

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regularly scheduled May meeting on Wednesday, May 31, 2006, at 4:00 p.m. in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. Those present were: Chairman Dean Bonessi, Jim Phelps, Ann Pouch, Alternate Members Dale Caldwell and Eric Goodman, Zoning Administrator Natalie Berry, Assistant County Attorney Russ Burrell, and Secretary to the Board Joyce Karpowski.

Chairman Dean Bonessi called the meeting to order at 4:00 PM. Chairman Bonessi introduced the members of the Board. He presented the minutes of the meeting from April 26, 2006. There were no corrections or changes. Mrs. Pouch moved to approve the minutes as written, Mr. Phelps seconded, and all members voted to approve the minutes as presented.

Chairman Bonessi suggested a change in the agenda by moving the variance to be the first case heard. Mr. Goodman moved that Case V-06-07 be heard first, Mrs. Pouch seconded, and all voted in favor. He explained the procedure being used today and that approval requires 4 affirmative out of the 5 Board members.

Case V-06-07, Anna Theresa Schimmoller, petitioner

Chairman Bonessi called case V-06-07, Anna Schimmoller, requesting a five (5) foot Variance from the side yard setback requirement on one side of an existing structure at 301 Causby Lane to construct a single car garage. The property is zoned R-20.

Ms. Berry presented a summary of the issues. Ms. Berry said that the petitioner wants to construct an attached single car garage at 301 Causby Lane, zoned R-20 which is low-density residential district. There is 0.46 acres. The addition is approximately 312 square feet. The hearing was advertised in the Times-News on May 21 and May 29, 2006. Posting of the property was not required. The Variance application is allowed by Section 200-15 for the R-20 Low-Density District. The petitioner wants a 5-foot setback variance; the requirement is 25 feet so the setback would be reduced to 20 feet. The height restriction is unlimited, the side and rear yard setbacks are 25 feet and the front yard setback is 50 feet from the centerline of the street (which there is no problem with). Ms. Berry showed both ads from the Times-News. Ms. Berry showed a map of the surrounding zoning. She said the red color showed all the adjoining property owners that were notified of the hearing. She pointed where R-30 and C-2 zoning were. There was another map, which showed the petitioners property and adjoining lots better. She showed several pictures of the property where the proposed addition would be and described them. She showed where the septic system was within 5 feet of the house. Mrs. Pouch asked if it were the back of the house and Ms. Berry said yes. Ms. Berry also showed the septic permit. She said the French drain was shifted over and will not be under the addition. Ms. Berry said any structure is required to be 5 feet from the edge of the septic field, so that presents a problem with the septic field running right up against her house. Ms. Berry said they had tried to do a detached garage moving it back, but keeping it 5 feet from the septic field throws the garage closer to the property line. Then she would need a bigger variance than if the garage were attached to the house. The petitioner has also reduced the size of the garage to a single car to ask for the least variance as possible.

Mrs. Pouch asked if there were any objections to this. Ms. Berry said she thinks there is one person to speak and also the applicant is here.

Chairman Bonessi called Anna Schimmoller forward. Mrs. Schimmoller said that putting the garage next to the house would be very convenient for her because of her age. The driveway would be straightened out and moved to go to the garage. Ms. Berry said there is a significant dip from the driveway down to the door. Mr. Goodman asked if it was an attached garage with that dip. Ms. Berry said yes, they would grade it out so it would be even. Chairman Bonessi asked if the other houses in the neighborhood had garages. Ms. Berry said she did not know. Mrs. Schimmoller said that most neighbors had garages, but she just moved there in May.

Mike Fish came forward to speak. He said he didn't have that much problem with the garage but that everything was cramped. The house should have been smaller to have the garage added to it. It's 0.46 acres and we're already in question where the actual line is. It has been a hardship for he and his family next door with the front yard torn up, the big trucks and the road. Everything is right there on the line and now we don't know where the pin is because when they graded the driveway, the pin disappeared. His kids have swing sets there and if we break the variances now, someone will step forward and break them again. There are covenants in the community too. It has been a hardship. Mr. Caldwell asked how old the house was. Mrs. Schimmoller said the modular home was built in May of this year and the gentleman had some problems with the people putting the modular in. Mr. Caldwell said that Mr. Fish's problem is not so much the garage as with other things, like tearing up the driveway and ripping out the pins. Mr. Fish said that they don't even know where the property line is to assess the garage. Then the French drain was supposed to be moved by the builder because it was on his side of the stake and he believes it's still there, but won't know until the pin is put back in. He doesn't know about the 5-foot variance wanting to bend the 25-foot rule. Ms. Berry said she is asking for a reduction of 5 feet on the 25 feet. Mr. Fish asked where the garage would be put exactly. Ms. Berry said the garage would be put up against the house and the size she thinks was 18' x 24', with the 18' coming toward Mr. Fish's property and that should leave 20 feet to the property line. So Mrs. Schimmoller is asking for a 5-foot variance, not a 20-foot variance. Ms. Berry said that she wanted a larger garage, but due to the problems, they got it as small as they could get it to allow the car in the garage but there won't be anything else in the garage.

Chairman Bonessi asked if the center of the garage would be in line with the driveway. Ms. Berry said it would be moved over closer to the house. The driveway would have to be shifted. Mrs. Pouch asked how far the house was from the other side property line. Ms. Berry said it was pretty well centered on the property. The driveway was originally on the other side, but there were topography issues so it was moved to this side. Chairman Bonessi said there was septic on the other side as well. Ms. Berry said, on the Board's copy of the septic permit, the driveway is on the other side, but it is corrected on the Power Point presentation. The distance on the other side was 30'. Mr. Fish's well was discussed, which has to be 50 feet from a septic system. Mrs. Schimmoller has city water. Mrs. Pouch asked if Mr. Fish was really in doubt as to where the property line is. Mr. Fish said yes, the pin is gone. He said he knows about where it was, because it was there for the 8 years he lived there. Mr. Caldwell asked how the garage would create a hardship for him. Mr. Fish said just having something so close to you. Mr. Caldwell asked if 5 feet would make that much difference to him. Mr. Fish said no, he guesses not. Chairman Bonessi thanked Mr. Fish. Mr. Goodman asked the width of the garage. Ms. Berry said 18 feet. Mr. Goodman said there would still be 20 feet to the property line. Ms. Berry said yes. Mr. Goodman said there is 38 feet existing. Ms. Berry said yes. Chairman Bonessi asked if there were any other questions. There were none.

Chairman Bonessi asked for a motion. Mr. Goodman said with regard to the application of Anna Schimmoller for a variance from the minimum yard (or lot) requirements, I move the Board to make the following findings of facts: strict enforcement of the regulations would result in practical difficulties or unnecessary hardship to the applicant; the variance is in harmony with the general purpose and intent of the ordinance and will preserve its spirit; and in the granting of the variance the public safety and welfare have been secured and substantial justice has been done. Accordingly, I further move the Board to grant the requested variance in accordance with and only to the extent represented in the application. Mr. Caldwell seconded the motion. Chairman Bonessi said for strict enforcement and practical difficulties. Mrs. Pouch said because of the septic tank and French drain and the way the house is located, it would be difficult to put the garage in another place. Chairman Bonessi said the lot size and the way it is

structured. Mrs. Pouch said the 5-foot variance would still preserve the general purpose and the spirit of the property. In granting the variance the public safety and welfare is not jeopardized although it may be inconvenient while there is construction.

Chairman Bonessi called for a vote by show of hands.

| | |
|------------------|-----|
| Mr. Phelps | Yes |
| Chairman Bonessi | Yes |
| Mrs. Pouch | Yes |
| Mr. Caldwell | Yes |
| Mr. Goodman | Yes |

Chairman Bonessi said the Variance was granted.

Chairman Bonessi explained the quasi-judicial procedure used today.

Chairman Bonessi called anyone interested in speaking about Case CU-06-05, Melissa McCall, petitioner, to come forward to be sworn in. Sworn in were Melissa McCall and Natalie Berry, Zoning Administrator.

Case CU-06-05, Melissa McCall, petitioner

Chairman Bonessi called Case CU-06-05, Melissa McCall, petitioner, requesting a Conditional Use Permit to operate a customary incidental home occupation on the property located at 1910 Brevard Road and zoned R-20.

Chairman Bonessi opened the hearing and asked Ms. Berry for a summary of the issues. Ms. Berry said she would like to place her Power Point presentation into evidence as well as the other packet. The home occupation will be called Total Health Center and is the customary incidental home occupation located at 1910 Brevard Road. The petitioners are Melissa McCall and Josephine Owen. The zoning district is R-20, which is Low Density Residential District. The property is 0.92 acres. The total square footage of the building is 3216.5 square feet. It was advertised in the Times-News on May 15 and 22 and the display ad on May 29, 2006. The property was posted on May 1, 2006, as required by the Ordinance. Section 200-15.C(2) allows for a Customary Incidental Home Occupation in a residential district with a Conditional Use Permit. The definition is included. Ms. Berry didn't read the whole definition, but said the basic is you cannot use more than 25% of the floor space and can't add any utilities that would not normally be used as a dwelling. The floor space used for the home occupation is 804.125 square feet, 2 bedrooms and 2 bathrooms. The height restriction is 40 feet. Nothing is being added to the existing building so the setbacks won't apply to this case. The hours of operation will be Monday and Wednesday from 10 AM to 5 PM and Tuesday and Thursday from 10 AM to 2 PM. There really isn't a parking requirement for a customary incidental home occupation – it will just be Melissa and her mother and Melissa lives there. There are no company vehicles, no lighting is required, and no loading or unloading is required. The petitioner has requested a sign to be located in the front yard outside of the right of way of Brevard Road. There will be no outdoor storage and there's no fencing. The landscaping is already in existence on the property. The property is in a water supply watershed but a permit will be issued because there is no increase in impervious surface. They are not in a flood plain and the driveway is already in existence. Ms. Berry showed the ad in the Times-News on May 15 and 22 and the display ad on May 29, 2006. Next showed the property owners notified, which was extended, and the surrounding zoning is C-2 and R-20 and O & I. Next were pictures of the house which Ms. Berry described. She pointed out a large circular driveway with quite a bit of parking and gravel that is existing. Ms. Berry showed the layout of the house with the rooms to be used highlighted (2 bedrooms and 2 bathrooms). She showed the privilege license for each employee and a business license. Ms. Berry included a copy of a business card called Total Health Center that she intends to keep in Horse Shoe. There was a rendition of the sign that will be 5.5 feet

tall and 5 feet wide. The next showed where the sign will be placed (at the star) outside the right of way. Originally there was a white fence across the property at the road, which made it difficult to pull out of the driveway. The fence has been taken down to get rid of the sight obstruction. The sign will be inside the front yard. Next is a map of the zoning showing Laurel Park running right up against this property with R-20 and C-1 zoning. Henderson County zoning is C-2 nearby. Next shows that Melissa McCall is the current owner because, when they started the application, they did not own it. Ms. Berry did have permission from the former owner saying they could apply for the Conditional Use Permit. Next shows that a customary incidental home occupation is allowed with a Conditional Use Permit. Next shows that parking must be provided with adequate space for turning so that no vehicle shall be required to back into the street and with the circular driveway this is provided for. Off street loading and unloading would not be required for a home occupation. Next shows that a customary incidental home occupation must be conducted entirely within the dwelling, no mechanical equipment, no more than 25% of the space used, and no more heating system than for a typical single family dwelling. The last slide shows what you need to do for a Conditional Use Permit.

Chairman Bonessi asked if there were any questions for Ms. Berry. Mr. Phelps asked if there were any pictures of the street. Ms. Berry said she did have some but didn't bring them. Across the street is Shaw's Baptist Church, which has a sign out front. Ms. Berry said that it is pretty wooded in that area, which is why she took the fence down and that really helped her driveway. Ms. Berry found pictures of the church sign across the street and the house with the fence, which she showed the Board. Mr. Phelps asked if there were any other Conditional Use Permits in effect around the property. Ms. Berry said not that she was aware of. She has only been here about a year and the computer system is not set up to be able to pull up just R-20 and see what Permits are there. Ms. Berry said that it is zoned residential but there is not much residential there. There is a residence beside Ms. McCall and beside that is a Veterinary Office. Mrs. Pouch asked if she would be changing anything in the way of equipment. Ms. Berry said no. Mr. Phelps asked if the parking would be at the lower level so that the people would have to go back around front. Ms. Berry said she understood they would go in the lower level door, but she would have Ms. McCall address that. Ms. Berry said that there are steps next to the parked car that go straight up to the front door.

Chairman Bonessi called Ms. McCall forward. Ms. McCall agreed with basically everything Ms. Berry said. She said when you come out of Laurel Park, you come up over the hill and see the Veterinary Hospital on the right then Shaw Creek Baptist Church and they both have signs. The Racquet Club is right behind her and the sign is there for the Racquet Club. Ms. McCall said that she took the fence and bushes out for her personal use also. She described the road as being straight in that area. She said there wouldn't be any changes in the structure. She said they would like a sign. They do nutritional counseling and drug and alcohol abuse counseling. They both have a 4-year degree as a naturopathic doctor and she has a 2-year degree as an emotional counselor, so they do part time counseling. They would like to have a sign so people could find them. Mrs. Pouch asked how many people they see. Ms. McCall said that Monday through Thursday from about 4 – 6 people per day but some days they don't have anybody. Ms. McCall said the drawing of the sign showed the sign to be 2 ½ by 5 feet. Chairman Bonessi asked what type of sign it would be. Ms. McCall said she wanted to get permission first so it hasn't been built yet, but it would be put 3 feet high and probably bendable metal for the top and wood for the legs. Chairman Bonessi asked if it would be illuminated. Ms. McCall said no. Mrs. Pouch said that it would be 5 ½ feet off the ground. Ms. McCall said yes. Chairman Bonessi asked if the hours of operation would be a pretty steady thing. Ms. McCall said there may be some Mondays or Wednesdays when they are not there at all and if someone were in crisis they would be seen at 5 PM but they try to keep within the set hours. She said they have been doing this together about 5 years, maybe 6. Her mother has been doing this work for about 25 years. It is their part time hobby. Mrs. Pouch asked if she lived in the house. Ms. McCall said yes, she lives in the house. She sold her house in Brevard 2-3 months ago and they are from the area.

There were no further questions. Chairman Bonessi closed the hearing and asked for discussion from the Board. Mrs. Pouch said it seems that she has complied with every regulation that is asked. The Board said there is

commercial all around there. Chairman Bonessi said the only condition would be around the signage, that it doesn't exceed the size she spoke about. Mrs. Pouch asked if the permit is approved and the property is sold, does the permit end? Ms. Berry said yes and to state that it doesn't transfer with ownership in the permit to be safe. Mr. Goodman asked about the hours of operation. Chairman Bonessi said that was what he asked her about but she spoke about a crisis situation, which wouldn't be normal hours. Mr. Caldwell said there probably wouldn't be great impact regardless of the hours. Mr. Goodman said just leave it alone for this type of business. Chairman Bonessi asked what the secretary had for conditions. Mrs. Karpowski said the size of the sign, 5 ½ x 5 feet, and that it doesn't transfer with the owner. Chairman Bonessi said the sign is not illuminated and is out of the right of way.

Mrs. Pouch said with regard to the application of Melissa McCall, Case 06-05, for a conditional use permit authorizing the operation of Total Health Care Center on the property in question, I move the Board to make the following findings of facts: The proposed use will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use; and the proposed use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. Accordingly, I further move the board to grant the requested Conditional Use Permit with and only to the extent represented in the application and with the following conditions: The sign be no more than 5 1/2 feet high and 5 feet wide, not illuminated, outside of the road right of way, and the permit does not transfer with the sale of the property. Mr. Goodman seconded the motion.

Chairman Bonessi called for a vote by show of hands.

| | |
|------------------|-----|
| Mr. Phelps | Yes |
| Chairman Bonessi | Yes |
| Mrs. Pouch | Yes |
| Mr. Caldwell | Yes |
| Mr. Goodman | Yes |

Chairman Bonessi said the Conditional Use Permit was granted.

Chairman Bonessi asked that anyone who would like to speak with regard to Case CU-06-06 come forward to the podium to be sworn in. Sworn in were Natalie Berry Zoning Administrator, David Walsh, Shelley Walsh, Bill Byrnes, Robert Payne, Kim Dunn, Dale Hamlin, Dennis Dorn, Amy Mast, Rod Rogers, Jeff Naber, and Dave Walters. Angela Beeker, representing Sedgewood Property Owners Association, in particular Mr. Naber and Mr. Rogers, said that she would be speaking but not testifying. Esther Manheimer, from the Van Winkle Law Firm, said she is representing Mr. Dorn. The Board waited for Mr. Caldwell to return to his seat. Ms. Beeker said for the record that Mr. Goodman is her private client. She has apprised Ms. Manheimer of this and Ms. Manheimer does not have a problem with this. Ms. Beeker said it would be appropriate to ask if Mr. Goodman or the Board has a problem with it. Neither Mr. Goodman nor the Board had a problem with this.

Case CU-06-06, Dennis and Cindy Dorn, owners

Chairman Bonessi called Case CU-06-06, Dennis and Cindy Dorn, owners requesting a Conditional Use Permit to construct a storage facility (AAA Storage World). The proposed site is located at the corner of Hwy 191 (Haywood Road) and Mountain Road and is zoned C-2.

Chairman Bonessi opened the hearing and asked Ms. Berry for a summary of issues. Ms. Berry said the audience is having trouble hearing everyone and to try to speak up. Ms. Berry said she wanted to bring up something before starting. In March the Board signed a new policy about asking for the Planning Board's recommendation on certain Conditional Use Permits. This is one of the ones that we agreed not to send them unless, once you hear it, you feel that you need their recommendation and the Board can send it back to them. That is one of the options, if the Board chooses.

Ms. Berry entered her Power Point presentation into evidence. This case is to construct 8 buildings plus a 25' x 40' office. It is a 480-unit facility open to the public for rent. The owner is Dennis Dorn. Ms. Berry said their records still do not show Mr. Dorn as owner, but Mr. Dorn provided the legal documents at the back of the Power Point presentation showing they closed on March 20, 2006. The zoning district is C-2 – Neighborhood Commercial District. The acreage of the site is 3.29 acres. The total square foot of the footprint of the buildings is 41,200 square feet. The total square foot of all the buildings is about 65,000 square feet but there are a couple of bi-level buildings. What Ms. Berry looks at is the footprint of the building. The reason for that is the C-2 District only allows 40% coverage by buildings. Doing the calculations, he is within the 40%. The legal notice was in the paper on May 15 and May 22 and the display ad on May 29, 2006. The site was posted on May 8, 2006. Section 200-21.B allows light industry in a C-2 District. Light industry allows warehouses, which is the definition of a storage facility as far as Henderson County has been doing on the Zoning Ordinance. It does require a Conditional Use Permit. The height restriction is 40 feet. The side and rear yard setbacks are the same as the contiguous zoning district. In this case it's R-20, which is 25 feet from the property boundaries on the side and rear. The front yard setback on Hwy 191 is 75 feet from the centerline of the road to the structure and on Mountain Road it is 60 feet from the centerline to the structure. In this case there is a major road and a minor road. The hours of operation would be 24-hour operation with a key card. He plans on having office hours Monday through Saturday from 9 AM to 5 PM. Parking requirements would be one space for each 2 employees at maximum employment on a single shift, plus 1 space for each company vehicle. He has stated there will be 1 person per shift, so he would just need 1 parking space, but she believes there are 3. He won't have any company vehicles. The lighting will be wall pack lighting on the building itself, it will not be up in the air to shine on the neighbors. It will be 50 watts. Loading and unloading will be seen on the site plan but he has enough space between buildings where one car can unload and another can pass by. The sign is located at the southern most corner of the property where the 2 roads come together. It is approximately 64 x 52 inch surface area (23 square feet). It is an electronic lighted display, 11 feet 3 inches tall. He will provide six-foot chain link fencing with 3 lines of barbwire across the top to keep people from climbing over. There is no proposed outdoor storage for this facility. It will all be indoors with no boats or RV storage. He has provided buffering on all sides facing residential property and she will show a site plan and where the residents are in relation to it. He is in a watershed. He does require a special intensity allocation permit to build up to 70% impervious surface on the property and he has been granted that. It is not in a special flood hazard area that's designated by FEMA. The driveway entrance will be located on Highway 191 next to Park Ridge office. It will require an NCDOT driveway cut permit to place the driveway. Ms. Berry showed the legal and display ads in the paper. She showed a map of properties notified by mail. The next slide showed the surrounding zoning. The site itself is C-2. The earlier variance is across the street in R-20 zoning. The next slide shows Section 200-21., the C-2 Neighborhood Commercial District, which Ms. Berry read. Also on that slide was B allowing Condition uses, which Ms. Berry read. The next slide had C. Dimensional requirements and D. Maximum permissible lot coverage, which she read. There is a breakdown of the size of the buildings adding up to 41,200 square feet for the footprint of the buildings. She thinks 3 of the buildings were bi-level, but they just have a second story. The total square foot of the site itself is 143,000 square feet approximately. The maximum permissible lot coverage would be 57,000. So he is well below the 40%. Ms. Berry highlighted in off street parking the same thing she previously spoke about – you don't want anyone backing out into major traffic. So in this site you will be able to go around the buildings and come back out in a face forward position so you won't be backing out into Highway 191. For off street loading and unloading, there will be enough space between buildings so that when someone is unloading into their storage facility, someone else can drive by. The next slide is the definition of a buffer strip and Ms. Berry read it. The next slide is the site plan. There is a little bit of green (she pointed out the places) and explained. The Watershed Ordinance, which he had to apply for a special intensity allocation, only allows him to cover the lot 70%. So he had to provide almost an acre of green space to offset that. She pointed out where the green spaces were. He will provide a 22-foot wide drive around the perimeter, 43,136 square foot of grass and mulch (and he tried to place it on the sides that have residents, so he's trying to buffer the residents as much as possible), and buildings are no more than 40 feet high. The next slide is a picture of the site from Leverette Drive, which she described. The next picture is from the same drive but moved a little bit and she described it. The next slide is the sign and the only part that would change is what says "Grand Opening", so that would be electronic and change messages. The top part

would be illuminated but not change. The next slide is the 404 permit from the Corps of Engineers to allow him to culvert the creek. There is a creek running across the property. He has acquired the North Carolina Wildlife Resources Commission approval to do that. There are a lot of conditions he has to meet. There are only 2 shown there, but he has to meet all his conditions as far as culverting the creek. There are about 10 –12 basically saying he can't get dirt down into the creek, he can't kill any habitat for fish, he has to do it the proper way. The next slide is the general requirements of a conditional use permit. The next slide is the definition of a conditional use, which Ms. Berry read. Also, she said before any conditional use permit is issued, the Board may ask for advice and recommendation from the Planning Board. The last slide is specifics to be met for a Conditional Use Permit, which Ms. Berry read. Ms. Berry said that as far as utilities, Mr. Dorn had spoken to Cane Creek Sewer who will provide the sewer service and she believes he will have city water. She said he was going to try to get availability letters yesterday. She said that is the end of her presentation.

Chairman Bonessi asked if there were any questions for Ms. Berry. It was asked if the audience could ask questions at this point. Chairman Bonessi said to hear Mr. Dorn who may clarify anything.

Mr. Dorn came forward and said he is from this area, he is 48 years old, born and raised in Hendersonville, so is his wife. They love Henderson County and no way would they do anything to try to cause a disruption between communities, neighborhoods, or whatever. When he purchased the property, he spoke to Ms. Berry about what type of zoning it was and what he was possibly able to do and he was under the understanding that it is a piece of property that we can put storage facilities up on but with conditions to make it more feasible for everyone in the neighborhood. He wants the thing to be nice for everyone, he wants to get along with his neighbors, he's not that kind of person, neither is his family and any who know him know that because he loves the County. He has owned other storage facility; he built Affordable Mini-Storage on Airport Road in 1995, which is probably one of the largest facilities this side of Charlotte. We try to do it professional, we run the place as professional as we can, make the place look nice and clean, we pride ourselves in doing. This one will be different than that, it will be nicer, state of the art facility, no Penske trucks, no outside storage, makes it easier on us, makes it easier on everything involved. That type of thing cause much more traffic. We're trying to make a really nice facility to fit in that area. It will be totally fenced with security cameras 24/7. Everything at the facility will be first class, state of the art buildings, landscaping, everything. I want the area to look better when we get through with it than it did when we started. Right now you may not think that, because it probably looks the worse right now that it possibly could work with what's going on out there. I've tried to take trees down and the underbrush as slowly as possible. We've put up the silt fence so that nothing at all would get in the stream and we put the mud mats, you haven't seen any mud go in and out on Mountain Road that I'm aware of. So it's supposed to be totally mulched and sawn this week and when we do start grading, provided this permit is granted, we're going to do it in slow process as well. I'm not in a hurry to do it. But I don't want to go in there and just totally wipe everything out and have mud and everything going everywhere. That's not the way I want to do this project. I'm not in a hurry to do it. I want to make it nice because Carriage Park is nice, everything around it is nice. West Henderson High School has it really going on down the road. I mean it's a nice area. The animal shelter that just got built, I mean that was a classy thing that was put out there. The prison camp is not there anymore. It's the DOT, which still doesn't look the greatest in the world, but I didn't even know it wasn't there until I purchased the property. As far as the runoff, probably some concerns, you say we're going to build a storage facility and pave everything, where's the water going to go, whatever. I did have a permit from the Corps of Engineers to pipe that stream across from the front and tie into 191 and also Mountain Road but I'm not sure if I'll totally do that or not. I've got 2 engineers looking at it to make sure we do exactly what's right for the area. Paul Patterson's one, he was out there the other week and he's working on a plan for that. I've also got Joe Haskins as well. As I mentioned before, I have been in this business for years so I do know how to make it the nicest facility and area and that's what I want to do. The other thing is, I was a corporate executive for 20 years with a company, I know the businesses in the area, my wife graduated from UNCA, I graduated from Western Carolina. We are people that do care that we keep you guys happy. I'm open-minded. I'm glad that you're all here, I hate that you had to come, but I'm glad you're here because I don't want anybody upset if we build this spot, I honestly don't. I met Mr. Nabers out on the property a few week ago, that was before we really knew

totally what we were going to do. Chairman Bonessi asked Mr. Dorn to speak to the Board. Also, I had some concern about the buffer area in the back that some of the neighbors came to me and said how many trees are you taking, you're probably going to the property line. When I found out that, we stopped and left natural trees there and hopefully this size facility will fit in leaving those there. I'm willing to try and do that to make things like what they are, anyway that's just the way I operate. But I've got a lot of professionals that will be involved in doing this with me. I talked to Doyle Freeman at Cane Creek Water and Sewer again today. Cane Creek sewer does go up beside the property, which I don't know if everybody's aware of that, some people thought it was Hendersonville Sewer and some people thought it was the state, but his thing is all we need is an application and pay the fee and we can hook in cause it's not anything major. Mickey Robinson and Dennis at Hendersonville Water Department, we do have city water, actually the main goes right through our property. I've talked to Mark Gibbs at Department of Transportation to make sure we do everything the way they want it done. I was on the phone to Beth Tingle this morning about exactly how the entrance needs to be, how wide it should be, what her suggestions are, which we're working together on that, how to make it really nice. It will be up near Park Ridge Hospital building. Of course I've been working with Natalie on getting the zoning thing and I feel there's a lot of things she has to do for this. I've been working with Mr. Holebrooks with the Department of Natural Resources. Associated Land Surveyors, Terry Baker, which is out on 64 near where most of you guys live, he's doing the site plan, the elevations, and all that so it fits in exactly right. I'm not just going to throw up something out there. I've got Betgo buildings, which is the guys I've used for years, it's Jack Davis, I've gotten him grading. I can go down the whole list, no sense in going through that. These are all very reputable people and our attorneys and people that we try to work with and make sure we're doing the right thing cause it's the right thing to do. That's where I am. You're welcome to ask me any questions, if that's what you want to do and let everybody speak. But keep in mind, I'm not here to hurt any feelings, try to work together on this thing and make a really nice facility in the area of 191.

Chairman Bonessi said he's sure several of us have questions. Chairman Bonessi said there are 480 units, what is the size of the other one on Airport Road. Mr. Dorn said 622 units and 74 RV spaces, which it was spread out a lot differently. This one will be more climate controlled which brings a better type of tenant in. We had good tenants at the other one. I never had any problems with break-ins and that type of thing, I think maybe 1 in the whole time I had it, an outside RV storage unit. But we're going to do bi-level buildings on 3 of them for the way the land lays. In other words, you'll drive in, it's almost like the basement on this side where people normally walk into climate controlled buildings and drive around the other side so everything's on the same level. So it's not like spreading everything out all over the whole place.

Mr. Goodman asked if he was changing the elevation much. Mr. Dorn said no, it's pretty much flat on top and it's a 36-foot drop from where it starts down to the highway and we're going to try to keep it pretty much the way it is. Chairman Bonessi asked what kind of traffic count is expected daily. Mr. Dorn said if you're doing good you rent 4 or 5 units a day and that's a new unit, probably 2 or 3 a day, and then the people that come in to their unit, of course at first there you don't have many people there, so you have very low traffic count, but as it grows as big as the one I had out here. As big as it was with Penske trucks, outside storage and everything, we'd have 30 – 40 people come through the facility per day. Chairman Bonessi asked if that was over a 24-hour period. Mr. Dorn said over 24 hours a day. And then there are pros and cons to 24 hours a day, I did it cause anytime anybody's in there, somebody else is liable to come in, so we never had vandalism and that type of stuff because you just wouldn't be totally in control of the facility. I'm not opposed to not doing that but I think it really worked out well with that. This facility would have less traffic flow than that one because that one was bigger and plus with the truck business. Chairman Bonessi asked what he anticipated for traffic. Mr. Dorn said probably 20 –25 people max a day. Chairman Bonessi asked what percentage of this would be climate controlled. Mr. Dorn said, honestly that is a good question, all the bi-level buildings are, probably be 50% of this particular facility, the 2 buildings on top and 3 on the bottom, but I haven't done all the, but the 3 bigger buildings are actually that footprint is a little bit large. That 10,800 square foot building is a bi-level, so it's half that. It's 5000 feet less than would be on the footprint.

Mr. Goodman asked if there was only 1 entrance off 191. Mr. Dorn said there's 1 entrance off of, if you're going down 191 Park, I call it Park Ridge Hospital cause it's part of them, but they'll be an entrance right beside their entrance right on that side. You'll have a, making sure that you've got the diamond 70 sight distance, and what that is is if you're 10 feet back in the property getting ready to pull out on the road making sure that you can see 70 feet down this way and 70 feet down that way, so that there's plenty of sight from a car or somebody's backing out into the road. So that's why we put it down there, so it's totally away from the intersection. Mr. Goodman said that's 5 lanes with a turning lane, right? Mr. Dorn said 3 lanes. Mr. Goodman said but there is a turning lane, right? Mr. Dorn said there is a turning lane. Mr. Goodman said that's good. Mr. Dorn said it's on up past the facility. Mr. Caldwell asked what the Park Ridge property used for. Mr. Dorn said some kind of medical clinic. Several people spoke. Attorney Burrell said to address your comments to the witness and make sure they come.... Chairman Bonessi said everybody will get a chance to speak that is signed up.

Mr. Phelps asked if it was totally cleared the way it's going to be or there still more clearing to be done. Mr. Dorn said it's pretty much all done. There's still a little bit to cut the trees down under the power lines and that kind of stuff and the guys are in to clean it up and re-saw it and mulch it and it will look a lot different this time next week regardless of how it is. Mr. Goodman said you said you left trees in the back, right? Mr. Dorn said the trees in the back are back there. Chairman Bonessi asked if Ms. Berry could put the site plan back up. Chairman Bonessi asked if Mr. Dorn could point out some things, like the entry and sign placement and residential areas. Mr. Dorn pointed out the entry and office, he showed the sign placement, he showed where the residential area was with tree buffers across his property. He showed where residential was with the Park Ridge property between with woods on it. He pointed out a house on the corner of Mountain Road, which is why there is buffer across from it. Mr. Dorn said the watershed area has got to be all green and the mulch [couldn't hear]. This is a whole lot wider than it looks. Where the power lines run on the property, my buildings will be even on the other side of the power lines. He pointed out all the green area. Mrs. Pouch asked where the entrance would be. Mr. Dorn pointed out the office with the entrance right beside the office. Mrs. Pouch asked what was up higher and Chairman Bonessi said that was Stoney Mountain Road.

Chairman Bonessi said he would still maintain a pretty good amount of visibility on the corner. Mr. Dorn said it would be wide open. Mr. Dorn said it would be grass, landscaping. Chairman Bonessi asked if the green area on the Mountain Road side is going to be grass. Mr. Dorn said all grass, mulch and some trees down to the intersection. Nice landscaping. Ms. Berry said the Ordinance would require some trees on it, between the residence. Mr. Dorn showed here are trees between the house – some Leland cypress or some type that's big there and do other stuff, the grass and the mulch and make it really look nice there. As well as back here, worse case scenario with the trees down is an enclosed fence, not just a chain link fence. It'd be like a boxed in fence with Leland cypress trees so you won't see nothing. Mrs. Pouch asked if that was where he said there were already woods. Mr. Dorn said there's woods over here on this side and we quit cutting any trees down up in here so that I'm hoping I've got to slide this building up right here or shorten it and be able to just leave the trees like they are. I'm not trying to be hard to get along with. Several people spoke at once. Mrs. Pouch asked if the buildings have to be a certain.... well you do have setbacks, that's the main thing. Chairman Bonessi asked what is Wexford Road. Mr. Dorn said it is a subdivision. Mr. Dorn said his property line goes right to that centerline. Ms. Berry said that there was a bigger site plan in the Board's other handout. Chairman Bonessi said that it was bigger and helps.

Mr. Dorn spoke about the lights on the building. Having low lights, like 50-watt lights, wall type, mounted on the side of the building lights the doors and keeps it down in between the buildings. Most house lights are 60 watts. They will be mounted 40 feet apart, so you're lighting at the doors, so if my wife were in there at night for something, she feels safe. You also got security cameras watching every movement to discourage criminal activity. You're going to cut down on the guy staring at the camera. Chairman Bonessi asked the office hours of operation. Mr. Dorn said 9 to 5 Monday to Saturday. Mr. Dorn said you have a key code that you punch in and the computer system tells exactly who enters. Chairman Bonessi asked typically what kind of clientele do you see with this climate controlled versus the conventional storage. Mr. Dorn said you have professional people, doctors, lawyers,

people that store their records keeping in there that keep it for years and years. That's one of the main target markets that we try to get. You have people that are moving into nice subdivisions, all the time I had that at Affordable for 10 years, I mean you hardly ever had any sales from people that bring your climate control buildings because they're the ones that pay their rent – you get a good quality of person that rents that. This facility will be such that that's what the type of clientele we will be attracting. It won't be the lowest rent in town, because you get the lowest rent in town, you end up getting that type of tenants in. It'll be as high or higher than any other facility in the area because it will be the nicest facility in the area. And people come there because we're friendly, treat them like people, give them a good service for a fair price, and that's what we pride ourselves in doing. Mr. Goodman asked about 50% is climate controlled, right? Mr. Dorn said it's probably going to be a little more than 50% in this building actually, but 50%, I'd say, is a conservative number. Mr. Dorn said that most of the tenants in this type are like most of you sitting in this room, it really is, you get them from all walks of life. Chairman Bonessi asked if he would have an issue if the Board required a certain amount of climate controlled space. Mr. Dorn said not if it's sweeter. I mean that's fine with me. I doubt that you'd require more than I'm going to do there anyway, but I don't have a problem with that.

Chairman Bonessi asked about the sign. Mr. Dorn said that particular sign is exactly like the one that I have at Affordable Equipment Rental, which is another business that I own out on Spartanburg Highway. It's a beautiful sign and some people may say, well it's got a message read-out on it. I'm not even opposed to not having a message readout. I'm going to put it one here because the message readout can be beneficial to the area, being with the High School and Rugby right down the road. You know if West High wins the state playoffs, I can put congratulations falcons. It's not a bright sign, it's the amber lights. It's not like the Mountain First Bank sign, that's so bright or the one on the Interstate. This is just amber lighting, you have to look at it to read it, but I can put Happy Birthday whoever, Congratulations this one, Congratulations that one, or we can put, you know, specials and storage events at such-and-such a price. It's a lot more expensive than doing it without it, like \$16,000 to \$18,000 more. If nobody in here wanted that sign, I don't have any problem with not doing it. But it's a nice sign, if you want to see the one that is, go out Spartanburg Highway and there's been several that's bought the sign after we did it. I put the first one up there 2 years ago, it kind of reminds you of the Hilton Head area. It's not the big blowout stuff, it's just nice and neat and conforms to the area. Mrs. Pouch asked if it was like the storage place on Spartanburg Highway. Mr. Dorn said his is brighter, it's similar to that one, but his has got the bright thing that comes out at you. Mine is just the amber lighting. It's a low key light. Mr. Goodman said it's not that big of a sign, is it? Mr. Dorn said it's not that big at all, it's about 6 – 12, 16 inches and that wide. We'd have fun with it, putting peoples birthdays on it and that kind of stuff. Chairman Bonessi asked how vital he thought the sign was to his business in that location. Mr. Dorn said of course any sign in any business helps, but in my other storage facility I didn't have a sign outside on the front, I just had letters on the building and we've done better than everybody else in the area. That's on Highway 191, the other one is off of Airport Road, which is more residential and that type of stuff that you have around, so sticking a sign out there might not have been what all the neighbors would want, but this is out on the main highway that you're going down the road, but it's not a big, huge sign that's going to make a lot of difference. It's just kind of like the signs that's around you.

Chairman Bonessi asked if anyone else had any questions for Mr. Dorn. Chairman Bonessi asked how we wanted to do this. Ms. Berry said to just go down the list as they were written. Chairman Bonessi asked when we wanted to open Mr. Dorn up to questions. Attorney Burrell said for consistency go through all of them, go back to the same list in the same order for questions people have of them. Chairman Bonessi said the first person on the list to speak about this is Rod Rogers.

Mr. Rodney Rogers came forward and said he is a new resident to the Henderson County area, moved from California and spelled his name for the secretary. We moved here approximately October, we saw the little house there, bought it from the owner, loved it, they were there about 25 years. Part of the reason we enjoyed the area as we have a 12 year old and 4 year old children, is that little forest is very nice to look at and illuminate at night. Our concern was when the trees, if I may elaborate slightly, as I believe you allowed Mr. Dorn to do so, also you can get

a feel of the concept of what we are looking at. The trees were going down, we're looking at the property, I went over to talk to his foreman, and unfortunately, his foreman was not very receptive for me being there. I asked how far are you going to go back and he said to these yellow flags. I asked if he would mind showing me around on the property then, just so we could have a feel, cause I'm 90 feet away. He then, he was a little irritated by this, but he did walk me and he said this is upscale, you people would be better off with this than what we had before. And I said well, how would you like it if you would have your property having the back of a building, I said when I'm standing on my deck, which I would like to enter into exhibits 1 – 3 pictures. You'll have to excuse me, they're a little dark, they're homemade. The first one is standing myself across the street which is Mr. Naber's lot which is where he's talking about this large buffering and that is where the trees were left, there is one single row of trees there. The gentleman also explained to me that we were fortunate to have this gentleman come in because who knows what kind of person we would have putting what kind of things on this property. And I did ask him, well would you enjoy having something like that next to your property. Well yes, if this was the man who was building it, I sure would. I said so you wouldn't mind having a commercial entity sitting in a residential. I did also ask him well how far would you be going. He stated the road at the end of Wexford is not technically a road and is not DOT although a portion of it is paved. He said technically if we wanted to, my boss could put it right here, but he's going to be nice to you and move it up. Unfortunately, how I felt it was a little condescending the way the gentleman did talk to me. That's okay, now I'll move on to the facts. The first picture was showing Mr. Naber, the second picture is showing from my front yard me standing at the property line of their property line. So, that's just looking at the front yard. Looking at my deck, my deck, which is only a few feet off the ground, I'll be looking straight at that building completely through. The last picture shows from the top of the site down. Also, mentioning this sign, my backyard now because of him clearing those other shrubs out on the way down Mountain Road, that sign will be blinking right into my daughter's bedroom, my bedroom, our dining room. It's right there, it's totally open, so that whole area is open. So those are 2 signs that we're looking at. You'll also be noting, he stated the lighting on the buildings, yes I'm very familiar just from my own personal knowledge of assisting friends moving from house to house possibly over the years in some of these 24-hour access storage units. Those lights also have to be on the outside of the building, of course you want safety. So those lights will be illuminating directly into my house. And we're talking about from those units that'll be sitting plateaued up level with my house. Of course, Mr. Nabers has it just as bad as I would. The buffering on my side, he's not showing buffering, he's showing possibly some plants, but as far as trees, those trees are all gone, they're missing. The person that has the trees is the Park Ridge people and it's their property with their trees. So obviously they can do what they want. But he cleared those trees right up to the edge and if you look where I'm standing on the first picture there is a single row of buffering trees, all the rest of the trees are gone. Ms. Berry asked if he could tell us where he lives. Mr. Rogers said he apologized to the Board for wearing sunglasses – he's had a slight vision problem and is very light sensitive so his wife will have to show. He introduced Barbara Rogers who pointed out the property on the site plan. Mr. Rogers said his house is facing the upper plateau of the building that is going to be running from Wexford down toward 191. Chairman Bonessi asked if the Park Ridge property is between. Mr. Rogers said that property you are referring to for Park Ridge, my backyard is, if I walk out of my backyard to the back of my chain link fence and I go another 10 feet, it drops down, I'm going to say 20 feet. So this is not all wooded back there, this is a total drop-off from my house, which we're glad to have the chain link for my 4 year old, but if you walked a couple of feet beyond, when I stand in my backyard I see that entire intersection now where it was hidden before, the lights changing back and forth. But if you were looking and walk a few feet from my fence, it drops down to the parking lot of the medical center. And then if you were to turn this way, I'm now looking at the side of Wexford Drive is to my left, I'm now looking at the plateau of the uppermost level of the property. My concern is not only the resale value, we don't plan on selling our house, we love this place, but it's a concern that you've got a commercial entity sitting right there looking at you. My thought process also I mentioned to the gentleman who I did talk to the foreman was that could it possibly have been nice if someone had come up and said look I'm here, I want to build something, I'd like to get you folks input so we wouldn't have to be sitting here today. And I said wouldn't it have been nice if your boss had done that, possibly, I know it's not his obligation. He goes, well you're right, he doesn't have to do something like that. Whatever we're going to put in, is going to be better than what you people had before. But that's basically all I have to say, that yes, I am opposed to it, I think it's being compressed in there, my other concern is now hearing that bi-

level. Oh. I'm sorry, I apologize, I'm getting ahead of myself. When I asked well what exactly is he putting in there, he said I don't know. I said sir, you're here, you're grading, you obviously know someone spent a ton of money doing this, you don't have a clue what you're putting in here. He goes no. I go that's okay, we'll know in the meeting soon enough. I just find it a little bit of awkwardness why someone would not to just come forward with that and state that to us. The concern that I have, not only is the lighting looking into my yard, but there's a road right there that he's proposing where the traffic and vehicles are going to be going back and forth. He mentioned Penske, that's rental of Penske, but people that are moving especially, and he's referring to upscale, will be pulling in 26 anywhere from 14 to 26 foot U-hauls in there. I'm very familiar with these storage units in California, the 24-hour access ones, and know they're not totally impervious to theft. My concern is, somebody again hopping over a fence near my yard, the lighting going on, the 24 hour access people going oh I'm going boating this weekend, I'm going to need my boating supplies, so 1 in the morning he's out there opening up his garage door and he's stating Johnny get back in the car, we're going to get ready to leave and it's unfortunately that does happen. 24-hour places people are coming and going, that's the right to do. That would be a very big concern. I know we can't fight City Hall, the gentleman's entitled to do something with his property. My thought is now that I know it's going to be bi-level, here's the height of the building no matter what shrubbery, although he's not really addressing, he's addressing Mr. Naber's property with more shrubbery than he is concerned with mine and mine also has a direct line of sight to that. Would be possibly for him to lower that plateau possibly 20 feet or so, so we're not looking. I mean this thing's going to be sticking up toward the tree line and the other thought is, no not 24-hour, to have limited hours. My other concern was most of the 24-hour places have on sight managers that do reside on the property to prevent these kind of things or if there is a false alarm or something they can reset it. We would also need to have some kind of study concerning there are false alarms. These 24-hour access, when you go up to the keypad, you punch in your number, your own private code that allows you entrance and egress to the facility, but then also disconnects the alarm on your individual unit. These are magnetic contact sensors, which are designed to have a variance of anywhere from about a quarter inch, three quarter inch, depending on who he uses. I am very familiar and I am an expert on alarm systems for the government. I can tell you those things, when the wind blows sometimes they pop off. It is going to be ? Basically the people that do rent them are, yes, they're very good people, I'm sure they are, they'll go in there and you're also talking about 50% is going to cost a little bit more money. The other 50% it won't cost quite as much, but sometime those individuals, at least I know where I had came from, they rented to somebody else for cash, then they stored things. Possibly, I know Frito-Lay a lot of the large consumer food product, they'll rent these, they'll rent probably one of his whole buildings and they'll be in there, 3:30 in the morning with one of their diesel running filling up their trucks, and basically that's about all we're looking at. I came here to mention what I had to say concerning this, if anybody has any questions for me, please feel free. Other than that I thank you for your time.

Chairman Bonessi asked if anyone had any questions for Mr. Rogers. Mr. Dorn wanted to comment. Chairman Bonessi said he would have a chance but we need to stay consistent right now, but we'll just go through everybody and then we'll put you in the circle. Chairman Bonessi said since there were so many people he would like to limit the time to about 3 minutes per individual and 5 minutes per group just to get through the comments and then come back with the questioning. Attorney Becker wanted to go on record as objecting to that in the quasi-judicial proceeding. Assistant County Attorney Burrell said it is Chairman Bonessi's ruling but he would advise you not to limit it to any given amount if you don't limit everybody, though you can limit repetitive information which is the exact same as someone else. That might be the better way to address it. Chairman Bonessi said he was okay with that, we won't limit you as long as it's new information.

Chairman Bonessi said the next person on the list is Jeffery Naber. Mr. Naber came forward and introduced himself and said he lives at 11 Wexford Drive, pointed it out on the site plan and spelled his name. My wife and I have lived there with our 3 children for the last 13 years. We have been active in the community in the Sedgewood Subdivision, I don't think the name of the subdivision has been mentioned, it's one of the oldest subdivisions in that area. Donald Thompson built the subdivision, I believe that's who Mr. Dorn purchased the property from. Donald Thompson also built Haywood Knolls, Heatherwood, and various other properties. My house was built in 1972. I'm

glad that we settled the time issue. I have a lot of information that will be different than my neighbor Mr. Rogers. A lot of new information, in some areas of the information that I'm going to discuss I consider to be maybe not an expert, but because of the work that I do, I'm very familiar with many storage units and activities that can go on at many storage units throughout Western North Carolina. Before I get started on my list I wanted to, and I know that we'll have time to ask each other questions, one of the things that I wanted to point out specific to Wexford Drive, is Wexford Drive is a state owned road, as well as all roads within the Sedgewood Subdivision. And if you look at the site plan, which I saw about an hour before the meeting, it differs in a great degree to the Ordinances specific to the setback. I think Mr. Dorn shows a 30-foot setback and under C-2, if I'm not mistaken, C-2 shows a 60-foot setback. Mr. Dorn also explained that he's not here to hurt anyone's feelings, but if you remember his testimony, he talked about that there were trees taken down and he didn't know to what extent until he got out there and saw where the buffer was taken a little bit too far. In one of the photographs, my neighbor Mr. Rogers is circulating, can show about 12 trees, with the vegetation that starts very high up on the trees, and from my front window now, you can see clearly through that thin strip of trees, which the land's been cleared within about 20 feet of the center of Wexford Drive. The buffer strip that's indicated on the site plan, of course hasn't been planted yet or in place. On the second of this month I met Mr. Dorn on the property, and I've known Dennis for probably 20 years, we attend church together, I worked with his wife at the Belk's Department Store years ago, so we have not had an adversarial relationship and I hope that we can continue with that relationship. I met Dennis there, he showed me the site plan at that time, we talked a little bit about it. The one thing that I haven't heard today from him or anyone else that has testified, Dennis specifically told me that he would possibly be saving the corner (and he showed it on the site plan) for a later development as a convenience store. And I wanted to point that out that I have not heard that today. And that is a great concern of mine that this property at a later time would be considered as a convenience store. I have some handouts that I would like to enter as exhibits, can I do that? Ms. Berry passed them out to the Board. Mr. Naber said what I have done was research into this is spent a lot of time on the Internet and tried to look at what happens at mini-storage sites like the one that's proposed. And also wanted to take a look at the industry and see what they have to say about it. The top of what I handed you has just got the definition of conditional use, but if you look where I've tabbed it number one, this is an article that was written by an attorney, his name is Jeffrey Greenberger, and this article comes from a magazine that is also accessible on the Internet, the magazine is Inside Self Storage magazine. This article was in December of 03 and I think I've highlighted on all those copies that I've you, that the Attorney who writes and put this on their website stated that "this is a different day and age for the self-storage industry. Your tenants seem much more willing to put off paying rent for longer periods of time, allowing more and more property to go to lien sale; and they seem much more willing to sue a facility when property is damaged or their goods are sold." But the next sentence is what I want you to pay particular attention to. "Your tenants are storing hazardous waste or using your facilities for the manufacture of illegal substances more than ever before, and I fear this is a trend that will continue." And I thought that was very striking coming from the industry who attempts to promote the building of these facilities. They are warning the people who are building these facilities that there are hazardous waste and manufacturing of illegal substances more than ever before and that they fear that this trend will continue. I'll refer you to where I've tabbed number 2 and on the same website I noted and made copies of 24 different articles where they print things that occur or crimes that occur on mini-storage units. There's I'm just going to read the titles to these articles and if you want to spend more time, I hope that you do, and read the specifics: Busy Thief May Have Been Caught, and this is nationwide, Township, Ohio. That article talks about someone going through a series of breaking into a series of the units. There's Stolen Property Discovered at Storage Facility, Meth Lab Found in Unit, A Murder Victim Stashed in Facility, Kids Locked in Unit by Mother (I have 3 teenagers), ND Police Launch Anti-Crime Program for Storage, Man Dies in Facility Fire – Arson Suspected, Mississippi Man Charge in Porn Case where he was storing pornography in a self-storage center. Chairman Bonessi asked if there was any information from North Carolina. Mr. Naber said he would get to that. He said he would get to that after he goes through these. He said Accused Criminal Used Storage Units, Police Investigate Burglaries, another sex offender stored pornography, another meth lab, man arrested for break-ins, and this goes over a series of multiple years. I went back just about 3 or 4 years. The remaining articles are about meth labs and more burglaries, suspicious fires, more meth labs, a pipe bomb was found in a unit, another woman was found in locked unit, and these are just some of the things that are coming from

the industry itself. These are news articles and you can see where it's noted what newspapers printed these articles, but the industry itself is showing, not only the industry, but putting out for everyone to see what type of activities can occur and I'm sure the majority of times there are legal activities at many storage units. But the risk of violence, the risk of stolen property and criminal activity will be greatly increased in our community if this facility is allowed to go in to this site. I want to share with you a little bit about what you asked about North Carolina. I've worked in criminal justice in the system in Henderson County since 1981. In 1981 I started as a city police officer here and worked for 5 years for the city of Hendersonville. 1986 I became employed with the state as a probation officer, worked in the old courthouse. I remember working with Attorney Burrell on several cases and haven't talked to him or seen him in years and years. I've lived in Henderson County throughout this time. When we first were married we lived in Dana and then moved to Wexford Drive in 93. In 1992 I was appointed as a federal probation officer working in US District Court in Asheville is my current duty station. For 10 years I was assigned a caseload to supervise people who have been convicted of various crimes in Federal Court and I have a vast knowledge of criminal activity on the local level, criminal activity on the County level, working for the state as a probation officer just in Henderson County. At the same time I was a reserve deputy for the Sheriff's Department here and I have quite a bit of experience for almost 14 years as a federal probation officer working out of Asheville office. Throughout my career I have seen crimes at mini-storage facilities. In approximately 1983 I investigated a theft at the Lowe's store on Duncan Hill Road. We made a car stop, the people involved were stealing power saws and so on. Through investigation we found that they had a mini-storage unit full of equipment at the, it may have been the first mini-storage complex on Sugar Loaf Road right in the steep curve right next to, it used to be the Holiday Inn, I think it's the Ramada Inn now. I have some specifics throughout the years. In 1995 while working in Federal Court I supervised a company under that was placed of Federal supervision for violation of Federal laws concerning environmental protection, Blue Ridge Plating is the name of the company, and they were pumping hazardous waste into the sewer systems, flowed into the French Broad, which flows into Mississippi River which violated Federal law. Through that investigation, it was determined that the owner was storing hazardous waste, multiple drums, dozens of drums, 55 gallons of hazardous waste in a storage unit in Asheville. That was in 1995. For the record, the Docket Number on that case is 1:90CR143. In 1996 I personally supervised an offender by the name of James Britt who has been through state court and has been through federal court several times. Mr. Britt broke into the Department of Motor Vehicles, stole a camera that is used to take all of our pictures, and took that to a mini-storage unit that he rented and proceeded to make pictures of all his criminal buddies and sell each one of the false drivers license for \$500 a piece. A Federal investigation came about and he was prosecuted, went through federal court and federal prison and then I supervised him once he was released from federal prison. In 1998 Mark Johnson was employed by Loomis Fargo in Jacksonville Florida. He decided that he was going to take the money and run. He was in an armored vehicle, an armored car, he had a co-worker with him who he kidnapped, handcuffed, gagged, and placed a bag over his head and drove him, from Jacksonville Florida, to the mini-storage complex in Mountain Home, North Carolina. While there, while his co-worker was bound, gagged, and had like a pillow case over his head, Mr. Johnson unloaded \$15 million in cash into the storage unit and then drove to the Blue Ridge Parkway where he took his co-worker, handcuffed him to a tree, left and went to the bus station in Asheville, left the country and was caught at the Mexican border coming back into the country. In 2000 I supervised an individual by the name of Kenneth Spring, a very violent criminal, who decided he would tell me, and this is very common for criminals to tell you that they are living in one place, when in reality they are drifting and they are living where they want. I found Mr. Spring to be living in a mini-storage unit in Clyde North Carolina. We searched the mini-storage unit as a condition of his supervision and found dozens of weapons, threatening communications, controlled substances, and he was reindicted for new criminal offenses. He also, while he was in federal prison, he threatened to kill me, my wife, my 19 year old daughter, at the time she was 14, and it was a considerable investigation over this person who lived in a mini-storage unit. In 2004, just a couple years ago, on April 21, in Rutherford County, I worked on a case that is called the Barnett Conspiracy. The docket number is 1:04CR117 and a Rutherford County deputy, Hamrick, stopped a vehicle at 3 o'clock in the morning leaving a mini-storage unit. In the vehicle was found a meth lab, a mobile meth lab, with the precursor chemicals red phosphorus, anhydrous ammonia, and certain things, just by possession alone are felony offense under federal and state law. An investigation revealed, went back to the mini-storage unit, FCI Mini-Storage Warehouse is, and a major

methamphetamine lab was found in this mini-storage unit. The clean-up cost was over \$5000 and the government had to pay that clean-up cost. I spoke to Lt. Steve Carter with the Henderson County Sheriff's Department today and the Henderson County Sheriff's Department has 11 reports since mid 2003 of crimes that have occurred at mini-storage units in Henderson County. In 1999 there were 9 methamphetamine labs discovered, that doesn't mean that's how many there were, but there were only 9 discovered in the state of North Carolina. The numbers have escalated yearly. The last figure that came out a month ago was 328 labs in North Carolina. Many of them have been found in Henderson County, in Rutherford County, and Polk County and I think from my experience a mini-storage unit is one of the best places a criminal can hide, not only methamphetamine, stolen property, and this is all pointed out by the industry itself. Most often when criminals are involved in a mini-storage unit, they will do what is called a straw rental, in other words someone legitimate, who has 2 forms of identification that most people require and who has substantial credit, which most people require, will rent the unit and then sub-rent it to someone who doesn't have all that. And in that way also, they make income from it and they also don't have any knowledge of what is being stored on the property. I don't believe that Mr. Dorn can tell us today that he will know specifically what is stored on the property and what is being moved in and moved out. And that is one of our basic rights as a fourth amendment right to search and seizure but based on the evidence and what has gone on, not only in our County but across our country, the risk of criminal activity is greatly increased if we allow a mini-storage unit in our community. Some of the things that I have concern with, being that I live right across the street from where the property is, buffering and screening, line of sight from my house to where these units will be located, and that goes into lighting. And if I could make a quick couple of comments on the line of sight and the elevation. From Wexford Drive on the property if you're looking onto the property Mr. Rogers has a photograph from my front yard looking across the property, the property rises in elevation slightly for about 100 feet before it starts to drop off all the way down to Highway 191. And our community, our subdivision, would be greatly impacted in a negative way with lighting on buildings if they are higher than residences around them. These buildings which he's got right here, if they're lit the way he's talking about, they will shine, they will be higher than any of these residences. So not only are we going to have lighting that Mr. Rogers talked about, but it's going to be lighting that is higher than the residences. I'm not talking 100 feet higher, but at least a 50-foot variance from the center of the road to where these buildings are. Chairman Bonessi said, so you're saying the elevation. Mr. Naber said the elevation increases. Chairman Bonessi said, of the land of your property. Mr. Naber said, from my property it's uphill to where these are. From this property it's uphill. From Mr. Rogers property, it's uphill. It's all, this is the top of the hill right where these 2 buildings are. The hours of operation will have an impact on the noise that we hear. With the trees just about gone and no buffer right now, my wife and I can clearly hear the traffic, which is on Mountain Road, traffic on Stoney Mountain Road. All this is open now. The buildings may reduce that a little bit, but if there are trucks loading and unloading and the capability of them doing that 24 hours a day would greatly increase the noise level in our community. Odors. No one will know what is stored in our community. No one will know what kind of smells we will be receiving from this type of warehouse in our community. I believe that's everything that I have to talk to the Board about and I appreciate the time that you've given me here. I know it's more than 3 minutes and I tried to go through my information quickly. Chairman Bonessi asked if anyone had any questions for Mr. Naber while he's up here.

Chairman Bonessi called for a break. Returning, Chairman Bonessi said that he had one more person ask to speak that wasn't on the sign-up sheet. He asked Ms. Berry how it had been done in the past. Ms. Berry said to go ahead and add them. Chairman Bonessi said that he said he was sworn in but didn't get on the list. He said he would add Bill Byrnes to the list. Chairman Bonessi said the next person on the list is Dave Walters.

Mr. Walters came forward and spelled his name for the secretary. He said he wanted to take us away from this site and go downstream on the Mill Pond Creek. I live on North Hills Drive, which is just north of the Haywood Knolls subdivision. It's a small community that we live in. I have 9 homes up there. We have a bridge, my neighbors and I own a bridge, and a connecting road that is in the floodplain of the Mill Pond Creek, which is the estuary into which the storm runoff from this project will drain. I'm very concerned about that runoff. I've done some calculations using the hydrology for urban storm systems and the calculations indicate to me that we're going to see a storm water

runoff increase from just the 3 acres here of about 50% and that going into the Mill Pond Creek is going to increase the flow down at our bridge by about 3%. Now that doesn't sound like a lot, perhaps, but the fact is we've got a bad situation already with flooding and erosion of banks and so forth down there now and this is just going to make things that much worse. Some specifics around the last several years, of course the last 2 years we've had 3 major storms. In that time the Hysong Lane bridge, which Hysong Lane is just downstream from us, was washed out and had to be replaced by the residents there. Upstream of our bridge, we've had the banks blow out and we were fortunate enough to qualify under the state recovery plan as a result of the hurricanes to have a lot of that restored and they did a lot of work to help straighten the creek out and so forth. We hope that's going to work. We also have other cases of bank erosion upstream and downstream of us, owners of private bridges and so forth that have had to do work and pay out a lot of money. And we need some relief. In addition to the damage to these assets that are in the floodplain, there is a problem of access and this has become a bigger problem more recently, in that we have had flooding over the roads and over the bridges and this is something that's new, that has occurred in the last couple of years. I have lived there since 1982 and I haven't seen the kind of flooding, our bridge totally underwater, I haven't seen that, except in about the last 2 years around these 3 storms that we had. The other concern that I have, and that's just our ingress and egress, the other concern that I have is whether emergency vehicles will cross a bridge like that that they can't see. And I have a son that has very serious medical problems. We have the EMT people transport him, he was transported a little over a year ago and I don't know whether they would cross that bridge in an emergency not being able to see whether there's a deck there or not. I would guess that they have regulations that restrict them from doing that for their own safety and because of the safety of the hardware that they have. We also have other residents with health problems, man across the street is a very brittle diabetic has been transported. So I have this concern about the fact that flooding could prevent the evacuation of someone who is having a serious medical problem. And I finally want to note that in addition to the bridges and the roads that I'm talking about, there are homes that are in the floodplain down in our area. And while these 3 storms that I'm talking about have not caused any damage that I know of in these homes, these homes are still at risk. And I think it's worth considering that when we consider projects that are going to potentially add to storm water runoff. I think in conclusion in consideration of all that I've talked about here I would ask that you impose a condition that this project be storm water runoff neutral, that is that the development be required to not have any more storm water runoff after completed than in its original state that it was in before the development began. Chairman Bonessi asked about numbers and statistics he spoke of in the beginning, what is his background and where did he get the numbers? Mr. Walters said he has a degree in chemical engineering and I worked up on the medical imaging facility up on Cedar Mountain for 32 years. That was originally set up by Dupont. I worked there as an engineer and I also worked there as a manager of engineers. Mr. Caldwell asked if any of these concerns and conditions (floodplain) are reviewed as part of the permitting process through the Corps of Engineers and North Carolina Natural Resources and Watershed. Mr. Walters asked if anyone came down to talk to us about it? Mr. Caldwell asked if that was part of their study and should it have been part of their study? Mr. Walters said he believes so. You're hearing from me is where the rubber meets the road. They have, you look at our floodplain maps, those things are outdated and I think that's what they're looking at. They're looking at information that's out of date and really doesn't have any practical application. And I think that's where they come from. But, no, we've been in contact with the Soil and Water Conservation people in Henderson County. They're the ones that came out and helped us with this blown out bank situation and they got us involved with the state recovery thing. But other than that we haven't had any official contact. Mr. Goodman said his brother lives in Haywood Knolls and you said North Hills Drive is adjacent to Haywood Knolls. Mr. Walters said they are one road north of that, same side of the road. Mr. Goodman said isn't that about a mile down the road from this. Mr. Walters said that it's probably 2 miles down the road, mile and a half maybe. Mill Pond Creek runs under 191 and then runs behind Corns, through the front of Rugby School, that's Mill Pond Creek. That runoff affects us, there's no getting around it, it doesn't get absorbed into the soil of the stream. Whatever starts at the headwaters of Mill Pond Creek goes all the way down and ultimately to the French Broad River. Mr. Goodman said didn't the County pass a Flood Ordinance now? Mr. Walters said for development in the floodplain. Mr. Goodman said but the people that are in the flood zone can now get flood insurance, can't you? Mr. Walters said right, the only thing the County addressed was building in the floodplain. There has been nothing done to address storm water runoff. Mr. Goodman said that the people that are

in it can now get flood insurance. Mr. Walters said right. So you're out of your home living in a motel for 3 weeks or months, at least you haven't lost your whole investment. Mr. Goodman said they didn't have that a year ago. Mr. Walters said agreed. Chairman Bonessi asked for any questions for Mr. Walters. He thanked Mr. Walters.

Chairman Bonessi said the next person is Robert Payne. Mr. Payne spelled his name and said it is PHD. He is President of the Foxwood Property Owners Association, which is about half a mile up the hill from this location off Mountain Road. But I'm not representing the property owners association, I'm representing myself as a concerned citizen. My personal background in environmental work, I'm retired from the Environmental Protection Agency. I have a bachelors, masters, and PHD in geology. One of my concerns is the sediment runoff associated with this project and in particular, although I chose to remain silent, Mr. Dorn said he wasn't rushing into this project. Well, in fact he seems to have rushed into it rather rapidly in that he started construction well in advance of having all the permits that he required in place. And he actually is in violation, in my opinion, of his Corps of Engineers 404 permit. In particular this permit that was issued to him in April requires that he institute all of the conditions that are in strict accordance "your work is authorized by the above referenced permit, provided accomplished in strict accordance with the attached nationwide conditions [and then in bold in the permit document] those conditions outlined in the enclosed NCWRC letter [that's the North Carolina Wildlife Resources Commission] and your submitted plans." Well in fact, if you go back to the North Carolina Wildlife Resources Commission letter, and take a look at it, you'll see that those conditions that they have included in that letter state rather clearly, that adequate sediment and erosion control measures must be used before construction. This site was started to be cleared at least 3 weeks ago. When I came down to visit Natalie a little over a week ago, when I saw the public hearing announcement, to see if I could get some documentation about what the plans were, she told me at that point that she was fairly certain that there was not a North Carolina environmental health natural resources sediment and erosion control permit yet issued for this particular piece of property. So not only we had some problems with what the wildlife resources people say in protecting the stream water quality federal 404 permit, I'm not certain if he has a North Carolina Department of Environmental and Health Resources Natural Resources Permit DEHNR permit for sediment and erosion control. Results in discrepancy of the acreage that I'm really concerned about. His proposed plan to the Corps of Engineers in the county documents show 2.74 acres for this parcel. His site plan shows 3.29. Very convenient for calculation of how many what percentage we need for buildings when the acreage goes up we can get more buildings on it and more impervious surface to be created. He's taking advantage of the fact that the lot lines run to the middle of Mountain Road so clearly that's not property that he can develop on but apparently under the zoning ordinances he can use that as part of his calculation. I think that 's a little loose in the interpretation. It certainly was not applied for in his permit, he's not complied with that part of the permit and I believe he's in complete violation. There is approximately 80 – 100 feet of silt fence that was installed very recently, last few days, I believe. The lot line that runs from the intersection of Mountain Road and Haywood up to the end of the lot is closing in on 1000 feet. So we're looking at a large piece of land that has been cleared for upwards of 3 or more weeks for that runoff to run right straight down into Mill Pond Creek. One thing that's not addressed in his plan is they plan to put a culvert in to keep that creek off of the property so they can cover it up. Where's the runoff going to enter the creek? There's no plan that I can see on this drawing or any other plan of where any drainage culverts are going to allow the water that's going to run off this highly impervious surface into the creek. It's certainly going to end up there, is it going to go across Haywood Road? Who knows? My principal concerns are that we're already in violation on a project that we're going slow on, to quote Mr. Dorn. In fact, I think he's put his cart ahead of the horse. So, I suggest that one of the conditions again be that we get this acreage discrepancy clarified and that, indeed, verify that appropriate controls under both the 404 permit and the state department of environmental and natural resources permitting are in place before any further work is allowed on this site. Thank you. Chairman Bonessi thanked him and asked for questions. Mr. Goodman said you said he started construction what? Mr. Payne said if we don't call taking out hundreds and hundreds of trees clearing the land construction activity, I don't know what you would call it. Do you have a better term for it? Mr. Goodman said he didn't consider that construction. I consider construction when you start building something. Mr. Payne said let me quote from the letter from health and environmental resources. Adequate sediment and erosion control measurement that letter, if you go down to number 1 and read the first sentence – must be used before construction. In essence before there

is land disturbing activity that allows the sediments to run off. That's the essence of what is required in the state law by the environmental health. It's why we have green buffers along farmland. Mr. Goodman said wouldn't that mean grading? Mr. Payne said it includes grading, yes. But if you go to that site right now, you won't find 100 square feet of grass in the area from here to here. All the way up Mountain Road there's a strip of grass no more than 5 feet wide next to the road. All the way down this side it's completely striped bare, nothing but lose ground. And stacks of tree trunks ready to be hauled off. All of those vehicles will come in and out carrying that out, then it will all be bare until it's seeded, until it's graded. And during all that activity, and before that activity starts is when the sediment control measures must be in place, before you even start it. Any other questions?

Chairman Bonessi thanked Mr. Payne. Chairman Bonessi said next is Shirley Walsh.

Ms. Walsh came forward and spelled her name. Ms. Walsh said she is a tree hugger. So it just broke my heart to lose all those trees. The beauty that is here in this area is just phenomenal and to see what happened at 191 and Blythe and to see this happen, it's awful, but I think the people have their rights to develop and I respect one's rights and I think things are primarily profit driven, income driven. My questions this evening are have you discussed the building materials and colors. I didn't hear that if you did. As you speak of the presence of these buildings that are there, how tall is this building, please? Ms. Berry said she was not sure, but the height restriction is 40 feet. Ms. Walsh said this building we are in. No one knew. Ms. Walsh said she wanted it for comparison, I'm a visual. But the way the landscape goes and everything, I saw, if I saw correctly, on 191 that there were 5 Leland cypress that were proposed. If you have a huge building, is there a color designated? Is it steel? I'm just afraid you're going to say orange. But if you have chain link fence, and if I heard that there's concertina wire or something on the top there, I would hope that there's Leland cypress that are planted around the whole perimeter there to soften it, because I feel that our quality of life of all of us here has been diminished by what has occurred. That would be one of the major concerns that I have is Leland cypresses everywhere that you could put Leland cypress and thank you for offering to take the digital part of the sign off and I hope that you do do that. I think that that corner is so dangerous and I for one recycle weekly there and I think a digital sign would just be one more thing to take your eye, safety wise, from there. So, thank you for that option. And then I don't know if it's my business, but I would be interested if the possibility of even further building of a convenience store if that is part of the plan. Chairman Bonessi asked if anyone had questions for Ms. Walsh. Mr. Goodman said he didn't think there was room to put one there the way he's got that drawn, is there? Chairman Bonessi said this hearing is for this project. Ms. Berry said he wouldn't be allowed to have 2 businesses on one property anyway. Mr. Goodman said that stops the convenience store. Ms. Berry said on top of that he can only do 70% for watershed regulations and he's already diminished that. Chairman Bonessi said we are not talking convenience store at this time. If that were to happen there would be another meeting.

Chairman Bonessi called David Walsh. Mr. Walsh said thank you for allowing us to speak here this evening and spelled his name. A couple of the issues that I had have been addressed. One was the discrepancy in the acreage. You know the 3.29, and yet it shows 2.74, I didn't know where that differentiation was coming from. That again would affect how many buildings can go on this property and I'm looking at, he's saying a 22-foot wide drive around the perimeter. What is the structure, the materials being used here, because this all addressing and looking at water runoff. Where is this water going? I mean it was trees and shrubs and now it's stripped off to bare land. He's going to put all these buildings on here, water runoff from there and then the roads that he's putting in there. There is nothing on here that I can see that's going to be absorbing and taking care of any of this water runoff. So it's all going somewhere and it's all going downhill. So I'm concerned about that. Any project that I've ever seen, and I'm in this area fairly new, would definitely require a pond of some sort to retain this water runoff. And I see nothing addressing that here. The other thing that I'm concerned about is this area is being tremendously built up, it's just part of what's happening in this area, you can't stop that. But this is only a 2-lane road. I see cars and trucks and things trying to drive into this area that he's proposing building up here and there's no place for them to be turning in, this is a 2-lane road. You going to put another turn off lane in here somewhere so he can have ingress and egress. I'm concerned about that. Naturally, I'm concerned with what the people in the area who live

there feel. Yah, it's not something that they want to see in the particular area where they live. Because it is not something that is particularly appealing as much as you try to block it with shrubbery and things like that, I don't see how you can do that. There's a lot of things in the area that, you know there's commercial, there's industrial, and there's residential, so you try to have something that will meet everyone's needs and you can't really do that. And I appreciate that everyone's trying to do that, I also appreciate the fact that he owns the property and he just wants to develop it with what it is currently zoned for and get the best use out of it. But I think that this has to be addressed and I don't think with what is presently proposed I don't think it can meet the needs of what you really want to allow to go into that area. Thank you. Chairman Bonessi asked where Mr. Walsh lives. Mr. Walsh said he lives in the County, basically on the west side of Hendersonville, between 5th and 6th off of Blythe. Chairman Bonessi thanked Mr. Walsh.

Chairman Bonessi called Amy Mart. Ms. Berry said she just left. Chairman Bonessi called Mr. Byrnes. Mr. Byrnes said he appreciated the Board's time. My wife and I were never notified about this project. We never received a registered letter. I only found out, I saw what was going on on the corner. They were clearing trees. I had no idea what was going on or anything. I received a call from our attorney Friday morning, couple days ago, who mentioned that I was on the list and had I been notified and I asked my wife and neither one of us had been, so I'm trying to catch up with everything here. I'm scrambling since over a holiday weekend and trying to cope with something that's arising very close to my residence. I had a my background is this. I currently work for Henderson County. I am the construction project coordinator for the County. I have been that for 12 years. I built the new Courthouse. I built the new jail. I built the new 911 center. I'm currently finishing up the new Human Services building on Spartanburg Highway working with Cooper Construction, built the youth shelter out on Woodbridge near 64, remodeled the Board of Elections building, and all. So I have a background in construction. I worked for 20 years for US Steel. I was loaned to Roy Disney for a while to work in Orlando developing Disney world and all. So I have some knowledge of the techniques and the things involved in construction. I had to laugh at Mr. Dorn's comparison of taking a beautifully densely wooded lot, stripping the trees off it, putting rectangular buildings all over the hillside, surrounding it with a chain link fence and 3 strands of barb wire and say isn't that better. I doubt it. I don't think the change from a wooded lot to a something that you could compare to Stalag 17 is an improvement. Don't think so. Also, in the short time I had to take a look at this site one of my major concerns is every morning going to work, I have to pull out of Shannon Road here and get onto this highway. During school the traffic is intense. People taking their children to school. There's 3 schools down the road from us. So the traffic on the morning on school days is absolutely intense. The Park Ridge facility, which is actually a sports medicine facility, a driveway, which is right here, they get a fair amount of people during the day. People coming for recovering and being treated and that type of thing. Again, if you figure it intense traffic here, you got traffic coming in and out of the sports medicine. If you put a driveway right adjacent to that and I'm driving a U-haul truck that I've just unloaded some material and I pull down to the road, and I have to stop before I enter 191 to make sure the traffic is clear. Anybody coming out of the sports medicine alongside that truck cannot see beyond the truck the traffic coming from Mountain Road. It's tot. The truck is at the edge of the road waiting for clear and maybe they're going to turn left and the people coming from sports medicine are going to go right, they're not going to see past the U-haul truck. So if they attempt to pull out and go right, and this vehicles coming, like I said the traffic is intense, I don't know what the traffic count is but it's got to be a high number. That's a dangerous comparison right there. That's just asking for trouble. It's not uncommon hear tires screeching out on that road and all because across the street they have the beauty salon and you have whatchamacallit's factory outlet down there and all too. So there's a fair amount of traffic. I think the 2 driveways side by side is begging trouble, begging trouble. I spoke this morning with Janet Boyer. Janet Boyer heads up the NCDNER, the North Carolina Department of Environmental Health and Natural Resources. She tells me that Mr. Dorn has not submitted a site plan for their permit approval. They're in violation if they disturb, disturb, and I'll get to construction in a second, Mr. Goodman needs clarification, I believe. If they disturb more than 1 acre of soil without a permit, they're in violation of the law. She told me that she had intended to send over to their site one of her inspectors. And that was supposed to happen today. And if in fact they had disturbed more than 1 acre of soil without a permit, and she again confirmed that they had received no site plan or anything from Mr. Dorn or any of his associates, that they would also be fined. What's happening, I

don't know. This was a conversation this morning. I'm glad the 2.73 acres have been brought up. I think that's a discrepancy that needs close looking at to determine what number building square footages and all they are allowed. I think it would be suicidal to try to put access in to that development without a turn lane, only because of the traffic I mentioned earlier, about the school traffic and all. And getting back to Mr. Goodman's question about construction, if you look at a construction schedule, and I've been in the business 45 years now, and worked big projects and small ones, the first item generally on a construction schedule is site work. That's the very first item put down. Subdivided in that you have clearing and grubbing, which is removing trees and shrubs and clearing and getting it ready for grading and cut and fill and that type of thing. So you can term it disturbing the soil without a permit or construction or whatever you want to term it. But they are actually one and the same when it comes to developing site work. I have nothing else. I tried to be brief, Mr. Bonessi, I'm afraid I got a little bit longer than I thought. Chairman Bonessi said he had a question on the 2.73 acres that several people have commented on. Where does that number come from? Does that come from GIS tax system? Mr. Byrnes said he sees it on the Corps of Engineers permit but wanting to check a little bit further, I spoke with Sam Laughter today. You know Sam, he's head of. And Sam confirmed, according to the records he has as far as the building permit department, it's 2.74 acres. Mr. Goodman asked if that was from GIS. Mr. Byrnes said I believe that's what he was reading when he told me that over the phone. Mr. Caldwell said it's probably splitting road right of ways. Mr. Byrnes said it may be, it may well be. Mr. Goodman said I'm sure you're familiar with GIS when you click on it they've got that disclaimer that says, this is basically for County purposes and I don't really know. Mr. Byrnes said that's why I said I think it deserves or warrants closer investigation just to make sure it is, you know, what needs to be clarified. Mr. Goodman said, doesn't it say that it's subject to survey or something like that? Ms. Berry said yes. Mr. Byrnes said, the GIS? Chairman Bonessi said I believe it does. Ms. Berry said just to clear it up to make everybody happy, 2.74 acres, 40% is 47,000 square feet and he's at 41,000, so he's still allowed either way, but you've got to stick with one number to do your whole project. So that's why I chose 3.29 to do the entire project with, but I checked all the numbers against both figures. Chairman Bonessi asked if that could affect his impervious area. Ms. Berry said no. That's why I said I checked it with both figures to make sure we didn't violate either one. But I had to pick one to go with, that's what he had chose to do his drawings, so I had to use it. But it does include right of ways. Chairman Bonessi said any other questions for Mr. Byrnes. That was the last person on the list. Someone said she signed up. Ms. Berry said we missed one. She said her name was Dunn. Ms. Berry said we did send a certified letter to Mr. Byrnes. Mr. Byrnes asked if he signed it. Ms. Berry said she didn't know if he signed it, but she was just showing him where we did send one. Mr. Byrnes said he did not receive it. Ms. Berry said she did not get the green card back yet, but we did notify you. Mr. Byrnes said if he was on the list, he assumed that was the case. Ms. Berry said she just wanted him to know we notified him.

Chairman Bonessi said it looks like we have a few more that would like to speak. Ms. Dunn came forward and said she lives on Wexford, so it currently affects me. She said her name was Kim Dunn and spelled her name. She said her main concern is the traffic. I also work across the road at the beauty salon and I see car accidents there all the time and near misses all the time. I have children. There are school busses. There's not adequate law enforcement down there. They never stop people. They never give out traffic citations. Who knows I might be the first one to get one, if they did. But that's my most huge concern and I think everybody else has covered everything else. I was born and raised here, myself, and all the trees being taken down, it makes me want to puke. So I don't see how, and the insurance deal with the flood thing, that's just going to be a higher cost per person that has to purchase flood insurance, because of runoff. Is that the right way I'm thing about it? If somebody up there's property is going to be flooded more readily because of runoff and they're going to have to purchase flood insurance because of something like that, that is a greater cost to the persons in the community, if you ask me. Will it be able to be revisited to have a convenience store and a gas station? Is it going to be easier to get that kind of permit once this is already let in? I also heard a road was going to be coming through, the road was going to be widened, but that has been put off for a little while. I just think it is extremely dangerous and the traffic situation definitely needs to be addressed. And, no offense to you sir, but I think Carriage Park looks obscene too. I just think that the way that the whole mountain is gone. That's all I have to say, thank you, I appreciate it.

Dale Hamlin came forward and said he was the developer of a residential community called Carriage Park. I apologize for not signing up, I was stranded out in front and couldn't get into the hearing room. My understanding is that there is a request to change the zoning from C-2 Neighborhood Commercial to I-1 Light Industry. Chairman Bonessi said actually it is a Conditional Use Permit. Mr. Hamlin said, Conditional Use Permit, okay. There's no rezoning, okay. It seems a little bit like there's a process of attempting to downgrade the zoning from a higher end residential to a lower end more industrial less neighborhood commercial. What I am doing in Carriage Park is spent many years and a lot of money to build the values. And the values in the residential values are skyrocketing, especially in the last 3 years. And I have a ridge that is 550 feet above 191 that runs all the way down to the grade school or the junior high and those residences, which are very, very expensive, they're well over a million dollars now, will be looking at a chain link fence and a bright sign and barb wire. And I don't feel like, I have to tell you that 100% of the people that have the money to buy those kinds of properties ask us what's down there. What is the zoning, what are we going to look at? And obviously we tell them it's zoned as Neighborhood Commercial, which in a general sort of a way isn't bad, it generally helps people to live a little more conveniently, to have neighborhood commercial nearby with stores and shops and stuff is a benefit. But I really believe that one of your mandates is will it be injurious to anybody in the area if this particular facility is developed and my answer to you, is it will be injurious to the property values of the people that I sell to up on the ridge. And I would implore you to think very long and hard about taking an area that's absolutely lovely and everything down 191 these days has gone up in value and denigrating it to a degree that a facility like this may do. I just think that it doesn't need to go any further downhill than what it is, which is neighborhood commercial. That's all I've got to say. Chairman Bonessi asked for questions. Mr. Goodman said that from the top of that ridge you can also see the landfill and the prison camp and all that other stuff. Mr. Hamlin said that's correct. And we have sold it, the good news is the landfill is growing over and the prison facility has now been vacated. The biggest problem we have now is the yard where the state trucks are. Mr. Goodman said that's not stopped people from buying, right? Mr. Hamlin said no it hasn't, but it's made, this will continue to make it a little more difficult for us to get the high values. And the high values are good for the County because there's tax revenues that come from that. Mr. Phelps asked what kind of commercial do you feel would be acceptable. Mr. Hamlin said well if you took a facility like that is on both corners, the Corn property and the other one that's a building company, I believe, and or the physical center right next door. Those are all benign and they look nice. And they're just little parking facilities and it's actually convenient to have a hairdresser in a Corn Outlet – small business. It's just the larger more industrialized and the chain link fence is really not a residential feeling sort of thing. With barbwire on top of it and a big old sign. I mean, I'm a developer and I take the other side, frequently I have people against me, but I just don't want the values of that lovely section of 191 to get denigrated for everybody that will be coming here to buy and everybody who already lives out there. And I think it would take away values and I think, from what I hear that the mandate is to the Board, it's injurious, it's financially injurious to have something that industrial looking surrounded by lots of beautiful homes. And I think you have to, I take that very seriously. There were no more questions.

Chairman Bonessi said I think we've got everybody that wants to speak. Or do we have, everybody that wants to testify.

Attorney Angela Beeker came forward and said I will try to be brief. I recognize the lateness of the hour and, believe it or not, I have sat over there and have attended my share of late night meetings, so I do appreciate and I know what it takes to sit there and listen to everything. I do appreciate that. I'm Angela Beeker and I'm here on behalf of the Sedgewood Property Owners Association and also in particular Mr. Naber and Mr. Rogers that spoke, with them being the 2 closest to the particular use. I do have a couple of pieces of evidence that I would like to enter. First are some excerpts from the NAICS. The NAICS is the North American Industry Classification System. It was developed by the Federal Government, Office of Management and Budget, and it's what the federal government uses to classify industries. All of this hearing has occurred presuming that this mini-storage is in fact a warehouse. The only way that the mini-storage could be allowed in this district is if it's a warehouse. So I ask you to set aside everything you've heard for just a second and consider whether it is in fact a warehouse. Now I know that the County has for a number of years considered it a warehouse, but I will tell you and you can ask Mr. Burell,

this Board is the interpreter of the Ordinance. And this Board is not bound by former interpretations that have been made. You can decide for yourselves what whether this in fact comes within the definition of a warehouse. I don't have enough for everybody, I have 2 that I'll circulate. Now the way that the NAICS is organized is by industry. They take what is the primary use, so primary revenue associated with the use and they group all those together. And it's a hierarchical system. The first one I gave you, and I gave away my copy, so I'm going to have to find it. What's on the very, very top? I can't remember which one I put on top. Warehousing 493. 493 is under the Sector transportation and warehousing. Industries in the warehousing and storage sub-sector are primarily engaged in operating warehouses and storage facilities for general merchandise, refrigerated goods, and other warehouse projects. They provide facilities to store goods. They do not sell the goods they handle. These establishments take responsibility for storing the goods and keeping them secure. Remember that, they take responsibility for and they actually store the goods on behalf of someone else. Now if you look at 53 110, self-storage and mini-warehouses in a completely different industrial sector. It is under the sector rental and leasing of property. Real estate and rental leasing. They consider that what a self-storage facility is doing is renting the space so that the person can store it, not them. In a self-storage facility the operator does not take responsibility for storing the goods or whatever might be in there and making sure that they are secure. So the federal government considers a self-storage facility to be independent from a warehousing facility. The North Carolina General Statutes regulate warehouses and self-storage facilities differently. I took some excerpts. This first statute talks about becoming an agent or broker for self-storage companies. Not warehousing, but you have to have a special license if you're going to sell insurance for people to purchase to insure the goods that they store in a self-storage facility. An owner can even become authorized as an agent to sell insurance to the people who put goods in there. If you look to the fourth page, there's a general chapter in the North Carolina statute called Commerce and Business. It has all these miscellaneous provisions that regulate different types of commerce and businesses. In this statute it tells the rental contract requirements for a self-storage facility. The very last page talks about how a lien is established in a self storage facility, in other words if you put your goods, your furniture or whatever, in a self storage facility, this is the statute that gives the facility operator a lien on what you have in there if you don't pay your bill. Now, these are warehouse statutes. Public warehouse, this is what, this is in that same Chapter 66 that we just looked at for the contract requirements for a self storage facility. This is dealing with public warehouses, warehouses that do warehouse things for the public. If you are a public warehouse, you have to have a bond. You have to do all the things that are stated in here in order to be a public warehouse. If you're going to, if a public warehouse is going to have or a warehouse of any type is going to have a lien on what you put in there, they are regulated under the Uniform Commercial Code, not under Chapter 44A that I just gave you before. So those are 2 examples of how the North Carolina General Statutes regulate warehouses differently than they do self-storage facilities. Lastly, your Zoning Ordinance says that if you don't have a definition for a use that you look to the custom ordinary dictionary definition. I'm sure you've all had to do that before. Now, you all know I bought a, I'm in the process of buying an old law firm that's been around for a while and I pulled out the dictionary there and this is from 1967. So I don't know if it's going to do pretty much good, so I went online to the Webster's definition for a warehouse. Webster's dictionary definition for a warehouse. A storehouse for goods and merchandise. And if you go to the next page, what are goods? Articles of commerce. So when you're looking at a use from a zoning perspective. It's possible that a use will have more than one dimension to it. What you have to focus on is what's the primary use. So what you have to consider here is what's the primary use of a self-storage facility under the dictionary definition. Is the primary use storing articles of commerce, goods and merchandise? Or is it private sale storage? That's something that you'll have to decide. Now let's go back to, let's assume that you decide yes it is in fact a warehouse. Then I would submit to you that even if you do consider it a warehouse, it doesn't meet the standards and conditions that are listed for a warehouse in the Ordinance. And I would also argue that a warehouse wouldn't be appropriate on this site either for that same reasons. I also have to introduce into evidence the average daily traffic count map from the NCDOT. You all can determine for yourselves because you all are familiar with the area. You've seen the map. You've seen the GIS map. You can look and determine if what I have dotted here as the green dot is the correct location for the site. But if you look, you'll see that this is 2 years, it's from 2004. The average daily traffic count on 191 just after this site is 12,000 cars per day. Just prior to this site is 10,000 cars per day. Stoney Mountain Road that dumps onto Mountain Road that dumps onto 191 right there is 5400 cars a day and Mountain

Road is 5200 cars a day. That's a lot of traffic. And as you know, you've heard a lot of testimony about concerns for safety and for traffic. You will again have to determine for yourselves whether placement of the primary entrance on 191 however many hundred of feet it is from the intersection there, is going to pose a safety threat. And I would submit to you that how can you know for sure until you see a detailed drawing of the driveway. You haven't seen one. The burden is on the applicant to demonstrate to you that he has met each and every one of those conditions that are site-specific conditions. Satisfactory ingress and egress, I would say, is a site-specific condition. He has produced no evidence to you detailing exactly how that's going to work. So I would say that you don't have information to make a decision on that yet. You also have to decide as to whether the building placement is going to pose a threat or is safe or is accordance with good planning. I'm paraphrasing a little bit. You've not seen a detailed site plan. You don't know how this is going to be stepped up the mountain. How if it's going to be ledged, you don't know. So I would say you don't have enough information. As to whether it would be injurious, the law presumes that with respect to those very general conditions, that it won't be injurious until you hear some evidence that it will be. And as soon as you all hear evidence that it will be, the burden shifts to the applicant to rebut that. The burden shifts to them to now say it will not be injurious to the public. So you've heard evidence that it will be. You've heard there's no storm water management plan. You don't know whether it's going to run off onto neighboring properties. You don't have enough information. You've heard a lot of information about the criminal activity that typically is associated with these uses. That shifts the presumption back, the burden of proof back, to the applicant to show that in fact it will not be injurious to the neighborhood. And I'm not quite so sure that they can do that. And I guess that if I had to choose between a warehouse and a self-storage facility, from a public safety standpoint, I believe I would choose the warehouse because the owner is in control. In a warehouse the owner knows what is going in that facility. In a self-storage facility they don't. They have no idea what's going in there. So if I had to choose from a criminal activity standpoint and from a safety impact on the community, I'd go with the warehousing today. I agree that the one building up there needs to be set back 60 feet from that public road because that's in the Ordinance. There's been a lot of verbal, well this is going to be this and this is going to be this and I might do that and I might do that, and I would encourage you that if you do approve it, to be specific in your order as far as exactly what he can do. Is he going to have a blinking sign or isn't he? Is he going to set it back additional setback or is he not? Is he going to plant 10 feet additional buffer or whatever or is he not? Nail that down because that way it'll make it much easier for enforcing the Conditional Use Permit. And let me say one thing, as far as my contention that this is not a warehouse, it is true that that has been the interpretation of the Zoning Board of Adjustments past and so my hats are off to Natalie for the job that she does. It's no fault under her she's doing, she is bound by what you all say until you say something different, because she is staff to you. So she only brought it forward as she had been directed in the past to bring it forward. So, just want to clarify that. And I'd be happy to answer any questions that you may have.

Chairman Bonessi asked if there was anyone else to speak. I believe that's got everybody on our list. How do we want to do this? Mr. Dorn, get him back up here. Ms. Berry said we need to get him to address any issues that were brought up. Attorney Burrell said any questions of the other parties to ask as well. Chairman Bonessi asked Mr. Dorn if he would like to come up and respond to some of what you've heard and answer some questions. And answer some questions other folks may have.

Mr. Dorn asked if he wanted him to respond to some of the other. Chairman Bonessi said yes, respond first, just quickly. Mr. Dorn said on the Mr. Rogers thing, I just want to make the comment before, I apologize for the grader that you were talking about. I know exactly what you're saying, his mannerisms and that not being professional. I apologize. Mr. Rogers said for over 20 years he's represented me. Mr. Dorn said he's done grading work for me and he's a good grader but he's just kind of high strung sometimes and I apologize for that. That's not anything that I like to see. Mr. Rogers said thank you. Also in the bi-levels and the lighting, where the bi-levels of those buildings where your house is, there's one standing here, so there should be as low or lower than these buildings. Put one here when the actual engineer gets through the setting the (code puddle?) I will then take that in. Mr. Rogers asked the Board if he could respond to him or should he wait. Ms. Berry said if you do you need to come up to the microphone. Mr. Dorn said what I was about to point out to say where the grade starts dropping this is where the

bi-levels are on the drive in on this side, come around here, and they should be as low as these buildings. It's not like???? Mr. Rogers said his concern was originally before I was the gentleman that he had spoke to and prior to that if you were going down my road, my house is here and Mr. Nabers is here and you have the 15 foot from the center of the road you consider our property but we're not allowed to use because that's the asphalt DOT. If you go where you originally were going to go, all of a sudden here's these beautiful over \$200,000 houses very small area and all of a sudden there is a fence post in the center of where it dead ends DOT and there's another driveway to the other gentleman's property. So if you were going with your original plan before I spoke up this gentleman would have a narrow driveway to be driving his car up and right there's the chain link fence with the ??? So I do appreciate the fact that, hey, hold on, we should move that back, but now address my side of where I'm looking at. Look where I'm at. You have a road right there. So here's. Mr. Dorn said where your side is over here and honestly I hadn't taken that???? because it's not really. Mr. Rogers said I wish you would have. You could have come up and had a hamburger with me and my family and a soda and we could take a look at it. Mr. Dorn said he doesn't have a problem with taking the buffer zone all the way down here with the closed wooden fence, whatever so that it blocks it altogether. Mr. Rogers said you took out, you're right at your property line there sir. You don't have any, you're going to have to reseed. You're going to have to. Mr. Dorn said I'm talking about right down to here, okay. Mr. Rogers said you're right up against that 90 foot that's owned by that, that hospital. Mr. Dorn said I'm talking about planting right down through here. Mr. Rogers said how tall is that going to be because if you look at, I don't know if you had an opportunity to look at those pictures, but from my deck or my front window or side window, I can see slightly above the property. So, what I'm saying is I'm going to see a building, some way or another. Are you willing, I mean, we appreciate the fact that you have been in the community. I'm new out here. I love it here. Much different than California, I would never go back there. But I didn't come out here to see something like that. If I paid 50,000 less for my house, okay I know what I'm getting. I paid a good sum of money for a beautiful area and now this is in my backyard. Would you be willing to make concessions possibly, not only to bring that back in, but maybe drop it to where we don't even see that. Things that we are willing to work with you on this, because like Mr. Naber, he doesn't want to see that. I don't want to see that. That's not a... I want you to come up and stand on my back yard and that whole area now that's open, I see things???? But anyway, go on I'm getting off of subject. Mr. Dorn said but that's really what I had for you there. Mr. Rogers said please come up and look at where I'm at. Mr. Dorn said and my deal is whatever conditions these guys tell me I mean. Mr. Rogers said my other major concern is 24-hour access. 24 access, I know impedes upon your ability to make a profit, but you know what, 24 hour access you are aware people are going to be in and out. I'm going to be laying there, I love this cool breeze out here. I left 115° weather in the summer. We leave the windows open at night. I'm going to hear someone going in there in their vehicle. I'm 90 feet away. When they start up their car Mr. Nabers is going to do the same thing. That does concern me. Attorney Manheimer suggested that Mr. Dorn go through each issue and then see if you all have any questions at the end of that or if anyone else has questions just to expedite and to make we hit all the issues.

Mr. Dorn said the convenience store issue that Mr. Naber brought up. That was possible for the whole use of the property. That was not the corner. We can't do that with the greenway. I wouldn't do it anyway. But you've already covered that answer. Buffering and screening, that was what we were just talking about. The erosion control, I think those guys are gone. I did send a copy of what erosion control, I was working with Don Holebrooks and we sent him a copy of the site plan with what we were asked at that time to do with the grading. So he does have that on file. We're still trying to not grade over 1 acre at a time and that's why the brush piles are still there and the trees and all that stuff because mulcher not taking the roots up to the spread out is what that's considered the underbrushing and the cutting down of trees is what he told me was okay. It's when you start to grading is what is not. I also talked to my engineer twice about that and he was under the same thing. I hope to God I haven't done anything illegal. That's not my intentions. In the question that was brought up about the Corps of Engineers saying I did that. That Corps of Engineers' permit is for piping the stream, that wasn't the same as the DENR. We haven't started piping the stream. That's where we have to go in and do those regulations that's on that. And the 2.74 acres that he had there was because that's what he got out of the GIS and that was done before I actually purchased the property. The 3.29 acres is from the actual survey but it does go out into Mountain Road. But the

numbers were used to the least amounts that'd work both ways. That's kinda... Were there any other issues that I needed to address? Mrs. Pouch said the setback from the back of the property. Mr. Dorn said that he was going by what... Ms. Berry said they are correct – that is a right of way, so it would have to be 60 feet at least. Mr. Dorn said if it is 60 feet, that's even better because that would leave that room for, I said we'd cut the trees so the buildings would be further back this way. That's what I was working with ALS, Associated Land Surveyors, trying to move these buildings back down here anyway to give it more of a buffer zone. So, I mean, that's no choice now. Someone asked, well how far from the center of the road? Ms. Berry said 60 feet is the requirement. Mr. Dorn said it would be at least 60 feet from. Those trees are not cut within, I think it's wider than what you're thinking. But even once we do that, there'll still be a buffer fence and buffer trees as well as what's already there. Someone asked do you measure from the center of the road to where. Ms. Berry asked him to come to the microphone. Mr. Rogers said I was home on Friday afternoon when Mr. Dorn's equipment was on the property ripping down trees within 20 feet of the center of the road. I took my tape measure out there after the gentleman who was operating the equipment left. There is no buffer there and I have a question. If you could point this out, are you saying this site plan is incorrect in where the buffer is and where your property is? Mr. Dorn said when they did the distance on the site plan. Mr. Rogers said well I just need to know if this is not correct or if it is. Ms. Berry said to please come to the microphone. Mr. Rogers said I would like to know if... Mr. Dorn said according to being 60 feet off the property line, that's incorrect, they need to move down some. Mr. Rogers said my question is, why before our meeting today was the equipment there 5 days ago, 6 days ago, within 20 feet of that road taking all the trees out to where it's a clear view now through the woods and. Mr. Dorn said well that would be just clearing the property. Those trees wouldn't have originally been intended to be left there for the buffer. The buffer is what you put in a buffer is what I've been told. I would have had to add a buffer. If that answers, I mean, it may not be the answer. Mr. Rogers said but your site plan is not correct. Can you provide a correct site plan? Mr. Dorn said we will have to provide a correct site plan. Mr. Rogers said when will that be? Mr. Dorn said the surveyors are working it on it now, but it will have to be. Mr. Rogers said can we name a date to where I'm asking the Board if we could nail down a date? I deal with specifics and I would like to know when we can review with the Board a correct site plan. Mr. Dorn said well that site plan would have to be submitted to be in agreeance with the permit that's done if it's got to be 60 feet off ??? Ms. Berry said I think we need to go ahead and finish all his concerns first, then let them discuss it, and then if they decide it's okay, then we'll discuss when that site plan will be. Mr. Rogers said Mr. Dorn is saying the site plan is wrong. Ms. Berry said and I agree. Mr. Rogers said he is just asking that a date that we be provided a correct site plan based on what the Ordinance 200 is. Ms. Berry said I agree with you, but we need to go ahead and get all the conditions discussed first, let them decide if they are even going to approve it before we even get that far.

Chairman Bonessi asked Mr. Dorn if there was anything he wanted to respond to up to this point. Esther Manheimer came forward and introduced herself as Mr. Dorn's attorney and spelled her name. I want to make sure that we are staying within the parameters of what you all need to consider when you decide whether or not to approve this Conditional Use Permit and obviously that's going to be health, safety, public welfare, not injurious, and I think what we're here to try to tell you is that we've dotted all the I's and crossed all the t's and apparently there is a discrepancy about the rear portion of the property and we'd be willing to submit a corrected site plan as a condition for approval of this permit. And one thing that I think hasn't been emphasized, just to assuage anyone, is that there will be a wooded fence with plantings buffering that will be put in place. I think some people are confused about what's been removed and what will be put back in place in the rear portion of this property. So that, if you're in a house in the back there, you won't be able to see very well, there won't be too much of a difference between the top of the building and the actual top of the fence. But in terms of meeting all of the various issues, ingress and egress to the property, we're talking about a commercial establishment that doesn't have a lot of traffic flow. I mean this property is already zoned, as you all know, for uses that could be, that could have much heavier traffic flow. Now of course you might consider traffic flow, but for example a McDonald's or a some other type of restaurant. I mean that's an option on the table obviously, this wouldn't be that kind of an establishment. In terms of safety, Mr. Dorn's owned a facility like this before. He hasn't had any types of activities that were listed before in terms of criminal activities. I'm sure if he did, we would have heard about it. But we didn't. And he's owned successfully,

and run one successfully for 10 years. This is a smaller establishment. He is not going to have water or power in these facilities, things that are useful to criminals in these other facilities. So that is a big difference between this facility and the others that might be used for those types of crimes. So I hope that that is a concern that is put to rest. In terms of off street parking and loading, I think we've already met the requirements and exceeded them. In terms of utilities, it sounds like the bases are covered in terms of sewer and water. Buffering has been approved by staff and is not an issue. What we're talking about here, in terms of increasing buffering, is just a concession on the part of Mr. Dorn. Obviously wants to be a friendly neighbor and get along with everyone, not a requirement but one that just may be helpful and take away some concerns in that area. In terms of open space and landscaping, fortunately for the residents in this area, this property falls in a zone such that 30% of the surface is going to have to be essentially green space. So that would not be how this type of property would be treated someplace else. So in terms of the development of a commercial piece of property, overall it will look better than it would be if it were somebody else just because of that requirement. I know it's hard to imagine it now, because it's not there, but try if you can to imagine what it will look like when it's fully built up. And finally, the buildings and structures themselves as Mr. Dorn explained, they're going to be one level, and then as we go down the hill turn into 2 levels. So it will be somewhat neutral in terms of sloping down the hill.

Mr. Rogers asked if he could finish now. He said he stated he had another storage facility that you owned before. You no longer own that? Mr. Dorn said that he sold it in January. Mr. Rogers asked if that was also 24-hour access. Mr. Dorn said sure was. Mr. Rogers said do you have by the 24 access records on your computer system showing when somebody comes in and out and what unit it goes to? Mr. Dorn said sure do. Mr. Rogers asked if he would be willing to submit that to the panel the records for... Mr. Dorn said I can't, no I don't have the records for that facility. I mean, I sold the entire facility so I can't. Mr. Rogers said I guess what I'm trying to say is would you be willing to check possibly the previous owner or your other prior records which you're required to keep, I believe, by the IRS and other tax individuals, to make sure, to kind of give the Board an idea of how much traffic load you did have in and out of that area so maybe they could make a decision possibly. Mr. Dorn said, for the day, that's what I gave you guys earlier. Chairman Bonessi said I asked him about what. Mr. Rogers said do you have specific numbers though from his other previous... Chairman Bonessi said he told us what the numbers were for his previous facility. Mrs. Pouch said and he said there'd be less because... Mr. Dorn said there'd be less because there's no outdoor parking which a lot of people come and get boats and cars and we didn't have Penske trucks for people came in. Chairman Bonessi said he said 30 – 40 per day. Mr. Rogers said he finds that number rather small if you put that kind of investment in 480 units, that people, especially are you planning on having any large operations, as far as companies storing potato chips. Mr. Dorn said he doesn't rent to those people. The reason I don't rent to those people is that the fact if the guy wants potato chips trucks, tractor trailer trucks in there continuously blocking traffic and also because it could bring in rodents. We never did that. We had chances to do that but we didn't do it. We kept a clean nice facility and it was top notch and it is still top notch. When I sold it, I had 692 units and I had 4 vacant units and it's still running the same occupancy rate, but it's run professionally. The people that work there are trained very well, but there's no sense in getting into that cause we're just talking about 2 different things. Mr. Rogers said are you looking at future plans of having an on-site resident manager. Mr. Dorn said no, I wouldn't have an on-site resident manager. Mr. Rogers said I'll address this last question and then I'll sit down. Would you enjoy looking at what you're proposing on your back deck or in your front yard, would that really be something you'd really want to have in the center of street like that? Mr. Dorn said I live in a very nice home now and it's just around the corner from the other facility that I sold. It's over a million and a half dollar home, so it's right around the street. Mr. Rogers asked if you can see the facility from your house? Mr. Dorn said you sure can. Mr. Rogers said thank you very much for your time.

Chairman Bonessi asked if anyone else had anything. Mr. Byrnes said he had one more question if you don't mind. Mr. Dorn, you mentioned about sending Don Holebrooks a copy of the site plan. Mr. Dorn said um-hum. Mr. Byrnes asked when was that done? Mr. Dorn said probably before I purchased the property. Mr. Byrnes said he spoke to his supervisor today, Janet Boyer, this morning at 10:00, and raised the question about whether you had the erosion control permit. She checked the files and said no, but said let me call Don first and confirm that. She

called Don, called me right back and said had no knowledge of the project. Mr. Dorn said, no he sure does. I mean I sent him a copy of, he said keep it where he had it on file and that's where it is. Mr. Byrnes said she tells me you were never issued an erosion permit, but you started all the work 3 weeks ago. I didn't think, I mean in my experience doing the Courthouse and all these other things locally, we could not turn a shovelful of dirt without the permit. And we had to post the permit on site. Mr. Dorn said what we were also trying to do is to not disturb over an acre of anything period. Mr. Byrnes said I think you failed. Mr. Dorn said but if you leave the much on it or the root structure and the brush that's there, my engineers also said that you can use the mulch for any ground covering as well as the grass. Mr. Byrnes said I think the terminology that Janet pointed out to me was disturb, not dig or cut or knock trees down, but disturb. Chairman Bonessi said that's out of our jurisdiction. Mr. Byrnes said they're in violation of doing an operation that you guys are going to possibly approve without....

Chairman Bonessi asked if anybody else on the Board had any questions for anybody at this time before we close this meeting. Attorney Burrell said does any other party have questions for any other party. Chairman Bonessi said does any other party have any questions of any other parties in this room before we close this meeting. Chairman Bonessi said at this time I will close this meeting and we will discuss this as a Board. Someone asked to make one more comment. Chairman Bonessi said he just closed the meeting.

Chairman Bonessi said we have options. Mr. Caldwell said my question is has anybody on the Planning Board looked at this. Chairman Bonessi said this is the first thing that we've had since we've made the recommendation to the Planning Board that we see these cases. Mr. Caldwell said I don't feel that I've heard enough on both sides of this ledger that I'm not sure I'm confident sitting here being able to ascertain what is fact and what is fiction. So to make a decision based on the inability to dissect that information sometimes I'm not real confident person. Chairman Bonessi asked if anybody else felt that way. Mrs. Pouch said we don't have to make our decision tonight, do we? Ms. Berry said no, you can continue it. But let me mention the Planning Board. The Planning Board's not a public meeting. All they're going to do is look at the technical requirements, so I don't know that they could recommend anything more than what you've already heard. Because it's not required to be advertised or anything, so it's not a public meeting. Attorney Burrell said that it's open to the public, but it's not a public hearing. Ms. Berry said it's not advertised so people would know that it was on the meeting agenda. They're just going to look at the technical requirements like you already looked at tonight and see if they meet each one of them. They're not required to decide the same issues that you're required to. Chairman Bonessi said it would still come back to us. Ms. Berry said it's still going to come back to you. Mr. Caldwell said but it would come back with some recommendations based on their vast understanding and knowledge of all things going on in this County. Ms. Berry said you recall the last storage unit we did go to the Planning Board. The things it came back with was hours of operation, fencing, the same things. Mr. Goodman asked who makes the final decision, the Planning Board or us? Everyone said we do. Ms. Berry said the Planning Board is just for recommendations. They just narrow it down and it's been narrowed down pretty much. I looked at all the last Planning Board meetings and all the ones they did on storage units and tried to address everything that they always brought up. Mr. Goodman said can't we do the same thing? Take out the clutter and get down to brass tacks. Mrs. Pouch said we can go down that list. Ms. Berry said all they're looking at is ingress, egress, lighting, and that's what I'm talking about. As I said I took all the meetings that they had done in the past and all their recommendations and made sure I addressed them all in this one, to try to narrow it down. Mr. Phelps said instead we can ask for their recommendation. So why would we not do that? Don't they have more expertise? Ms. Berry said it also says you can ask for their recommendations on a customary incidental home occupation, so we had to wean down to what we felt like was a waste of time for the customer. If I was coming in here and wanted to do a beauty shop in my house I'm forced to go to the Planning Board, present my case, come back here, present it again, and ask again, when it's just a simple customary incidental home occupation. Then on the other hand, you have a junkyard, which you do need a lot of eyes to look at. Incidentally, he could put a junkyard on this site, just like he could this, because that is light industry. Mr. Goodman asked if he could put a junkyard without any permit? Ms. Berry said, no he has to have a Conditional Use Permit, but it's all in the intent and that's why we went through the list like we did in March trying to decide but you still kept the option to send it back to the Planning Board if you felt like you needed their help. Mr. Caldwell said

irregardless of what we will be talking about going on this site, be it mini-storage, be it junkyard, or anything that's lawful and legal under the Ordinance do we really understand the traffic concerns for that area right there. And whether or not we should have additional turn lanes and some other things in place before we put anything in there. Ms. Berry said that is DOT's problem, not ours. We're not traffic engineers. Mr. Caldwell said I understand that but we're custodians of the

Ms. Berry said but when they offer that permit, DOT if they feel like there's a traffic study warranted, they require it. They're traffic engineers and that's what their background is. Mr. Goodman said, as I understand it, the way designing is, by right, he can put other things in there. Ms. Berry said he can put a lot of different things in there. Mr. Goodman said that does not require any approval. Ms. Berry said that's correct. Mr. Goodman said at least you've got some input here. Ms. Berry said exactly. He could put an Eckerd's there by right. Any kind of retail business in an enclosed space he could put there. Attorney Burrell said, if I could just interject here, there's one place that the Zoning Ordinance isn't particularly logical. You can have uses of right that are much more intense that have no concern as to public safety. But when it comes to a Conditional Use, even if it's less intense, you must consider public safety. If you felt fine that it adversely affects public safety, even though as of right they could do something much more intense, you can still bar or add additional conditions or bar a particular condition use because it is that type of use as opposed to a different type of use. I'm not sure that's logical, but that is clearly the way the Ordinance is written. Mr. Goodman said right, but he could say I've changed my mind, I'm not going to do this... Attorney Burrell said the condition could be much more intense. Mr. Goodman said it could be convenience store open 24 hours a day. Attorney Burrell said you're exactly right, in terms of the way the Ordinance is written, you've summed it up exactly. Mr. Goodman said I think this would be less of an impact. Someone said wouldn't we be back here doing the same thing? Attorney Burrell said this is really just the Board's discussion. Mr. Goodman said this is less of an impact than what could go there. Ms. Berry said there's a lot of more intense uses that could go there without any input from anybody. Chairman Bonessi said it sounds like I've got 2 people that are concerned with doing something now. Is that the feeling I'm getting? Do we need to get... Mr. Phelps said from the Planning Board. I would like... Mr. Caldwell said absolutely I'm in favor of having some recommendations from them. I don't think they need to set on the sidelines of this one. Mr. Phelps said even for us, we've been here 4 ½ hours already. To me there are a lot of conditions that would have to be placed on this, we're talking about setbacks, we're talking about screening, we're talking about ???? and we're talking about a good bit more time, so at best we got to continue this thing. And I thought if we had a recommendation, when it comes back we could consider these other things. Mr. Caldwell said they may see something we haven't seen. Another set of eyes. Ms. Berry asked to make a suggestion. You could like you say continue it, but you could also go ahead and line out some conditions and ask that he bring a new site plan back addressing those conditions. That way you'll have a plan in front of you that is reflective of what you want to see. That's just a suggestion. Mr. Goodman said, if we were to do that, when do we meet again? Ms. Berry said, next month or you can set a special meeting. It's up to you all. If you want to set a special meeting to hear it, you can. And you can make it in 2 weeks or whenever. Mr. Goodman said he'd have to have time to redo his site plan. Ms. Berry said you have to give him some vision time. Chairman Bonessi said his biggest concern that he would like to see in more detail is maybe a correction in the site plan as far as the setback constraints and just some general schemes or some general layout on maybe colors and types of barriers that he would intend to use to buffer the residential areas. So we have a little more input onto what the actual thing is, because this to me is still somewhat speculative. Ms. Berry said why don't we provide Mr. Dorn with a copy of the minutes and the opponents as well and let him address everything on his site plan in detail, addressing everything that was brought up and then continue it from that point to see if everything's been addressed or not. Mr. Caldwell said elevation's something else that I don't think I ever did hear a consensus on where we were with elevations from point A to the buildings, etc. That seems to be a floating decimal. Mr. Phelps said also the water runoff and retentions, I would like to have that, too. Chairman Bonessi said some of that aspect I don't know that it's, we're not the experts in that field other than, or my opinion is to say that he needs to provide an acceptable water plan that meets. Ms. Berry said that we don't have a storm water ordinance in the County and DENR doesn't have a storm water ordinance, they have erosion control. Mr. Goodman said I don't know that we need to be picking colors out either. Chairman Bonessi said just for a general idea of what we can expect. Ms. Berry said you could require that

the storm water not exceed what it did previously. Chairman Bonessi said that's fine. Ms. Berry said you could say it as plainly as that and not get into how he does it. Mr. Phelps said that's all he was interested in. Chairman Bonessi said we're not experts by any means, but we need. Ms. Berry said I would come up a list of what he needs to address. Attorney Burrell said as this is a quasi-judicial hearing whatever evidence he is going to provide to you as a later supplemental plan going to be provided to the other party, it may be simpler for them to designate one person. If you have a subdivision association, you already do here, you have them represented by counsel, I would suggest that those additional evidence be presented to that one person, primarily to provide a point of contact, but there may be extra copies later on for anybody who wants them. But rather than having to supply 50 copies, plus copies for your use as well, that whatever timeframe you continue this to, you're going to have to get some input from the parties as to when, because you're not going to know right off the top of your head how quickly they can get these things back to you. And they may need to have the minutes, I don't know whether they need to have the minutes for this meeting, but the minutes won't be ready tomorrow unless ... all night. You may need to get their input for a timeframe for what you want. Chairman Bonessi said that was my next step. May be we should highlight the top 5 questions, the top 5 issues that we'd like them to address in their plan for the next meeting. Then ask them what kind of timeframe it would take them to gather that information and get it to the appropriate parties. Mr. Goodman said should you ask the applicant how long it will take? Chairman Bonessi said at some point we are going to have to open this up and say okay and ask what kind of timetable it's going to take him to do that. I guess from the Board's perspective, what issues do we have that we would want him to address to help get us to the point where we feel confident enough that we can make an educated decision on how we do this.

Mrs. Karpowski asked if they would like something that they have spoken about already. Chairman Bonessi said where are we at now, we might have answered our own questions. Mrs. Karpowski said you said elevations, water runoff, a new site plan, you might want to require that the storm water not exceed what there is now. Mr. Caldwell said driveway. Mr. Goodman said the setback and the screening, the fence and what does it look like. Mr. Phelps said that was the materials and the colors, I think. Is it a solid fence or open? Ms. Berry said does it have shrubs in front of it or behind it? Chairman Bonessi said the details around that, those are the kinds of things that, if this is approved, it's going to be extremely conditional, whatever it is. So I don't know that we have enough information from what we've seen to do that. Ms. Berry said to try to make sure the list is intense enough that it covers everything that you want and we don't have to continue it a second time. Chairman Bonessi said that's why I'm asking as a Board where we're at. Mr. Goodman said that he meets all the technical draft area, I don't know what that is. Chairman Bonessi said he will have to follow through with all permitting and stuff like that before and the buffer would have to be in place before he could get a license. Mr. Goodman said you saying the buffer would have to be there before he could get his CO. Mr. Phelps said hours an issue, did anybody have. Chairman Bonessi said that's a tough one for me, that's something you know, hours of operation, that's essentially a 24/7 operation, but I don't know if the things were buffered properly, there are noise abatement things that trees and fencing provides. Mr. Goodman said that might put him at a disadvantage because everybody else is 24/7. Chairman Bonessi said I don't disagree, I'm not saying, that it can't be a 24/7 at this point, I'm just saying that what measures can he do to minimize any impact that could be on the residents in the immediate area because of that operation. Mr. Goodman said I think he's addressed some of them by not having pole lights and 50 watt instead of 100 watt, you know the fence, the Leland cypress, some have been addressed.

Chairman Bonessi said Joyce what's our list again? Mrs. Karpowski said, elevation, water runoff, a new site plan, required storm water not to exceed what is the runoff now, setback, screening (what it would look like), driveway access, and hours of operation. Mrs. Pouch said what about sign. Chairman Bonessi said the sign is an issue. I don't know that he needs to bring us any more information on that. I think he's done a job on that, he's given us the diagram, that's something that we would need to discuss as a Board and we've got to inform the residents of the community about that. I don't need it, I guess right now we're looking at additional information that we do need to discuss. Do you want to add anything else to that list? Mr. Goodman said he said he wouldn't have a resident manager there. Mr. Phelps asked if there were colors. Mrs. Karpowski said she didn't have colors down. Mr. Phelps said someone said they didn't want bright orange there. Mrs. Karpowski asked if they wanted that written

down. Chairman Bonessi said just see what he comes up with, we don't have to say.... Mr. Goodman said if the guys going to put bright red buildings there or something. Chairman Bonessi said it also might set some people at ease too, if they see that it's going to

Chairman Bonessi said at this I'd like to open up the meeting and ask Mr. Dorn a question or 2. How long do you need to gather this information? Mr. Dorn said I think in everybody's best interest let's make to next months meeting. That way it'll give me time to get with these guys. I mean all the issues that you're bringing up, I mean that's, whether you told me to do that or not, I mean that's what I'm going to do anyway. And to clarify everything, for getting this permit I thought was a starting process for what I had to do all this anyway. I thought you guys were going to give me the conditions how I had to do it, so that's what I was looking for anyway. I mean I hated that it took this long to get everything out, but like when I called the highway department they said well wait till you get that done, and I called this and wait till you get that done and the ????, they've been putting me off for the last whatever. But I appreciate everybody's input. I agree with most everybody that's comments have made, few things I guess they said I did this or did that, if I did it I didn't do it intentionally, I know that. We tried to dot our I's and cross all the t's and hopefully we'll continue on with this project. If we don't...

Chairman Bonessi said technically what we've seen, we've seen renditions or sketches or something like that, just so when we base our conditions, if you bring us something, we'll say okay, yea, that's what it's going to look like, but we might say okay, yea, we need a little more fencing here or something like that. That's we've done it in the past and the site plan, the fact that we don't have a definitive site plan at this time that meets all the criteria is another issue. I would have a hard time approving right now a site plan that's incorrect. Mr. Dorn said I agree. Well, coming in here I didn't know it was incorrect. But I was trying to get it moved forward anyway to make it more beneficial to the neighbors, but by this morning the guy didn't have it done yet and he's covered up with work and I don't know where's he's at either. Ms. Berry said do you think next month is enough time or do you need to wait to July? Mr. Dorn said I hope so, if I wait to July I'll probably change my mind. Ms. Berry said she wants him to have adequate time. I don't want you to get rushed. I want you to have time to do it.

Chairman Bonessi said I have another question. Do we want a point of contact? Ms. Manheimer said we've made contact. You'll provide that information to them so that ... Ms. Berry said I guess the next thing is are these 2 guys available next month. Chairman Bonessi said they would have to be at the next meeting. Ms. Berry said you'd have to be here for this one. Mr. Goodman and Mr. Caldwell both said yes. Ms. Berry said I just want to make sure because I know July you're out. Mr. Goodman said I can come back next month. Ms. Berry said I just want to make sure you're available so we don't have a problem. Mr. Goodman said I'm going to have to be.

Chairman Bonessi said Joyce can we get him the minutes and go from there. Ms. Berry said I guess we need to set a deadline for the minutes because Joyce is a part time employee, so we need to work it with her schedule of when she can do it. How long do you think it will take you to do the minutes, just this part of the meeting? Mr. Dorn said he already had most of it written down. Chairman Bonessi said if they need a brief copy of the bigger stuff we can definitely give that, I think. Ms. Berry said we can make a copy of the tape and you can listen to it yourself. Why don't you make 2 copies, one for Mr. Dorn and one for Ms. Beeker? That way you can go ahead and proceed at least some. Chairman Bonessi thanked Mr. Dorn.

Mr. Goodman made a motion to continue this meeting to the next meeting on June 28, 2006 at 4:00. Mr. Caldwell seconded the motion. All voted in favor.

COMMITTEE AND STAFF REPORTS: None

OLD BUSINESS: None

NEW BUSINESS: None

There being no further business, Chairman Bonessi adjourned the meeting at 8:15 PM. The next meeting is Wednesday, June 28, 2006, at 4 PM.

Dean Bonessi, Vice Chairman

Joyce Karpowski, Secretary