

PERSON COUNTY BOARD OF COMMISSIONERS
MEMBERS PRESENT

November 17, 2008
OTHERS PRESENT

Johnny Myrl Lunsford, Chairman
Jimmy B. Clayton, Vice-Chairman
Kyle W. Puryear
Larry H. Bowes
Larry E. Yarborough, Jr.

Heidi N. York, County Manager
C. Ronald Aycock, County Attorney
Faye T. Fuller, Clerk to the Board
Brenda B. Reaves, Deputy Clerk to the Board

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, November 17, 2008 at 9:00 a.m. in the FEMA Shelter at the Human Services Building, 355 Madison Boulevard, Roxboro, North Carolina.

Chairman Lunsford called the meeting to order. Commissioner Clayton led in prayer and Commissioner Bowes led the Pledge of Allegiance. Chairman Lunsford welcomed the students from Person High School who were in attendance in observance of Local Government Day.

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Clayton, and **carried** to open the duly advertised Public Hearings.

PUBLIC HEARINGS:

- ▶ ***Request for a Special Use Permit for an Independent Living Facility, Clubhouse, Dining Facility & Retail Sale Area on US 501 S Adjacent to Cambridge Hills Assisted Living***

County Planner Paula Murphy stated the County has received a Special Use Permit request from J. Kenneth Edwards for two independent living facilities and a separate clubhouse off US 501 South, Durham Road. The property is located in a Special Use Overlay District thus requiring a Special Use Permit. The property in question is zoned B-1, Highway Business.

The site plan shows the proposed buildings, drives and parking areas. The proposal is for two, four story with basement living facilities, each having fifty units. There will be an additional building that will serve as a clubhouse for the residents. The four story buildings have a front elevation of 57.5 feet and a rear elevation of 68 feet. Section 75, Table of Dimensional Requirements states that the maximum building height is fifty feet. Any building height over fifty feet requires a Special Use Permit. Access to the site will be off of US 501. The plans have been submitted to NCDOT and they have given their approval of the plans as submitted. The plans show 111 parking spaces. The Zoning Ordinance requires a total of one space per unit (100 spaces required) and one space per employee during maximum employment. It is noted on the plans that there will be 11 employees. The site will be served by City water and sewer. Documentation on city water and sewer will be required from the City of Roxboro prior to obtaining a Zoning Permit.

The property in question consists of 6.5 acres and is adjacent to the Flat River. A fifty foot buffer from the top of the bank will be required. The surrounding area consists of manufacturing plants, single family dwelling, commercial uses, and a proposed cluster open space development.

The Special Use Permit, if granted, shall include such approved plans as may be required. In granting the permit, the County Commissioners shall find:

1. that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. that the use meets all required conditions and specifications.
3. that the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and
4. that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the comprehensive plan.

Section 160-5(B) of the Zoning Ordinance states: “The Planning Board shall provide a written recommendation to the Board of County Commissioners that addresses that the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of County Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of County Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. The Land Use Plan in 7.1.1 states to preserve and protect designated floodplains, wetlands and critical natural areas as defined by State and Federal law, 7.1.2 Protect private investment and minimize public expense by promoting less intensive and more responsible development in floodplains so as not to create flood hazards or reduce natural flood storage capacities. 7.1.6 Plan and zone for open space, recreational, agricultural or other low intensity uses within environmentally sensitive areas such as floodway fringes.

Planning staff had the following comments on the plans:

1. There is a proposed pedestrian, golf cart bridge which will also support the water and sewer lines for the proposed Cluster Open Space Development on Charlie Tapp Road. Since this will require crossing of the Flat River, all necessary permits will need to be obtained prior to

obtaining a Zoning Permit and copies of all permits will need to be submitted to the Planning Department. A “no impact” will be required.

2. There is a proposed stormwater basin shown on the plans. See page C1.2 (Operation and Maintenance Plan, Post Construction) for information on the maintenance of the basins. Staff recommends that this basin be fenced for safety purposes.
3. The plans show filling in of the flood plain on Parcel B, consisting of 4.83 acres. This will require approval at the Federal and State level.

Ms. Murphy stated should the Board decide to grant approval of the Special Use Permit, the following conditions should be included:

1. Applicant to obtain all Federal, State and Local permits that are required. Copies of all plans and approval letters to be presented to the Planning Department prior to obtaining a Zoning Permit
2. Letter from the City of Roxboro approving City water and Sewer required prior to obtaining a Zoning Permit.
3. Applicant to obtain a driveway permit from NCDOT.
4. Applicant to follow the site plan approved by the Board
5. A Final “As built” showing all buildings with setbacks, finished floor elevations, parking space sizes, all impervious surfaces, flood plain areas, etc. will be required prior to obtaining a Certificate of Occupancy.
6. An Elevation Certificate will be required prior to construction and also prior to obtaining a Certificate of Occupancy

The Planning Board held a Public Hearing on August 14, 2008, September 11, 2008 and October 9, 2008 and voted five to one to forward this item with a favorable recommendation to include staff comments and the approval of the height of greater than fifty feet.

Chairman Lunsford asked if there was anyone who wished to speak in favor of the request.

Mr. Ken Edwards, petitioner, along with his partner Kendall Oliver in Cambridge Village, LLC and Dennis Redman, Operations Officer in Cambridge Village, LLC were present. Mr. Edwards explained the independent living project in detail. He said the project will be built in phases with the clubhouse and the building closest to Cambridge Assisted Living facility to be built first.

He stated eleven jobs will be created for Person County. He said they would proceed with all required state and federal permits.

No one spoke in opposition to the proposed project.

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Bowes and **carried** to close the Public Hearing.

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Yarborough and **carried** to approve the Special Use Permit for the Independent Living Facility with conditions as outlined.

► **Request for a Revision to a Special Use Permit for Cluster Open Space Development, Oliver Development, on Charlie Tapp Road**

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Yarborough and **carried** to open the duly advertised Public Hearing.

County Planner Paula Murphy explained that on November 6, 2006 a Special Use Permit was approved for a Cluster Open Space Development on 29.87 acres off Charlie Tapp Road for Oliver Development. This Special Use Permit request is for a modification to the original permit.

The original approval had 11.96 acres of open space which totaled 41.2 percent of the property. The Ordinance only requires 30 percent open space. The modification is for two stormwater management basins to be added. These are shown on sheet BM 1.0. The basins will need to be fenced and maintained by the Developer or a home owners association. These basins will not be part of the conservation easement that is required for the open space area. The new open space calculation is 31.7 percent.

It should be noted that all conditions that were required in the original Special Use Permit are still valid.

The only change in this Special Use Permit is the addition of the two stormwater basins. The Board needs to decide if the open space as shown is sufficient for the project. There is considerable buffer area and floodplain that can not be used for development.

The Board should keep the same conditions as on the original request.

The Planning Board held a Public Hearing on September 11, 2008 and voted unanimously to forward this item with a favorable recommendation. It was decided that the two stormwater basins could not be included in the open space calculations.

Chairman Lunsford asked if there was anyone who wished to speak in favor of the request.

Mr. Ken Edwards- Cambridge Village, LLC – asked that the amendment be approved.

No one spoke in opposition.

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Puryear and **carried** to close the Public Hearing.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Yarborough and **carried** to approve the revision to a Special Use Permit for Barton's Mill Cluster Open Space Development.

DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:

No adjustments were made to the agenda. The agenda was approved by **motion** of Commissioner Clayton and **second** by Commissioner Bowes.

INFORMAL COMMENTS: NONE

APPROVAL OF MINUTES:

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Puryear, and **carried** to approve the minutes of November 3, 2008.

ADMINISTRATIVE REPORTS:

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Bowes, and **carried** to accept the following Administrative Reports: E-911, Emergency Medical Services, Inspection Department, Public Library, Tax Administration & Collections, Volunteer Fire/Rescue Departments.

EXTENSION OF COMMERCIAL LEASE AGREEMENT-MAXWAY BUILDING:

County Attorney Ron Aycock requested an amendment to the Commercial Lease Agreement for the Maxway Building to extend the term by seven additional months, through October 2023 rather than March 2023 as originally agreed. No cost increases are associated with the extension beyond the monthly rental amount.

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Puryear and **carried** to approve the extension of the Commercial Lease Agreement for the Maxway Building.

COMMERCIAL LEASE AGREEMENT AMENDMENT

THIS LEASE, executed the 10th day of March, 2008, by and between Hall's Agri Business, L.L.C. (landlord) c/o C. T. Hall, Manager, PO Box 1061, Roxboro, NC 27573 and Person County, a North Carolina Local Government, (Tenant), whose address is 304 South Morgan Street, Roxboro, NC 27573 by amending the same as follows:

By deleting paragraph 2. TERM, and inserting in lieu thereof, the following:

The Tenant shall hold the premises for a period of 15 years. The first Lease Year Anniversary shall commence October 10, 2009 and shall terminate 15 years thereafter on October 9, 2023. The parties may renegotiate this lease at the end of its term.

Amendment to said commercial lease was signed and executed by Lessor and Lessee on the **17th day of November, 2008**.

Business Entity: **PERSON COUNTY**

Business Entity: **HALL'S AGRI BUSINESS, LLC**

PRESENTATION OF MAPS STUDY – PUBLIC SAFETY EMPLOYEES:

Becky Veazey, MAPS Group, explained the strategy involved in the compensation system. She further explained that Person County conducted a full Classification and Pay Study in spring 2006 and developed a strategy to stay competitive with the market. This study represented the first of a three year cycle of studying one-third of County jobs each year. This approach is to keep the County competitive and spread costs for implementation of studies over multiple years rather than waiting and studying all jobs at once and having a large implementation cost all at once. The County chose the public safety jobs for the first year study including Animal Control, Emergency Medical Services and Emergency Management, Fire Marshal and Telecommunications, and Sheriff.

The study included salary and classification recommendations. Chairman Lunsford thanked Ms. Veazey for her presentation. Board discussion on the study was deferred until new Board members take office.

SECURITY ISSUES AT COURTHOUSE:

Clerk of Superior Court Deborah Barker and District Court Judge Mark Galloway appeared before the Board to address concerns relative to security issues at the Person County Courthouse. They asked that the Courthouse have restricted entrances with metal detectors and manned security stations. Ms. Barker read a letter from W. Osmond Smith, III, Senior Resident Superior Court Judge which stated as follows:

I regret that my court assignment prevents my being able to appear before you this morning. I thank you for allowing our Clerk of Superior Court Deborah L. Barker to present this letter to you on my behalf, and on behalf of all other court and law enforcement officials, and the public, as well.

We certainly appreciate your efforts at planning and proceeding with our much needed Court House renovations. However, our current Court House security concerns are so urgent that it seems imperative to enhance our security protections in the immediate future for the benefit of all who sue our facility, rather than waiting for the longer term planned renovations. It should be kept in mind that we, as court officials, do not create the demands placed upon our system, but respond to the matters as matters ranging from truly life or death criminal matters, to family matters such as child custody and divorce, to matters involving loss of liberty, and to matters involving our property rights, it is to be expected that sometimes emotions run high, and beyond that, to conduct by some individuals that threatens the safety and security of life and limb of all who may enter our Court House. This includes court officials, law enforcement officials, litigants, crime victims, witnesses, jurors, and other persons attending to business at the Court House, as well as members of the general public who may be present for a variety of reasons.

Despite the best efforts of our Sheriff Jones and his deputies, the design and configuration of the Court House and the existing manpower limitations severely restrict and limit the current effectiveness of measures to provide for Court House security. We ask that you take prompt steps to better insure the safety of all persons using our Court House, including taking measures to prevent the entry of weapons into our facility, and in doing so, to provide the enforcement and monitoring manpower necessary to effectively carry out such measures. The Court House should be a place to provide for the conduct of the peoples' business in a dignified setting without the fear of physical harm or intimidation falling upon its users.

Thank you for hearing us with our requests for enhanced security. We welcome the opportunity to cooperate in moving forward on this without further delay. We recognize your budget responsibilities and that some might even venture to say that we cannot afford the costs of our needs. I say, in the face of anyone questioning, "Can we afford to do this?, that the reality is "Can we afford not to do this?"

On behalf of the Court system, I thank you for your attention and consideration herein.

*Sincerely,
W. Osmond Smith, III*

Chairman Lunsford thanked Ms. Barker and Judge Galloway for attending the meeting and speaking to the issue. He assured them that security will be a top priority of the Board. County Manager York was instructed to further research the cost involved for the security measure requested and report back to the Board.

Following discussion, it was decided that a Special Meeting would be held as soon as possible to discuss the Courthouse security issues.

APPROVAL OF DECLARATION OF REFERENDUM RESULTS FOR THE \$6M RECREATION FACILITIES BONDS:

A regular meeting of the Board of Commissioners for the County of Person, North Carolina, was held in the Commissioners' Meeting Room in the FEMA Shelter, 355 Madison Boulevard, Roxboro, North Carolina, the place of meeting, at 9:00 A.M. on November 17, 2008.

Present: Chairman Johnny Myrl Lunsford, presiding, and Commissioners Jimmy B. Clayton, Larry E. Yarborough, Jr., Kyle W. Puryear, Larry H. Bowes.

Absent: NONE.

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The Board of Commissioners received from the Person County Board of Elections a certified copy of the proceedings of said Board of Elections taken on November 14, 2008, evidencing its determination of the result of the canvass of the returns of the special bond referendum held in Person County on November 4, 2008 upon the question of approving \$6,000,000 Recreation Facilities Bonds of said County.

After said proceedings had been considered and reviewed by the Board of Commissioners, Chairman Lunsford introduced the following resolution which was read:

RESOLUTION DECLARING THE RESULT OF THE SPECIAL BOND REFERENDUM HELD IN PERSON COUNTY, NORTH CAROLINA, ON NOVEMBER 4, 2008 UPON THE QUESTION OF APPROVING \$6,000,000 RECREATION FACILITIES BONDS

BE IT RESOLVED by the Board of Commissioners for the County of Person:

Section 1. The Board of Commissioners for the County of Person having received from the Person County Board of Elections a certified copy of the proceedings of said Board of Elections taken on November 14, 2008, evidencing its determination of the result of the canvass of the returns of the special bond referendum held in Person County on November 4, 2008 upon the question of approving \$6,000,000 Recreation Facilities Bonds of said County, does hereby declare and certify the result of said referendum to be the result which is set forth in the following statement of the result of said referendum, which statement has been prepared by said Board of Commissioners:

STATEMENT OF THE RESULT
of the
SPECIAL BOND REFERENDUM
held in
PERSON COUNTY, NORTH CAROLINA,
on November 4, 2008
UPON THE QUESTION OF APPROVING
\$6,000,000 RECREATION FACILITIES BONDS

At a special bond referendum held in Person County, North Carolina on November 4, 2008, 25,039 voters were registered and qualified to vote.

At said referendum 8,800 votes were cast for the order adopted on September 12, 2008, authorizing not exceeding \$6,000,000 Recreation Facilities Bonds of the County of Person, North Carolina, for the purpose of providing funds, with any other available funds, for providing additional recreation facilities of said County, including the construction of a recreation and senior center to provide recreation opportunities to persons of all ages and the acquisition of necessary land, rights of way, furnishings and equipment, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, and 7,181 votes were cast against said order, and a

majority of the qualified voters of said County who voted thereon at said referendum voted in favor of said order.

Board of Commissioners for the
County of Person, North Carolina

Section 2. The Clerk to the Board of Commissioners shall file a copy of the foregoing statement of the result of said referendum in her office and shall publish such statement once in The Courier - Times. A statement in substantially the following form shall be published with the foregoing statement:

Any action or proceeding challenging the regularity or validity of this bond referendum must be begun within 30 days after November 22, 2008.

Board of Commissioners for the
County of Person, North Carolina

Section 3. This resolution shall take effect upon its passage.

Upon motion of Commissioner Clayton, seconded by Chairman Lunsford, the foregoing resolution entitled: "RESOLUTION DECLARING THE RESULT OF THE SPECIAL BOND REFERENDUM HELD IN PERSON COUNTY, NORTH CAROLINA, ON NOVEMBER 4, 2008 UPON THE QUESTION OF APPROVING \$6,000,000 RECREATION FACILITIES BONDS" was passed by the following vote:

Ayes: Commissioners Lunsford, Clayton, Yarborough, Puryear, Bowes.

Noes: NONE.

* * * * *

I, Faye T. Fuller, Clerk to the Board of Commissioners for the County of Person, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the recorded minutes of said Board at a regular meeting held on November 17, 2008, and is a true copy of so much of said proceedings of said Board as relates in any way to the declaration of the result of the special bond referendum held on November 4, 2008 upon the question of approving \$6,000,000 Recreation Facilities Bonds of said County.

I HEREBY FURTHER CERTIFY that a copy of the statement of the result of the referendum adopted by the resolution set forth in the foregoing transcript has been filed in my office.

I HEREBY FURTHER CERTIFY that a schedule of regular meetings of said Board, stating that regular meetings of said Board are held in the Commissioners' Meeting Room in the Person County Office Building, in Roxboro, North Carolina on the first and third Mondays of each month at 7:00 A.M. and 9:00 P.M., respectively, has been on file in my office pursuant to G.S. §143-318.12 as of a date not less than seven days before said meeting.

WITNESS my hand and the corporate seal of said County this 17th day of November 2008.

Faye T. Fuller, CMC
Clerk to the Board

REPORT ON RFP'S FOR MATERIAL RECOVERY FACILITY:

Wanda Rogers, Person Industries Director, informed the Board that a bid opening was held on November 6, 2008 at 11:00 a.m. to receive bids for the Material Recovery Facility. Three bids were received; however, one did not meet the proposal. After reviewing the two proposals, DAVCO Steel was the low bidder at \$242,477.00. The other bidder, Vance Construction submitted a bid of \$257,935.00. Ms. Rogers recommended that the bid be awarded to DAVCO Steel.

Commissioner Yarborough inquired as to where the recycling materials would come from. Ms. Rogers responded that certain recycling programs have been set up within the county, however, the size of the current baler prohibits any larger volume of recyclables. She said once the MRF is established, additional tonnage will be generated as there is considerable interest in recycling. It is anticipated that commercial haulers will become involved in the effort. She said a feasibility study could be prepared.

A **motion** was made by Commissioner Clayton and **seconded** by Chairman Lunsford to authorize the County Manager to execute a contract with DAVCO Steel if appropriate.

Commissioner Puryear said he would like to see the feasibility study done as to where the materials would come from. County Manager York and Ms. Rogers responded that a business plan has been developed which reflected tonnage collection.

A **SUBSTITUE MOTION** was offered by Commissioner Puryear, **seconded** by Commissioner Bowes and **carried by a 4/1 vote** to allow the County Manager to further negotiate a draft contract with built-in performance measures and an updated business plan and that plan be brought back to the Board for further review. Commissioner Clayton cast the dissenting vote.

RESOLUTION FOR A JOINT COMPREHENSIVE TRANSPORTATION PLANNING STUDY:

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Bowes and **carried** to approve the following Resolution for a Joint Comprehensive Transportation Study.

RESOLUTION OF CONFIRMATION OF THE NEED FOR AND PARTICIPATION IN A COMPREHENSIVE MULTI-MODAL TRANSPORTATION PLANNING STUDY FOR PERSON COUNTY

WHEREAS, the Person County Manager had previously informed the North Carolina Department of Transportation (NCDOT) on November 6, 2008 of its desire for a comprehensive multi-modal planning study to be performed; and

WHEREAS, Person County Government and the City of Roxboro realize the significance of a county-wide comprehensive multi-modal transportation plan in replacing all previous highway thoroughfare plans and in providing guidance for all future modal travel needs, recommendations and decisions; and

WHEREAS, the Kerr-Tar Rural Planning Organization informed the North Carolina Department of Transportation on November 6, 2008 that Person County was at the top of its Comprehensive Planning Needs Priority List; and

WHEREAS, the 1996 Person County and City of Roxboro Thoroughfare Plan is in need of reevaluation with respect to population, traffic volumes, and travel trends and growth rates in Person County; and

WHEREAS, there is a critical need to analyze the specific needs of the strategic highway corridors in Person County as designated in the North Carolina Strategic Highway Vision Plan and to recognize these strategic highway corridors in a Comprehensive Transportation Plan; and

WHEREAS, the NCDOT Transportation Planning Branch, with assistance from the Kerr-Tar Rural Planning Organization, is charged with cooperatively developing a multi-modal Comprehensive Transportation Plan including all local governments and stakeholders, as well as the interests of the general public.

WHEREAS, Person County and the City of Roxboro will coordinate and engage all appropriate stakeholders as co-participants in the transportation planning process; and

WHEREAS, Person County and the City of Roxboro, with the assistance of the NCDOT Transportation Planning Branch and the Kerr-Tar Rural Planning Organization, will consider ways to engage its citizenry throughout the comprehensive multi-modal transportation planning study;

WHEREAS, the County Manager and the City Manager from Person County and the City of Roxboro or their designees, are specifically responsible for participating in the regularly scheduled Comprehensive Transportation Plan team meetings and are tasked with relaying progress and information back to this body;

WHEREAS, to adopt a Comprehensive Transportation Plan pursuant to General Statute 136-66.2, the qualifying land development plan will be a current or in-progress land development plan that will be less than 5 years old at the time of adoption.

NOW THEREFORE BE IT RESOLVED, the Person County Board of Commissioners and the Roxboro City Council reaffirms the need for a multi-modal Comprehensive Transportation Plan and directs its representatives to participate and assist the NCDOT Transportation Planning Branch and the Kerr-Tar Area Rural Planning Organization in the comprehensive transportation planning process.

This the 17th Day of November, 2008.

PERSON COUNTY BOARD OF COMMISSIONERS

Johnny Myrl Lunsford, Chair

ATTESTED BY:
Faye T. Fuller, Clerk to the Board

RECOGNITION OF OUT-GOING COMMISSIONERS:

Chairman Lunsford presented plaques of appreciation for four years of service to the citizens of Person County to out-going Commissioners Larry Bowes and Larry Yarborough. Both Commissioners wished the new Commissioners much luck as they begin their term on the Board. Each said it had been a joy to serve the county and citizens of the county.

CHAIRMAN’S REPORT:

- ▶ November 19, 2008 at 1:00 p.m. – CDBG Grant Funds - \$400,000 award to be given in Raleigh

MANAGER’S REPORT:

- ▶ Updated Board on 3% budget cuts.
- ▶ Informal orientation with new board members will be held today at noon.

COMMISSIONER REPORTS/COMMENTS

- ▶ Commissioner Clayton: Thanked the citizens for his re-election and Commissioners Bowes & Yarborough for their service to Board of Commissioners.

Commissioner Puryear also thanked Commissioners Bowes and Yarborough for their service.

ADJOURNMENT

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Bowes and **carried** to adjourn the meeting at 11:04 a.m.

Faye T. Fuller, CMC
Clerk to the Board

Johnny Myrl Lunsford
Chairman