stated no. There is probably another 50 or 60 feet. Commissioner Fricks asked if he is planning on developing this on the very front end of his lot, with probably at least a third of his lot back in the back. Mr. Guest stated he would probably have 165- feet.

Chairman Hufstetler asked if there were any other questions anybody has. He thanked them for their comments and called for a motion to close the Public Hearing. Commissioner Mayes made a MOTION to close the Public Hearing. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes

" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler called for a motion. Commissioner Jennings made a MOTION to deny this request. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
Commissioner Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

CHAIRMAN HUFSTETLER CALLED FOR A 10 MINUTE RECESS AT THIS TIME.

Following the recess Chairman Hufstetler reconvened the meeting.

6. **FILE #16-2005SUP, REQUESTS A SPECIAL USE PERMIT TO CONSTRUCT A CONVALESCENT HOME IN A S-R (SUBURBAN RESIDENTIAL) ZONING DISTRICT ON PROPERTY LOCATED AT 25 BAKER STREET AT BURLINGTON ROAD, SHANNON. ZONING MAP M11X – PARCEL 060. (PLANNING COMMISSION RECOMMENDATION: APPROVE [VOTE: 9 – 0]).**

Chairman Hufstetler called for a motion to open the Public Hearing. Commissioner Mayes made a MOTION to open the Public Hearing. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Chairman Hufstetler asked Ms. Sue Hiller to give a presentation on this property. She stated the subject property has frontage on three streets, Todd Road, Baker Street and Burlington Road. She stated what is being proposed here is a nursing home and they do have a site plan of that. She stated to the north is a Dollar General store it is zoned S-R (Suburban Residential), to the south there is a single-family dwelling, to the east there is single-family dwelling and to the west there is a duplex and a fire station. The zoning in the area is a combination of S-R (Suburban Residential) and O-I for the fire station. They have one legal non-conforming use and that is the Dollar General store. Ms. Hiller stated the subject property is about an acre and a half in size, and it is in an area where all services and utilities are available to the site. She stated all of the roads that access this property are classified as local roads and Burlington Road has a somewhat variable right of way. However, it would provide access from the property to the Calhoun Highway which is approximately 1,000-feet away. The properties between this property and the new Calhoun Highway tend to not be residential in nature. She stated this is not within a flood plain although that is not an indication that there may not be some water issues with the property. However a drainage and storm water plan would be part of the development for this. She stated the site plan that they have does indicate that setbacks could be provided. Parking for a nursing home has to be provided at the rate of 1 per 4 beds and she thinks the plan that they have indicates 19 – 20 spaces which would accommodate up to 80 beds at this assisted living/nursing home. It does not show all the landscaping and water management, but it does indicate that there is space on the property for those. She stated staff recommended approval of this. She stated there was an adjacent property owner who spoke in opposition because of water concerns and concerns about traffic and noise. She stated the Planning Commission recommendation is a unanimous recommendation to approve this, but condition it on access to the property being only from the Burlington Road, not from either of the side streets which are truly more residential in nature and serve the residential area.

Chairman Hufstetler asked if there is anyone who wishes to speak in support or opposition.

Support: Jack Norris, 9780 Dixon Industrial Boulevard, Jonesboro, stated he is from the Shannon area. He stated he graduated from Model High School in 1962, moved to the Atlanta area about a year thereafter and has been in the Atlanta area ever since. He stated he has come down to the point in his life when it is about retirement time and he wants to move back to Shannon. He stated he noticed that there is not a lot going on in Shannon. He knows the cotton mill is shut down. He bought that property, he owns the home directly behind that property. He stated this will not be a heavy convalescent home it will be an assisted living home. He stated they are thinking more like 50 beds instead of 80. He stated they are thinking on one level that the property is level, it has good drainage, contrary to what the neighbors have said the property is well drained however, they will need a condensation pond for water drainage. It is a good thing he thinks for the community and for him because his objective is, he is 61 years old and he does not want to retire he wants to serve and he thinks he can be of service to the community. Commissioner Mayes asked if it is a one-story building. Mr. Norris answered yes it will be.

Chairman Hufstetler made a MOTION to close the Public Hearing.
SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

Commissioner Mayes made a MOTION to approve with the same conditions as agreed upon by the Planning Commission (*Access to the property being only from Burlington Road*). SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

ULDC REVISION:

- 1. REVISE ARTICLE 2.11.3 (E) CONCERNING DECISIONS OF THE ZONING BOARD OF APPEALS AND ADJUSTMENTS. (PLANNING COMMISSION RECOMMENDATION: TABLED).**

No Action.

CHAIRMAN'S REPORT:

- 1. APPOINTMENTS TO NEW BUILDING INSPECTION/PLANNING COMMISSION OVERSIGHT COMMITTEE.**

No Action.

- 2. REQUEST FROM JOSH TULLIS REGARDING 394 WOODS ROAD:**

4/5 VOTE REQUIRED:

Chairman Hufstetler stated one thing he did want to discuss at this time was a request by Josh Tullis. He stated some of the information provided to them earlier was that there have been some procedural changes within the Building Inspection Department to try to notify better in the future. So the question is really going to be, whether this goes before the city in a month or whether it is 3 or 4 months if he understands that correctly. He asked the county attorney if that is correct. County Attorney Tommy Manning stated yes. Commissioner Jennings stated the Public Hearing has been advertised for the City Commission in their December meeting.

Chairman Hufstetler called for a motion to place this item on the agenda. Commissioner Mayes made a MOTION to place the item on the agenda. SECOND by Commissioner Fricks. VOTING:

	YES	NO
Commissioner Fricks		
" Mayes		
" Jennings		
" Bennett		
Chairman Hufstetler		

Motion Carried

Commissioner Jennings stated he was just wondering, it has been advertised and in the process they discovered that their motion to deny did not include without prejudice, and so what has happened here at some point the attorney for the Planning Commission got involved and said well, they have advertised this but they really cannot hold the Public Hearing unless the county changes their original motion to deny. Assistant Manager Sammy Rich stated that is correct and he believes the applicant was instructed that perhaps unless the Board chose to waive the 12-month requirement that his application would be pulled from the agenda.

Commissioner Bennett stated now that they are on the agenda, he made a MOTION that they waive the 12-month requirement. Chairman Hufstetler stated maybe change it to 6 months, is that not one of the options in there. Commissioner Bennett stated change it to 6 months to allow them to re-apply for a zoning change. County Attorney Manning stated since that 6 months has transpired and if he understands Commissioner Bennett correctly the motion would allow them to proceed with an application for a zoning change. Commissioner Fricks asked should they state why the procedure has been changed now and proper notification in this situation probably was not given and that is the reason that they are justifying the change. Commissioner Bennett stated that sounds about like his motion. SECOND by Commissioner Mayes.

Discussion: Commissioner Jennings stated he wants to be clear that his yes vote is because of the procedural issues. He stated he still has strong reservations

about a duplex community being placed in the middle of residential areas and that led to his motion and vote to deny this request. He stated he thinks that area well represents the kind of thing that they have been trying to talk about, or at least he has been talking about, here tonight is a transition. That transition exists at the beginning part of Woods Road down near Highway 20 and so his intent would be, if this did in fact pass the City Commission, to ask the County Commission to within their 15 day time period to look at possibly going through the process of noting that they denied the request and that they would seek some kind of arbitration in this issue in light of the neighborhood and their original vote to deny. He stated he is going to vote yes on this, but he is not voting yes to saying he is in favor of this project. Chairman Hufstetler stated he agrees. They are not retrying the case right here this is a procedural issue. Commissioner Jennings stated this is a procedural issue and he thinks that needs to be clear when this goes to the Planning Commission and the city that this was simply a procedural vote.

County Attorney Manning pointed out a couple of things. Number one is he viewed the motion as being made pursuant to 2.2.1 on page 17 in the ULDC which allows the Commission to shorten that usual 12-month period to 6 months and he also viewed that does not affect the previous denial. That was the Commission's finding. He stated he also wanted to raise something to them so it will not be a surprise. The way he reads the ULDC under section 2.2.3 (e) 5 is if there is an attempt to rezone areas to be annexed in the city, the way he reads the ULDC is that only if the action by the city is contrary to the recommendation by the Planning Commission would the county then become involved by voicing it's objection and then going on to have the arbitration option. That is the only way that the county would be involved under the ULDC. If the Planning Commission voted the same way the City Commission did then they would not be involved. Sue Hiller stated she also wanted to point out that she thinks that is what the ULDC says. However, she believes in the Shared Services Agreement there is a provision that says if someone annexes into the city, within 24 months any rezoning requests has to be sent back to the county which has been their practice in the past. County Manager Kevin Poe stated he thinks they will find that in the House Bill 489 Agreement. Ms. Hiller stated she thinks it is two provisions, if the Planning Commission recommends against this project but the city were to approve it they could appeal that to the city with 15 days. Regardless of what happens they would be notified of any rezoning request and they do have some rights under the House Bill 489 Agreement to have input into that. County Manager Poe stated he thinks it is similar to what is in the ULDC, it still has to be that the city has to take action contrary to what the Planning Commission recommends. Ms. Hiller stated right, but it does extend that time period out to 24 months. County Attorney Manning stated this has not gone back to the Planning Commission, but it will. Commissioner Bennett asked Ms. Hiller if the Planning Commission recommended approval the first time. Assistant Manager Sammy Rich stated 8 – 2 to approve. Commissioner Bennett added and then it was denied here so it does not really have to come before the Planning Commission. Chairman Hufstetler stated it will go back before them again because it is a new application. VOTING:

YES

NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

COMMISSIONER'S REPORT:

1. ADMINISTRATIVE/FINANCE COMMITTEE – COMMISSIONER FRICKS, CHAIRMAN

a. Discuss proposed changes to Injury Leave Policy. (Deferred August 23, September 13, September 27, October 11, October 25, and November 8, 2005)

Commissioner Fricks stated the only item they had was the recommendation on the proposal to change the Injury Leave Policy to 3 months. Commissioner Bennett asked is the recommendation to change to 3 months. Commissioner Fricks stated yes that is what it would be. Commissioner Bennett asked do they have to do that. Commissioner Fricks stated he felt like 6 months was a good thing. Commissioner Jennings stated which is the existing policy and it would not change the compensation, he thinks one of the issues was the compensation. County Manager Poe stated it is apparent, whether they pay them their regular salary or what they statutory limits are which is 67% of their pay but it is tax free, whereas if they are getting their normal pay they get taxes taken out. Chairman Hufstetler stated then the taxes are not in it and it gets it out of the department's budget into to worker's comp, which is how the system he thinks should be. Commissioner Fricks asked what is the administration fee they would have to pay on that if it kicks that, say if that dollar amount kicks over to workman's comp and it applies then what about administration on workman's comp. County Manager Poe stated he does not think they are paying an administration fee based on the budget, that is a flat fee. Commissioner Jennings stated so he is saying that when they pay full pay that is taxable. County Manager Poe stated yes it is just like regular pay they just keep getting their regular paycheck. County Manager Poe stated they have to deduct taxes and they deduct insurance. Commissioner Jennings stated and it is reportable income versus if they go this route tax-exempt income. Commissioner Bennett stated they do not get a W-2 form. Chairman Hufstetler stated to him the cost then shifts into the worker's comp system where they identify their cost, and he thinks are better able to look at them. He stated he did not realize until the issue came up in the Rec Department that this was there. Apparently the policy was put in place many years ago. He stated it was something that just never came up, but it did not show up in the budget under salary. Commissioner Fricks stated it just goes in the salary budget. Chairman Hufstetler stated so it inflates the salary budget and underestimates the workers' comp cost, and then has taxes in there. He stated he would like to see them go by the State system. Commissioner Jennings asked if they passed on this would they start immediately or would they start January 1. County Manager Poe stated they can set the effective date. Commissioner Fricks asked what

about existing cases, if they are already in the process. County Manger Poe stated it would not be retroactive. It would be any new cases from this point forward. Commissioner Fricks stated what if someone was in their 5th month of the leave would they continue or do they stop it today. County Manager Poe stated he thinks they would have to finish it out.

Chairman Hufstetler called for a motion. Commissioner Bennett made a MOTION to change their Injury Leave Policy to conform with the State of Georgia. County Manager Poe stated he would make a suggestion if they eliminate Injury Leave from their policy it would automatically go to the state requirements. Commissioner Bennett amended his MOTION to eliminate the Floyd County Injury Leave Policy effective November 23, 2005.

Discussion: Commissioner Jennings asked Commissioner Bennett if he would consider adding to his motion and that they notify all Floyd County employees of this change and in that notification they give them some information about how this will not and they give them some data that shows them that this will not negatively affect their take home pay. Commissioner Bennett stated he does not have a problem with that. Commissioner Bennett stated he does have a problem with putting that that they in fact do that. Commissioner Fricks stated the only ones that would know the difference would be the ones that have never been through it. Commissioner Bennett stated that is what he would suggest is notify those who might, well he does not why they would notify anybody. Commissioner Jennings stated word is going to get out there that the Board changed the policy so he thinks it is in their best interest. Chairman Hufstetler stated he thinks the county manager will convey that information. County Manager Poe stated they will have to amend their Employee Handbook. County Attorney Manning stated just so he will know when he reviews the minutes, is it the motion with the addition. Commissioner Bennett stated is that necessary or can they just assure Commissioner Jennings that they will make sure that they will communicate this to the employees. Chairman Hufstetler stated he thinks that the County Manager is agreeable to communicate that. SECOND by Commissioner Mayes. VOTING:

YES	NO
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Commissioner Fricks	
" Mayes	
" Jennings	
" Bennett	
Chairman Hufstetler	

Motion Carried

2. PUBLIC SAFETY COMMITTEE – COMMISSIONER MAYES, CHAIRMAN

No Report.

3. PUBLIC WORKS COMMITTEE – COMMISSIONER BENNETT, CHAIRMAN

No Report.

4. WATER COMMITTEE – COMMISSIONER JENNINGS, CHAIRMAN

No Report.

5. SPECIAL COMMITTEE REPORTS

a. Consolidation Task Force (Fricks/Hufstetler)

No report.

b. Parking Committee (Fricks/Bennett)

No report.

c. SPLOST Committee

No report.

d. Alternative Jail Committee (Jennings/Fricks/Mayes)

Commissioner Mayes stated he has talked with Brian Noland, Executive Assistant to the Commissioner of the Department of Corrections about alternative sentencing. They discussed a transitional center and he asked him why they do not have a state transitional center. Mr. Noland recommended that they get together and talk about getting one up here. He stated the Department of Corrections does not have any money earmarked for it, but they have money that they could earmark for it. Commissioner Jennings stated he has not been overly negligent in that process. He stated County Manager Poe is organizing a tour of several facilities that exists in other counties. Commissioner Mayes stated he offered to come here and meet to discuss possibilities.

e. West Third Street Committee (Fricks)

No report.

f. Fire Overview Committee (Fricks/Mayes)

a. FY2006 Budget recommendation

Defer.

b. Discuss Relocation of Fire Station #3

Defer.

CLERK'S REPORT

CONSENT AGENDA:

County Clerk Kathy Arp stated there are two items on the Clerk's Consent Agenda which have been reviewed and are submitted for approval. Commissioner Fricks made a MOTION to approve the Clerk's Consent Agenda as presented. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

1. Tax Refunds.

a. Zuppa, Inc., 105 Beech Street, NC 28711, \$35.73.

2. Approve revisions to Bowman Road Water Line Agreement.

Discussion: Commissioner Bennett asked what was the revision on the water line agreement. County Attorney Manning stated it was primarily to make separate agreements with both Mr. Givens and Mr. Angebrandt, since they were not in the deal together. Also, in the original agreement they agreed to continue to be responsible for the water bills if they sold these lots off and somebody did not pay. This was changed to where they would continue to be responsible, but only for the minimum water payment so that somebody could not just cut the thing off. County Manager Poe stated they based it on them paying at least the minimum charge for a 10-year period of time for each.

MANAGER'S REPORT:

- 1. DISCUSS MEMORANDUM OF UNDERSTANDING BETWEEN DOWNTOWN DEVELOPMENT AUTHORITY FOR THE CITY OF ROME, AND FLOYD COUNTY FOR MANAGEMENT OF PARKING DECKS. (DEFERRED NOVEMBER 8, 2005).**

Defer

2. DISCUSS REQUEST TO PURCHASE X-RAY EQUIPMENT FOR COURTHOUSE (2003 SPLOST).

County Manager Poe stated this is a request to purchase an x-ray scanning machine for the Sheriff's Department to operate in the Courthouse. He stated they would piggyback off of sealed bids that Gwinnett County took recently and the price they are recommending would include training, software, operating testing and image retrieval software is \$24,900. He stated that could be included as part of their overall renovation project to the Courthouse and be paid for with SPLOST money.

Commissioner Mayes made a MOTION to approve the Manager's recommendation. SECOND by Commissioner Bennett. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

3. APPROVE SURPLUS OF COMPUTERS AND DONATION OF COMPUTERS TO TOYS FOR TOTS PROGRAM.

County Manager Poe stated they have a number of surplus computers that are just stock piling down at Public Works. The hard drive has been pulled out of all of them. The Toys for Tots Program has requested that they be donated to them. County Manager Poe requests that they be allowed to surplus the computers and donate them to the Toys for Tots Program.

Commissioner Bennett made a MOTION to approve the County Manager's recommendation. SECOND by Commissioner Fricks. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

ATTORNEY’S REPORT:

Comments Regarding Rezoning/Annexation:

County Attorney Manning stated he was just reviewing the annexation code section of the State Statute, and it requires when an application for a zoning change is made and at the same time a request for annexation is made that the city is going to have to notify the county, he thinks within 7 days of that request. Unlike the ULDC there is not this requirement that they can only object if there is a disagreement between the Planning Commission and the city. Rather they have got to make a decision whether they want to voice their objections and concerns so that would come right away when they file their request for a zoning change. Commissioner Jennings asked if the city is aware of this code section. County Attorney Manning stated he does not know for sure but they should be. Commissioner Jennings asked should they assume that they are going to do this, or should they ask the county attorney to remind the city attorney of this code section. County Attorney Manning stated he would be glad to do that.

ADJOURNMENT:

There being no further business to come before the Board, MOTION was made by Commissioner Fricks, SECOND by Chairman Hufstetler, that the meeting be adjourned. VOTING:

YES NO

Commissioner Fricks
" Mayes
" Jennings
" Bennett
Chairman Hufstetler

Motion Carried

COMMISSIONERS

FLOYD COUNTY BOARD OF

**CHUCK HUFSTETLER,
CHAIRMAN**

