

ERWIN BOARD OF COMMISSIONERS
REGULAR MINUTES
DECEMBER 4, 2014
ERWIN, NORTH CAROLINA

The Board of Commissioners for the Town of Erwin with Mayor Patsy Carson presiding, held its Regular Meeting in the Town Hall on Thursday, December 4, 2014 at 7:00 P. M. in Erwin, North Carolina.

Board Members present were: Commissioners William Turnage, Ricky Blackmon, Randy Baker, Frankie Ballard, Thurman Whitman, and Alvester McKoy.

Town Manager Richard Douglas, Town Clerk Cynthia Patterson and Town Attorney Mac Hunter were present.

Mayor Patsy Carson called the meeting to order at 7:00 P. M.

Commissioner McKoy gave the invocation.

Those present recited the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner Blackmon made a motion to approve the agenda as is and was seconded by Commissioner Baker. **Motion Unanimously Approved**

CONSENT ITEMS

Commissioner Turnage made a motion to approve **(Item A)** Approval of Regular Minutes of 11/06/14, **(Item B)** Approval of Special Called Minutes of 11/20/14, **(Item C)** Financial Report Summary for October 2014, **(Item D)** Schedule for 2015 Board of Commissioners and **(Item E)** Schedule for 2015 Planning Board and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

A copy of the Financial Report Summary, Schedule for 2015 Board of Commissioners and Schedule for 2015 Planning Board is incorporated into these minutes as Attachment #1

MINUTES CONTINUED FROM DECEMBER 4, 2014**PUBLIC HEARING**

Commissioner Baker made a motion to open the public hearing at 7:01pm and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

**ZCD-2014-001 AND CU-2014-006, 124 DON RON ROAD CONDITIONAL USE
DISTRICT REZONING TO REZONE FROM R-15 TO M-1 (CD) AND
CONDITIONAL USE PERMIT APPLICATION FOR MANUFACTURING,
ASSEMBLY, AND PROCESSING, WAREHOUSE AND TRANSFER ACTIVITIES
AND OUTDOOR STORAGE**

Town Manager Richard Douglas informed the Board and audience that this will be a hearing for a rezoning application and will be a quasi-judicial hearing and all persons presenting evidence must swear or affirm their testimony.

Manager and members of the audience came forward and stated the oath.

A second public hearing has been scheduled to consider a conditional use district rezoning request by Donald and Joseph Bain for 124 Don Ron Road (ZCD-2014-001 and CU-2014-006). The November 6th staff report is included for your review, but in summary the 2.5 acre tract at 124 Don Ron Road, owned by First Federal Bank, is proposed to be rezoned from R-15 (residential) to M-1 (CD) (industrial conditional use district) with a conditional use permit for manufacturing, assembly, and processing; warehouse and transfer activities; and outdoor storage, all related to the assembly, maintenance, and repair of signs.

At the direction of the Board of Commissioners following the conclusion of the public hearing at the November regular meeting, Town staff has completed the following: 1) the Erwin Police Department conducted a traffic count; 2) Town Engineer Bill Dreitzler has assessed ingress/egress, pavement condition, and internal movement issues; and 3) staff requested the applicant to define the truck route to/from the property. Memos describing the first two items are provided for your review; in addition, the Police Chief and Town Engineer will present their findings at the public hearing. Staff has not gathered any additional information from that presented at the November public hearing and included in the previous staff report.

As a reminder, a protest petition was filed by adjacent residents prior to the November Board of Commissioners meeting. As a result, $\frac{3}{4}$ or at least five of six Board members (assuming all are present) must vote in the affirmative for the rezoning and conditional use permit to be approved. As part of the approval process, the Board of Commissioners should consider separately in the following order:

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- 1) Conditional use district rezoning finding of facts (a) consistency; b) compatibility; and c) safe and adequate access
- 2) Test for reasonableness of spot zoning, per Town Attorney (a) size of tract; b) compatibility of zoning action with existing comprehensive plan; c) benefits and detriments resulting from zoning action for property owner, neighbors, and surrounding community; and d) relationship between uses under new zoning and uses present in adjacent tracts)
- 3) Decision on approving or denying ZCD-2014-001 (rezoning 124 Don Ron Road from R-15 to M-1 (CD))
- 4) Conditional use permit finding of facts (seven criteria outlined in staff report)
- 5) Decision on approving or denying CU-2014-006 for assembly, maintenance, and repair of signs; warehouse and transfer activities limited to signs; and open storage limited to signs, with conditions as determined by the Board of Commissioners

Chief Bill Morris came forward and addressed the Board. Chief Morris stated the oath at the beginning of this public hearing. Chief Morris informed the board at the last board meeting you had asked for a traffic survey to be conducted. With the exception of (2) 2 hour blocks we covered it from 6am to 6pm Monday the December 17th thru Thursday December 20th. This was broken down by cars, trucks, buses and we had to add a category for horses. Those on an average, Monday for cars were 142, 52 trucks, 5 buses. On Tuesday were 114 vehicles, 24 trucks and 5 buses, Wednesday 244 cars, 6 trucks, 6 buses and 2 horses, on Thursday 214 vehicles, 14 trucks and 5 buses for a total of 831 vehicles for the 4 day total. Chief Morris then asked for any questions from the Board.

Commissioner Turnage asked if those dates were through the week or any time on a Saturday or Sunday. Chief Morris stated this survey was for Monday thru Thursday.

Commissioner Whitman asked if the trucks were considered as just trucks or line trucks. Chief Morris stated that was for a combination of pickups and line trucks however, there was one day where the numbers were higher due to some line work going on around the corner according to staff.

Town Engineer Bill Dreitzler came forward and addressed the Board. Mr. Dreitzler stated the oath at the beginning of this public hearing. Mr. Dreitzler stated that he was asked to look at the ingress/egress for the large trucks due to the fact the applicant did not know what size or have control of the size of the delivery trucks, which meant there was a potential for a full size tractor trailer (71ft) cab no tail. In looking at the turning radius for that size vehicle just on paper Mr. Dreitzler had some concerns it would fit but tight and in his evaluation he was concerned that size tractor trailer would not be able to get into the site and then back in the loading dock. They may have to pull straight in and if that was the case they would have to back out onto Don Ron Road which I would consider a hazard. Today the applicant brought a 71ft long tractor trailer to demonstrate how they would maneuver within the property in order

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to back into the loading dock, which was successful maneuver. Basically, instead of pulling straight in they came in and turned towards the building and looped the truck around and were able to back in which meant they were able to exit the site forward instead of backing onto Don Ron Road. Mr. Dreitzler stated that levitated his concern. The main concern was if you had that size tractor trailer, trying to get into the site and having to either back into the site in order to unload or back out of the site that would be a potential unnecessary hazard. Based on today's demonstration Mr. Dreitzler is confident that's not the case, that size tractor trailer can actually pull in forward and maneuver in the site to back into the loading dock and exit forward.

Mr. Dreitzler then showed the video of the tractor trailer's demonstration to the board.

Commissioner Baker asked was this the first time for this demonstration? Mr. Dreitzler stated that this was done twice and successful both times.

Commissioner Baker asked that they didn't practice time and time again that what we just saw was they just came in and did it. Mr. Dreitzler stated that was correct and actually the meeting was scheduled for 1pm and they were 30 to 40 minutes late.

Commissioner Ballard asked when they actually backed in to what would be the unloading area does the wheels go over the property line. Mr. Dreitzler stated that the first time the driver did this on the opposite side adjacent to the residents, the front wheel went into the grass probably 18, 24 inches, the second time he did it he stayed on the pavement the entire time.

Commissioner Turnage asked was the truck loaded or unloaded. Mr. Dreitzler stated that he would assume it was unloaded that he did not know for sure.

Commissioner Turnage asked what about additional weight if it was fully loaded and bringing in supply equipment. Mr. Dreitzler stated that 80,000 pounds would be the maximum load for that size trailer on the highway.

Commissioner Turnage asked if the pavement would hold up to this amount of weight. Mr. Dreitzler stated from a pavement condition side of it, absolutely and as you saw from the traffic counts that was never a strong concern of mine because of the low volume of traffic. If you had 15-20 tractor trailers coming in up and down that road from this site every day that would be something I would take a hard look at but if you have 1 visit every week even 2 visits a week as you saw about 800 trips over that 4 day period of time the capacity for passenger vehicles on that road is and it will sound like a big number and realistically would won't this a residential road like that could handle a 1,000 cars an hour. Now that goes beyond quality of life for a neighborhood so it's not the amount of traffic you would want to see but some of the studies I've seen that comes down to 2,000 vehicles a day. You are so significantly below the design capacity of that road the pavement is a concern. I would point out that the driveway is fairly deteriorated in the right of way area as it makes the connection to Don Ron Road. So the

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point is I saw some potholes that if they got worse I would be concerned that they would impact the road and the road would have to be repaired. I would recommend that as a condition if the project was approved as a condition that portion of the driveway from the right of way to Don Ron Road be removed and replaced and repaired.

Commissioner Baker asked do you feel that the proposed vehicle trips being proposed for this project would what you witnessed out there would create any specific traffic hazard or diminish the quality of roadways out there. Mr. Dreitzler stated that no he does not, again the volumes are significantly below threshold in the residential area 750 trips a day is what would be required to come out of the development before NCDOT would do a traffic pattern analysis. You will not get anywhere close to that.

Commissioner Blackmon stated as far as the weight distribution on the road itself, it's my understanding that even on residential streets it would need to meet NCDOT standards.

Commissioner Baker asked what is being proposed the best he could remember is less than possibly 20 trips a day added, for the use being brought to us, if that property were developed as residential and just say put 4 houses there, what type of traffic alterations are going to happen if say 4 houses will be put in there. Mr. Dreitzler stated that NCDOT typically uses in their charts 10 trips a day for residential, so if you were to have 4 houses, you would be assuming you would be adding 40 trips a day to the roadway.

Commissioner Baker asked onsite when you were out there, did you see any impact or any potential impact in the negative as far as storm water any kind of environmental issue that you may have seen on that property. Mr. Dreitzler stated that he did not.

Commissioner Ballard asked about the water in the loading docks, was there still water standing. Mr. Dreitzler stated he believed there was some standing water. That might be something that could be considered if approved as a condition. There is some work that needs to be done to make that loading dock doable.

Commissioner Ballard asked since that is below grade, where would the water go. Mr. Dreitzler stated that he would assume it would go to a pipe somewhere, the building has been there a number of years. Mr. Dreitzler would need to investigate more to be able to answer properly.

Commissioner McKoy asked is the loading dock concrete all the way from the beginning to the actual loading dock itself. Mr. Dreitzler stated it had a lot of sand material in it. It would really come down to the owner, if someone was going to take possession of the building and began to use it I would think they would want to make some improvements.

Commissioner Ballard asked would they have access all the way to the back, understand there is a pond back there, do they have access to the pond. Mr. Dreitzler stated the pond is off of their property so the answer would be no.

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Commissioner Baker stated that there is another driveway that grants access to this property that is completely located on this property. This is not an easement that has been granted or anything that is a driveway dedicated to that property with a parking lot. The other driveway, so I'm clear on this that we saw a truck driving down that is an easement that has been granted to that property by the former owner. Mr. Dreitzler stated this is speculation but based on the business if they have offices in the front warehouse and loading dock in the back basically you if you were going to visit the business you would come in this drive and park and go in the building, the drive in the easement area is for their loading and unloading.

Commissioner Ballard asked if the truck came off of the shoulder by chance, would they be on someone else's property. Mr. Douglas stated that they can get on the grass probably 2ft and still be within that easement area. Mr. Douglas also stated that he originally thought it was only the paved area however staff has measured from the stake which is 30ft and goes to the white fence.

Mr. Douglas informed the board that this concludes information from staff.

Mayor Carson asked if anyone would like to speak in favor of the rezoning application to please come forward.

Attorney Dwight Snow who represents the applicants in this case came forward and addressed the Board. Mr. Snow stated the oath at the beginning of this public hearing.

Dwight Snow, Attorney for the applicant came forward and addressed the Board. Mr. Snow stated the oath at the beginning of this public hearing. Obviously we are not here to rehash what occurred at your previous public hearing and I know you do not want to hear that. You brought up your issues that you directed staff to do, at least they have covered very completely and we will not add anything to that except the fact that the applicant totally agrees with what staff recommendations are, we totally agree with the testimony of your engineer as far as your traffic concerns that you would have. We made these arrangements at their request. Ms. Blake had called me after the last meeting just basically saying our engineer has some potential concerns regarding access and we will work with your staff closely making arrangements on the truck going out there today, so hopefully those questions have been resolved. The only other thing we would like to come before you today as far as any additional evidence, was at your last public hearing, as far as comments from the public especially residents in this particular neighborhood, was concerning the potential detrimental effect that this rezoning would have on property value. In anticipating and your staff was not directed to get anything additional on that but we felt in common sense we didn't present any evidence at the first hearing since that issue did not come up until the public hearing to present some evidence regarding that if any of those comments from the general public had any factor raised any questions in your own minds as the hearing panels on this particular hearing. So if you were to allow us, we have Crawford MacKethan who is a certified appraiser and has done some

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research and put together a short report and would like to give that report at this time. Once again it will be on that very issue on any detrimental effect that this rezoning has applied for might have on neighboring property values on that neighborhood.

Crawford MacKethan came forward and addressed the Board. Mr. MacKethan stated the oath at the beginning of this public hearing. Mr. MacKethan stated that he was a lifetime resident of Cumberland County. He has been in the real estate appraisal business for 43 years in Cumberland County and surrounding counties and does all type of appraisal work. Dwight Snow contacted me a couple of weeks ago and asked me to do some thinking in relation to this situation and the question put before me was does the subject property at 124 Don Ron Road have a negative impact of value on surrounding properties. So I made an inspection of the property and my initial conclusions are that the subject property does not have a negative impact on the surrounding property values. Well as an appraiser I do not have a crystal ball I just have to go in and study the market. So the first process that I go through is I want to look at the physical aspects of the property and being onsite we have a 2 ½ acre tract of land and 6500 sq. ft. metal building but one of the key factors there is, is that the building was built in 1973 and the building was there before modern homes were there. I believe the farm home on the east side of the building, an attractive older farm home was there obviously and then the metal building on the 2 ½ acres was constructed and then the other houses began to come into the neighborhood and the improvement has been a part of the neighborhood for over 40 years. At that point, I started to look into where areas of reduction in value would be prevalent to me as an appraiser. So I pulled the surrounding tax cards that adjoin the 124 Don Ron Road, the property in question. I want to analyze those cards and find out has one aspect been applied to those cards by the tax authorities. Without getting into depth on appraisal theory, there are 3 forms of depreciation, the physical depreciation that we all understand that's just wear and tear, functional depreciation that if you have a 4 bedroom house and a half bath you have functional problem, external depreciation are adverse factors outside of the property that bring down its value. A junkyard, motorcycle repair shop, airport runway, so when I pulled the cards that surrounded the property I wanted to see did the tax authorities have any adjustment for external depreciation. None of the cards had an adjustment for external depreciation. I then supported that and called Tammy Bortelo from Fayetteville and Harnett County is very fortunate to have her now, she was there 20 years I probably handled 500 tax cases with her, she is the Chief Appraiser. I asked Tammy Bortello to make sure that I'm reading these cards correctly. I said I'm I only observing standard physical depreciation. Is there any external depreciation or is there any functional depreciation. We went through 4 or 5 cards, every card dealt solely with physical depreciation. I also called Keith Faulkner the tax administrator and Tammy was in his office. I wanted to move up the ladder and so Keith Faulkner the tax supervisor said Mr. MacKethan there had been no evidence of any external depreciation on all the properties in that area because of the location of 124 Don Ron Road. He said but I want to talk to Boyd Beasley, he is the reevaluation coordinator so Mr. MacKethan contacted Boyd Beasley and he was very

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helpful and he said that he has never had a complaint from the neighborhood on external to be applied to a particular resident to bring down their tax value and he said Crawford no one has ever appealed being next door to this operation. In our opinion, no element of external depreciation exists and that's why you are not seeing on the tax cards. If people can find a way to lower their tax values they will and rightfully so, you are entitled too but when applicants have not come forth and said I would like to appeal my ad valorem tax value and that's not occurred and the tax authority has on regular basis made their reevaluations has not applied external, that tells me that a government agency that is involved in all types of property's does not see a situation here where we have external depreciation. So I moved from that into another element and that was I found a property out there that adjoins the facility of 124 Don Ron Road and it was a recent sale in the last 2 or 3 years. It just so happens that I'm also here representing First Federal Bank that most people do pay cash, I certainly can't pay cash for a house and most people pay a mortgage so when I looked at that deed the next move you make is go see if this is a deed of trust. Well this property was purchased and there was a mortgage obtained through First Federal Bank. I called Mr. Michael Davies and I have no interest in what the value of the property is I only have a question to him. In your appraisal and in your authorization of accepting or granting a mortgage do you have any information practically on the appraisal? I wanted to make sure that when we went over the areas on the appraisal where the external factors would show up and his comment to me was and quote "There are no negative factors for adjustments applied due to the close proximity of 124 Don Ron Road". There is a financial institution that is loaning money that wants to be protected in the lending of money and did not recognize any external obsolescence. I then say ok I'm going to talk to the applicant, I met him for the first time tonight. I have talked with him earlier this week, but face to face tonight. I asked Mr. Bain what was his intentions. Mr. Bain replied that he plans to upgrade the property and I wanted to be a good neighbor. I want to run a successful business there and that was the end of the conversation. When I take all of these factors into consideration as an appraiser and I look at the subject has been commercial enterprise and has been there over 40 years and new homes have come in there and built and developed around something you can see. I see we have a time issue on the fact that they were kind other than attractive country home that is next door the commercial building was the only other player out there and fortunately growth Erwin came forth people started building homes around there. Secondly there was no penalty applied by the tax authorities to surrounding properties and there was no request by property owners to have their properties reduced in value because of the concept that subject property could be detrimental to the value. Then, finally, the financial institution willing to loan money and in their documentation there are no negative factors. As an appraiser, I cannot create external obsolescence when in my opinion does not exist. If you have 10 appraisers looking at this property what you would want to see would be factors of 80% say 8 or 9 appraisers looking at it and saying this is detrimental. I don't see that from my professional standing and my experience so I conclude that there is no negative impact associated with this property on these adjoining properties.

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Commissioner Ballard asked Mr. MacKethan did he foresee any negative impact on future growth, this is the only area we can grow. Mr. MacKethan stated that in his discussions with Mr. Snow and Ms. Kathy, the conditional use of this property being explicitly designated as a sign company, that's what it would be going in and that's what it would remain and Mr. Bain decided to sell then the next buyer has to want to be in the sign business. So I guess you could go through the process and coming to Kathy and starting over again but that a very stringent restriction from my stand point as an appraiser that when we are analyzing high and best use, the more vary uses you have the more potential buyers you have. If you have a property that has a been labeled with one specific use usually I don't see this except when I'm appraising properties like a church, a church is pretty much a church we do see them converted to restaurants we see them actually converted to residential structures but you are appraising a church, it has a special use. A mini storage warehouse for example, kind of hard to convert that to other uses it's a mini storage warehouse one type of construction one type of use. In this case this property will be labeled as a sign operation facility. That really limits the market ability and I hope I'm answering your question that the growth not sure what will happen in the surrounding areas but the growth of this property is limited to sign use facility.

Commissioner Ballard stated he was referring to future growth in the general area, all residential, do you see any negative impact if I wanted to put a subdivision in. Mr. MacKethan replied that no he does not see any negative impact. It's a very attractive residential area.

Commissioner Baker stated that Mr. MacKethan touched on the intent of this rezoning basically being rezoning conditional uses like you just specify one specific use and this board is not looking at rezoning this to industrial zone piece of property. Industrial zoning specifies that it can only be within the limitations that the board sets on. If the case was different this was being looked at as a straight rezoning to say a neighborhood business or M1 with basically all the ability to put in anything that can go within that district would that have an impact on a appraisal. If I have a property just been rezoned M1 they can put a junkyard next door, if I come and ask you for an appraisal, are you taking that into consideration and might affect my evaluation of my home because you just said is that it's limiting that. So does that play a difference? Mr. MacKethan stated absolutely. I haven't read your M1; I know there is a lot of uses that can occur in M1. I personally know where the gentleman's operation is in Eastover and it's an attractive operation. We are limited to 1 use or the planning board has made a recommendation to make it to 1 use that's extremely highly restricted from a value stand point.

Commissioner Baker asked so if this board was looking at rezoning not as a M1 conditional use but rather an M1 that would have a tremendous impact on the property values. Mr. MacKethan stated that his information that I have received, that it's an M1 conditional use zoning case that's the data that I have analyzed. If you are going to move to where it's going

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to be a 100% solely M1 or heavy commercial or industrial district that's a totally different situation to where whatever those uses can be from a noise stand point potential ignition stand point can be more detrimental than the controlled use of one specific use. That's very very interesting but my answer to that would be that because the staff and assume working with the property owner have agreed that this is what I would like to do my business there and they say if you don't do it there it's going to be a sign company and it's going to remain a sign company.

Commissioner Turnage asked do we have any way of knowing how many homes had been built out there since 1973, believe he had heard one of the homeowners say he had been there 26 years but this business was started in 1973 and we go build a house there, I know there is a business there and will have to remember that but we don't have any idea or any way of knowing how many houses had built since 1973. Mr. MacKethan stated that he did not research that, he looked at the aerial and I saw the number of homes around there and rode through the neighborhoods and this is an attractive residential area.

Dwight Snow informed the board that the only other evidence that we would produce on this aspect would be a letter that we received from Joe Miriello. Joe Miriello is a 30 year appraiser in the Harnett County area and currently retired. He gave us this letter basically regarding the Don Ron Road property at 124 Don Ron Road and surrounding neighborhood which he knows very well. As stated in the letter basically he states 2 opinions based upon his experiences appraising properties out there in that area and being familiar with property values in Harnett County. Other than his experience as a certified commercial and residential appraiser in Harnett County, he is currently on the Dunn City Planning Board and currently a member of Harnett County Board of Equalization and Review. I think that's important because with comments by Mr. MacKethan in his research he did with the Harnett County tax office as they all know when you appeal the property values you get your tax bill and you think the tax value is too high and taxes are too high you can appeal that to your local tax collector would it be the Town of Erwin or Harnett County basically. If they don't come over to your thinking you can always appeal that decision to the Board of Equalization and Review which is a board composed of people like yourself not elected but appointed by the County Commissioner's and they basically look at property values and know this very well. Mr. Miriello is on that board and has been on that board for some time. With his back ground and his experience, the subject property had been formally used for light industrial, commercial, warehouse and educational purposes and considering the value of the existing 6,548 sq. ft. building on site it is my opinion that the highest and best use of this property is some type of small industrial or commercial use. Based on the continued growth and development surrounding the existing subject property improvements over the past 30+ years it is my opinion that approval of the proposed zoning change would have no negative affect on the value or marketability of the residential properties in the area. So we would also submit that

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coming from Mr. Miriello whose experiences totally in the Harnett County area. That would be our additional evidence of those facts and we thank you.

Mayor Carson asked if anyone would like to speak against the rezoning application to please come forward.

Will Pope with Attorneys Pope and Pope came forward and addressed the Board. Mr. Pope stated the oath at the beginning of this public hearing. Mr. Pope stated that he was here on behalf of Mr. Ken Royals and Kris Royals and Amy Hamby in speaking of request of rezoning. I have worked and provided to the members of the board a packet that has been prepared for you. It's kind of a case history, I got hold of the minutes of the last public meeting and reviewed that and also your ordinances and general statues and I have 4 cases, 3 of them are from the NC Supreme Court and one of them is from a recent case that came out August 4 or 15th of this year so this is a brand new case. I would like to start out and just say you as members of the board, your duty is to find that it is a clear and reasonable and like all the evidence that's involved. That's your duty as you make your ruling tonight. Whenever you do this and the first question is whether or not this is a spot zoning. A spot zoning is alive and well in North Carolina. The first definition came from a case back in 1972 and it says that if a property is singled out and reclassified a small track of land owned by a single person surrounding by a much larger area but is uniformly zoned then it relieves the smaller track from the restrictions of the rest of the area subjected too, then it's a spot zone. I have seen the zoning map and if you will look at the zoning map this whole area is R-15. If you change this zone R-15 and in your ordinance it's the most restricted ordinance that you have to an M-1 then it's the least restricted. Even though you put the conditional use at the end of it it's still an M-1 zone that you are changing it too. You just got to control whether or not you are going to allow a certain type industrial use to be done on that particular piece of property. It's still a rezone M-1 zone. If you determine that it's a spot zone and which I will contend that it is, then at that point you have to do a further annalistic and look at the way the court system described it. You have to look at factors the size of the property that you are rezoning in relation to the larger area that you are rezoning, 50 acres that you are rezoning is a lot different than a 2 ½ acre track, significantly. You need to look at the compatibility between the dispute of the zone that you are in and change zone that you are going to. I would contend that there is a tremendous difference between an R-15 zone and M1 zone. Your conditional uses you can go from junkyards to strip clubs if you want too. You would then go to the benefits and detriments resulting from the zone for owners of the parcels neighbors and surrounding community. I think one of the evidence is whether or not zoning value change or increase. I think the evidence that was presented tonight, it refers to current use. Current use on a conditional use for a sign company and if they goes out of business and already have one that has gone out of business over there, it was a school and went out of business and now it has gone to a sign company, the sign company go out what's next? That is the analysis on a M1 zone once you change it to M1 one of the things not conditional use on a M1 zone is a house. Can't put a house on a M1 zone. But the benefits and detriments is wide spread support and community for the change of zone. I don't think I have heard anybody here that's from Erwin speaking in favor of this change of zone. I know there was a protest petition. Protest Petition's, never seen one when I was a Town Attorney in Coats pretty rare occurrence to have a protest petition filed in a change of zone. One of the cases that a similar cases the analysis

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goes will surrounding land owners likely to use services offered by the applicant. When I read the minutes of the last meeting, this applicant is going to be doing 90% of his business in Wake County. The only evidence of any business that he has done in Harnett County was change the sign at the Taco Bell in Lillington. There was no evidence that in the minutes of the last meeting that shows that he had done any business in the Town of Erwin. When you look at the surrounding areas how many people in a residential subdivision are going to be doing business for signs commercial signs. Pretty sure your ordinance says that you can't put commercial signs on individual houses so there is no relationship between that. One of the other things I wanted to bring up and there were studies, analysis on the benefits is not the benefits to the Town, the benefits are the increase tax base the benefits of retaining more jobs, that's not part of the analysis when you look at what the cases say. It's got to be the benefits to your community that this project is going in. One of the things that is the relationship between the uses and vision and the current uses present on the adjacent tracks. They want you to look at the character of the area which surrounds the parcel which has been requested to be rezoned. My mother in law lives on Antioch Church Road so I travel Warren Road frequently, if you turn on Warren Road and go from one end to the other there is not a single business on that road, it's all residential. If you turn on Don Ron Road and go to the other end which is Raiford Road, there are no commercial businesses. Only thing there is houses and a couple of open fields and woods. No commercial businesses on that road. In fact it's my understanding that you can't even come in off of Old Post Road on a commercial truck because that road is restricted. If you come back toward Antioch Church Road, I don't think there is any business until you get up near where Chicora is. You are in the middle of a large residential area where you are planning to put this. One of the last points, I know there has been a lot of talk about it was put in 1973 and businesses that had been run there. First of all, one point is that your zoning ordinance talks of that you can have a non-conforming use and the use goes away for 180 days then you have to comply with the current ordinance. This property has been vacant for approximately a year. A bigger point is it talks specifically about a prior known conforming use of property. Our courts has been pretty explicit when I read the cases, we had a supreme court case called good neighbors vs the Town of Denton and the new case that just came out Etheridge vs County of Currituck. Our courts have held that is in material of the prior uses of the rezone property that they shall not be considered in the criteria whether or not a spot zone is allowed. I think that is our Supreme Court topic, prior uses are not to be considered whenever you are considering a change of zone. I will just like to say that I appreciate your time and I remember when I was in Coats, we had a couple of these and they were not fun. When I read the cases it's my opinion that this is a spot zone it's not reasonable and should be voted down.

Patrick McLeod from 1112 Warren Road, Erwin came forward and addressed the Board. Mr. McLeod stated the oath at the beginning of this public hearing. Mr. McLeod owns his home at 1112 Warren Road and also owns the adjacent land beside me and behind me and actually owns land that backs up to where the property is adjacent to this Don Ron Road property behind the pond that was spoke about earlier. I didn't get to speak last time I had just underwent surgery so I could not talk that good but I will not keep you long. Just a couple things to address to you, my wife and I are implants so to speak we are from the great town of Dunn. We purchased this property in 2011 and did a lot of research about Erwin. It was either Erwin or Chicora and could not afford to live in Chicora so we came to the very best neighborhood and that is where we live at now. We saw a lot of potential and we understood that the property

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that was there, I would like to first say too Mr. Snow and the Bain's their research and everything has been very very good. I myself for the last 21 years I have consulted with both medical industries and manufacturing, primarily in manufacturing and operations. Couple of things, where we live at, when it rains and it rains heavy and in 2013 I bought flood insurance. I am not in a flood zone but as my neighbors can tell you that half of Erwin was washing down our yards so when we talk about rain runoff things like that I don't care what kind of manufacturing you are doing there is going to be runoff, that is a concern because everything runs where, downhill. We live downhill; our land is adjacent downhill from this property that is a concern. Second concern is there is such an echo in the fact from Don Ron Road to where I live at because you have the power lines that run down behind and through our property. Unless the Bain's are going to wrap all their deliveries and going to wrap their equipment everything in foam and bubble wrap it will be noisy and it will echo down. The noise is a concern. I know there was a traffic study about counting cars and things like that. I appreciate Mr. Pope bringing up access, and talk about the means of ingress and egress, my whole professional career I have studied this all over the U.S. and 17 countries worldwide. For a conditional use of this and thinking about tractor trailers coming down Warren Road. Warren Road is a very narrow road. It's hard enough for 2, try it, any commissioner anybody one of you get on one end in a SUV and the one get on the other end on SUV and pass each other. Look how tight that road is, there is a lot of residents here. That is a concern. Other thing I'm concerned about are the carriers, I watch the truck driver coming in and out. You get the right drivers in there those drivers are going to complain about how they are going to get in, how to get out, they are going to want to stop going to this particular location. So I look at Mr. Bain actually having some issues with his shipping and carriers. They will probably change quite a bit. Another concern is, we touch on environmental and talked about run off and things like that. Any where there is a business put, I have been all over the country, I have been to 17 countries, anytime there is a business what kind of criminal aspect does it invite to that neighbor. Not that they want to break into your house but they want to know what the Bain's have behind those fences. They want to know what do the Bain's have that I can steal as I get up and everybody in this room gets up every morning there is a thief out there that is planning what can I steal today who can I steal from tonight and what can I break into. That is a concern of mind. I know the Bain's, I have researched Bain's, the Bain's my hat is off to you guys, you have been very successful and they are going. Once again, on the conditional use zoning that we are talking about I'm very concern about growth. These guys are having had superior growth; I think Erwin should invite them to other locations but that just my opinion. I moved into the area I was in to because there was great potential when the lots and everything I had there. Well I'm scratching my head now about even investing any more money expanding my home doing things like that. I think Mr. Pope said it and appreciate that was when this rezoning goes on it can effect once these guys get in it can effect property value. I understand Mr. MacKethan point and I respect his many years of knowledge and I know he has a great reputation in what he does but I also know that things change, people change, habits change and I hope the Bain's are not granted. I hope the things are truly considered but I hope we don't have to worry about this maybe we will get the Christmas gift that we won't have to worry about this being put in our backyard. We were talking about the aspect of this place of

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business and I know you guys have a big decision and respect that. We talk about the zonings of yesterday I truly have a concern about our zoning of tomorrow. I think there will be some noise issues. You can't manufacture without noise issue. The people around the current location, did some research, they never complained but that is Eastover. This is a different neighborhood. I think the tax impact for our neighborhood the demographic is a total different creature then what they are currently in Eastover. Growth can be a good thing or it can be a bad thing. Unfortunately for the Bain's right now I know their growing a rate that I know it's kind of a joke hold on them because they want to get close to Raleigh. I think Erwin has a lot of things to offer the Bain's but I don't think offering this property on Don Ron Road is one of them. I appreciate your time and thank you for letting me voice my concerns.

Ken Royals and Amy Hamby came forward and addressed the Board. Mr. Royals and Ms. Hamby stated the oath at the beginning of this public hearing. Mr. Royals stated that we still remain patent of this rezoning issue and we put together some pamphlets for the board, Ms. Hamby then past the pamphlets out to the board. We are here to offer hopefully new evidence; we have other people that have spoken as well, we believe that represents us all. However we would like to present to you, we did have a protest petition but as we started talking to a lot of our neighbors not just our Don Ron Road neighbors but to Nicole Drive and Warren Road neighbors. We have people that are truly concerned more than what we signed on our protest petition. So we would like to add the 50+ names of residences. Mr. Pope spoke for us very well, he mentioned the zoning map. Ms. Hamby then showed the zoning map. We have no means to use a sign company. We have a need to enjoy a quality of life, we have a need to enjoy the activities, we strongly oppose the hours on Saturday when most of us work for it. We don't want a business coming in and out on Saturdays when we want to enjoy our life and lively hood. We worry strongly about the safety. Mr. Douglas kind enough to communicate with me and as most of the Town had been because we have pestered them but one thing that was mentioned in his initial report was that the tractor trailer traffic coming into Don Ron Road would likely go up into the shoulder and that his report would suggest or recommend that that road would need to widen. So if that is the case, then my question is this going to happen, is our tax paying money going to support having to widen the road that is absolutely functional for a subdivision. So we have concerns with that as well. How will that come about?

Ken Royals stated that on the video shown they never showed the truck actually exiting the building. My daughter was there today and he also said they did this once, it actually happened twice. They did it on Monday and did it today. On Monday they had some damage done to some of the property where they were trying to maneuver in. My wife was home and heard the crackling we went over that evening to figure out what they hit when they were trying to maneuver the truck out of the property. So there was more than one trial run obviously and today noticeably never showed the truck pulling back on to Don Ron Road. When you pull back onto Don Ron Road according to my daughter's phone you go into the easement in front of the West Barefoot home. So to make that turn you cannot directly get back onto Don Ron Road without getting on the shoulder of the road which I think the engineer says is not sustainable correct way. Was that an over site that the video did not show that the truck actually getting back on Don Ron Road.

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Mr. Douglas stated that he could address the concerns from Mr. Royals. Mr. Douglas stated that I don't know why it wasn't taped, I personally think and also Bill Dreitzler went to Don Ron Road to see the turn onto Don Ron Road and the wheels of the truck did stay on the pavement and probably would say 6 inches to spare, so it did not cover on the shoulder of the road. I can testify to that.

Mr. Royals stated that he actually had a video of that which it is on the shoulder of the road, if the Board would like to see it. The Board then watched the video. As you can see one of the representatives is rushing over trying to move over the waste can but earlier it was my understanding that this was not rehearsed it was a onetime thing that this was done on Monday and today. So it was some practice.

Mr. Douglas stated on Monday there were two reasons why they came back. The first reason was there was a survey stack along the driveway; he had to swing out according to the driver to the shoulder to avoid hitting the stack. I wanted him to redo this on Monday but taken the stack out of the ground he didn't have time to stay so today we took the stack out of the ground. The second reason for him coming back was when they originally look to do this they were going to pull into the parking lot and pull parallel to the fenced in proposed storage area and then back in. He did it less than graceful. He said he had room to where he can circle in the driveway however the wood as you mentioned it crunch and needed to move that out of the way. So I understand that the Bain's had that removed so he had room to turn. Without that being there as you can see he had plenty of room to make the turn. That's why we asked him to come back for those two reasons.

Mr. Royals stated that they have not addressed for making the turn off of Warren Road to Don Ron Road. To make that narrow turn onto Don Ron Road they would have to veer to left lane of Warren Road to make that turn. That wasn't even addressed here. Warren Road is actually much more populated and more traffic flow than Don Ron Road. It's all about safety, we bought into this neighborhood and Commissioner Baker asked before was I concern that the building was there and said that I couldn't really remember. When I built this house I was 24 years old and didn't understand real estate value and now that I'm 51 years old I do understand it. The appraiser spoke about that they were basin their opinion on the building as it is right now, if I wanted to buy property in Erwin and I rode down Don Ron Road as it is now, lovely property you all know it and I saw a sign business there and he said at the last meeting that it is possible that he would have some signs that would be unappealing sign and I saw that that would deter me to buy in that area. Granted nobody wants to pay higher real estate property taxes but we want to maintain our property values. So it's not necessary what we're paid in property taxes in order to get to a point of resell we want to maintain our property values so if I came in and I saw that business that would deter me as a property owner in that area. Every single piece of that property around that is single family home or farm land which is R-15 and I'm sure you are aware of that and we find that this industrial property is not compatible with the surrounding properties. Proposed new zoning is compatible within the current zoning and our little Town map shows which thank you Mr. Douglas for offering that to me and it says that we have no support of the proposed rezoning of the community. All of the community is against this. The Bain's wants this neighborhood grand stand and we all come together, well we don't want it. We wish that Erwin would reach out to them according to the map where

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there are so many areas that are already zoned for this type of business and allow them to come together. We have the 50 signatures, it's not only 7 seven homes that are affected by this and that's what I said before in the last meeting, Nicole Drive, Denise Circle, Warren Road these are beautiful homes in this area and they all are going to be affected granted to 2 18-wheelers a week but he proposing growth so as they grow is there going to be more 18-wheelers coming into this property. I think my neighbor mentioned Warren Road is narrow, it's true, and you have to be very careful when you are driving down Warren Road if you are driving in a regular vehicle. Especially if you come across an 18-wheeler your way. It was strange to see the 18-wheeler in our neighborhood, we just don't see it. There is no evidence and I think our attorney mentioned this, that the business would benefit that we don't need that. In part of the application I think rezoning this is that the neighbors would benefit from this rezoning. We are not interested in any commercial signs in our neighborhood. So that is incompatible as well. Don Ron Road is narrow and stripes its Town maintained and its heavy duty traffic according to this traffic count which I find reasonable but highly unusual as I lived there to my knowledge I can't imagine 800 vehicles going down that road. Literature suggests and studies validate that industrial property in residential areas do have a significant negative impact on adjacent property values. In what we presented to you is contradicting the appraiser report but it does say if you refer to that please, impact on property values industrial sites cause several negative such as noise congestion and obstruction of view in order to qualify the negatives that they extended from the industrial site we estimate using model the impact of participants to residential sites onto industrial and residential values. We use data on the houses sold in another area this is all data the results revealed the distances to an industrial site as significant of the value of residential properties. Also we put in here with no respect to the Bain's if you also look in the pamphlet we have pictures of the Bain's property and that's what we are concerned about. Also we are presenting the four properties that own that flank the property.

Commissioner Baker informed Mr. Royals and Ms. Hamby that he commends the both of you for being loyal neighbors. In making sure and in recapping, I have a couple of questions that I had asked and with your evidence you submitted as far as the tax values and all. What's being proposed is not a normal rezoning and just wanted to make sure that staff has fully explained to you and you have knowledge and I would like to know your understanding of what is being asked for tonight. To make sure we are all on the same page. I have asked a question about if it was a specific type of rezoning which in some areas it did not have parallel zoning districts, I guess people would have looked at it and qualify it as spot zoning but parallel zoning district is an acceptable zoning district that is put into our ordinance and just wanted to make sure that you and all involved know the difference that as far as our conditional parallel zoning rather than straight rezoning. That's why I asked the question to the appraiser if that property appraised and it says that the zoning for this property is M1 industrial with no restrictions basically everything that is allowed.

Will Pope stated that if you read those cases that 2014 case is a case with a parallel conditional use zone and it was for a spot zone on the change that it was zoned. It is a spot zone.

Ms. Hamby stated that we do understand what you are saying when you talk about that but we also believe that it's not appropriate for a special use. Also spoke with Ms. Blake at one point my question was if this rezoning for a special conditional use if approved what happens if the Bain's grow and they need a bigger place and move out then what happens. My understanding

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at that point is anyone can apply again either for a M1 with a junkyard or anything else if I understood correctly from that conversation. We have concerns about that as well.

Kathy Blake stated that a rezoning can be requested at any day everyday by anyone on any piece of property so today someone can ask on your piece of property for it to be rezoned.

Commissioner Baker people would have a right, you would have a right to petition to have your property rezoned but when it comes through as conditional use then it's not a permitted use which means it opens up to basically what we have tonight public input everyone has the right to come and voice their concerns on it and we take evidence and that is the thing as far as what we are in and I'm listening to the voices under a quasi-judicial hearing I'm bound to have to enter any consider factual evidence and I know it was stated and heard all of your opinions and I admire and keep those regarded but as far as making the decisions I have to make it on factual evidence. In looking at this and looking at what the ordinances say, the ordinance would say it grants certain rights and privilege a certain process. We have to look at both sides. I was asked earlier in the week that I hope I would make the right decision. Well the right decision depends on who you are asking. I'm put in place where I have to rely solely on the ordinances and what it tells me and what is allowed. Unfortunately someone is going to leave here tonight not happy. I wanted to make sure you the neighbors and everyone is in complete understanding and we as a board and our staff has done whatever you needed to inform with any asking of questions and I'm sure Mr. Pope I don't questioned your ability none at all but this is not the normal conditional use or a normal rezoning situation. It's a little more complicated because it's parallel zoning district.

Mr. Royals asked how rare is the parallel zoning?

Commissioner Baker stated he has been on this board for 12 years and this is the first out of 12 years that I can recall.

Mr. Royals asked is this something that Erwin has, I think the other night spoke that Harnett County does not have this.

Commissioner Baker stated this is not something that Erwin has come up with different places can call it different things. The thing that I think a lot of people need to look at is it's not a regular rezoning where you can put conditions. Where you ask me M1 would be a straight out zoning next to R-15 and it is a regular rezoning. I can say with confidence that no it's not.

Will Pope stated he disagreed that it is a M1; I think you are absolutely changing it to a M1 zone but you guys can, every time that someone proposes a use on that piece of property they have to come in with a conditional use application to be able to use that piece of property. Every time there is a change of use there has to be an application but I read the statutes that you are truly changing to a M1 zone and the uses that are allowed inside the M1 are all conditions. Commissioner Baker stated that this is very unique and everyone understands if we approve this to a M1 it's parallel basically a lot of people look at as an overly district where you have certain uses that are allowed within this zoning district that would be allowed under conditional use. A conditional use granted is bound by the conditions that are put on that use.

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Ms. Blake stated that in the zoning ordinance it's actually this is the way I labeled it on the M1 CD. It's zoned use district.

Ms. Hamby stated that you have done your very best to explain it and appreciate that I believe I understand it however what we can't understand as residents of how it's going to affect us even if it's a special use and not a spot zone we believe that it is emotional it shouldn't be but I say 50+ residents who are against this, I would say submit this as evidence.

Barbara Weaver came forward and addressed the Board. Ms. Weaver stated the oath at the beginning of this public hearing. Ms. Weaver moved here 5 years ago I was shown the house and it had a lot of trucks going by and I let the house go. That house had to go down in value and was not sold for another year and it had already been up for sale. We have been given an appraisal value for this place as is now. What is going be in a year after they have been there? That's my question. I have another question, we have a street and to my knowledge it is not marked in the center or on the sides and I cannot believe a bus and trailer truck can go down that road the same time. I don't know who is going to win when that happens. The traffic, I was out there working in my yard today it was nice and peaceful no hammers no wrenches don't think the birds were singing they were so cold. It was nice. I don't look forward to working outside and having trailer trucks and other trucks and can't believe taking apart those signs will be quite. My other question is what is the Town of Erwin had to gain for this. Are we going to gain money in taxes, we are getting paid for taxes now the only thing the Banks are paying the taxes instead of the individual. We are not going to get any extra money for sign a sold somewhere else and delivered somewhere else. So what are we going to get out of this? We just as well have a church there. I would like to know the conditions you are going to put on it. What happens if they do not follow through with these conditions? If they come through with 5 trailer trucks in a week is there going to be a penalty. I'm told that this place is going to fall apart because it has been up for sale for a year and half and they're going to be rats. I have had a house up for sale for 3 years and didn't have a rat in it the house on the corner of Warren Road that has been up for sale for as long and I don't see it fallen apart. I don't know what the hurry is. Don't understand why you want to put something like this in my front yard.

Ronald House came forward and addressed the Board. Mr. House stated the oath at the beginning of this public hearing. Mr. House stated that he is retired and walk a lot. I walk from my house on Warren Road to Don Ron Road and a lot of days 2 cars come down and have to jump into the ditch. So my normal route is Don Ron Road to Raiford Road back down around Butler and Duke Street and back where I never encounter any problems what so ever. Any time especially on Warren Road, 2 car comes along, I have to get almost in the ditch because that is how tight that road is. This is normal cars not tractor trailers.

Commissioner Baker made a motion to close the public hearing at 8:40pm and was seconded by Commissioner Turnage. **Motion Unanimously Approved**

Mr. Douglas wanted to point out a couple of things to the Board. There has been a protest petition filed so which means that this will require a $\frac{3}{4}$ majority of approval for 5 of the 6

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board members. In turn of approval, if you look on the memo on a page 29 it lays out findings of facts and different action require in related to the rezoning and then the conditional use permit.

Commissioner Baker informed the Board of the 4 factors that need to be considered for reasonableness of spot zoning. They are as follows:

1. **Size of tract:** 2.5 acre tract with existing 6500 sq. ft. building; western side open with electric transmission line easement; tract is comparable in size or larger than most adjacent residential tracts.
2. **Compatibility of zoning action with existing comprehensive plan:** The 2014 Town of Erwin Land Use Plan designates this area as medium intensity, primarily intended for medium to high density mixed residential uses, but may also include some low impact neighborhood business, government, or institutional uses.
3. **Benefits and detriments resulting from zoning action for property owner, neighbors, and surrounding community:** Rezoning of this tract to an industrial conditional use district would allow the property to be used for a specific business with agreed upon restrictions/limitations. Presently the property is considered a nonconforming use, limited to residential or municipal use, and likely to remain vacant, creating a potential nuisance for the neighborhood. Rezoning to a conditional use district is intended to mitigate any impacts to surrounding residential properties while allowing for a specific use, as opposed to a traditional zoning district that allows a range of uses that may be in conflict with surrounding properties.
4. **Relationship between uses under new zoning and uses present in adjacent tracts:** While the adjacent tracts are residential in nature, a low intensity business permitted with restrictions under the conditional district rezoning process should include measures to mitigate any impacts, including buffering, restrictions on operating hours, and adherence to a provided site plan.

Commissioner Baker made a motion to recess for 10 minutes at 9:14pm and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to reconvene at 9:24pm and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

Commissioner Baker made a motion for the approving of the Conditional Use Rezoning District and offer the following reasons of consistency 1) Consistency with Zoning Ordinance. The conditional use district rezoning process as allowed by Town ordinance restricts types of use and places restrictions and conditions to mitigate any impacts to surrounding properties, thus addressing the health, safety, and welfare of the general community. 2) The 2014 Town of Erwin Land Use Plan allows for this area low impact

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neighborhood business and was seconded by Commissioner Blackmon. **Motion carried 5-1 with Commissioner Ballard opposing.**

Commissioner Baker made a motion to approve Compatibility to the rezoning for the proposed amendment is compatible with existing/future adjacent land uses and will contribute with the area involved. A conditional use zoning district allows for limitations and restrictions for the purpose of creating compatibility with surrounding land uses, such as buffering, restrictions on hours of operations, and adherence to an approved site plan and was seconded by Commissioner Blackmon. **Motion carried 5-1 with Commissioner Ballard opposing.**

Commissioner Baker made a motion to approve the proposed rezoning statement as safe and adequate access the proposed amendment provides safe and adequate access to the public street system without causing congestion placement excessive traffic load for local streets. Reason being the property has two existing driveways and parking areas, existing building, parking area, and outdoor storage area are small in nature and should limit the amount of vehicular traffic, an existing warehouse operation previously occupied the site and was seconded by Commissioner Blackmon. **Motion carried 5-1 with Commissioner Ballard opposing.**

Commissioner Baker made a motion to approve the test for reasonableness of spot zoning request to rezone from R-15 to M-1 (CD) 1) size of tract 2.5 acre tract with existing 6500 sq. ft. building; western side open with electric transmission line easement; tract is comparable in size or larger than most adjacent residential tracts and offer that as a motion to show consistency for size of tract in rezoning and was seconded by Commissioner Blackmon. **Motion carried 5-1 with Commissioner Ballard opposing.**

Commissioner Baker made a motion to approve the test for reasonableness of spot zoning request to rezone from R-15 to M-1 (CD) for compatibility of zoning action with existing comprehensive plan The 2014 Town of Erwin Land Use Plan designates this area as medium intensity, primarily intended for medium to high density mixed residential uses, but may also include some low impact neighborhood business, government, or institutional uses and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve that the Benefits and detriments resulting from zoning action for property owner, neighbors, and surrounding community. Rezoning of this tract to an industrial conditional use district would allow the property to be used for a specific business with agreed upon restrictions/limitations. Presently the property is considered a nonconforming use, limited to residential or municipal use, and likely to remain vacant, creating a potential nuisance for the neighborhood. Rezoning to a conditional use district is intended to mitigate any impacts to surrounding residential properties while allowing for a specific use, as opposed to a traditional zoning district that allows a range of uses that may be in conflict with surrounding properties and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

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Commissioner Baker made a motion to approve the test for reasonableness of spot zoning request to rezone from R-15 to M-1 (CD) Relationship between uses under new zoning and uses present in adjacent tracts. While the adjacent tracts are residential in nature, a low intensity business permitted with restrictions under the conditional district rezoning process should include measures to mitigate any impacts, including buffering, restrictions on operating hours, and adherence to a provided site plan and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

The Board then went through the Findings of Facts

Commissioner Baker made a motion to approve 1.) for the Conditional Use District Findings of Facts for the Rezoning to M-1 (CD) located on Don Ron Road under Findings of Facts the use requested is listed among the conditional uses in the district for which the application is made staff finds that this criterion would be met per Sections 9-4031.4 of the zoning ordinance and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 2.) that the findings of fact consistency stated the requested use is essential to the public convenience or welfare staff notes the property has an existing warehouse building surrounded by residentially used lots as well as residentially zoned and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 3.) that the requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare. Staff notes there are numerous single family developed lots and some agriculture use in close proximity to this lot. The uses, with staff recommended conditions, should allow the proposed use without detrimental effects and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 4.) that the requested use will be in conformity with the Land Development Plan. The Land Use Plan 2014 shows this parcel as medium density development and it indicates the intent for neighborhood business. The uses, with staff recommended conditions could be interpreted as conformity and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 5.) that adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided. Staff finds that this criterion has been met. Facilities are existing or will be provided and staff is not aware of any issues and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

MINUTES CONTINUED FROM DECEMBER 4, 2014

Commissioner Baker made a motion to approve 6.) that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The site plan and exhibit A describe off street parking areas that accommodate 7 parking spaces which meet parking requirements. Per the zoning ordinance, parking requirements are not met for the proposed building expansion and was seconded by Commissioner Whitman. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 7.) that the conditional use shall in all other respects conform to the applicable regulations of the district in which it is located except as such regulations may in each instance be modified by the Board of Commissioners pursuant to the recommendations of the Planning Board. The uses and site plan with staff recommended conditions could be interpreted as conformity and also placed the following conditions on the establishment for M1 (CD):

1. Delivery of goods would need to be brought in on a truck and a trailer would not be brought in a commercial 18-wheeler bases, something you would see typically when people bring things in is like a duly truck with single axle with a goose neck trailer type of device that would be brought in to eliminate the over congestion of the commercial 18-wheeler vehicles.
2. Storage area that all commodities that would be stored onsite must be stored in rear of the property inside a closed unpaved fence hardwood privacy at least minimum of 6ft. in height that no materials be allowed to be stored above the height limit of the fence that a vegetative buffer placed around the exterior of the storage area to help conceal the storage of materials. That would also include any type of commercial vehicles utilized by the company the front parking lot be utilized for regular vehicle traffic commuting to and from work personnel vehicles but large company trucks be stored at the rear of the building.
3. All manufacturing activity must be conducted in the enclosed building that there will be no manufacturing activities conducted outside of the enclosed structure.
4. Driveway connection coming off of Don Ron Road is repaired as to prevent any deterioration to the public streets.
5. Concealment toward compatibility concealment of commodity brought on site due to the noise factor and noise impact will need to be performed inside.
6. All current vegetation buffer area remains in tack to help conceal.
7. Would not be able to take and back any vehicles out of the site onto Don Ron Road.
8. No types of welding basically a cordless drill backing screws out things of that nature if any deconstruction would have to go further than what would be perform with a cordless drill then that would need to be perform inside the structure as well. Light disassembly could be

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performed within enclosed area out there. Nothing with hammers and saws beating and banging and welding tortures would need to be conducted inside of the structure.

9. All outdoor lighting shall be down lighting with low glare and directed away from all residential uses and areas zoned residential
10. No expansion of the building
11. No outdoor signage advertisement signage allowed within the structure on the street. Will need to utilize what is currently there no expansion from it.
12. Hours of operations Monday thru Friday shall be from 6am to 6pm and Saturday from 6am to 12pm.
13. This shall be limited to warehouse and transfer activities and assembly maintenance and repair of signs.

The motion was seconded by Commissioner Blackmon. **Motion carried 5-1 with Commissioner Whitman opposing.**

A copy of Staff's Memo, Public Notice, Traffic Count, Traffic/Roadway Evaluation, Rezoning Amendment ZCD-2014-004, and Protest Petition is incorporated into these minutes as Attachment #2

PUBLIC HEARING

Commissioner Baker made a motion to open the public hearing at 10:09pm and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

CU-2014-007, 111 DENIM DR., CONDITIONAL USE PERMIT APPLICATION FOR A CAR SALES LOT IN C-B

Ms. Blake stated the applicants submitted an application for a conditional use permit for a car sales lot at 111 Denim Dr., Harnett County PIN 0597-63-9988.000. The property owner of this 0.6 acre parcel is CAMJAC Properties. The parcel is zoned C-B (Central Business) and has an existing 1,854 SF building. There are 2 existing driveways on Denim Dr., a driveway on S. 12th St., and a parking area with approximately 16 parking spaces marked. This is the former BB&T bank building. Mr. Jackson and Mrs. Cameron have a zoning permit for offices in the building for other businesses.

MINUTES CONTINUED FROM DECEMBER 4, 2014

Also the applicant shows a total of approximately 23 parking spaces. Our zoning ordinances say a parking space 8ft. wide by 23ft. long. There are existing offices in the building; the proposed car lot is another off of business that they would like to have the office in the existing building will need to outside parking area for car display and customer and employee parking. Customers for the offices and or employees could have up to 15 for sale at one time. Don't think they intend to have that many. A site plan was submitted by CAMJAC Properties which is the property owner and Michael Jackson and Nancy Jackson and Barbara Cameron and Pat Cameron are the property owners.

Staff Suggests Consideration of the Following Conditions:

- Installation of evergreen shrubs at a minimum height at planting of 5' along the approximate 71' fencing adjacent to the single-family dwelling lots.
- No outdoor audio or loud speaker system.
- Any new site lighting will be "down lighting" and have glare control.
- Curb stops shall be maintained for traffic and pedestrian safety.
- Signage
 - There shall be no portable signs, to include balloons and other such items that may be attached or put on vehicles to attract traffic.
 - There shall be no more than 1 freestanding sign per street frontage per this parcel.
 - Freestanding signs shall not exceed 50 square feet in area.
 - Freestanding signs shall not exceed the height of 20 feet.
 - There shall be a maximum of 1 wall sign, illuminated or non-illuminate, per building at a maximum of 100 square feet.
 - Flashing, strobe or intermittent lights on any kind shall be prohibited.

Mayor Carson asked if anyone would like to speak in favor of this conditional use permit to please come forward.

Michael Jackson came forward and addressed the Board. Mr. Jackson stated the oath. Mr. Jackson stated that the only thing really would be a little more than we might would normally do is a vegetative bearer in the back since it has a chain link fence. Although there is restriction on the signs and size that is part of the text of the actual conditional use, there is an existing large sign up there that can be utilized. It's our intention as well know that building been vacant for over 5 years and it closed September 11, 2009. It is our desire to bring some offices in there and will need to meet DMV conditions to put the car lot in. There may be some modifications to the building on the inside in order to accommodate that. There is also plenty of other space that we intend to make some office space for. It's not our intention to have a large car lot it may make if feasible for us to purchase this property and use part of it for office space for some of our existing needs and then the remainder of it to put a car lot in. It would likely be more of a B-2 in nature than it is Central Business but it is already zone Central Business. As far as the conditions, Mr. Jackson

MINUTES CONTINUED FROM DECEMBER 4, 2014

doesn't feel like there would be any problem on any of those conditions. There is a drive thru window there and it still functions and has a speaker in the drive thru window. If we decide to utilize this, than this is not what you are talking about as loud speakers.

Commissioner Baker asked if Mr. Jackson was thinking about putting a fence from walking like between your house and Zaxby's, you have the chain link fence and then wooden privacy fence, are you thinking about putting a fence on your property area and make sure no one walks through. Mr. Jackson stated the only area to walk through is located at the back of the property closer to South 12th Street side.

Mayor Carson asked if anyone would like to speak against this conditional use permit to please come forward.

No one came forward.

Commissioner Blackmon made a motion to close the public hearing at 10:30pm and was seconded by Commissioner Ballard. **Motion Unanimously Approved**

The Board then went through the Findings of Facts

Commissioner Baker made a motion to approve 1.) that the use requested is listed among the conditional uses in the district for which application is made and is verified in Section 4028.4 Conditional uses in the Zoning Ordinance and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 2.) that the requested use is essential or desirable to the public convenience or welfare and it will provide for retail vehicles sales for the citizens of Erwin and was seconded by Commissioner Ballard. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 3.) that the requested use will not impair the integrity or character of the surrounding or adjoining districts, nor is detrimental to the health, morals, or welfare the building was used for a bank and has an off street parking lot and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 4.) that the requested use will be in conformity with the Land Development Plan. It appears that this criterion has been met. The Land Use Plan appears to show this parcel as medium intensity development. This parcel appears to have public water and sewer and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

MINUTES CONTINUED FROM DECEMBER 4, 2014

Commissioner Baker made a motion to approve 5.) that adequate utilities access road drainage sanitation and/or other necessary facilities have been or are being provided. It appears that this criterion has been met. All facilities are existing and staff is not aware of any issues and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 6.) that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. It appears that this criterion has been met. There are two driveways existing to Denim Drive and a third on South 12th Street. Staff is not aware of any issues and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 7.) that the conditional use shall in all other respects conform to the applicable regulations of the district in which it is located except as such regulations may in each instance be modified by the Board of Commissioners pursuant to the recommendations of the Planning Board. It appears that this criterion has been met. The applicant is responsible for contacting any necessary Harnett County Departments and/or any State or Federal agencies and also places the following conditions:

1. Installation of evergreen shrubs at a minimum height at planting of 5' along the approximate 71' fencing adjacent to the single-family dwelling lots.
2. No outdoor audio or loud speaker system.
3. Any new site lighting will be "down lighting" and have glare control.
4. Curb stops shall be maintained for traffic and pedestrian safety.
5. Signage
 - A. There shall be no portable signs, to include balloons and other such items that may be attached or put on vehicles to attract traffic.
 - B. There shall be no more than 1 freestanding sign per street frontage per this parcel.
 - C. Freestanding signs shall not exceed 50 square feet in area.
 - D. Freestanding signs shall not exceed the height of 20 feet.
6. There shall be a maximum of 1 wall sign, illuminated or non-illuminate, per building at a maximum of 100 square feet.
7. Flashing, strobe or intermittent lights on any kind shall be prohibited.
8. Parked and storage of vehicles for sale shall not be allowed to protrude unto the public right of ways or sidewalk pedestrian area.

This motion was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion that the proposed conditional use application meets all the Findings of Facts in the affirmative and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

MINUTES CONTINUED FROM DECEMBER 4, 2014

Commissioner Blackmon made a motion that the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion to approve the CU-2014-007 for a car sales lot in C-B at 111 Denim Drive and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

A copy of Staff's Memo and Public Notice is incorporated into these minutes as Attachment #3

PUBLIC HEARING

Commissioner Ballard made a motion to open the public hearing at 10:36pm and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

**CU-2014-008, 2301 ERWIN ROAD, CONDITIONAL USE PERMIT APPLICATION
FOR A CAR SALES LOT IN B-2**

Erwin Planner Kathy Blake informed the board that Ms. Linda T. Moore, of E & L Auto Sales, submitted an application for a conditional use permit for an auto oriented business at 2301 Erwin Rd., Harnett County **PIN 1507-40-6439.000**. The property owner of this 0.22 acre parcel is Rodney Ray Lewis. The parcel is zoned B-2 (Highway Business). According to the Harnett County tax appraisal card, the existing 456 SF building appears to have been built in 2000. There are 2 existing driveways on Erwin Rd. and an existing driveway to Twin City St. There is a gravel parking area with no parking spaces marked. The previous use was a car sales lot. To the west, across Twin City St. and to the north, across Erwin Rd., the properties are zoned B-2 and have businesses to include auto sales, towing, etc. The property to the east and adjacent is vacant and zoned B-2. The property to the south and adjacent is zoned B-2 but has a residential single-family dwelling.

Ms. Moore submitted a site plan designating 8 “for sale” car spaces, a space for herself as the only employee, and assumes 2 parking spaces for customers. Her site plan adds the closing off of the 2 driveways on Erwin Rd. with a short rope fence from the eastern property lines to the intersection of Twin City St. and turns the corner and stops at the driveway entrance on Twin City St. The applicant did not include any new landscaping. No site lighting was proposed. Ms. Moore verbally stated that she contracts out the servicing on vehicles.

Staff Suggests Consideration of the Following Conditions:

- Define the sides of the driveway on Twin City St. with the proposed rope fence.
 - Town Engineer recommends a 24' wide driveway off Twin City St.
- Designation of 2 customer parking spaces
- Mark parking spaces with some type of curb stop.

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- Extend the rear landscape buffer adjacent to the single-family dwelling at 103 Twin City approximately 34' to the side property line with the same existing shrub type & height.

The Planning Board recommended approval of this site plan and conditional use permit application.

Mayor Carson asked if anyone would like to speak in favor of this text amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against this text amendment to please come forward.

No one came forward.

Commissioner Blackmon made a motion to close the public hearing at 10:54pm and was seconded by Commissioner Baker. **Motion Unanimously Approved**

The Board then went through the Findings of Facts

Commissioner Blackmon made a motion to approve 1.) that the use requested is listed among the conditional uses in the district for which application is made. This criterion has been met per Section 4030.4 of the Zoning Ordinance and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 2.) that the requested use is essential or desirable to the public convenience or welfare. It appears that this criterion has been met. The applicant has an existing car sales business and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner McKoy made a motion to approve 3.) that the requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare. The previous use of this parcel was as a car sales lot and there are auto oriented businesses across the street and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

MINUTES CONTINUED FROM DECEMBER 4, 2014

Commissioner Blackmon made a motion to approve 4.) that the requested use will be in conformity with the Land Development Plan. It appears that this criterion has been met. The Land Use Plan appears to show this parcel as medium intensity development. The parcel appears to have public water and sewer and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 5.) that adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided. It appears that this criterion has been met. All facilities are existing and staff is not aware of any issues and was seconded by Commissioner Ballard. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion to approve 6.) that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. It appears that this criterion has been met. Defining the driveway on Twin City Street should assist with any potential traffic congestion. Closing the driveways on Erwin Road will also minimize potential traffic congestion. Staff is not aware of any issues and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 7.) that the conditional use shall in all other respects conform to the applicable regulations of the district in which it is located except as such regulations may in each instance be modified by the Board of Commissioners pursuant to the recommendations of the Planning Board. It appears that this criterion has been met. The applicant is responsible for contacting any necessary Harnett County Departments and/or any State or Federal agencies and also placed the following conditions:

1. Define the sides of the driveway on Twin City St. with the proposed rope fence.
 - A. Town Engineer recommends a 24' wide driveway off Twin City St.
2. Designation of 2 customer parking spaces
3. Mark parking spaces with some type of curb stop.
4. Extend the rear landscape buffer adjacent to the single-family dwelling at 103 Twin City approximately 34' to the side property line with the same existing shrub type & height.
5. Along Dunn Erwin Road to place a 10ft. buffer strip from the enclosed driveway consistent of low growing evergreen shrubs and retain device such as mulch in order to prevent storm water runoff and drainage from Dunn Erwin Road

This motion was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion to that the proposed conditional use application meets all the Findings of Facts in the affirmative and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

MINUTES CONTINUED FROM DECEMBER 4, 2014

Commissioner Baker made a motion that the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion to approve the CU-2014-008 for a car sales lot in B-2 at 2301 Erwin Road and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

A copy of Staff's Memo and Public Notice is incorporated into these minutes as Attachment #4

PUBLIC HEARING

Commissioner Baker made a motion to open the public hearing at 10:59pm and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

CU-2014-009 203 EAST JACKSON BLVD CONDITIONAL USE PERMIT
APPLICATION FOR CAR SALES LOT IN B-2

Town Planner Kathy Blake informed the board that Mrs. Helen Smith, of Smith's Rental, submitted an application for a conditional use permit for a car sales lot at 203 E. Jackson Blvd., Harnett County PIN 0597-76-5659.000. The property owner of this 3.11 acre parcel is Smith's Rental. The parcel is zoned B-2 (Highway Business). According to the Harnett County tax appraisal card, the existing 1,203 SF single-family dwelling appears to have been built prior to 1980. While the driveways are undefined on the ground, there appears to be a very wide (+ or - 80') driveway near the northwest corner and a residential driveway. There is a gravel parking area with no parking spaces marked.

The applicant's site plan proposes

- 5 shade trees along the E. Jackson Blvd. right-of-way in a 6' wide landscape buffer strip
- 1 - 24' driveway (will be per NCDOT)
- A parking lot that will not be dirt.
 - for 6 or 7 customers
 - two 12-car aisles and one 11-car aisle
- 2 pole lights are shown – staff assumes they are existing.

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Staff Suggests Consideration of the Following Conditions:

- Installation of curb stops for car spaces to include customer parking spaces.
- Site plan needs to graphically identify the parking lot area and note the area size. Car spaces are depicted to begin at 47-48' off E. Jackson Blvd. right-of-way and approximately 20' from the northwest property line but the site plan is unclear if the "parking lot" begins 6' off the right-of-way and/or goes all the way to the northwest property line.
- Note on site plan that existing wooded areas shall remain wooded, thus providing screening/buffering to adjacent multi-family housing.
- For assistance with traffic control, establishing the new 24' driveway, and to aid with storm water runoff, include the installation of low growing shrubs between the proposed shade trees.
 - An alternative would be, instead of shrubbery, to add a 2-3' high fence along right-of-way of E. Jackson Blvd. in front of the trees.

Additional Staff Comments and Recommendations:

A revised site plan was submitted at the Planning Board meeting.

- It includes a shrubbery barrier between the five proposed trees along the E. Jackson Blvd. right-of-way and also defines the proposed location of a new 24' (or NCDOT required width). The Planning Board felt some type of fencing would be better than a landscape barrier along the right-of-way and recommended that fencing be required but that the shrubbery be optional and at the discretion of the applicant.
- Staff recommends a landscape barrier along the E. Jackson Blvd. right-of-way with 5 street trees and low growing shrubs between the trees and a fence/barrier between 2 to 3 feet high.

As an FYI, while it is a good idea to show the proposed location of a sign, signage requires a separate administrative zoning permit and is not included with this conditional use application.

Mayor Carson asked if anyone would like to speak in favor of this conditional use permit to please come forward.

William Smith came forward and addressed the Board. Mr. Smith stated the oath at the beginning of this public hearing. Mr. Smith stated that the home will be converted to an office. He had thought about putting an office on the lot however if you have renters next to a call lot you may have complaints so the best thing was do all commercial and make the house the office and leave the space for cars.

Commissioner Baker asked if Mr. Smith had talked with the building inspector to see what to do in order to convert everything over and handicap accessible.

MINUTES CONTINUED FROM DECEMBER 4, 2014

Mr. Smith stated he plans to do and since the Planning Board meeting he had talked with NCDOT and was informed that there will be no other necessary improvements to done if the fence was put up. Since people cannot turn off from the left crossing traffic then he will not need a turning lane. Has also talked with environmental health in reference to the site plan and was told they would get back with him if there was any problem with erosion and has not heard back from them.

Mr. Smith stated he had a problem with the landscape, he plans to do it nice and will not put a pvc with rope plans to do a vinyl fencing. Neither of the other car lots has shade trees blocking their view, I know they were probably grandfather and understand that however really prefer not to have shade trees. The landscaping he has no problem.

Commissioner Ballard asked about the parking area.

Mr. Smith stated that the handicap parking will be under garage area and handicap ramp in front and planning to make it nice and the rest for regular parking.

Mayor Carson asked if anyone would like to speak against this conditional use permit to please come forward.

No one came forward.

Commissioner Blackmon made a motion to close the public hearing at 11:22pm and was seconded by Commissioner Turnage. **Motion Unanimously Approved.**

The Board then went through the Findings of Facts

Commissioner Baker made a motion to approve 1.) that the use requested is listed among the conditional uses in the district for which application is made. This criterion has been met per Section 4030.4 of the Zoning Ordinance and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion to approve 2.) that the requested use is essential or desirable to the public convenience or welfare. It appears that this criterion has been met and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion to approve 3.) that the requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health morals or welfare. The previous use of this parcel has been a single family dwelling. There is an auto oriented businesses adjacent to this property and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 4.) that the requested use will be in conformity with the Land Development Plan. It appears that this criterion has been met. The Land Use

MINUTES CONTINUED FROM DECEMBER 4, 2014

Plan appears to show this parcel as high intensity development. This parcel appears to have public water and sewer and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

Commissioner McKoy made a motion to approve 5.) that adequate utilities access roads drainage sanitation and/or other necessary facilities have been or are being provided. It appears that this criterion has been met. All facilities are existing and staff is not aware of any issues and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve 6.) that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public street. It appears that this criterion has been met. Defining the driveway on E. Jackson Blvd. should assist with any potential traffic congestion. Staff will be consulting with NCDOT as to whether there may be other roadway improvements needed and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion to approve 7.) that the conditional use shall in all other respects conform to the applicable regulations of the district in which it is located except as such regulations may in each instance be modified by the Board of Commissioners pursuant to the recommendations of the Planning Board. It appears that this criterion has been met. The applicant is responsible for contacting any necessary Harnett County Departments and/or any State or Federal agencies and the following conditions were placed:

1. Installation of curb stops for car spaces to include customer parking spaces.
2. Site plan needs to graphically identify the parking lot area and note the area size. Car spaces are depicted to begin at 47-48' off E. Jackson Blvd. right-of-way and approximately 20' from the northwest property line but the site plan is unclear if the "parking lot" begins 6' off the right-of-way and/or goes all the way to the northwest property line.
3. Note on site plan that existing wooded areas shall remain wooded, thus providing screening/buffering to adjacent multi-family housing.
4. For assistance with traffic control, establishing the new 24' driveway, and to aid with storm water runoff, include the installation of low growing shrubs between the proposed shade trees.
 - A. An alternative would be, instead of shrubbery, to add a 2-3' high fence along right-of-way of E. Jackson Blvd. in front of the trees.
5. It includes a shrubbery barrier between the five proposed trees along the E. Jackson Blvd. right-of-way and also defines the proposed location of a new 24' (or NCDOT required width). The Planning Board felt some type of fencing would be better than a landscape barrier along the right-of-way and recommended that fencing be required but that the shrubbery be optional and at the discretion of the applicant.
6. Staff recommends a landscape barrier along the E. Jackson Blvd. right-of-way with 5 street trees and low growing shrubs between the trees and a fence/barrier between 2 to 3 feet high.
7. Shade trees a maximum of 75ft. apart.

This motion was seconded by Commissioner Baker. **Motion Unanimously Approved.**

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Commissioner Baker made a motion to approve that the proposed conditional use application meets all the Findings of Facts in the affirmative and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to that the proposed amendment is consistent with those documents that constitute the officially adopted land development plan and other applicable plans and was seconded by Commissioner Blackmon. **Motion Unanimously Approved.**

Commissioner Baker made a motion to approve CU-2014-009 for a car sales lot in B-2 at 203 E. Jackson Blvd and was seconded by Commissioner McKoy. **Motion Unanimously Approved.**

A copy of Staff's Memo and Public Notice is incorporated into these minutes as Attachment #5

PUBLIC HEARING

Commissioner Blackmon made a motion to open the public hearing at 11:27pm and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

SOLAR FARM MORATORIUM

Town Manager Richard Douglas informed the Board that staff has had a number of inquiries about solar farms. Staff has discussed how to better regulate these. We had one back in the spring to approve as a conditional use and feel like we could have done a better job with that. We would like revisit our regulations and amend the ordinance that addresses solar farm. A resolution has been done to put the moratorium in effect for 59 days. A schedule calls for the planning board to look at the ordinance at the December 15th meeting and the Board of Commissioners will look at the ordinance at the January 8th meeting with the possibility for asking an extension for February.

Mayor Carson asked if anyone would like to speak in favor of this text amendment to please come forward.

No one came forward.

Mayor Carson asked if anyone would like to speak against this text amendment to please come forward.

Dale Ryals came forward and addressed the Board. Ms. Ryals stated that she had missed the first meeting this was discussed in and understand that there is a solar farm on HWY 421. She had pictures of that. Ms. Ryals stated that she thinks there is a different way of handling this

MINUTES CONTINUED FROM DECEMBER 4, 2014

beside a moratorium. Ms. Ryals stated that she is interested in having solar farm at which she has 14 acres.

Ms. Ryals presented a pamphlet to the Board for her reasoning. *This is will be considered as an attachment to the minutes.*

Commissioner Blackmon made a motion to close the public hearing at 11:40pm and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

Commissioner Blackmon made a motion to approve the Solar Farm Moratorium in effect for 59 days unless the Board of Commissioners acts sooner to terminate the moratorium or votes to extend the moratorium as allowed by law and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

A copy of Ordinance 2014-2015-005 and Public Notice is incorporated into these minutes as Attachment #6

ADJOURNMENT

Commissioner Blackmon made a motion to adjourn at 11:58pm and was seconded by Commissioner Baker. **Motion Unanimously Approved.**

**MINUTES RECORDED AND TYPED BY
CYNTHIA B PATTERSON TOWN CLERK**

Patsy M. Carson
Mayor

Cynthia B. Patterson, CMC
Town Clerk