March 7, 2016

The Randolph County Board of Commissioners met in regular session at 6:00 p.m. in the 1909 Randolph County Historic Courthouse Meeting Room, 145 Worth Street, Asheboro, NC. Commissioners Frye, Haywood, Kemp, Lanier and Allen were present. Dr. Bob Shackleford, RCC President, gave the invocation and everyone recited the pledge of allegiance.

Public Comment Period

Pursuant to N.C.G.S. § 153A-52.1, Chairman Frye opened the floor for public comment. County Attorney Ben Morgan read aloud the Rules of Procedure for Public Comment Period.

Jason Hunter, 630 Old Castle Dr., Randleman, NC, stated that he was attending to speak of his gratitude. Mr. Hunter said he was employed with the Sheriff's Office for 13 years and had served under Sheriff Reid. He said he was no longer employed with the Sheriff's Office as of February 1st but was lucky to have been able to do a job in which he had always wanted to do and it was an experience like no other. Mr. Hunter said he felt indebted to have played a small part in helping the community in which he lives and plans to stay. He spoke of all the positions he had held and the one that meant the most, the Internet Crimes Task Force, where he was charged to find criminals who prey on children. Mr. Hunter said he was grateful to have served under the late Sheriff Reid who set a great example for the department. He thanked the Commissioners and the citizens of Randolph County for what he described as a "grand adventure."

Consent Agenda

Commissioner Allen made a motion to remove Item C. Approve Site Development Project Ordinance Budget Amendment #4 – Megasite Maintenance from the Consent Agenda. Commissioner Haywood seconded the motion, the Board voted unanimously and Item C was removed.

Commissioner Allen asked for additional information about the *Item C.* budget amendment #4 to the Site Development Project Ordinance for megasite maintenance. Finance Officer Will Massie recommended that all related costs the County would incur for the megasite (i.e. security, mowing , etc.) be accounted for in the Site Development Project Ordinance and that the cell tower revenues were the best way to pay for those costs. After clarification, Commissioner Allen made a new motion.

On motion of Allen, seconded by Haywood, the Board voted unanimously to approve the Consent Agenda, as initially presented and as follows:

- *approve minutes of the 2/1/16 regular meeting, 2/1/16 closed session I & II, the 2/9/16 special meeting, the 2/11/16 special joint meeting. (No quorum for the 2/16/16 special meeting –Economic Development Corporation planning retreat);*
- *unseal Closed Session Minutes 11/2/15 II and 2/1/16 I;*
- *approve Site Development Project Ordinance Budget Amendment #4 – Megasite Maintenance, as follows:*

2015-2016 Budget Ordinance Site Development Capital Project Ordinance—Budget Amendment #4		
Revenues	***Increase***	***Decrease***
Sales and Services	*$90,000*	
Appropriations	***Increase***	***Decrease***
Professional Fees	*$45,000*	
Miscellaneous	*$45,000*	

- *amend the 2016 Holiday Schedule (Seagrove Library), as follows:*

Holiday	***County****	***Solid Waste Facility*****	***Library***
New Year's Day	1/1 (Fri.)	1/1 (Fri.) CLOSED	1/1 (Fri.)
M. L. King Jr.'s B-day	1/18 (Mon.)	1/18 (Mon.) OPEN	1/18 (Mon.)
Easter / Good Friday	3/25 (Fri.)	3/25 (Fri.) OPEN, 3/26 (Sat.) CLOSED	3/25 (Fri.)
Memorial Day	5/30 (Mon.)	5/30 (Mon.) CLOSED	5/30 (Mon.)
Independence Day	7/4 (Mon.)	7/4 (Mon.) CLOSED	7/4 (Mon.)
Labor Day	9/5 (Mon.)	9/5 (Mon.) CLOSED	9/5 (Mon.)
Fall Festival (Asheboro Library Only)			10/1 (Sat.)
Veterans' Day	11/11Fri.)	11/11 (Fri.) OPEN	11/11 (Fri.)
Seagrove Pottery Festival (Seagrove Library Only)			11/19 (Sat.)
Thanksgiving	11/24 & 25 (Thur. & Fri.)	11/24 (Thurs.) CLOSED 11/25 (Fri.) OPEN; 11/26 (Sat.) OPEN	11/25 & 26 (Thurs. & Fri.)
Christmas	12/23, 12/26, 12/27 (Fri., Mon-Tue)	12/23 (Fri.) OPEN; 12/24 (Sat.) CLOSED; 12/26 (Mon.) & 12/27 (Tues.) (OPEN)	12/23 (Fri.) OPEN; 12/24 (Sat.) CLOSED; 12/26 (Mon.) CLOSED; 12/27 (Tues.) (OPEN)

- *approve 2017 Holiday Schedule (Same as State Schedule), as follows:*

Holiday	***County****	***Solid Waste Facility*****	***Library***
New Year's Day	1/2 (Mon.)	1/2 (Mon.) CLOSED	1/2 (Mon.)
M. L. King Jr.'s B-day	1/16 (Mon.)	1/16 (Mon.) OPEN	1/16 (Mon.)
Easter / Good Friday	4/14 (Fri.)	4/14 (Fri.) OPEN, 4/15 (Sat.) CLOSED	4/14 (Fri.)
Memorial Day	5/29 (Mon.)	5/29 (Mon.) CLOSED	5/29 (Mon.)
Independence Day	7/4 (Tue.)	7/4 (Tue.) CLOSED	7/4 (Tue.)
Labor Day	9/4 (Mon.)	9/4 (Mon.) CLOSED	9/4 (Mon.)
Fall Festival (Asheboro Library Only)			10/7 (Sat.)
Veterans' Day	11/10 (Fri.)	11/10 (Fri.) OPEN 11/11 (Sat.) OPEN	11/10 (Fri.)
Seagrove Pottery Festival (Seagrove Library Only)			11/18 (Sat.)
Thanksgiving	11/23 & 24 (Thur. & Fri.)	11/23 (Thurs.) CLOSED 11/24 (Fri.) OPEN; 11/25 (Sat.) OPEN	11/23 & 24 (Thurs. & Fri.)

Christmas	12/25, 12/26, 12/27 (Mon.-Wed.)	12/25 (Mon.) CLOSED; 12/26 (Tue.) OPEN; 12/27 (Wed.) OPEN	12/25 (Mon.) CLOSED; 12/26 (Tue.) CLOSED; 12/27 (Wed.) OPEN

- *accept bequest of $25,000 to the Library Trust Fund;*
- *appoint Mary Anne Hyatt to replace Susan Behr on the Randolph County Nursing Home Community Advisory Committee;*
- *approve Budget Amendment #26 for Emergency Services—Emergency Management Performance Grant ($17,917), as follows:*

2015-2016 Budget Ordinance General Fund—Budget Amendment #26		
Revenues	***Increase***	***Decrease***
Restricted Intergovernmental	*$17,917*	
Appropriations	***Increase***	***Decrease***
Emergency Services	*$17,917*	

- *approve Emergency Services Headquarters Capital Project Ordinance Budget Amendment #3 , as follows:*

2015-2016 Budget Ordinance Emergency Services Headquarters Capital Project Ordinance Budget Amendment # 3		
Revenues	***Increase***	***Decrease***
Appropriations	***Increase***	***Decrease***
Professional Services	*$70,000*	
Construction		*$70,000*

- *appoint Spencer Patton to the Randolph County Juvenile Crime Prevention Council;*
- *appoint Tammy R. Brady as Deputy Finance Officer (Jail) and set Surety Bond at $50,000;*
- *approve Resolution in Support of the "ConnectNC" Bond Proposal, as follows:*

RESOLUTION BY THE RANDOLPH COUNTY BOARD OF COMMISSIONERS IN SUPPORT OF THE "CONNECTNC" BOND PROPOSAL

WHEREAS*, the North Carolina General Assembly and the Governor approved the Connect NC Bond Act during the 2015 legislative session which proposed a $2 billion bond initiative; and*

WHEREAS*, we recognize that investment needs to be made to essential infrastructure in Randolph County and North Carolina in order to sustain jobs and economic growth; and*

WHEREAS, *the bi-partisan sponsored bond package known as "ConnectNC" would provide $5 million to Randolph Community College, and $25 million to the North Carolina Zoo for capital construction; and*

***WHEREAS**, accessible and high quality education and workforce training opportunities provided by Randolph Community College are essential for Randolph County to attract employers; and*

***WHEREAS**, the North Carolina Zoo provides 750,000 visitors each year a one-of-a-kind educational and recreational experience that generates an annual economic impact of $150 million, including $8 million in state and local taxes that cannot be exported; and*

***WHEREAS**, the $2 billion will target refurbishment and construction of infrastructure vital to North Carolina's competitiveness in attracting business, industry, and jobs; and*

***WHEREAS**, as a result of North Carolina's fiscal strength and strong balance sheet, no tax increase would be required to fund these bonds; and*

***WHEREAS**, the $2 billion will be spent on State and Community Colleges, Water/Sewer Loans and Grants, Local Parks, National Guard facilities, State Parks & the North Carolina Zoo.*

***NOW, THEREFORE BE IT RESOLVED**, that the Randolph County Board of Commissioners hereby support the ConnectNC Bond issue coming before voters on March 15, 2016.*

Capital Needs Presentations from County and City Schools and RCC

Assistant County Manager/Finance Officer Will Massie stated that this is the annual update on the Capital Improvement Plan (CIP) and Debt Analysis, but since he covered the debt portion at the December meeting he would only be covering the capital needs.

Mr. Massie said the most effective CIP is one where priorities have been determined and projects are planned several years in advance. This allows all parties adequate time to design and prepare for specific projects. Corresponding decisions such as bond referendums, infrastructure development or school realignment can also be arranged in time.

County departments, our public school systems, and the community college all have substantial capital needs. The Commissioners must regularly prioritize these projects and decide on financing sources in order to meet the County's statutory responsibilities.

Mr. Massie said there are several projects that were identified as priorities several years ago in the CIP that are in process: a new emergency services headquarters (ESHQ), ambulance bases, and a new animal shelter. The construction phase of the ESHQ project has begun, with completion expected in early 2017. The new Liberty ambulance base is operational and the new Southeast base is nearly complete. The location for the new Trinity area base is still to be determined. The animal shelter project is in the design phase and is expected to begin in the fall of 2016.

Other County needs that have been mentioned are jail expansion, DSS expansion, Courthouse expansion, and water system infrastructure. Mr. Massie said the public schools and RCC have capital needs and will be presenting their requests.

Mr. Massie said no action is required tonight.

Asheboro City Schools

Dr. Terry Worrell, Asheboro City Schools Superintendent, opened with their capital plan summary. Renovations and expansions at the high school have been established in three phases. Phase one would include two new classrooms, six renovated classrooms, program expansion, ADA compliance restrooms, sound proofing, ramps, and additional storage at a cost of $500,000-$700,000. Phase two would provide 25,461 additional square feet which would include eight new classrooms, and cafeteria space with additional storage. Renovations in the main building would provide 8,804 additional square feet allowing for two new classrooms, storage, and ADA compliant restrooms. Phase two will be added to the back of the building where the band rooms are located.

Specific needs and estimates consisted of updates to the Charles W. McCrary ($357,633) and the Lindley Park ($438,041) kitchens, HVAC additions to North Asheboro Middle School gym ($389,000), South Asheboro Middle School gym ($410,000), and Asheboro High School old gym ($292,000).

Dr. Worrell highlighted their year one progress of their ten-year plan as follows: Roofing sections at NAMS, SAMS, Loflin, and the Central Office; mechanical units in the Media Center and the Office at McCrary and the Office at Lindley Park; painting and flooring at Lindley Park; the intercom at NAMS; and the fire alarm at Balfour. The total of those projects were $720,800. With the annual Capital Outlay of $700,000 allocated to construction/renovation the following capital needs have been deferred: the chiller at Balfour; and plumbing and masonry repairs system wide at an estimated cost of $159,200.

Capital needs estimated in the amount of $868,624 for the 2016-17 year are as follows: five HVAC units, asbestos removal in the air handler, and painting, all at NAMS; roofing and windows at SAMS; and roofing, the Office mechanical unit, insulation in the gym, and waterproofing the stadium masonry at the High School.

Commissioner Haywood asked about the life expectancy of the new roofs being installed and City School Director of Facilities and Maintenance Mike Mize responded they have been getting 25-30 years out of each.

Randolph County Schools

Randolph County Schools Superintendent Dr. Stephen Gainey gave an update on their capital needs based on changes in the last year. Needs that were established in March of 2015 for Southeastern Randolph Middle and Randleman Elementary Schools have changed due to the capacity levels dropping. A middle school in the Archdale-Trinity area is still needed due to the overcrowding in the Braxton Craven and Archdale-Trinity Middle Schools. Upgrades to Braxton Craven Middle School are in year seven of the nine-year facility plan. He stated that if Braxton Craven is not a long-term solution then those projects should not be completed.

In conclusion, Dr. Gainey stated that Coleridge Elementary School is currently the most overcrowded school. However, there are enough vacant seats at Franklinville and Ramseur

Elementary Schools to address the issue if needed. They will continue to monitor enrollment numbers to identify long-range facility needs.

Randolph Community College

Dr. Bob Shackleford, RCC President, presented the college's capital needs, summarized, as follows:

- Allied Health Center with simulated Health Care Community ($14,000,000). RCC already owns land for this facility. If the ConnectNC Bond is approved, the funds would go toward this project.
- Bost Property - Phase two—Space for New Program Development (dependent on cost of new program selected) .
- Real Property Acquisitions ($6,000,000)- As adjacent properties become available for additional programs.
- Backlog of Renovation Projects ($10,500,000) which are left and were identified as part of their facilities master plan. One third of the projects have been completed from the original plan.

Multi-Party Agreement – NCRR, Greensboro-Randolph Megasite Foundation, Inc., and Randolph County

County Attorney Ben Morgan spoke about the Greensboro-Randolph Megasite Project Agreement. He stated that the document was prepared with the help of attorneys Garrett Walker, representing the Greensboro-Randolph Megasite Foundation; Mike Winters from the NC Railroad Company; and County staff. He said the document is an outline of how the three parties will conduct themselves marketing the project and will ensure that no individual partner markets this property for themselves during the term. He highlighted specific points from the document as follows:

- Paragraph H gave a representation of the whole document. *It is in the mutual interest of the parties that the County, the Megasite Foundation and NCRR enter into an agreement setting forth their mutual understandings and obligations with respect to the joint development and marketing of the County Properties, the Megasite Foundation Properties, and the NCRR Properties as the Greensboro-Randolph Megasite.*
- The document is basically an outline of what can and can't be done by all parties.
- The joint marketing period has a six year term with automatic renewal for three years as long as no partner gives written notice 120 days prior to expiration of the contract.
- Each party will cooperate with state agencies involved in the project.
- Economic Development Corporation (EDC) will pursue site certification with NCDOC and KPMG.
- Marketing materials will be approved by all parties.
- Parties are required to work together throughout the term.
- Any party can conduct environmental or engineering studies.
- Nothing obligates the County to additional expenditures.
- Pages 5-6, paragraph 4
    - a. All parties work together *to obtain extension of various utilities to the Greensboro-Randolph Megasite including the extension of water and sewer by the*

City of Greensboro, or other water and sewer providers, the extension of natural gas service by Piedmont Natural Gas, and the extension of telephone, fiber optics and other data services…

- b. *The parties shall negotiate with the North Carolina Department of Transportation (the "DOT") for the permitting and construction of one or more interchanges on US Highway 421…*
- d. Any party can clear or grade their land *provided that all parties have consented to the area to be cleared and graded…*
- f. *The parties may retain a site or project manager or managers, upon terms and conditions* [that must] *be unanimous…*

- No party will develop, transfer, or sell property without the consent of the other parties.
- A representative from each entity will be appointed to a steering committee. Initially those members will be Chairman Frye; Jim Melvin, Greensboro-Randolph Megasite Foundation; and Scott Sayler, NCRR. Members will share information, keep open lines of communication, and ensure to do what needs to be done. These members will not have the authority to override any requirements of the County.
- At the end of the term, the NCRR has the right of first refusal to purchase the property from Greensboro-Randolph Megasite Foundation or donate to the other entities.

Chairman Frye asked if all of the questions the Board has had were addressed in the contract. Mr. Morgan said they had and mentioned that it had been a challenge in writing this document to include all compliances for government and non-profit entities.

At 7:00 p.m., Chairman Frye opened public hearing.

William Fay, 401 Silver Grove, Cary, urged the Board to reconsider and renegotiate the contract. He acknowledged that an agreement was needed. Because the County has purchased property and rezoned it, he said the project must be successful. Looking at the agreement between the Railroad, the Megasite Foundation and Randolph County, he stated that the County is not fully represented. As an example to this, he directed the Board to page 16 and made note that the other two entities had full addresses but there was not one for Randolph County. Next, he questioned the use of legal expertise from the other two entities and said that those attorneys were only there to protect their employers not Randolph County. If this project fails, he stated that the County can still use their land but it will always have an easement for the railroad. He asked why the Railroad wanted an easement without an end user and suggested that it was to coerce the owners of lots 94 and 52 to sell their property. He mentioned that a map had been published with a train going right through the homes on those lots and implied that it had been planned all along to take this property.

Chairman Frye asked Mr. Fay if the map he saw was part of this agreement and his response was no. Chairman Frye stated that property owners within the existing footprint of the site had sold their land without a threat of eminent domain. Mr. Fay said that someone representing the Megasite had visited with his client, told them that this was coming and there was nothing they could do. Chairman Frye responded that the person did not stay in the process long. Mr. Morgan asked when that had occurred and Mr. Fay replied four or five years ago. Mr. Fay said

that was when a group of land owners were organized and they were able to negotiate higher prices for the property. He closed by asking that the Board "do this the right way."

Commissioner Lanier asked Mr. Fay how many times, besides this meeting, had he given presentations about megasites and he replied "none."

Alan Ferguson, 4794 Troy Smith Rd., Liberty, said he was sorry to see the County in business with the NCRR because of the use of eminent domain. He stated that eminent domain is also available to utility companies. He said that Duke Energy was struggling to get power to the site coming from the north through Guilford County and they cannot exercise eminent domain until there is an end user. He listed his dislikes of this agreement. First was the eminent domain issue he had already discussed. Second was the request for additional money. He said he thought the agreement would require the County to reimburse the partners and provide incentives which will cost the County a lot of money. He mentioned the term of the agreement could go as long as nine years with no jobs if a user does not come. He agreed that Randolph County did need jobs but was concerned that the EDC and the County would be distracted and only focus on the Megasite. He warned against giving the property away for free and said the County would be giving up its authority by signing this agreement. He suggested that the three person steering committee would not be following open meetings law because they could meet anytime without citizen input. He reminded the Board that a project like this has never been done in North Carolina before and indicated that citizens will have to pay for the mistakes. Lastly, he spoke of DOT condemning property then not using it. He characterized the property surrounding the Megasite as condemned and said that like the DOT, the County, NCRR, and Greensboro-Randolph Megasite Foundation should not be able to condemn property.

Commissioner Haywood stated that one side said this was a bad agreement while the other side said it was a good agreement. Because of this, he said that the Board should take more time to look at it closely.

Commissioner Lanier commented that rail going through property was normal in cases where a business would require it in order to operate.

Hearing no additional comments, the public hearing was closed at 7:36 p.m.

Chairman Frye addressed some of the previous comments and said everything that has been done to construct a Megasite has been done for the citizens of Randolph County. The County could not make this happen without partners, he said, and those partners are making investments in our County for economic development for jobs. He stated that all actions of the Board have been in open meetings with public hearings and he hoped that Mr. Ferguson was not trying to slander his character with his statement. He reminded everyone that his seat on any board as an individual cannot bind the Randolph County Board of Commissioners. He is acting as a representative and liaison only and any action required by the Board cannot be made by him alone.

Mr. Morgan agreed with Chairman Frye's comments but disagreed with Mr. Ferguson about the County being forced to spend more money. He stated that the document said the opposite;

the Board can choose to spend money but they are not obligated to do that.

Chairman Frye emphasized that eminent domain had not been used to obtain any of the property, citizens had been paid and dealt with fairly, and now there was enough property for the site.

Commissioner Allen applauded the Board for the agreement and noted that he had asked about an agreement a year ago. He questioned why the "County bought the property by the railroad to have control but now is giving the NCRR control." He also commented that the prohibited uses of the property could be some that the County may want to use down the road if this site does not attract an end user. Ultimately, he cannot support this agreement based on the easement, he said.

Chairman Frye said that the permitted use of the property could change after nine years.

Commissioner Haywood commented that the NCRR and Duke Energy can use eminent domain regardless. If we enter into an agreement with them, he said, it gives them the right to do whatever they want. He asked if this was a good agreement.

Mr. Morgan replied that he was not comfortable with the characterization of the agreement as good or bad. He stated that Duke Energy is not a party to this agreement. The document says that the three partners will cooperate to bring public utilities and Mr. Morgan agreed with Commissioner Haywood that public utilities can use eminent domain.

Commissioner Haywood said that the County owns land there, so if Duke Energy uses eminent domain, the County will get "stomped on."

Commissioner Lanier compared the extension of utilities to the installation of public water in portions of the County. He said it had worked in that situation and that power must be provided. He stated that he was trying to be practical in his thinking during this process because this must be done to promote industry. He said eminent domain had not been used. He pointed out that if the NCRR and the Bryan Foundation hadn't stepped in, the Board would still be trying to figure out how to survive with no jobs in the County.

In response to Commissioner Haywood's question about the agreement, Mr. Morgan said it was a fair agreement with a partner that is spending $13.5 million to assist in assemblage of the site. He advised the Board to look at the project in its entirety and keep in mind the ultimate goal of bringing someone to the site.

Commissioner Allen asked why an easement would be granted without an end user. He also inquired if the easement would decrease the property value if no user was found after nine years.

Commissioner Kemp mentioned that offers to buy lots 94 and 52 had been made without acceptance and the easement is there because those properties cannot be purchased. He said the NCRR and the County doesn't need the properties but it seemed that those two properties were holding the project "hostage." He stated that if something is not done to bring jobs to the

County, the County will "dry up." He was adamant that the Board be proactive in order to provide jobs and so the youth will have jobs to return to in Randolph County after college. He said this agreement was good for everyone involved but would never be perfect for everyone.

Commissioner Haywood asked if the County could use its property to bring in smaller companies. Mr. Morgan responded that it could after the agreement had expired.

On motion of Kemp, seconded by Lanier, the Board voted 4-1, with Commissioner Allen opposing, to approve a multi-party agreement between the NC Railroad Company, Greensboro-Randolph Megasite Foundation, Inc., and Randolph County, as presented. (ATTACHMENT A)

Recess

At 7:56 p.m. the Board took a recess.

Regular Meeting Resumed (Reconvened)

At 8:01 p.m., the Board returned to regular session and Chairman Frye announced that the Board would be amending the order of the agenda to hear the rezoning cases beginning with the request of BKM Randolph, LLC, to be courteous of time since there are a large number of families attending with children.

Rezoning Public Hearing & Action

At 8:02 p.m., the Board entered into a duly advertised public hearing to consider rezoning requests. Jay Dale, Planning Director, presented the following requests and Chairman Frye opened the public hearing for comments and closed each before taking action.

BKM RANDOLPH, LLC., Asheboro, North Carolina, (Zoo City Motor Sport Park) is requesting to amend the Conditional Zoning District located at 279 Joe Farlow Road, on 25.02 acres, Richland Township, Primary Growth Area, Zoning District HI-CD. Tax ID# 7666058421. The proposed Conditional Zoning District would specifically allow the property to be used as a motor sports facility and outdoor physical fitness events as per site plan. The Planning Board reviewed this request at public meeting on February 16, 2016, and recommended, by a vote of 4 to 2, that this request be denied. The Planning Board found the following policies within the 2009 Growth Management Plan that support determination of consistency with the adopted plan with this recommendation are:

Policy 1.1 Sustainable economic development, environmental protection, and quality of life, shall be pursued together as mutually supporting public policy goals.

Policy 3.2 Heavy industrial sites should be separated from nonindustrial areas by natural features, green belts and/or other suitable means.

Mr. Dale stated that trail bikes are currently used on the track. They are now requesting the additional use of ATVs, UTVs, and go-carts. They have also asked to be allowed to host fitness events and other special events such as Fourth of July fireworks or a haunted trail. He said they have planned to add restroom facilities. He advised that the applicant has made changes to their application since the Planning Board hearing. Tractor pulls, truck pulls, mud bogs, and demolition derby events have been removed and would not be allowed. Notices were sent to adjoining property owners.

Chairman Frye asked Mr. Dale if he thought those changes would have made any difference if they had been removed at the Planning hearing. Mr. Dale responded that he couldn't speak for the Planning Board but thought that it could have made a difference based on questions and comments by the Planning Board and public.

Chairman Frye asked County Attorney Ben Morgan to elaborate on the Planning Board actions. Mr. Morgan said this request was not a brand new request but was a request to amend the current conditions. He said if it was not approved, the existing zoning conditions established in 2008 would remain.

Chairman Frye asked Attorney Morgan if Commissioners decided to deny the request would their actions close the facility. Mr. Morgan said it would not, but Mr. Maness would have to elaborate on what was meant by statements in emails and on social media that the facility would be forced to close. The application before the Board was an expansion of existing conditions. Chairman Frye stated that he felt the applicant made the request for changes based on complaints about the way the facility was currently being used. Mr. Dale said that the mission grew bigger than the initial plan and that Mr. Maness wanted to continue what he's been doing by amending the application. Chairman Frye and Mr. Dale agreed that the facility is successful and has grown beyond expectations.

David Puryear, 5501-E Adams Farm Lane, Greensboro, Attorney representing BKM Randolph, LLC, spoke about the request of the Maness'. He said the Maness' have lost many opportunities to enter into contracts for events pending the outcome of this hearing. They wish to add events that benefit the community and County economically. He restated the specific items that were withdrawn from the application and said that only motorcycle racing events and a few non-motorized events were being considered. He said they had not heard any complaints about the facility until the Planning Board's public hearing. Mr. Puryear said many people support the growth of the motor park.

He stated that declining the request would negate this successful tourism business in Randolph County as well as possibly eliminating a place where families who enjoy riding dirt bikes can go to spend time together. Zoo City will not be able to support the basic operation of the track as a training facility if they cannot continue to earn money from the other type of events that fund the expenses.

Commissioner Kemp asked if there were current plans to construct a go-cart track within the facility. Mr. Puryear said not at this time, but they didn't want to have to come back again later if they did decide to add events for go-cart racing.

Barry Maness, 1413 Richard Circle, Asheboro, owner of Zoo City located on Joe Farlow Road, opened by telling the story of why he began the Zoo City facility. He was injured at an early age while riding his dirt bike on a trail that had a cable across it. It caught him at his neck and paralyzed a vocal cord. He wanted others to have a safe place to ride, practice, and race trail motorcycles, so he invested $500,000 to begin this operation eight years ago. The first year they had 8,900 visitors and over 26,000 visitors the second year. They have had a partnership with the

Tourism Development Authority and area hotels that has led to a positive impact on tourism in Randolph County.

He said he did not realize he was in violation of the conditions set forth in his original zoning until November 1, 2015. He immediately contacted the County Planning staff and was advised to apply for a new permit if he wished to host anything beyond the conditions allowed and set forth in the original permit. He said he has hosted a tractor pull for a school fundraiser as well as donated thousands of dollars to charities, schools and churches. Mr. Maness spoke of the Rugged Maniac event that was held at the facility for several years and the number of people it attracted to Randolph County from six countries and thirty eight states in the first year alone. He also explained more about the type of events he would like to host. He said he had also been approached by the military to host a physical fitness competition. His new application also asked for a change to an 11 p.m. closing to allow time if an accident were to happen on the track that delayed completion prior to 10 p.m. He said that such an incident has only happened twice in eight years, but the events were still finished by 10:30. The area's dining options are extremely limited so he also requested the ability to provide options for food on site.

Mr. Maness said that most who spoke against the request at the Planning hearing were not against the activities, just the expansion of events that utilized much louder engines. In the interest of the neighbors, he has pulled those items.

In regards to the statement of property buffers, he said there has been no cutting of trees since he bought the property. There is an easement to the power company on one side and the easement for I 73/74 on another side.

The Maness' feel if they have to pull back on the scope of operations to be consistent with current zoning conditions, they would probably have to close the facility. He stated they did lose the opportunity to negotiate for a physical competition (Navy Seals) and another family fitness event.

Mr. Maness said the facility is family-friendly and sportsmanship is taught and expected.

Sue Snipes, 354 Scott Farm Rd., Asheboro, spoke in opposition to the request. She inquired as to why the Maness' have not built their home on the property yet. Ms. Snipes also felt the motorcycle events were in violation of the County's noise ordinance. She asked that the Board consider the neighbors of the property.

Brent Trotter, 753 Moore Rd., Asheboro, said that he has worked for the Cycle Center for over 33 years and his customers have no places to ride and have to go out of county and state to do so. He stated that Zoo City furnishes a controlled environment for enthusiasts. Saturday night is his family night, and he and his wife spend it at a track as the pit crew for both their children who ride. Mr. Trotter spoke highly of Mr. Maness and emphasized that "Barry is all about kids" especially the ones who come to the facility. The top 1500 riders in the country qualify for a national event held at Loretta Lynn's facility and several local riders have qualified. He said the track was already zoned heavy industrial use which accommodated industries whose normal operations include noise and potential dust. The opposition at the Planning Board

hearing seemed to have no problem with the way things were now but didn't want any additional noise from specific newly requested conditional uses events, which have now been pulled from the request. He asked that they approve the conditions allowing Zoo City to continue what they've been doing and follow the time limits on the County's Noise Ordinance to let them remain open until 11 p.m. for emergency situations. He said he doesn't plan to keep his children out that late, but also understood accidents happen.

Jacob Trotter, 753 Moore Rd., Asheboro, is 13 years old and has been riding since he was three. He spoke of their family times at the track and how much he enjoyed spending time at the track with them and his friends on Saturday nights.

James Voncannon, 7529 Old Hwy 13, Asheboro, spoke in support and said he never hears anything from Zoo City when outside. He said he knew the kids enjoy going there and said Randolph County needed more events that bring business to the County to better the economy.

Tim Setzer, 481 Hwy 49 South, Asheboro, spoke in support saying he has been to the track several times and is impressed with the spectators, participants, and the positive atmosphere for both parents and their kids.

Jack Cleary, 340 Colonial Loop, Randleman, stated he is linked with this training facility and one other track because of his involvement with children. He has been part of an outreach ministry that works to prevent drug use and abuse in youth. He asked that the Board consider the request in order to give the youth a positive family oriented environment in which to play and grow.

Ray Kennedy, 171 Edna St., Asheboro, lives one and a half miles from the track and said he doesn't want to close the facility and could live with the noise as it is, but not additional operations or extensions to the site. He said he is confused about what Mr. Maness is requesting and asked why Mr. Maness doesn't live there.

Homer Beheler, 6436 US 220 South, Asheboro, owner of Poor Boys Auto Repair and Towing located below the facility, said he lives a mile and a half from the facility as well and doesn't have a problem with Zoo City. The events that have been held have brought lots of tourists to the area that have stayed and spent their money here.

Lisa Pullium, 121 Bullins Lane, Asheboro, spoke in support of the request. She said her property abuts the facility and the noise doesn't bother her even as close as she lives. She said she hears traffic on the interstate more than the track. She asked that the facility not have so many stipulations that it cannot exist as it has.

Tammy O'Kelley, Executive Director of the Randolph County Tourism Development Authority, 145-B Worth St, Asheboro, spoke in favor of Zoo City Motor Sports Park's request. The Tourism Development Authority has been affiliated with Zoo City Motor Sports Park since 2008 when they first submitted a request for inclusion in the 2009 official visitors guide. The facility has been featured in various TV and commercial video segments as well as print and

digital online ads, including three years in a row on WFMY TV's "Summer Fun Guide" as a premier outdoor motor cross attraction in the Piedmont.

She said that although Zoo City has from 3,000 to 3,500 regular local riding members, attendance for this facility from outside the boundaries of Randolph County has steadily risen from 8,000 visitors in 2009 to 32,648 in 2014, ranking it the eighth most visited attraction in Randolph County in 2014.

In 2011, Mr. Maness approached the TDA about hosting the Rugged Maniac event in 2012. In the first year of this event, there were 4,956 participants. Each participant received a visitor guide, sports water bottle, and Premier Discount card, which included special deals and discounts for out-of-town visitors that encourage them to purchase goods and services in the area where they are staying. The event was hosted again in April 2013 and April 2014. The economic impact of those three years was substantial.

Ms. O'Kelley said since she has been working with Zoo City, to her knowledge, the facility has been open no more than 50 days per year and that is normally over weekends. This included practice events and the Southeast MX Series event of which the Heart of NC Visitors Bureau is a 2016 sponsor. This event has submitted dates of March 26th, April 16th & 23rd, May 7th, 14th, & 21st, June 11th, 18th & 25th, July 9th, 16th, & 23rd, August 6th, 13th, & 27th, and September 10th & 17th, which were received in office in September 2015. According to their event submission form, the gates open at 3 p.m., practice begins at 4 p.m., and the race would follow. She said businesses sponsor Zoo City because of the clear and measurable return on investment of being affiliated with the facility.

Ms. O'Kelley stated that the Tourism Development Authority has never been contacted by a resident, visitor, county staff member or elected official with a complaint about excessive noise, or notified of any violations. She said that up until November 2015, they were unaware there were any issues with Mr. Maness' permit, which he is now seeking to rectify.

Chris Elkin, 6732 US Hwy 220 S., Asheboro, said he lives 1500 feet from the track and asked for information about the additional events that were being considered above what they are doing now. He wanted to know if there was a way to put a decibel limit on the noise. He said it sounded like Zoo City is doing good things for the community and he and the neighbors may have to put up with it for the betterment of the community.

Michael Poindexter, 6220 US Hwy 220 S., Asheboro, Pastor of the Lighthouse Baptist Church located beside of the facility, stated in 2008, both Boards heard the request to have a motor cross training facility on the site. He said that over time the facility has abused their rights and has evolved from a training facility to a full-fledged motor racing facility and that there is a difference in training and racing. He said he had contacted other training facilities and quoted their hours and days of operation and no racing was allowed. He asked that the Board uphold their original ruling to be a training facility only. "Neighbors are being made out to be villains," he stated. "You can't lose privileges you were never granted."

Derrick Johnson, 6703 Old NC Hwy 13, Asheboro, stated that the facility is an opportunity for kids and a place for the family to go. He said Mr. Maness has respect for the community and doesn't hold events on Wednesday or Sunday. He stated he works two jobs so he can spend time on the weekends with his family and his kids can practice and participate in racing.

Beth Russell, 209 Lassiter Lane, Asheboro, said she lives less than a mile away and the noise does travel in her direction. She complained that she cannot open her windows due to the noise and has not been able to sell her property for the same reason. If conditions are expanded, she felt that will lessen her chances even more.

James Langley, 5320 Joel Jessup Rd., Seagrove, said his original concern was the noise from the additional events Mr. Maness wanted to add. Since he has withdrawn those, Mr. Langley was satisfied with the way it is being operated currently.

Audrey Maness, 6419 Hwy 220 S., Asheboro, original owner of the land, said she now lives across the road and can hear the noise. She said she sold the property to the Maness' in good faith that it would only be a training facility, and they would build their home there. Ms. Maness apologized to her neighbors and said she felt they were all were deceived on the intent of use. She said she should have complained when the racing began.

Scott Etheridge, 4305 New Hope Church, Rd., passed out a notebook with information to be introduced into the record. (ATTACHMENT B / Sections1-8) Mr. Etheridge referred to these items during the time he spoke in opposition of the request. He said that he does feel the request would have passed at the Planning Board hearing if Mr. Maness had withdrawn the items of concern when asked that night. He stated that no one is trying to shut the facility down but that was the way the argument is being framed to the Board. Words have different meanings and specific rules need to be established, defined, and followed. He said there has been no clarification on what type of go-carts were being considered. He spoke of the initial 2008 meeting in which Mr. Maness presented a picture of the house he planned to build on the site. Other materials presented were highlighted where referenced "training facility," the specified buffers, and where applicant mentioned the building of a home in the request during the initial public hearings and Mr. Etheridge discussed those. He also provided a copy of the expired building permit in the notebook. Mr. Etheridge stated that when Mr. Trotter spoke earlier he had stated they had been racing there for the last seven years, which meant racing began to happen within a year after zoning for use as a training facility. He also included a racing schedule for 2016 Southeast MX Series from the Zoo City website, which were scheduled to be held there.

Mr. Etheridge asked the Board to leave the existing zoning conditions as they were established and to enforce them.

Tom Wright, 301 N. Elm St., Greensboro, Attorney, stated he was representing Scott Etheridge, Johnny Dorsett, and Anthony Copple. He requoted the original request and approved conditions for the property. He then elaborated on the initial site plan characteristics which include two areas; a trail bike course area surrounded by fence and a trail bike training area which had a buffer. He said Mr. Maness' current application was a request to amend current conditions to allow a motor sports facility and outdoor physical fitness events as per site plan.

The site plan has changed to the entire area being identified as a motor sports competition course, with proposed bleachers and a portable stage which, he stated, was a significant expansion from the 2008 request.

Mr. Wright said the Planning Board packet included a list of items BMK requested in an attachment A but the attachment was not included in the packet given to the Commissioners. On the list: dirt bike, motocross, ATV, and UTV competitions; racing track and trails/cross country trail; physical fitness competition; mountain bike events; seasonal events; and the items which they have now withdrawn. He said no one was in opposition to the physical fitness or seasonal events which generate no noise (Fourth of July, Christmas, etc.).

Mr. Wright suggested if the Board approved the request that they establish guidelines to minimize noise, limit events to one at a time, and restrict the hours and days of motor operation.

Bruce King, 4235 New Hope Ch. Rd., spoke in opposition to the request. He said they did not know about the facility until it opened and that it has progressively gotten worse. The sound traveled across the interstate and said he is tired of the noise from the motorcycles and PA system. Mr. King said the noise occurs seven days a week.

Mary Brewer, 245 Bobby Moran Dr., said it is 150 yards from the corner of her house to the track and said the noise was unbearable. She said that the Maness' never told her about a motorcycle track; only that they were building a home there. She then referred to the initial report where there was a statement that the facility would be building a berm to protect the neighbors along Bobby Moran Drive, but stated that it hasn't been built. Ms. Brewer said the dust and fumes were a health hazard.

Brent Allen, 2555 Jimmy Scott Rd., Climax, stated this is a training facility for national titles. Mr. Maness was trying to teach the kids to work hard, set goals and accomplish things.

Anthony Copple, 6254 US Hwy 220 S, Asheboro, stated he felt the facility was zoned accidentally. He thought the property was to revert back to Residential Agriculture (RA) when the asphalt plant closed. He said no one has any problem with the physical fitness events even though there were parking problems, people walking through yards, and muddy clothes left behind. He said they didn't complain and probably should have. They asked for the conditional zoning to not be allowed in 2008 but were overruled and the motor bikes came.

Hearing no additional comments, the public hearing was closed at 10:29 p.m.

Chairman Frye said he felt they need clarification on the request.

Commissioner Kemp stated he felt this request should go back to the Planning Board after parties have worked together to refine the request for something agreeable.

Chairman Frye stated the lack of understanding and enforcement of the original zoning combined with the success of the facility has brought about this request and asked Mr. Dale to work with the applicant and opposing neighbors on something they can agree on so the Planning

Board and Commissioners have clarification of the request and conditions.

On motion of Kemp, seconded by Lanier, the Board voted unanimously to revert the request of BKM Randolph, LLC, back to the County Planning Board for clarification of the conditional uses to be imposed.

CLIMAX SOLAR PROJECT, LLC., Carrboro, North Carolina, is requesting that 48.07 acres located on NC Hwy 22 North (approximately 500 ft. north of Old Red Cross Road), Providence Township, be rezoned from RA to RIO-CD. Tax ID# 7797590264. Secondary/Rural Growth Area. Sandy Creek Watershed. The proposed Conditional Zoning District would specifically allow the development of a 5 mega-watt PV solar farm as per site plan. Property Owner - David R. Hinshaw. The Planning Board reviewed this request at public meeting on February 16, 2016, and unanimously recommended that this request be approved. The Planning Board found the following policies within the 2009 Growth Management Plan that support determination of consistency with the adopted plan with this recommendation are:
Policy 2.11 *The County should continue to encourage & promote "clean" industry within Randolph County.*
Policy 3.6 *The County should encourage the use of performance-based rural industrial overlay zoning when the use of large acreage, natural buffers, and extensive landscaping would not have substantial adverse impact upon the general area growth characteristics, and the location of such a site would substantially increase economic activity, job creation, and the tax base of Randolph County.*

April Montgomery, 151 Chatham St., Sanford, NC, represented Climax Solar and stated that they did a revision to the site plan after the Planning Board meeting to add a Level 3 buffer. They are working with neighboring land owners to try and lessen their concerns about the view.

Harmon Coble, 3276 Greeson Rd., Climax, has 63 acres that adjoin the property to the north and spoke in opposition to the request with concerns about property values.

Ms. Montgomery replied that they have screened for existing structures and public right of way but couldn't screen farmland for future unknown development.

Kevin Gunter, 8267 NC Hwy 22 N., Climax, spoke in opposition. His house faces the facility entrance. Mr. Gunter asked if this solar farm would generate income for Randolph County. He said no one's bills would decrease because of the installation and sees no benefit of it.

Commissioner Kemp asked Randolph County Tax Collector Debra Hill to address the questions in regards to value of property with solar farms.

Ms. Hill said on a solar farm, the panels are taxed at 20% of their value based on state guidelines and the land is then taxed based on what it is used for. In this case, the County will receive more tax revenue because it will be removed from its timber deferred status. The panels would be taxed and the land would be taxed for its Residential Industrial Overlay-Conditional District use.

Commissioner Lanier asked about the topography of the land. Ms. Montgomery said it currently was timber which would be harvested. She said the site would produce enough power through Duke Energy for 600-700 homes.

Commissioner Allen questioned the life expectancy of a solar farm and Ms. Montgomery responded it would be 30-40 years. At the end of its life, they either retool the project and continue or remove everything to sell the property.

Kim Gunter, 8267 NC Hwy 22 N., Climax, spoke in opposition and stated that she lived directly across the road from the site in a 150 year old house that they have renovated and doubled in size. She said eight new houses have been built in the area in the last year. She was concerned about the tax value of surrounding properties if a solar farm was installed.

Ms. Montgomery asked Rich Kirkland to speak in regards to property values.

Rich Kirkland, 9408 Northfield Ct., Raleigh, is a state certified general appraiser and an MAI appraiser working in commercial and land appraisals for 30 years. He said he was asked to look at this project and its impact to surrounding property values. He has been working with solar projects for the last four years. He spoke on behalf of Climax Solar and gave examples of similar settings. He said there has been no negative value impact to adjacent properties of any solar farm thus far. Some properties have shown an increase and 95% of the farms adjoin residential developments.

Chairman Frye said others that have been constructed in the County have not been around a residential area.

Commissioner Allen said he has an issue with it being in a residential area and felt it will impact the surrounding land owner's ability to develop their property. If the megasite comes, he sensed it would be a prime area for housing.

On motion of Kemp, seconded by Lanier, the Board voted 3-2, with Commissioners Frye and Allen opposing, to approve the request of Climax Solar, LLC., as determined consistent with the standards and policies contained within the Growth Management Plan outlined in the recommendations provided by the County Planning Board; and having further found from information and testimony provided at public hearing, that the proposed rezoning is reasonable and in the public interest.

JULIAN BUTLER, Greensboro, North Carolina, is requesting that 5.00 acres (out of 24.18 acres) located at 3079 Pike Farm Road, Liberty Township, be rezoned from RA to RBO-CD. Primary Growth Area. Rock River Watershed. Tax ID# 873567280. The proposed Conditional Zoning District would specifically allow an event center in a proposed 69 ft. x 49 ft. structure as per site plan. The Planning Board reviewed this request at public meeting on February 16, 2016, and unanimously recommended that this request be approved. The Planning Board found the following policies within the 2009 Growth Management Plan that support determination of consistency with the adopted plan with this recommendation are:

<u>Policy 4.1</u> Provide for sites in Randolph County jurisdiction where rural commercial activity can locate; with the goal of increasing economic activity; job creation, and the provision of services to the rural community.
<u>Policy 7.1</u> Development activities in the 100-year floodplain shall be discouraged. If development must occur, low-intensity uses such as open space, recreation, and agricultural activities shall be preferred.
<u>Resolution Adopting the 2009 Randolph County Management Plan, Resolution #3</u>. Ensure the opportunity for landowners to achieve the highest and best uses of their land that are consistent with growth management policies in order to protect the economic viability of the County's citizens and tax base.

Julian Butler, 3108 Carrborough Road, Greensboro, NC, spoke in favor of his request. He said when his oldest daughter wanted to get married and they were pricing venues he decided building a barn on family property located on Pike Farm Road in Liberty might be cheaper than renting a facility. Now, he would like to be able to rent the barn and property for other events, primarily for weddings on weekends.

On motion of Allen, seconded by Kemp the Board voted unanimously to approve the request of Julian Butler, as determined consistent with the standards and policies contained within the Growth Management Plan outlined in the recommendations provided by the County Planning Board; and having further found from information and testimony provided at public hearing, that the proposed rezoning is reasonable and in the public interest.

<u>Creation of County Service Districts for Level Cross, Northeast and Staley</u>

Aimee Scotton, Associate County Attorney, stated at the January meeting, the Commissioners officially considered moving forward to create county service districts for fire protection for the above-referenced areas mirroring the existing rural fire protection districts in these areas. For each district, they considered the resident or seasonal population and population density of the proposed district, the appraised value of property subject to taxation in the proposed district, the present tax rates of the County and any cities or special districts in which the proposed district or any portion thereof is located, the ability of the proposed district to sustain the taxes necessary to provide the services planned for the district and the desirability that all districts for fire protection in the County be capped at a tax rate of fifteen (15) cents per one hundred dollar ($100) valuation. After carefully considering these matters, the Board passed resolutions, respectively, declaring their intent to create the proposed districts, calling for a report to be prepared for each district in accordance with North Carolina General Statutes, and providing that, if the proposed districts are indeed created, their tax rates would be capped at fifteen (15) cents per one hundred dollar ($100) valuation. These resolutions also set public hearings on the creation of these districts for 6:30 p.m. on March 7, 2016:

Ms. Scotton said that at the close of each public hearing, if found that there is a demonstrable need for providing fire protection services in the proposed district, that it is impossible or impracticable to provide fire protection services on a countywide basis, that it is economically feasible to provide fire protection services in the proposed district without unreasonable or burdensome annual tax levies and that there is a demonstrable demand for fire protection service in the proposed district, then the Board may pass the resolution creating the district. If the

resolution passes creating a county service district, it will then be necessary to pass a second resolution adding emergency medical services as a permitted service in the district. This must be done for each district as two separate resolutions.

Fire Marshal Erik Beard said these are services district overlays of the existing ones and no change to district lines is needed. *(Maps attached- ATTACHMENT C-1,2, and 3.)*

At 11:14 p.m., Chairman Frye opened the public hearing and after hearing no comments closed it.

Adoption of Resolutions Creating the Level Cross Fire Service District

On motion of Allen, seconded by Lanier, the Board voted unanimously to adopt a resolution creating the new Level Cross fire service district, as follows:

RESOLUTION CREATING LEVEL CROSS SERVICE DISTRICT FOR FIRE PROTECTION

***WHEREAS**, North Carolina General Statute 153A-309.2 allows a county to establish a county service district for fire protection services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation; and*

***WHEREAS**, it has been requested that the Board of County Commissioners create a county service district for fire protection for the Level Cross Fire Protection District; and*

***WHEREAS**, the Board has passed a resolution limiting the tax rate of the proposed service district to a maximum of fifteen (15) cents per one hundred dollar ($100) valuation and has held a public hearing on the matter in accordance with North Carolina General Statutes; and*

***WHEREAS**, the Board has considered the population of the proposed district, the appraised value of property in the proposed district, the present tax rates in effect in the proposed district, the ability of the proposed district to sustain the taxing of the proposed district, the comments made at the public hearing, and other matters that the Board deemed relevant; and*

***WHEREAS**, the Board, having considered such matters, makes the following findings:*

1. *There is a demonstrable need for providing fire protection services in the proposed Level Cross service district; and*
2. *It is impossible or impracticable to provide fire protection services on a countywide basis; and*
3. *It is economically feasible to provide fire protection services in the proposed Level Cross service district without unreasonable or burdensome annual tax levies; and*
4. *There is a demonstrable demand for fire protection services in the proposed Level Cross service district.*

***NOW, THEREFORE, BE IT RESOLVED,** that the Board hereby creates a county service district for fire protection in the Level Cross area effective July 1, 2016, with*

boundaries as shown on the map included as Attachment A to this Resolution and containing the exact same properties currently included in the Level Cross Rural Fire Protection Tax District.

BE IT FURTHER RESOLVED *that property taxes for fire protection within said county service district may not be levied in excess of a rate of fifteen (15) cents on each one hundred dollars ($100) of property subject to taxation.*

On motion of Allen, seconded by Lanier, the Board voted unanimously to adopt a resolution permitting emergency medical, rescue, and ambulance service to the new Level Cross fire service district, as follows:

RESOLUTION PERMITTING EMERGENCY MEDICAL, RESCUE AND AMBULANCE SERVICES TO BE PROVIDED IN THE LEVEL CROSS SERVICE DISTRICT FOR FIRE PROTECTION

WHEREAS*, the Randolph County Board of Commissioners, pursuant to North Carolina General Statute 153A-309.2, has established a county service district for fire protections services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation in the Level Cross area; and*

WHEREAS*, it has been requested that the Randolph County Board of County Commissioners authorize the provision of emergency medical, rescue and ambulance services in said district and that property taxes may be levied for such purposes; and*

WHEREAS*, North Carolina General Statute 153A-309 allows a board of county commissioners to permit, by resolution, the service district to provide emergency medical, rescue and ambulance services and to provide that property taxes are levied for such purposes.*

NOW, THEREFORE, BE IT RESOLVED, *that the Randolph County Board of Commissioners does hereby authorize the provision of emergency medical and rescue services in the Level Cross Service District for Fire Protection and does hereby resolve that property taxes may be levied for this purpose, provided however, that the rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation continues to apply.*

Adoption of Resolutions Creating the Northeast Fire Service District

On motion of Allen, seconded by Lanier, the Board voted unanimously to adopt a resolution creating the new Northeast fire service district, as follows:

RESOLUTION CREATING NORTHEAST SERVICE DISTRICT FOR FIRE PROTECTION

WHEREAS*, North Carolina General Statute 153A-309.2 allows a county to establish a county service district for fire protection services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation; and*

WHEREAS*, it has been requested that the Board of County Commissioners create a county service district for fire protection for the Northeast Fire Protection District; and*

WHEREAS*, the Board has passed a resolution limiting the tax rate of the proposed service district to a maximum of fifteen (15) cents per one hundred dollar ($100)*

valuation and has held a public hearing on the matter in accordance with North Carolina General Statutes; and

***WHEREAS**, the Board has considered the population of the proposed district, the appraised value of property in the proposed district, the present tax rates in effect in the proposed district, the ability of the proposed district to sustain the taxing of the proposed district, the comments made at the public hearing, and other matters that the Board deemed relevant; and*

***WHEREAS**, the Board, having considered such matters, makes the following findings:*

1. *There is a demonstrable need for providing fire protection services in the proposed Northeast service district; and*
2. *It is impossible or impracticable to provide fire protection services on a countywide basis; and*
3. *It is economically feasible to provide fire protection services in the proposed Northeast service district without unreasonable or burdensome annual tax levies; and*
4. *There is a demonstrable demand for fire protection services in the proposed Northeast service district.*

***NOW, THEREFORE, BE IT RESOLVED,** that the Board hereby creates a county service district for fire protection in the Northeast area effective July 1, 2016, with boundaries as shown on the map included as Attachment A to this Resolution and containing the exact same properties currently included in the Northeast Rural Fire Protection Tax District.*

***BE IT FURTHER RESOLVED** that property taxes for fire protection within said county service district may not be levied in excess of a rate of fifteen (15) cents on each one hundred dollars ($100) of property subject to taxation.*

On motion of Allen, seconded by Lanier, the Board voted unanimously to adopt a resolution permitting emergency medical, rescue, and ambulance service to the new Northeast fire service district, as follows:

RESOLUTION PERMITTING EMERGENCY MEDICAL, RESCUE AND AMBULANCE SERVICES TO BE PROVIDED IN THE NORTHEAST SERVICE DISTRICT FOR FIRE PROTECTION

***WHEREAS**, the Randolph County Board of Commissioners, pursuant to North Carolina General Statute 153A-309.2, has established a county service district for fire protections services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation in the Northeast area; and*

***WHEREAS**, it has been requested that the Randolph County Board of County Commissioners authorize the provision of emergency medical, rescue and ambulance services in said district and that property taxes may be levied for such purposes; and*

***WHEREAS**, North Carolina General Statute 153A-309 allows a board of county commissioners to permit, by resolution, the service district to provide emergency*

medical, rescue and ambulance services and to provide that property taxes are levied for such purposes.

NOW, THEREFORE, BE IT RESOLVED, *that the Randolph County Board of Commissioners does hereby authorize the provision of emergency medical and rescue services in the Northeast Service District for Fire Protection and does hereby resolve that property taxes may be levied for this purpose, provided however, that the rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation continues to apply.*

Adoption of Resolutions Creating the Staley Fire Service District

On motion of Allen, seconded by Lanier, the Board voted unanimously to adopt a resolution creating the new Staley fire service district, as follows:

RESOLUTION CREATING STALEY SERVICE DISTRICT FOR FIRE PROTECTION

WHEREAS*, North Carolina General Statute 153A-309.2 allows a county to establish a county service district for fire protection services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation; and*

WHEREAS*, it has been requested that the Board of County Commissioners create a county service district for fire protection for the Staley Fire Protection District; and*

WHEREAS*, the Board has passed a resolution limiting the tax rate of the proposed service district to a maximum of fifteen (15) cents per one hundred dollar ($100) valuation and has held a public hearing on the matter in accordance with North Carolina General Statutes; and*

WHEREAS*, the Board has considered the population of the proposed district, the appraised value of property in the proposed district, the present tax rates in effect in the proposed district, the ability of the proposed district to sustain the taxing of the proposed district, the comments made at the public hearing, and other matters that the Board deemed relevant; and*

WHEREAS*, the Board, having considered such matters, makes the following findings:*

1. *There is a demonstrable need for providing fire protection services in the proposed Staley service district; and*
2. *It is impossible or impracticable to provide fire protection services on a countywide basis; and*
3. *It is economically feasible to provide fire protection services in the proposed Staley service district without unreasonable or burdensome annual tax levies; and*
4. *There is a demonstrable demand for fire protection services in the proposed Staley service district.*

NOW, THEREFORE, BE IT RESOLVED, *that the Board hereby creates a county service district for fire protection in the Staley area effective July 1, 2016, with boundaries as shown on the map included as Attachment A to this Resolution and*

containing the exact same properties currently included in the Staley Rural Fire Protection Tax District.

BE IT FURTHER RESOLVED *that property taxes for fire protection within said county service district may not be levied in excess of a rate of fifteen (15) cents on each one hundred dollars ($100) of property subject to taxation.*

On motion of Allen, seconded by Lanier, the Board voted unanimously to adopt a resolution permitting emergency medical, rescue, and ambulance service to the new Staley fire service district, as follows:

RESOLUTION PERMITTING EMERGENCY MEDICAL, RESCUE AND AMBULANCE SERVICES TO BE PROVIDED IN THE STALEY SERVICE DISTRICT FOR FIRE PROTECTION

WHEREAS*, the Randolph County Board of Commissioners, pursuant to North Carolina General Statute 153A-309.2, has established a county service district for fire protections services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation in the Staley area; and*

WHEREAS*, it has been requested that the Randolph County Board of County Commissioners authorize the provision of emergency medical, rescue and ambulance services in said district and that property taxes may be levied for such purposes; and*

WHEREAS*, North Carolina General Statute 153A-309 allows a board of county commissioners to permit, by resolution, the service district to provide emergency medical, rescue and ambulance services and to provide that property taxes are levied for such purposes.*

NOW, THEREFORE, BE IT RESOLVED, *that the Randolph County Board of Commissioners does hereby authorize the provision of emergency medical and rescue services in the Staley Service District for Fire Protection and does hereby resolve that property taxes may be levied for this purpose, provided however, that the rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation continues to apply.*

Eminent Domain Discussion

County Attorney Ben Morgan said that at the last County Commissioner meeting, Commissioner Haywood specifically requested some information about eminent domain. Mr. Morgan had compiled information and included it with the Board agenda packet. He had sent an overview of eminent domain prepared by Ronald Payne from the UNC School of Government. He said while it was a lengthy article, it provided a very detailed outline of eminent domain in NC. He included an article prepared by Charles Szypszak from the UNC School of Government entitled "Ten Common Misconceptions about Eminent Domain." He said it answered some basic questions about the process in NC. Also included was House Bill 3 that was currently pending in Raleigh. It basically changed the definition of eminent domain to amend Chapter 40A of the NC General Statutes. Specifically, House Bill 3 stated that private property shall not be taken by eminent domain except for a public use. House Bill 3 also amended the language of Chapter 40A to state that property can only be condemned for "public use" and not for "public benefit." While this was a very technical amendment, Mr. Morgan believes that it has been proposed to ensure that property can only be subject to eminent domain for public use—i.e. water/sewer.

Mr. Morgan stated that the Board does not have the authority to exercise eminent domain. It is reserved solely for the utilities and said he would be happy to answer any specific questions.

Watershed Impact Discussion

County Manager Hal Johnson said that at the February 9th County Commissioner meeting, more information was requested pertaining to existing watershed regulations and how they might relate to impacts on Sandy Creek Reservoir due to development of the proposed megasite. Mr. Johnson spoke briefly on the background information that was provided in the agenda packet. That information included was, as follows:

The N.C. General Assembly passed legislation in June 1989 which called for mandatory statewide watershed protection regulations. The responsibility for enforcing these mandatory state laws was given to local governments who were required to comply with the State regulations by January 1, 1994.

The intent of the Watershed Protection Act is to control development in watershed basins and thus ensure that water quality is protected. The State legislation classified the watersheds in each county by their level of development and attempted to maintain that level by limiting the density of new developments within the watersheds.

Watershed regulations apply to land areas that drain into lakes and rivers used as public water supplies. The regulations restrict development densities; limit the type of land uses; and require the use of stream buffers to reduce harmful impacts of stormwater runoff.

A watershed is defined by the State as the entire land area contributing surface drainage to a reservoir. Within each watershed there are areas classified as "Water Critical Areas." These critical areas are generally located ½ mile of the reservoir water line. All development within a critical area is given heightened development density protection due to its closeness to the actual water supply.

Beginning in the 1980s, Randolph County began to change from what was once a rural/agricultural county, to a county that was experiencing urbanization and land use changes. During this time of growth and change, Randolph County began to recognize that orderly growth and protection of our water resources would be one of the critical issues facing Randolph County in the 21st century. Our County's concerns for consistent watershed protection rules were always looked at on a countywide basis. Out of our 793 square mile county, over 240 square miles are located in 10 individual watersheds. Reservoirs of the cities of Asheboro, Ramseur, Randleman, and the Randleman Lake regional reservoir are located primarily in Randolph County regulatory jurisdiction. Watershed regulations impact all cities located within Randolph County.

Randolph County became a leader among counties in North Carolina in 1988 when the Board of County Commissioners adopted countywide watershed protection regulations (*six years before mandatory State requirements in 1994*). Randolph County watershed protection regulations, in many ways, have always exceeded state-mandated requirements.

All water supply watersheds in North Carolina have been assigned one of five watershed classifications based upon their existing level of development and their pollution potential. The classification determines the future density and development limits.

Sandy Creek Watershed (*totaling 34,150 acres*) has been classified by the State since 1994 as a WW III Watershed. The WS III Classification applies to moderately developed water supply watersheds. Most other watersheds in Randolph County are also classified as WS III. These include Lake Reese (*46,000 acres*); Polecat Creek (*18,747 acres*); Rocky River (*2500 acres*); and Bear Creek (*1670* acres).

Randolph County Watershed Protection regulations for Sandy Creek have exceeded State requirements since their enactment by the Board of County Commissioners in 1988. The following is a general listing of State requirements compared to Randolph County watershed regulations in Sandy Creek Watershed:

A. State: Limits new residential development in Watershed to one dwelling unit per ½ acre. In Water Critical Area allows one dwelling unit per one acre.
B. Randolph County: Limits new residential development in Watershed to one dwelling per two or three acres (depending on type of development). Requires minimum of three acre residential lot in Water Critical Area.
C. State: Stream Buffer Protection: 30 feet
D. Randolph County: Stream Buffer Protection: 50 feet

In 2002, the Board of County Commissioners adopted Randolph County's first Growth Management Plan. This Plan prepared broad policy statements that would, when combined with designated Growth Management Areas (Primary, Secondary, and Rural Growth) form an overall growth strategy for Randolph County. The extension of Rural Growth Management Areas into large areas of the Sandy Creek Watershed has provided enhanced standards for low density/rural residential subdivision developments.

Sandy Creek Watershed Calculations

Designation	Total acres
Protected Area	35,315.07
Water Quality Critical Area	2,749.51
TOTAL	**38,064.58**

Growth Management Areas within Sandy Creek Watershed

Designation	Total acres
Municipal Growth Area	3,389.62
Primary Growth Area	3,199.38
Rural Growth Area	17,838.22
Secondary Growth Area	13,637.26
TOTAL	**38,064.58**

Watersheds in Randolph County

Watershed name	Area in acres
Badin Lake	2,148.86
Bear Creek	1,698.41
Big Alamance Creek	94.33
Lake Lucas	9,998.62
Lake Reese	49,490.65
McCrary Lakes	1,605.42
Polecat Creek	19,472.49
Randleman Lake	28,015.73
Rocky River	7,225.55
Sandy Creek	38,064.58
TOTAL	**157,814.64**

Growth Management Areas in Randolph County

Management Area	Area in acres
Municipal	66,320.29
Primary	48,952.40
Rural	235,619.75
Secondary	148,095.54
Zoo	6,126.75
TOTAL	**505,114.73**

Mr. Brian Maas, Environmental Consultant with ECS Carolinas, stated they were hired by Randolph County to evaluate and outline protection standards for streams and wetlands in the megasite boundary. They prepared a preliminary wetland and stream map for the megasite which has been approved by the US Army Corps of Engineers and the N.C. Division of Water Resources and is valid for five years. With respect to the conceptual site plans the Timmons Group has prepared, the primary areas of development for the megasite are on the northern portion of the site between an existing railroad right-of-way and a high tension power line that bisects the approximate size center of the site. Large floodplains are present on the southern portion of the site, adjacent to Highway 421, which limit development in these areas. If future development is ever planned for these southern areas of the proposed megasite, it would have to meet the rigorous stream and wetland protection regulations required by the Army Corps of Engineers and the N.C. Division of Water Quality. He said all permits must include storm water protection and downstream water protection.

Megasite Buffer Discussion

Mike Soloman, Timmons Group, said Mother Nature has given the site an incredible buffer on the south side of the megasite. The natural buffer protection is a minimum of 500 feet back from Highway 421 on the south and could not be developed. The north is bounded by roadway and railroad. When an end user identifies their need in terms of rail spurs, then those buffers will be

established. The great thing about this site is stormwater management in a rural setting gives one lots of opportunity to use the land to manage the water. He said the site is an ideal ecological setting for water run-off to be naturally cleaned and treated to put back on the land and into a water source.

Approval of Amendments to the County Unified Development Ordinance (Zoning Ordinance)

Chairman Frye stated that this is the second reading of the request for the proposed text amendments to the Randolph County Zoning Ordinance. The Randolph County Planning Department is asking to amend the Unified Development ordinance Chapter II, Article VII Section I, Intent of Zoning Districts, to include additional verbiage. The Planning Board reviewed this request at a public meeting on January 26, 2016, and recommended that this request be approved.

For the definition of HC-CD Heavy Industrial Conditional District which currently reads "Identical to the Heavy Industrial District except site plans and individualized development conditions are imposed only upon petition of all the owners of the land to be included in the Conditional District." It is being recommended to:

A. Add *industrial parks or integrated industrial districts larger than 400 acres may have within the park or district boundary any retail or service use which is accessory in nature to the industrial park or integrated industrial district* to Unified Development Ordinance, Chapter II. Zoning Ordinance, Article VII District Regulations, to Section 1. Intent of Zoning Districts HI-CD Heavy Industrial Conditional District.

The Planning Department also requests to Amend Article VII Section 4, Table of Permitted Uses, to allow the following uses in HI districts:

B. Amend the County's Unified Development Ordinance to expand the list of uses allowed in HI (Heavy Industrial) districts. The proposed Zoning Ordinance text amendments relating to standards and permitted uses within the Heavy Industrial Zoning District are as follows:
   - *Advanced battery or fuel cell development*
   - *Aerospace, Aviation and Military/Defense manufacturing*
   - *Athletic fields*
   - *Automotive, Truck and Heavy Equipment manufacturing and assembly*
   - *Automotive sales*
   - *Biofuels production*
   - *Biotechnology, Pharmaceuticals, Medical and Life Sciences manufacturing*
   - *Corporate Offices or Headquarters*
   - *Daycares*
   - *Distribution or Logistics Center*
   - *Drugstores*
   - *Educational facilities and training centers*
   - *Electronics and component manufacturing*
   - *Energy storage*

- *Engine or engine parts manufacturing*
- *Fabricated or primary metal manufacturing*
- *Farm machinery and equipment manufacturing*
- *Fitness and recreations sports center*
- *Food processing*
- *Glass manufacturing*
- *Household products manufacturing*
- *Medical/Dental clinics or laboratories*
- *Motor vehicle parts manufacturing*
- *Professional and business offices*
- *Paint and coating manufacturing*
- *Paint shop*
- *Plastics and resin manufacturing*
- *Press shop*
- *Printing shop*
- *Railroad rolling stock manufacturing*
- *Research and Development facilities*
- *Rubber products manufacturing*
- *Tire manufacturing*
- *Transportation equipment manufacturing*
- *Warehousing and distribution*

Determination of Consistency--UDO

The following was submitted in the 2/9/2016 Board packet as a ***Determination of Consistency*** *recommending approval of the amendments to the Unified Development Ordinance Table of Permitted Uses to expand the types of uses allowed in Heavy Industrial districts.*

DETERMINATION OF CONSISTENCY of the proposed amendment to the Unified Development Ordinance to expand the uses allowed in Heavy Industrial districts and the proposed rezoning from RA and RM to Heavy Industrial – Conditional District.

The proposed amendment of the Unified Development Ordinance and the proposed rezoning are consistent with the **2009 Randolph County Growth Management Plan** in numerous ways.

I.

Amendment to the Unified Development Ordinance

The following is submitted as a **Determination of Consistency** ***recommending approval of the request to amend the Unified Development Ordinance Table of Permitted Uses to expand the types of uses allowed in a Heavy Industrial districts.***

Policy 1.2 The county will encourage new and expanding industries and businesses which: (1) diversify the local economy, (2) utilize more highly skilled labor force, and (3) increase our residents' income.

Consistency Summary*: The UDO's Table of Permitted Uses has been adequate to serve a more traditional, 20th century economy and the uses which were common in the 1980s and 1990s. However, some of the emerging and more modern industries which Randolph County must be able to attract and recruit are not listed. The county cannot compete with other states or regions unless it specifically provides for a complete mix of 21st century industries.*

The following provisions in the Growth Management Plan support and are consistent with the proposed amendment to the Unified Development Ordinance:

It is one of the main objectives of the Growth Management Plan to "encourage quality and sustainable growth." (page 1)

The GMP notes that "national and global recession certainly has negatively affected the economic condition of the Triad." (p. 3)

"Our County has long been recognized the need for job development and diversification." (p. 3)

New companies are the lifeblood of economic growth. (p. 4)

The GMP recognizes the "continued challenges of providing a high level of public services while keeping taxes at a reasonable level." (p. 8)

Approval of the amendment to the Unified Development Ordinance District would therefore be consistent with the Randolph County Growth Management Plan.

On motion of Kemp, seconded by Lanier, the Board voted unanimously, to amend the Unified Development Ordinance, as presented, (Pursuant to N.C. Gen Stat §§ 153A-341 and 342) finding that the proposed amendments (above) are consistent with the Randolph County Growth Management Plan and reasonable and in the public interest based upon the Determination of Consistency statements incorporated in the minutes above, and the Statement of Reasonableness, also incorporated in these minutes, as follows:

Incorporated into these minutes from the commissioners 2/9/2016 packet is the Statement of Reasonableness for the Unified Development Ordinance, as follows:

Statement of Reasonableness

Pursuant to N.C. Gen Stat §§ 153A-341 and 342, the Randolph County Board of Commissioners finds that the proposed amendment to the Unified Development Ordinance and rezoning described in the applications of the Greensboro-Randolph Megasite Foundation, Inc. are reasonable and in the public interest for the following reasons.

I.
Unified Development Ordinance Amendment

The proposed amendment to the Unified Development Ordinance addresses a situation that has evolved over time and which is highlighted by an application which creates a site conducive to advanced 21st century manufacturing.

In its current form, the Randolph County UDO provides for most of the industries that existed when the UDO was adopted and which were logical growth targets through the mid and later part of the 20th and early part of the 21st centuries. Among the industries which existed then but which have been lost or diminished are furniture and textiles and the supplier industries they supported. However, as our local economy becomes increasingly globalized, it is necessary that our zoning ordinance provides for the industries that would reasonably be needed in this county moving into the 21st century. Such industrial uses include but are not limited to aerospace and aviation manufacturing, logistics, biofuels, and pharmaceutical and biotechnology industries. We have the universities and community college educational infrastructures to support these industries through education and job training, and the transportation networks to support these industries through available rail, interstate highways, and Piedmont Triad International Airport.

For these reasons we conclude that the proposed amendment to the Randolph County Unified Development Ordinance is reasonable and in the public interest.

Adoption of Resolutions Concerning Establishment of Fire Service Districts for Southwest, Seagrove and Ulah; and Capping Property Tax Rate

Aimee Scotton, Associate County Attorney, said the majority of the fire protection tax districts in Randolph County are rural fire protection districts. In order for ease of administration and continuity across the County, the Board of County Commissioners indicated a desire to create county service districts to supplant those rural fire protection districts. A county service district for fire protection is created under North Carolina General Statutes 153A-302 and 153A-309.2. She asked to begin this process for Seagrove, Southwest and Ulah.

When the County created county service districts to supplant other rural fire protection districts, it was suggested that the county service district be comprised of exactly the same parcels as the previous rural fire protection district. In this request, we are suggesting some changes. When the rural fire protection districts were initially created, properties were placed into the district most able to provide fire protection to those individual properties. With the construction of new roads and a new substation, circumstances have changed since then, and it is necessary to propose some changes in order to provide our citizens with the best possible service at the least cost to them. For properties located within six road miles of the fire department that provides its service, the homeowner receives a considerable discount on his/her homeowners' insurance premium. The County has received a petition requesting properties to be moved into a district that would allow them the discount. All of the properties that she is proposing be moved from one district to another are currently located too far from a fire department to receive this benefit. Moving them will fix that problem. It also places them within the district closest to them.

She and the Fire Marshal recommended that, in forming the new service districts, 48 parcels be moved from the Seagrove district to the Ulah district and that 119 parcels be moved from the Southwest district to the Ulah district. This will result in a reduction in the appraised value of property within the Seagrove district of $3,419,164.00 and a reduction in the appraised value of property within the Southwest district of $5,922,249.00.

She said if the Board decided to move forward with the creation of the requested service districts, the Board would need to consider the following for each proposed district:

a. the resident or seasonal population and population density of the proposed district;
b. the appraised value of property subject to taxation in the proposed district;
c. the present tax rates of the County and any cities or special districts in which the district or any portion thereof is located;
d. the ability of the proposed district to sustain the additional taxes necessary to provide the services planned for the district; and
e. any other matters that the Commissioners believe to have a bearing on whether or not the district should be established.

Fire Marshal Erik Beard provided a fact sheet for each district containing the items that are required to be considered. Ms. Scotton said the Board may consider any other item that they deemed relevant to the matter, but once these issues are considered they must pass resolutions if you find that the following apply for each respective district:

a. there is a demonstrable need for providing fire protection services in the district;
b. it is impossible or impracticable to provide these services on a countywide basis;
c. it is economically feasible to provide the proposed services in the district without unreasonable or burdensome tax levies; and
d. there is a demonstrable demand for the proposed services by persons residing in the district.

The resolutions make certain the findings, call for the creation of a report that must be made available for public inspection and set public hearings on the creation of the respective districts for 6:30 p.m. on May 2, 2016. The resolutions also state that the tax levied in the proposed district for fire protection may not be in excess of a rate of fifteen (15) cents on each one hundred dollars ($100) of property subject to taxation.

Ms. Scotton said if the Board passes the resolutions and sets the public hearing, staff will compile the report and publish notice of the public hearing in accordance with state law for each proposed district.

On motion of Lanier, seconded by Allen, the Board voted unanimously to adopt a Resolution Capping Southwest Fire Service District's Property Tax Rate at fifteen cents on each one hundred dollars of property subject to taxation, direct the Associate County Attorney to prepare the required report referenced in the resolution, and to set a public hearing on the matter for 6:30 p.m. on May 2, 2016, as follows:

RESOLUTION CAPPING PROPOSED SOUTHWEST FIRE PROTECTION SERVICE DISTRICT TAX RATE AT FIFTEEN CENTS

***WHEREAS**, North Carolina General Statute 153A-309.2 allows a County to establish a county service district for fire protections services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation; and*

***WHEREAS**, it has been requested that the Board of County Commissioners create a county service district for fire protection for the Southwest area with the boundaries*

shown on the map included as Attachment A to this Resolution, said area hereinafter referred to as the proposed Southwest County Service District; and

***WHEREAS**, the Board has considered the population of the proposed district, the appraised value of property in the proposed district, the present tax rates in effect in the proposed district, the ability of the proposed district to sustain the taxing of the proposed district, and other matters that the Board deemed relevant; and*

***WHEREAS**, the Board, having considered such matters, makes the following findings:*

1. *There is a demonstrable need for providing fire protection services in the proposed Southwest County Service District; and*
2. *It is impossible or impracticable to provide fire protection services on a countywide basis; and*
3. *It is economically feasible to provide fire protection services in the proposed Southwest County Service District without unreasonable or burdensome annual tax levies; and*
4. *There is a demonstrable demand for fire protection services in the proposed Southwest County Service District.*

***NOW, THEREFORE, BE IT RESOLVED,** that the Board intends to pursue the creation of a county service district for fire protection for the Southwest area with the boundaries shown on the map included as Attachment A and therefore sets a public hearing on the matter for 6:30 p.m. on May 2, 2016; and*

***BE IT FURTHER RESOLVED** that a report shall be prepared containing a map of the proposed district, a statement that the proposed district meets the findings contained herein, and a plan for providing fire service to the proposed district; and*

***BE IT STILL FURTHER RESOLVED** that, after the public hearing referenced above, if the proposed Southwest County Service District for fire protection is created, property taxes for fire protection within said district may not be levied in excess of a rate of fifteen (15) cents on each one hundred dollars ($100) of property subject to taxation.*

On motion of Lanier, seconded by Allen, the Board voted unanimously to adopt a Resolution Capping Seagrove Fire Service District's Property Tax Rate at fifteen cents on each one hundred dollars of property subject to taxation, direct the Associate County Attorney to prepare the required report referenced in the resolution, and to set a public hearing on the matter for 6:30 p.m. on May 2, 2016, as follows:

RESOLUTION CAPPING PROPOSED SEAGROVE FIRE PROTECTION SERVICE DISTRICT TAX RATE AT FIFTEEN CENTS

***WHEREAS**, North Carolina General Statute 153A-309.2 allows a County to establish a county service district for fire protections services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation; and*

***WHEREAS**, it has been requested that the Board of County Commissioners create a county service district for fire protection for the Seagrove area with the boundaries*

shown on the map included as Attachment A to this Resolution, said area hereinafter referred to as the proposed Seagrove County Service District; and

***WHEREAS**, the Board has considered the population of the proposed district, the appraised value of property in the proposed district, the present tax rates in effect in the proposed district, the ability of the proposed district to sustain the taxing of the proposed district, and other matters that the Board deemed relevant; and*

***WHEREAS**, the Board, having considered such matters, makes the following findings:*

1. *There is a demonstrable need for providing fire protection services in the proposed Seagrove County Service District; and*
2. *It is impossible or impracticable to provide fire protection services on a countywide basis; and*
3. *It is economically feasible to provide fire protection services in the proposed Seagrove County Service District without unreasonable or burdensome annual tax levies; and*
4. *There is a demonstrable demand for fire protection services in the proposed Seagrove County Service District.*

***NOW, THEREFORE, BE IT RESOLVED,** that the Board intends to pursue the creation of a county service district for fire protection for the Seagrove area with the boundaries shown on the map included as Attachment A and therefore sets a public hearing on the matter for 6:30 p.m. on May 2, 2016; and*

***BE IT FURTHER RESOLVED** that a report shall be prepared containing a map of the proposed district, a statement that the proposed district meets the findings contained herein, and a plan for providing fire service to the proposed district; and*

***BE IT STILL FURTHER RESOLVED** that, after the public hearing referenced above, if the proposed Seagrove County Service District for fire protection is created, property taxes for fire protection within said district may not be levied in excess of a rate of fifteen (15) cents on each one hundred dollars ($100) of property subject to taxation.*

On motion of Lanier, seconded by Allen, the Board voted unanimously to adopt a Resolution Capping Ulah Fire Service District's Property Tax Rate at fifteen cents on each one hundred dollars of property subject to taxation, direct the Associate County Attorney to prepare the required report referenced in the resolution, and to set a public hearing on the matter for 6:30 p.m. on May 2, 2016, as follows:

RESOLUTION CAPPING PROPOSED ULAH FIRE PROTECTION SERVICE DISTRICT TAX RATE AT FIFTEEN CENTS

***WHEREAS**, North Carolina General Statute 153A-309.2 allows a County to establish a county service district for fire protections services with a tax rate limitation of fifteen (15) cents per one hundred dollar ($100) valuation; and*

***WHEREAS**, it has been requested that the Board of County Commissioners create a county service district for fire protection for the Ulah area with the boundaries shown*

on the map included as Attachment A to this Resolution, said area hereinafter referred to as the proposed Ulah County Service District; and

***WHEREAS**, the Board has considered the population of the proposed district, the appraised value of property in the proposed district, the present tax rates in effect in the proposed district, the ability of the proposed district to sustain the taxing of the proposed district, and other matters that the Board deemed relevant; and*

***WHEREAS**, the Board, having considered such matters, makes the following findings:*

1. *There is a demonstrable need for providing fire protection services in the proposed Ulah County Service District; and*
2. *It is impossible or impracticable to provide fire protection services on a countywide basis; and*
3. *It is economically feasible to provide fire protection services in the proposed Ulah County Service District without unreasonable or burdensome annual tax levies; and*
4. *There is a demonstrable demand for fire protection services in the proposed Ulah County Service District.*

***NOW, THEREFORE, BE IT RESOLVED,** that the Board intends to pursue the creation of a county service district for fire protection for the Ulah area with the boundaries shown on the map included as Attachment A and therefore sets a public hearing on the matter for 6:30 p.m. on May 2, 2016; and*

***BE IT FURTHER RESOLVED** that a report shall be prepared containing a map of the proposed district, a statement that the proposed district meets the findings contained herein, and a plan for providing fire service to the proposed district; and*

***BE IT STILL FURTHER RESOLVED** that, after the public hearing referenced above, if the proposed Ulah County Service District for fire protection is created, property taxes for fire protection within said district may not be levied in excess of a rate of fifteen (15) cents on each one hundred dollars ($100) of property subject to taxation.*

Adoption of the FY 2016-17 Budget Meeting Schedule

Chairman Frye said that Will Massie, Assistant County Manager/Finance Officer, presented the FY 16-17 proposed budget meeting schedule to the Board in February and asked all to review for a decision this month.

On motion of Allen, seconded by Haywood, the Board voted unanimously to adopt the following budget meeting schedule for the FY 16-17 proposed budget deliberations:

Tuesday, May 31	*6:00 - 6:40 p.m.*	*Proposed Budget Presented to Commissioners*
	6:40 - 7:00 p.m.	*Asheboro City Schools*
	7:00 - 7:20 p.m.	*Randolph County Schools*
	7:20 - 7:40 p.m.	*Randolph Community College*
	7:40 - 8:00 p.m.	*Sandhills Mental Health*
Thursday, June 9	*6:00 - 8:00 p.m.*	*All County Departments*

Monday, June 13	*6:00 – 6:30 p.m.*	*Community Agencies Requesting Funding*
	6:30 p.m.	*Fire Department Presentations*
		Public Hearing on County Budget
Monday, June 20	*6:00 p.m.*	*Approve Close-out Budget Amendments for FY 15-16*
		Budget Discussion
		Adopt School and Fire District Tax Rates
		Adopt Fee Schedules
		Adoption of Final Budget

Reschedule Planning Retreat

On motion of Allen, seconded by Haywood, the Board voted unanimously to reschedule the planning retreat for March 17, 2016, at 1:00 pm at the Randolph County Office Building, 725 McDowell, Rd., Asheboro, in Meeting Room A.

Updates and Other Business

Chairman Frye stated, and the Board agreed unanimously, that due to the time, Items *J. Workforce Development Lead Agency Update* and *K. Regional Update*, be tabled until another meeting. Also tabled until a later time, was Item *L. Approve Letter of Support for the Certification of the Greensboro-Randolph Megasite by the State of NC Department of Commerc*e which was to be added to the New Business agenda.

Adjournment

At 11:39 p.m., on motion of Allen, seconded by Lanier, the Board voted unanimously to adjourn.

Darrell L. Frye, Chairman	Phil Kemp
Arnold Lanier	Stan Haywood
David Allen	Amanda Varner, Clerk to the Board

GREENSBORO-RANDOLPH MEGASITE PROJECT AGREEMENT

THIS GREENSBORO-RANDOLPH MEGASITE PROJECT AGREEMENT (this "Agreement") is made and entered into as of March ____, 2016 by and among **RANDOLPH COUNTY,** a North Carolina county and governmental body (the "**County**"), the **NORTH CAROLINA RAILROAD COMPANY**, a North Carolina corporation ("**NCRR**"); and **GREENSBORO-RANDOLPH MEGASITE FOUNDATION, INC.**, a not for profit corporation organized and existing under the laws of North Carolina (the "**Megasite Foundation**"), hereafter the "Parties."

RECITALS:

A. The County is a North Carolina county. The County desires to promote economic development in the County by attracting to the County a transformational manufacturing facility or other high yield projects that will create a significant number of jobs for County residents.

B. NCRR is a North Carolina corporation the stock of which is owned by the State of North Carolina. One of NCRR's corporate purposes is to encourage economic development in North Carolina by promoting the attraction to and location within the State of transformational manufacturing entities or other entities that will invest significant sums in plant and equipment and will create a significant number of jobs. NCRR is particularly interested in attracting to the State manufacturing facilities, such as an automobile manufacturer, that can be expected to increase the use of and freight traffic on the railroad line owned by NCRR. NCRR desires to assist in bringing to the State a transformational, high job yield project.

C. The Megasite Foundation is a not for profit corporation existing under the laws of North Carolina. Its primary corporate purpose is to foster meaningful job growth in Randolph County, the City of Greensboro and surrounding communities by acquiring and developing, in conjunction with others, a large tract of land in Randolph County suitable for use as a manufacturing facility by a transformational manufacturer, such as an automobile manufacturer, or other high yield projects and by offering the site as an inducement to a transformational manufacturer or another high yield project to construct and operate a facility upon the site.

D. In furtherance of its corporate purpose, the Megasite Foundation has identified the area shown on the map attached hereto as Exhibit A (the "Map") as the envisioned site in Randolph County for the location of a transformational manufacturing facility or other high yield project and it has entered into or has acquired through assignment multiple contracts to purchase various properties within the footprint of the site which contracts cover in the aggregate approximately 1,532 acres. In addition, Megasite Foundation has acquired certain tracts as shown on the Map. (Each of the properties shown on the Map has been assigned a lot or tract number as shown on the Map and those numbers will be used to identify specific properties for the purposes of this Agreement.)

E. Randolph County has purchased and currently owns multiple properties within the footprint of the proposed Greensboro-Randolph Megasite containing approximately 425 acres.

The properties owned by Randolph County are also shown on the Map, are listed on *Schedule 1* attached hereto, and shall be referred to herein as the "County Properties". While no additional acquisition of property is presently contemplated by Randolph County, the term "County Properties" shall also include any other properties shown on the Map as may hereafter be acquired by the County.

F. NCRR desires to assist Randolph County, the Megasite Foundation and the State of North Carolina in the acquisition, development and marketing to transformational manufacturers or other high yield projects of the Greensboro-Randolph Megasite. To that end, NCRR has agreed, subject to certain terms, provisions and conditions, to purchase an assignment from the Megasite Foundation of the Megasite Foundation's interest in the properties or in the contracts to purchase the properties listed in *Schedule 2* attached hereto and to acquire, develop and market such properties as a portion of the Greensboro-Randolph Megasite. (The properties which are the subject of the contracts identified on *Schedule 2* shall be referred to herein collectively as the "NCRR Properties.") The term "NCRR Properties" as used herein shall also include any other properties shown on the Map as may hereafter be acquired by the NCRR.

G. The Megasite Foundation has acquired the properties located within the contemplated Greensboro-Randolph Megasite as are listed in Schedule 3 attached hereto (the "Properties Currently Owned by the Megasite Foundation") and the Megasite Foundation has agreed to acquire those additional properties shown on the Map as are identified in Schedule 4 attached hereto (the "Properties to be Acquired by the Megasite Foundation"). The Properties Currently Owned by the Megasite Foundation and the Properties to be Acquired by the Megasite Foundation shall be referred to herein collectively as the "Megasite Foundation Properties." The term "Megasite Foundation Properties" as used herein shall also include any other properties shown on the Map as may hereafter be acquired by the Megasite Foundation.

H. It is in the mutual interest of the parties that the County, the Megasite Foundation and NCRR enter into an agreement setting forth their mutual understandings and obligations with respect to the joint development and marketing of the County Properties, the Megasite Foundation Properties, and the NCRR Properties as the Greensboro-Randolph Megasite.

I. The parties hereto also desire to provide for alternative site development plans for their properties in the event a user is not obtained for the Greensboro-Randolph Megasite during the Joint Marking Period. NCRR contemplates that such alternate development will benefit the economic development interests of all parties to this Agreement.

J. The Megasite Foundation and the County desire to accept the assistance of NCRR in the acquisition, development and marketing of the various properties comprising the Greensboro-Randolph Megasite and are willing to enter into this Agreement to set forth the respective understandings of the parties with respect to the joint development and marketing of the County Properties, the Megasite Foundation Properties and the NCRR Properties as the Greensboro-Randolph Megasite.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING RECITALS, the mutual agreements set forth herein and for other good and valuable consideration, the receipt

and sufficiency of which is hereby acknowledged, the County, the Megasite Foundation and NCRR hereby agree as follows:

1. Agreement to Hold, Develop and Market Properties for the purposes herein: Each of the County, the Megasite Foundation and NCRR hereby agree that for the duration of the Joint Marketing Period (as defined below) each of them shall own, hold, develop, market, use, encumber, and transfer or make available the County Properties, the Megasite Foundation Properties and the NCRR Properties, respectively, subject to and in accordance with the terms and provisions of this Agreement. Without limiting the foregoing, the County, Megasite Foundation and NCRR hereby agree that each may maintain, preserve, or use its respective properties during the Joint Marketing Period in any manner as allowed by current zoning and other legal requirements and regulations consistent with the purposes of this Agreement, except as may be specifically limited by this Agreement. The terms of this Agreement shall apply to the County Properties, the Megasite Foundation Properties, and the NCRR Properties as well as to any other additional properties shown on the Map as may be subsequently acquired by any of the County, the Megasite Foundation or NCRR during the Joint Marketing Period. In this regard, any of the parties hereto may (but shall not be obligated to) acquire, with or without the consent of the other parties, additional properties shown on the Map but if such acquisition occurs during the Joint Marketing Period, such additional properties shall be subject to the terms of this Agreement. (For the purposes of this Agreement, the term "Greensboro-Randolph Megasite" shall mean collectively the County Properties, the Megasite Foundation Properties, and the NCRR Properties together with any other properties shown on the Map which are acquired by any of the County, the Megasite Foundation or NCRR during the Joint Marketing Period.)

Upon expiration or earlier termination of the Joint Marketing Period, the parties hereto shall own, hold, market, use, encumber and transfer their respective Properties pursuant to the terms of the applicable provisions of this Agreement which survive expiration or earlier termination of the Joint Marketing Period.

2. Joint Marketing Period: For the purposes of this Agreement, the Joint Marketing Period shall be that period of time commencing on the date hereof and continuing until the sixth (6th) anniversary of the date of this Agreement. The term of the Joint Marketing Period shall be automatically renewed for a period of three (3) additional years unless any party shall provide notice of termination at least ninety (90) days prior to expiration of the initial six (6) year period. The Joint Marketing Period may be extended or shortened, but only pursuant to a written agreement mutually acceptable to and executed by each of the County, the Megasite Foundation and NCRR.

3. Agreement for Marketing the County Properties, the Megasite Foundation Properties, and the NCRR Properties as a Single Megasite: During the Joint Marketing Period, the County Properties, the Megasite Foundation Properties, and the NCRR Properties shall be marketed jointly as a single combined megasite available for use and conveyance or lease or other transfer only to one or more transformational manufacturers (such as an automobile manufacturer) or other high yield project, who will commit to construct upon the properties comprising the Greensboro-Randolph Megasite one or more transformational manufacturing facilities or other high yield project for which the manufacturer, or owner of the

high yield project, is obligated to directly employ a minimum of 1,750 employees on the Greensboro-Randolph Megasite. During the Joint Marketing Period, but subject to the following sentence, none of the County Properties, the Megasite Foundation Properties, or the NCRR Properties shall, without the prior written consent, of the County, the Megasite Foundation and NCRR, be marketed by the owner as an independent site (or as multiple independent sites) available for use or conveyance or lease or other transfer to any party or potential user independent of the other properties and no owner shall convey, lease, transfer or otherwise make its properties or any portion thereof available to any entity or person for any purpose. Notwithstanding the foregoing, nothing contained herein shall prohibit any party from implementing any studies, investigations, tests, feasibility studies, or plans for the development of the property owned by it prior to expiration or earlier termination of the Joint Marketing Period. In the event a user has not been identified for the Greensboro-Randolph Megasite by the fifth (5th) anniversary of the date of this Agreement, any party may begin marketing its properties for alternate use or development provided that no party, without the consent of the other parties, shall enter into a contract for sale, lease or conveyance of such properties until expiration or earlier termination of the Joint Marketing Period.

During the Joint Marketing Period, all of the following provisions shall apply:

(a) Each of the County, the Megasite Foundation, and NCRR will cooperate with one another and with all appropriate North Carolina state agencies, departments, officials and economic development entities (including without limitation, the North Carolina Department of Commerce, the North Carolina General Assembly, the Governor, the Economic Investment Committee established pursuant to NCGS Section 143B-437.54 and the Economic Development Partnership of North Carolina, Inc.) and with local economic development organizations and entities in marketing the Greensboro-Randolph Megasite to transformational manufacturers and other high yield projects.

(b) The parties initially contemplate that the Randolph County Economic Development Corporation and the Greensboro Partnership shall be authorized to organize and lead the marketing efforts with respect to the Greensboro-Randolph Megasite with input and participation from NCRR in marketing decisions. In addition, the Randolph County Economic Development Corporation shall be authorized to seek certification of the Greensboro-Randolph Megasite by the North Carolina Department of Commerce and by KPMG, or other consultant agreed to by the parties, and the parties shall cooperate with the efforts to seek such certifications. Without limiting the foregoing, either the Randolph County Economic Development Corporation or the Megasite Foundation shall be authorized to and may engage KPMG, or other consultant agreed to by all of the parties, (at no expense either to the County or to NCRR) to market the Greensboro-Randolph Megasite Foundation subject to the limitations set forth herein.

(c) All marketing materials, advertisements, responses to requests for proposals and presentations shall be subject to the approval of the County, the Megasite Foundation and NCRR and each party shall have the right to object to any public or non-public materials, advertisements, responses and presentations made by any other party or by any entity engaged by any party to market the Greensboro-Randolph Megasite. The

approval rights granted pursuant to this provision shall extend to and include all logos, all websites, and all marketing brochures, promotional videos and similar materials. If a party objects to any public or non-public materials, advertisements or presentations and such objections cannot be resolved promptly to such party's satisfaction, then the materials, advertisements or presentations to which an unresolved objection has been made will not be used unless and until the objections to such use are resolved.

(d) Subject to the prior approval of the other parties and to the approval rights set forth in subsection (c) above, any party or any combination of the parties may engage, at such party's or parties' sole expense, such firms, persons and entities as such party or parties may desire to assist with the marketing of the Greensboro-Randolph Megasite to advanced manufacturers and other high yield projects.

Notwithstanding any other provision of this Agreement, no party shall be obligated pursuant to this Agreement to pay any portion of any cost or expense incurred in connection with any activities undertaken by any party or any combination of parties pursuant to this Paragraph 3. Any party may by one or more separate agreements executed from time to time by such party agree to pay or to reimburse any of the other parties for any costs or expenses incurred in connection with the activities undertaken pursuant to this Paragraph 3.

4. Enhancement of the Greensboro-Randolph Megasite: Subject to the limitations set forth in Paragraph 5 below, the parties will cooperate with one another to pursue and provide for various enhancements of the attractiveness and marketability of the Greensboro-Randolph Megasite. The activities the parties may pursue shall include, without limitation, all of the following:

(a) Any of the parties or any combination of the parties may advocate for and seek to obtain the extension of various utilities to the Greensboro-Randolph Megasite including the extension of water and sewer service by the City of Greensboro, or other water and sewer providers, the extension of natural gas service by Piedmont Natural Gas, or other natural gas providers, the extension of electric power service by Duke Energy, or other electric service providers, and the extension of telephone, fiber optic and other data services by such providers as the parties may agree upon. To the extent reasonably necessary, each of the parties shall grant to the providers of such services such easements across their respective parties as may be reasonably necessary to provide such services to the Greensboro-Randolph Megasite, provided that the location of such easement shall be subject to the reasonable approval of the party owning the servient tract and such easement shall not interfere with the intended use of such party after expiration or earlier termination of the Joint Marketing Period.

(b) The parties shall negotiate with the North Carolina Department of Transportation (the "DOT") for the permitting and construction of one or more interchanges on US Highway 421 to provide access from such highway to the Greensboro-Randolph Megasite as called for in agreed site plans, provided, however, any and all agreements between any party and the DOT with respect to any such interchange shall be subject to the prior review and unanimous approval of all of the parties. In

addition, any party or any combination of the parties may at its or their expense engage an engineering firm to assist in the environmental impact analysis and in the planning and engineering for such interchange or interchanges provided, however, that prior to submission to DOT, any proposed interchange or interchanges shall be subject to review and unanimous approval of all of the parties.

(c) Any of the parties or any combination of the parties may, at such party's or parties' sole cost and expense, engage one or more environmental consulting firms or civil engineers to assist such party or parties in determining and assessing any environmental features affecting or existing at or upon the Greensboro-Randolph Megasite, including without limitation: (i) a determination and delineation of any wetlands upon any of the properties comprising the Greensboro-Randolph Megasite (including obtaining inspections of such properties by the US Army Corp of Engineers and any department or agency of the State of North Carolina); (ii) studies and analyses of the soil conditions of any of the properties comprising the Greensboro-Randolph Megasite including soil borings and other samples; (iii) environmental assessments and evaluations; and (iv) any other assessment, inspection or analysis that may be necessary or appropriate to obtain certification of the Greensboro-Randolph Megasite by the North Carolina Department of Commerce or by KPMG.

(d) Any of the parties or any combination of the parties may, at such party's or parties' sole cost and expense, cause any portion of the Greensboro-Randolph Megasite owned by such parties to be cleared and graded provided that all parties have consented to the area to be cleared and graded and provided further that such work is calculated to promote and enhance the attractiveness, marketability and development of the Greensboro-Randolph Megasite as a whole.

(e) Any of the parties or any combination of the parties may, at such party's or parties' sole cost and expense, cause any other development or site preparation work to be performed upon the portions of the Greensboro-Randolph Megasite owned by such party or parties provided all such development or site preparation work is of a nature and type that will promote and enhance the attractiveness, marketability and development of the Greensboro-Randolph Megasite as a whole and will not create any barriers to or burdens upon the development or marketability of the Greensboro-Randolph Megasite as a whole.

(f) The parties may retain a site or project manager or managers, upon terms and conditions agreeable to the parties, for the purpose of managing the development and operation of the Greensboro-Randolph Megasite. The selection of the project manager(s) shall be subject to the unanimous consent of all parties. The site or project manager(s) shall serve at the direction of the Steering Committee.

(g) In the event that any party conducts studies or requires access onto the property of another party, the party requiring access shall indemnify and hold harmless the party who owns the property across which access is granted, for any loss, cost, damage or expense incurred by said property owner due to entry by the entering party, its

agents, consultants, contractors, employees or representatives. Any party requesting such entry shall execute a right of entry agreement in a form as set forth on Exhibit B attached hereto, and have any party entering on its behalf execute, a right of entry agreement. All parties entering onto the property of another party shall provide evidence of liability insurance to the property owner.

Notwithstanding any other provision of this Agreement, no party shall be obligated pursuant to this Agreement to pay any portion of any cost or expense incurred in connection with any activities undertaken by any party or any combination of parties pursuant to this Paragraph 4. Any party may by one or more separate agreements executed from time to time by such party agree to pay or to reimburse any of the other parties for any costs or expenses incurred in connection with the activities undertaken pursuant to this Paragraph 4.

5. Restrictions on Development, Alteration, Use and Encumbrance of the County Properties, the Megasite Foundation Properties, and the NCRR Properties: During the Joint Marketing Period, none of the County, the Megasite Foundation or NCRR will (a) undertake any development, alteration, improvement, or use of the County Properties, the Megasite Foundation Properties, or the NCRR Properties if such development, alteration, improvement or use would materially adversely affect the development or marketability of the Greensboro-Randolph Megasite as a single megasite available for use by a transformational manufacturer or other high yield project, or would materially hamper or burden the efforts to develop, market and use the Greensboro-Randolph Megasite as single site; or (b) encumber by any lien, restriction, easement, covenant or other agreement any of the County Properties, the Megasite Foundation Properties, or the NCRR Properties if such encumbrance would materially adversely affect the development or marketability of the Greensboro-Randolph Megasite as a single megasite available for use by a transformational manufacturer or other high yield project or would materially hamper or burden the efforts to develop, market and use the Greensboro-Randolph Megasite as a single site; or (c) encumber any property located in the Greensboro-Randolph Megasite by mortgage, deed of trust or other financing, or (d) convey, sell, transfer or lease for a period of longer than one year, any of its interest in the property owned by it in the Greensboro-Randolph Megasite without the written consent of all other parties hereto. Without limiting the foregoing, each of the County, the Megasite Foundation and NCRR agree that during the Joint Marketing Period, it will not, without the prior written consent of the other parties to this Agreement or as specifically set forth in the paragraph below, take any of the following actions with respect to the portions of the Greensboro-Randolph Megasite owned by such party: (i) construct or permit the construction of any buildings (other than temporary buildings which must be removed by the constructing owner prior to conveyance to a Megasite user), parking areas, roadways, or other site improvements; (ii) extend or permit the extension of any utilities of any kind across such properties; (iii) consent to or permit the construction of any railroad spur lines; (iv) construct or permit the construction of any storm water retention or detention ponds; or (v) drain or reconfigure any existing lake or pond upon the properties.

Notwithstanding anything to the contrary set forth in the preceding paragraph, a party may:

A. Undertake any studies, investigations or tests deemed appropriate by it for the potential development of its property subsequent to the Joint Marketing Period, provided that such studies, investigations or tests do not interfere with the potential development, marketing, or use of the Greensboro-Randolph Megasite as a single site.

B. Convey easements across its property for utility or access purposes provided that such easements do not interfere with the development, use or marketing of the Greensboro-Randolph Megasite as a single site. Prior to granting any such easements, a party shall provide the other parties with notice of its intent to grant the easement(s).

C. Request that an adjacent party grant easements for access, utilities or drainage on such adjacent parties land, provided the adjacent party shall have the right to deny the request in its reasonable discretion.

D. Pursue and consider Department of Transportation driveway permits, access or interchange approvals to the extent such approvals would not be detrimental to the development, use and marketing of the Greensboro-Randolph Megasite as a single site.

E. Clear, grade or undertake other site preparation work for future development provided that such activity is not detrimental to the development, use or marketing of the Greensboro-Randolph Megasite as a single site.

F. Provide for short term leasing for farming, timber removal or residential use provided that such uses are not detrimental to the development, use or marketing of the Greensboro-Randolph Megasite.

G. Undertake planning, design, and marketing activities for development of its property subsequent to the Joint Marketing Period provided that such activities are not detrimental to the development, use and marketing of the Greensboro-Randolph Megasite as a single site.

Within ninety (90) days after the execution of this Agreement, each of the parties shall execute a document in recordable form subjecting the County Properties, the Megasite Foundation Properties and the NCRR Properties to the restrictive covenants set forth in Exhibit C attached hereto.

6. Owners' Representatives: With respect to granting or withholding its consent or approval to the matters to which its consent or approval is required pursuant to this Agreement as well as to all other matters with respect to the marketing, development and transfer or disposition of the Greensboro-Randolph Megasite, each of the County, the Megasite Foundation and NCRR shall at all times designate an owner's representative with the power and authority to bind such owner. (Each person designated by an owner shall be referred to herein as such owner's "Owner's Representative" and the three individuals designated to represent the three owners shall be referred to herein collectively as the "Owners' Representatives.") The County hereby designates Darrell Frye as its initial Owner's Representative. The Megasite Foundation hereby

designates E.S. Melvin as its initial Owner's Representative. NCRR hereby designates Scott Saylor as its initial Owner's Representative. The party who designated an Owner's Representative shall have the unilateral right at any time, with or without cause, to remove such person as the Owner's Representative and to designate another person as the Owner's Representative for such party; provided, however, until each of the other two parties receives notice of the removal and replacement of an individual as the Owner's Representative of a party, such other parties may continue to rely upon the approvals, consents, actions and commitments made by the individual who has been previously designated to them as the Owner's Representative of the other party or parties. Each Owner's Representative will act on behalf of the owner who appointed such Owner's Representative: (i) to grant or deny any consents or approvals of any and all matters to which an owner's consent or approval is required under this Agreement; (ii) to enter into additional agreements or commitments on behalf of such owner, including without limitation, agreements or commitments to provide funds to defray costs and expenses incurred in pursuant of activities pursuant to Paragraphs 3 and 4 above; and (iii) generally to act on behalf of and to bind such owner with respect to all matters involving the Greensboro-Randolph Megasite and the properties owned by such owner comprising a portion of the Greensboro-Randolph Megasite. Each Owner's Representative will procure necessary approvals from the owner that it represents. Each party may rely upon any approvals or consents granted by any Owner's Representative and upon any instrument or agreement executed by an Owner's Representative and upon any commitment made by such Owner's Representative.

7. **Steering Committee:** The three individuals designated from time to time as the Owners' Representatives shall constitute a committee of the owners (the "Steering Committee"). The Steering Committee shall meet from time to time (with such meetings to occur not less than once per calendar quarter during the Joint Marketing Period) and upon the request of any Owner's Representative. Any member of the Steering Committee may call with no less than five (5) days' notice, a meeting of the Steering Committee. Meetings of the Steering Committee may be held at such locations as may be acceptable to the members of the Steering Committee and any member of the Steering Committee may participate in any meeting by telephone. The purposes of the Steering Committee shall be: (i) to provide a mechanism by which the County, the Megasite Foundation and NCRR can coordinate, communicate, review and evaluate their respective efforts to market, develop and enhance the Greensboro-Randolph Megasite; and (ii) to serve as a forum in which issues associated with such activities may be discussed and addressed. Except as expressly set forth herein, any and all decisions of the Steering Committee shall be made by a unanimous vote by the members of the Committee. Notwithstanding the foregoing, where specifically set forth herein, a unanimous consent may be required. The Steering Committee may consider and develop from time to time a list of potential users to whom the Greensboro-Randolph Megasite shall be specifically marketed as well as a list of any users to whom the Greensboro-Randolph Megasite shall not be marketed. Appropriate records shall be kept of meetings of the Steering Committee consistent with the North Carolina General Statutes.

8. **Selection of the User or Users to Whom the Greensboro-Randolph Megasite Shall be Made Available:** If and as expressions of interest in the Greensboro-Randolph Megasite are received from potential users during the Joint Marketing Period, the Steering Committee shall meet to discuss whether the Greensboro-Randolph Megasite or any portion thereof should be offered to such user and if so, the terms and conditions upon which the

Greensboro-Randolph Megasite or portion thereof should be offered to such user. Subject to the following paragraph, all decisions about the user or users to whom the Greensboro-Randolph Megasite Foundation or portions thereof shall be made available shall be made by the unanimous vote of the Owners' Representatives. Each owner shall be entitled to determine whether a potential user is acceptable to it and if so, the terms upon which such owner will make such owner's property or any portion thereof available to such potential user. Each of the County, the Megasite Foundation and NCRR hereby agree that their intent is as follows with respect to the approval and selection of a user of users to whom the Greensboro-Randolph Megasite shall be made available and the terms upon which the Greensboro-Randolph Megasite shall be made available: (a) the Greensboro-Randolph Megasite should be made available as a single megasite for use by a single user which user shall be a transformational manufacturer (such as an automobile manufacturer) or other high yield project and which user is willing to commit to construct and operate upon the site a "high yield project" as currently defined in NCGS Section 143B-437.51(6a) (hereinafter "a high yield project") and such user shall be an entity to whom the North Carolina Economic Investment Committee has made or is prepared to make a grant pursuant to NCGS Section 143B-437.52; (b) the Greensboro-Randolph Megasite should be made available as a part of an economic incentives package offered by state and local governmental units and economic development entities; and (c) if a potential user has selected the Greensboro-Randolph Megasite as its preferred location in North Carolina and such user is a transformational manufacturer or other high yield project who has committed to construct and operate upon the site a high-yield project and the North Carolina Economic Investment Committee has indicated a willingness to make a grant to such user pursuant to NCGS Section 143B-437.52 to induce the user to locate within the State, then the Greensboro-Randolph Megasite would, in the absence of compelling reasons not to do so, be made available to such potential user. The Greensboro-Randolph Megasite may be available to a user for sale or conveyance in fee simple or by ground lease. If the definition of "high yield project" is changed by the General Assembly or other material changes are made to NCGS Section 143B-437.51(6a), then the parties shall agree that the definition of 'high yield project" in such statute in effect as of the date of execution of this Agreement shall remain applicable rather than any amended definition, unless the parties hereto unanimously agree otherwise.

In the event that either NCRR and County or NCRR and Megasite Foundation agree to approve a user pursuant to the terms provided in this Section 8, but unanimous consent is not obtained, then the two parties who agree to the user ("Acquiring Parties") shall have the option to acquire from the objecting party any property which is necessary for conveyance or lease to the Megasite user. In such event, the Acquiring Parties shall provide written notice to the objecting party of their intention to acquire such property, which notice shall include that portion of the objecting party's property that is necessary to convey the property to the Megasite user. The objecting party shall then be obligated to convey such property to the Acquiring Parties or their designee at a price not to exceed the cost of the property to the objecting party to purchase such land, (including commissions and option fees), plus an increase of 1.5% per year (pro rata for any portion of such year from the original purchasing closing date to the sale closing date). The objecting party may, in addition, request reimbursement of its out-of-pocket costs associated with its property, which the Acquiring Parties shall consider in good faith. Closing shall be held at such time as designated by the Acquiring Parties, but in any event not later than thirty (30) days prior to the date such property is to be conveyed to the Megasite user. Notwithstanding the

foregoing, in the event the objecting party is the County, then the option rights of Megasite Foundation and NCRR shall be subject to any law which is applicable to the County which requires submitting the sale of the property to advertisement, bidding and upset bid process. In the event such process is required, the County shall promptly initiate the process and if the County receives a bid greater than the purchase price referenced above, then, unless otherwise prohibited by law, the Acquiring Parties shall have the right to increase their bid to become the highest bidder, in which event, as applicable, the upset bid process would continue. Once the upset bid process has completed and if the Acquiring Parties are determined to be the highest bidder, then a binding contract of purchase and sale shall be deemed to be in effect and closing shall take place as set forth above.

9. Terms On Which the Greensboro-Randolph Megasite Will be Made Available to Potential Users: Each of the County, the Megasite Foundation and NCRR acknowledge and agree that their purpose and intent in executing this Agreement and in owning, marketing and developing their respective properties pursuant to this Agreement is to create a megasite which will be made available to one or more transformational manufacturers or high yield projects as a part of a package or packages of State and local incentives designed to attract one or more transformational manufacturers or high yield projects to North Carolina and specifically to the Greensboro-Randolph Megasite. To that end, if the parties agree upon a user or users to whom the Greensboro-Randolph Megasite should be made available in whole or in part, then each of the County, the Megasite Foundation and NCRR will, to the extent permitted by the laws, regulations and legal requirements applicable to them (including without limitation federal and state income tax laws and regulations applicable to non-profit entities), endeavor to make the Greensboro-Randolph Megasite (or the applicable portion thereof and including the County Properties, the Megasite Foundation Properties, and the NCRR Properties) available to such user in such a manner and upon such terms so that: (a) the primary consideration and benefits to be received from such user or users will be (i) the benefits (including without limitation, any and all taxes and any and all other revenues of any sort as may be payable to the State, the County or any other governmental unit) expected to accrue to the State of North Carolina, the County, the City of Greensboro and other governmental units in the vicinity of the Greensboro-Randolph Megasite, and (ii) creation of jobs for citizens in the region; and (b) the user's or users' obligation to agree to pay monetary consideration will be minimized. Notwithstanding the foregoing, each of the County, the Megasite Foundation and NCRR shall be the sole determiner of the terms and conditions upon which it will agree to make its properties available to any potential user or users.

In the event a potential Megasite user is selected and only a portion of the Greensboro-Randolph Megasite is required for conveyance or lease to the Megasite user, then upon the completion of the transfer of such property to the Megasite user, this Agreement shall be deemed terminated and the provisions of Section 10 below shall apply and the owners of the remaining portion of the properties described herein shall be entitled to use, develop, and market such remaining property as each such owner determines, subject to the terms of Section 10, and any restrictions or conditions included within the conveyance or lease to the Megasite user.

10. Agreements if a User or Users Are Not Recruited to the Greensboro-Randolph Megasite Within the Joint Marketing Period: If the Joint Marketing Period

expires or is earlier terminated and any portion of the Greensboro-Randolph Megasite has not been conveyed, leased, transferred or otherwise made available to one or more users, then all of the following terms and provisions shall apply:

(a) The provisions of Sections 1, 3, 4, 5, 6, 7, 8, and 9 of this Agreement shall expire and terminate and shall be of no further force and effect;

(b) Subject only to the restrictions set forth in subsection (e) below, each party shall be entitled to market, develop, sell, lease, transfer or make its properties available to any party or parties in any manner and for any purposes as may be acceptable to such party and as one or more independent properties and not as a part of the Greensboro-Randolph Megasite;

(c) Each party shall cooperate with each other party in connection with the marketing, development and conveyance, lease or transfer of such other party's properties as independent properties and will upon request grant such easements for access to various streets and highways, easements for utilities, easements for storm-water drainage and easements for similar purposes as a party may reasonably request, provided that any such easement shall be in a location and of a nature that will not unreasonably interfere with the use or development of the tract across which the easement is to run. Each party shall cooperate with each other party in providing a connection to the main line of the railroad along Old Highway 421, currently operated by Norfolk Southern railway (including creation of a rail spur line) and will upon request grant such easements of such width and length that shall meet with such operator's and NCRR's requirements to ensure usable rail access and rail service and the rail operating rights related thereto;

(d) NCRR shall have the right and option, exercisable by written notice to the Megasite Foundation given no later than the one hundred twentieth (120th) day following the expiration or earlier termination of the Joint Marketing Period to purchase all, or any portion of the Megasite Foundation Properties then owned by the Megasite Foundation. If NCRR exercises its option to purchase: (i) the purchase price to be paid to the Megasite Foundation for such Megasite Foundation Properties shall be an amount equal to the total purchase prices paid by the Megasite Foundation for the applicable Megasite Foundation Properties plus commissions and costs of acquisition plus interest to the date of the consummation of NCRR's purchase of such properties at the per annum rate of 1.5 percent (1½%); (ii) the closing of the sale of the Megasite Foundation Properties to NCRR shall be held within ninety (90) days of NCRR's notice to the Megasite Foundation of its exercise of the option; and (iii) at such closing the Megasite Foundation shall convey the applicable Megasite Foundation Properties to NCRR by general warranty deed free and clear of all deeds of trust, liens and monetary encumbrances and subject to only: (i) such matters of record as existed at the time said property was acquired by Megasite Foundation, (ii) the restrictive covenants referenced in subparagraph (e) below, and any other matters of record for which NCRR has provided its written consent.

In addition, NCRR shall also have a right of first refusal to acquire any property owned by Megasite Foundation, such right of first refusal to expire five (5) years after expiration or earlier termination of the Joint Marketing Period. In the event Megasite Foundation elects to sell and receives a bona fide letter of intent or purchase agreement, then Megasite Foundation shall provide written notice of same to NCRR and NCRR shall have a period of thirty (30) days thereafter to elect whether to acquire such property pursuant to the terms of the letter of intent or purchase agreement. If NCRR elects to acquire such property, then NCRR and Megasite Foundation shall enter into a purchase agreement in a commercially reasonable form for the consummation of such sale. In the event NCRR does not exercise its right of first refusal, then Megasite Foundation may sell the property to the third party offeror, provided that if such sale is not consummated within six (6) months after notice is given to NCRR, then the right of first refusal shall continue and remain in full force and effect as to any future sale. NCRR and Megasite Foundation shall record a memorandum of option and right of first refusal relating to the rights conveyed in this subparagraph 10(d).

Notwithstanding the foregoing right of first refusal, Megasite Foundation may elect to donate, at the end of the Joint Marketing Period, the Megasite Foundation Properties to County. In the event Megasite Foundation elects to make such donation, the Megasite Foundation shall provide written notice to NCRR and NCRR shall have a period of sixty (60) days thereafter to provide a donee organization affiliated with NCRR, to which Megasite Foundation would be authorized the donate the Megasite Foundation Properties. In the event NCRR provides an acceptable donee entity, then Megasite Foundation shall make the donation of the Megasite Foundation Properties to such entity. In the event that NCRR does not provide an acceptable donee entity, the NCRR shall have the right to elect to purchase the Megasite Foundation Properties upon the same terms and conditions as provided in the first paragraph of this Section (d).

(e) NCRR shall have the right and option, exercisable by written notice to the County given not later than the 180th day following the expiration or earlier termination of the Joint Marketing Period to purchase all, or any portion of the County properties then owned by the County. In the event NCRR exercises its option to purchase: (i) the purchase price to be paid to the County for such County properties shall be an amount equal to the total purchase price paid by the County for the applicable County properties plus commissions and costs of acquisition plus interest to the date of the consummation of NCRR's purchase of such properties at the per annum rate of 1.5 percent (1½%); (ii) the closing of the sale of the County properties to NCRR shall be held within ninety (90) days of NCRR's notice to the County of its exercise of the option; and (iii) at such closing the County shall convey the applicable County properties to NCRR by general warranty deed free and clear of all deeds of trust, liens and monetary encumbrances and subject to only to: (A) such matters of record as existed at the time said property was acquired by County, (B) the restrictive covenants referenced in Section 5, and (C) any other matters of record for which NCRR has provided its written consent. Notwithstanding the foregoing, NCRR shall be subject to any law which is applicable to the County which requires submitting the sale of the property to advertisement, bidding and upset bid process. In the event such process is required, the County shall promptly

initiate the process and if the County receives a bid greater than the purchase price referenced above, then, unless otherwise prohibited by law, NCRR shall have the right to increase its bid to become the highest bidder, in which event, as applicable, the upset bid process would continue. Once the upset bid process has completed and if NCRR is determined to be the highest bidder, then a binding contract of purchase and sale shall be deemed to be in effect and closing shall take place as set forth above.

(f) The terms and provisions of this paragraph 10 shall survive the termination or earlier expiration of the Joint Marketing Period for a period of three (3) years (except for subparagraph 10(d) which shall survive for a period of five (5) years as specifically set forth therein).

11. No Partnership or Joint Venture: The provisions of this Agreement are not intended to create a partnership or joint venture among the County, the Megasite Foundation and the NCRR for any purpose and no partnership or joint venture shall be implied from the provisions of this Agreement or from the parties' pursuit of the activities contemplated herein. No party shall be the agent of any other party for any purpose and no party shall have any authority to bind or obligate any other party for any purpose or in any way or to bind, encumber or otherwise commit any of the property belonging to any other party.

12. No Obligation to Expend Funds for Any Purpose: Notwithstanding any other provision hereof, none of the County, the Megasite Foundation or NCRR shall be obligated by the execution of this Agreement (whether expressly or by implication) to pay any costs or expenses incurred in connection or associated with the marketing, development or enhancement of the Greensboro-Randolph Megasite or to reimburse any other party hereto for any portion of any such costs or expenses as may be paid by such other party. Each party shall have the right to determine whether it will expend any funds or pay any costs or expenses associated with the Greensboro-Randolph Megasite and, if so, the amount it will expend or agree to pay.

13. County Conveyance of Easement to NCRR: County agrees to convey an easement for construction and operation of an extension of the railroad line from the existing railroad line to the NCRR Property. The form and description of the easement is attached hereto as Schedule 5.

14. Default and Remedy: In the event of a default by any party herein of its obligations set forth in this Agreement, then any other party shall provide written notice of such default and the defaulting party shall have a period of thirty (30) days to cure the default, provided that if the default cannot be cured within thirty (30) days, the defaulting party shall have such additional time as is required to cure the default provided the defaulting party promptly commences and diligently pursues efforts to cure the default. In the event of a default, any non-defaulting party shall have such remedies as allowed by law or in equity, including without limitation the remedies of specific performance and injunctive relief.

15. Miscellaneous Provisions: The County, the Megasite Foundation and NCRR agree to the following additional provisions and terms:

(a) None of the parties may assign its rights or obligations under this Agreement without the prior written consent of the other two parties, and any such prohibited assignment shall be void. Notwithstanding the foregoing, NCRR shall have the right to assign its rights hereunder and the ownership of the NCRR Properties to a wholly owned affiliate without the consent of any other parties. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors, assigns and respective legal representatives of the parties.

(b) If any provision, term or portion of this Agreement is held invalid, inoperative or unenforceable, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and enforceable, and, to the greatest extent legally possible, effect shall be given to the intent manifested by the portion held invalid or inoperative.

(c) This Agreement shall, in all respects, be governed, construed, applied and enforced in accordance with the laws of the State of North Carolina.

(d) This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary or otherwise.

(e) This Agreement sets forth the entire agreement among the parties and supersedes all prior agreements and understandings among the parties relating to the properties comprising the Greensboro-Randolph Megasite and to the development and marketing of the Greensboro-Randolph Megasite. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

(f) The parties shall execute and record in the Office of the Register of Deeds of Randolph County, North Carolina a memorandum of this agreement sufficient to provide record notice of the contents hereof and otherwise in a form and content acceptable to the parties.

(g) All notices required or permitted hereunder shall be in writing and shall be delivered to the parties at the addresses set forth below. Any such notices shall be sent by: (a) overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by facsimile or e-mail, in which case notice shall be deemed delivered upon transmission of such notice, or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices shall be for information purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to the Megasite Foundation shall be deemed given by the Megasite Foundation, notices given by counsel to NCRR shall be

deemed given by NCRR, and notices given by counsel to the County shall be deemed given by the County.

Address for the Megasite Foundation:

Greensboro-Randolph Megasite Foundation, Inc.
324 W. Wendover Avenue, Suite 207
Greensboro, North Carolina 27408
Attention: E.S. Melvin

Address for NCRR:

North Carolina Railroad Company
2809 Highwoods Boulevard, Suite 100
Raleigh, North Carolina 27604
Attention: Scott Saylor, President

Address for Randolph County:

Randolph County
_____
Asheboro, North Carolina _____
Attention:_____

(h) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by facsimile or e-mail counterparts of the signature pages.

(i) Whenever the approval or consent of a party is required, such approval shall not be unreasonably withheld, delayed or conditioned and shall be deemed approved if no response is given within fifteen (15) days after receipt of written request for approval.

IN WITNESS WHEREOF, **RANDOLPH COUNTY,** the **GREENSBORO-RANDOLPH MEGASITE FOUNDATION, INC.** and the **NORTH CAROLINA RAILROAD COMPANY** have executed this Agreement as of the date set forth in the introductory paragraph above.

RANDOLPH COUNTY

By: _____
Name: _____
Title: _____

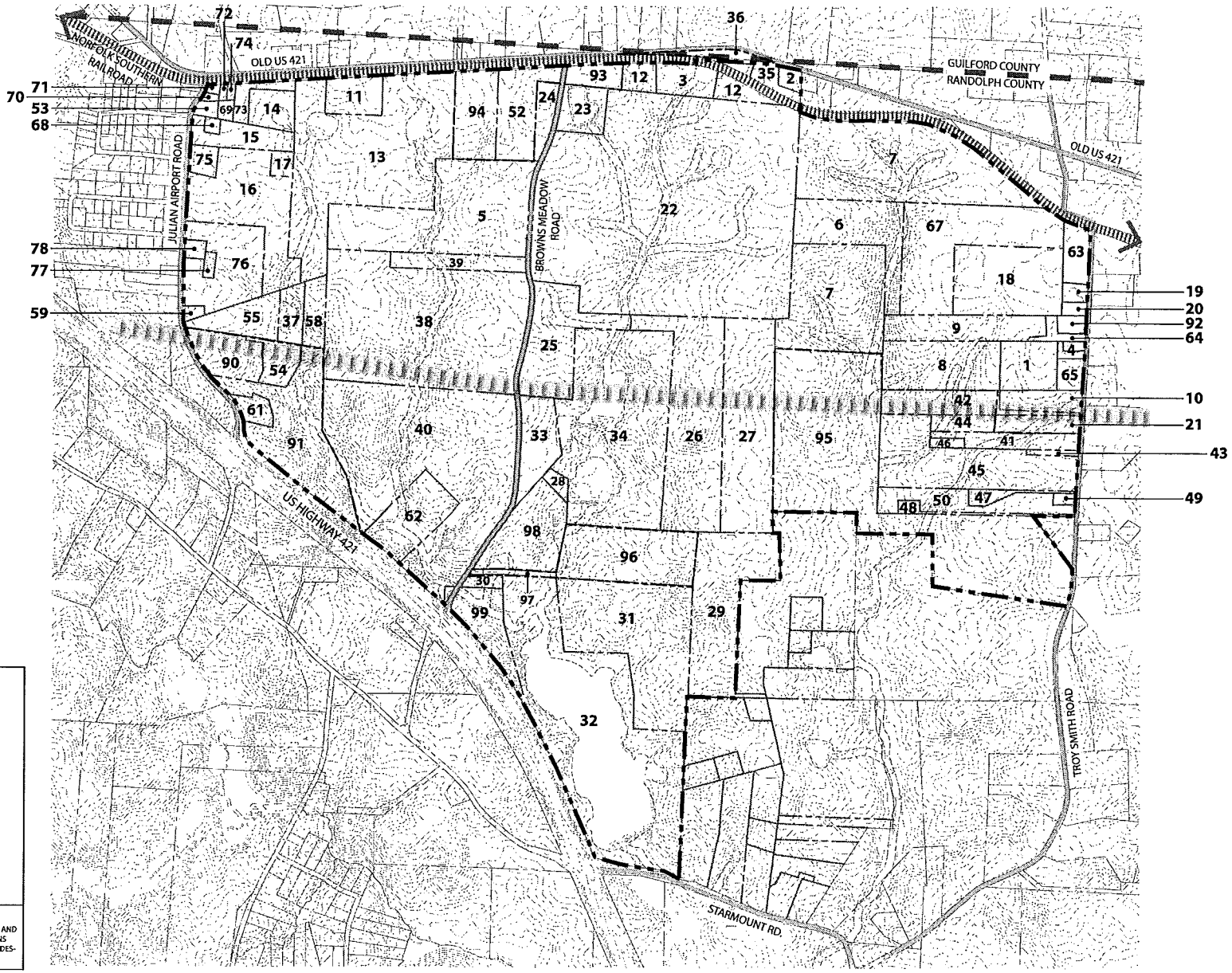
GREENSBORO-RANDOLPH MEGASITE FOUNDATION, INC.

By: _____
Name: E. S. Melvin
Title: President

NORTH CAROLINA RAILROAD COMPANY

By: _____
Name: Scott Saylor
Title: President

EXHIBIT A



PLAN KEY:

- OVERALL SITE BOUNDARY
- NORFOLK SOUTHERN RAILROAD
- EXISTING ROAD
- DUKE ENERGY POWER LINE

DISCLAIMER:

THIS IS A PRELIMINARY CONCEPT PLAN BASED ON LIMITED INFORMATION AND THEREFORE MAY NOT REFLECT FINAL SITE CONDITIONS. FINAL CONDITIONS AND SITE LAYOUT MAY CHANGE SIGNIFICANTLY. FINAL BLUELINE STREAM DESIGNATIONS ARE TO BE DETERMINED BY THE ARMY CORPS OF ENGINEERS.

EXHIBIT A

ColeJenest & Stone

GREENSBORO - RANDOLPH MANUFACTURING SITE

PARCEL ACTIVITY

Project No. 50402 Issued: 02.17.16

SCALE: 1" = 500'
0 250 500 1000

EXHIBIT B

RIGHT OF ENTRY and INDEMNITY AGREEMENT (_____ ACRES)

THIS RIGHT OF and INDEMNITY ENTRY AGREEMENT ("Agreement") is by and between _____, a _____ [state] _____ [entity type] ("Owner"), and _____, a _____ [state] _____ [entity type] ("Entrant"). Entrant and Owner may individually be referred to as a "Party" or collectively as the "Parties." This Agreement commences on the later of the execution dates set forth below the signatures (the "Commencement Date").

1. In consideration of the mutual benefits and obligations set forth herein, Owner grants to Entrant and Entrant's employees, agents, and contractors a non-exclusive right of entry for ingress and egress to the Property (as defined in **Exhibit A** attached hereto) for the limited purpose of inspection and testing. The rights granted hereunder shall be deemed to include access to rights-of-way, private roads and other areas on the Property as reasonably required for the purpose set forth above.

2. The term of this Agreement commences on the Commencement Date and shall remain in full force and effect for a period of _____ (___) days ("Term").

3. Prior to entry onto the Property, Entrant shall provide to Owner evidence of commercial general liability insurance, with limits of not less than Two Million Dollars ($2,000,000) combined single limit per occurrence for bodily injury, sickness or death, and property damage, reflecting Owner as an additional insured.

4. Entrant and Entrant's employees, agents, and contractors shall not use, store, transfer or dispose of any hazardous materials or hazardous substances on the Property.

5. Entrant hereby agrees to indemnify and hold harmless Owner from any loss, cost, liability, damage, or expense incurred by Owner due to the entry on the Property by Entrant, its agents and contractors.

6. This Agreement may be freely assigned by either Party, provided that the assignee agrees to be bound by all of the terms and conditions hereof. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors, legal representatives and assigns.

7. Owner reserves the right to grant other licenses, easements on or rights of access to the Property.

8. This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart together shall constitute one and the same instrument.

9. This Agreement shall be construed in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, Owner and Entrant have executed this Agreement on the dates set forth below.

OWNER:

_____,
a _____ _____

By: _____
Printed Name: _____
Title: _____
Date: _____

ENTRANT:

_____,
a _____ _____

By: _____
Printed Name: _____
Title: _____
Date: _____

EXHIBIT A

_____ **ACRES:** Randolph County Tax Parcel No. _____

EXHIBIT C

Prepared by:
Ellis & Winters LLP (MGW)
4131 Parklake Avenue, Suite 400
Raleigh, North Carolina 27612

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (this "Declaration") is made and entered into as of _____, 2016 by and among **RANDOLPH COUNTY,** a North Carolina county and governmental body (the "**County**"), the **NORTH CAROLINA RAILROAD COMPANY**, a North Carolina corporation ("**NCRR**"); and **GREENSBORO-RANDOLPH MEGASITE FOUNDATION, INC.**, a not for profit corporation organized and existing under the laws of North Carolina (the "**Foundation**").

RECITALS:

Pursuant to the terms of that certain Greensboro-Randolph Megasite Project Agreement, the County (the "Megasite Project Agreement"), NCRR and the Foundation subject the hereinafter described properties to the terms, covenants, restrictions and conditions of this Declaration.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County, NCRR and the Foundation agree as follows:

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings (such meanings to be applicable to both the singular and plural forms of the terms defined):

"**Ancillary Use**" shall mean a use that is customarily incidental and subordinate to the principal use and conducted entirely on the same property utilized for the principal use.

"**Building Improvements**" shall mean and include the main portion of a structure built for permanent use and intended for occupancy, and all projections or extensions thereof, including, but not limited to, garages, outside platforms and docks, carports, canopies, enclosed malls, and porches.

"**Common Boundary**" shall mean any perimeter boundary of the County Tract, the Foundation Tract or the NCRR Tract which is a common boundary of, or otherwise abuts (disregarding existing street rights of way, and any strips or gores) a perimeter boundary of one of the other two Tracts.

"**County Tract**" shall mean all of that certain real property located in Randolph County, North Carolina and more particularly described on Exhibit A, attached hereto and incorporated herein by this reference, together with any other real property within the Target Zone acquired by the County prior to the expiration or earlier termination of the Joint Marketing Period.

"**Declarant**" shall mean and refer to any one of (i) the County or its Successor Declarant for so long as the County or its Successor Declarant, as the case may, shall continue to own any portion of the County Tract, (ii) NCRR or its Successor Declarant for so long as the NCRR or its Successor Declarant, as the case may, shall continue to own any portion of the NCRR Tract, or (iii) the Foundation or its Successor Declarant for so long as the Foundation or its Successor Declarant, as the case may, shall continue to own any portion of the Foundation Tract, and "**Declarants**" shall mean and refer to two or more of such entities.

"**Declarant Approval Period**" shall mean and refer to the period of time extending from the date this Declaration is initially recorded in the Registry, until such time as there are no Declarants.

"**Foundation Tract**" shall mean all of that certain real property located in Randolph County, North Carolina and more particularly described on Exhibit B, attached hereto and incorporated herein by this reference, together with any other real property within the Target

Zone acquired by the Foundation prior to the expiration or earlier termination of the Joint Marketing Period.

"**Improvement**" means and includes every structure and all appurtenances thereto of every kind and type, including, but not be limited to, the following facilities or activities, whether of a permanent or temporary nature: any and all Building Improvements, out buildings, streets, roads, access roads, driveways, sidewalks, walkways, pedestrian malls, bike paths, running or jogging paths, ways or trails, traffic control devices and signs, parking structures and garages, parking lots and other parking areas, loading areas, signs, canopies, awnings, trellises, fences, plazas, patios, shelters, security and safety devices, bridges, construction trailers and other temporary construction outbuildings, screening walls, retaining walls, stairs, decks, benches and other exterior furniture, hedges, windbreaks, plantings, planted trees and shrubs, poles, exterior air conditioning, heating or air-handling equipment, aerials, antennas, lighting fixtures, drainage structures, communications equipment, satellite transmitting and/or receiving ground stations, poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, internet service, or other utilities.

"**Joint Marketing Period**" shall have the meaning established in the Megasite Project Agreement. As of the date this Declaration is recorded in the Registry, the Joint Marketing Period is in effect. Upon the expiration or earlier termination of the Joint Marketing Period, the Declarants shall record a supplement to this Declaration specifying the date of such expiration or earlier termination.

"**NCRR Tract**" shall mean all of that certain real property located in Randolph County, North Carolina and more particularly described on Exhibit C, attached hereto and incorporated herein by this reference, together with any other real property within the Target Zone acquired by NCRR prior to the expiration or earlier termination of the Joint Marketing Period.

"**Prohibited Uses**" shall mean and refer to any of the following uses: residential uses; day cares or preschools, except as an Ancillary Use; primary or secondary schools, whether public or private; parks, gymnasiums or athletic fields, except as an Ancillary Use; churches, community centers, clubs and lodges; boarding or rooming houses; hospitals, nursing homes, convalescent homes, or continuing care communities; adult establishments (which shall include any bar, massage parlor, nightclub, tavern or lounge featuring adult entertainment and any establishment which sells or rents "adult" or pornographic books, videos or other materials); tattoo or "skin art" parlors; automobile race track; funeral homes, cemeteries, mausoleums, funeral homes or crematoriums, or establishments for the purpose of performing autopsies, embalming or cremation; landfills; outdoor amusements, such as carnivals, drive-in theaters, fairgrounds or outdoor arcades; junk or salvage yards; wrecking yards; flea markets; quarry or mining operations; sand, gravel, stone or petroleum extractions; swine farms; billboards and other off-premises outdoor advertising (as distinguished from on or off-premises directional signage).

"**Properties**" shall mean and refer to all of the Tracts, collectively.

"**Registry**" shall mean the Office of the Register of Deeds, Randolph County, North Carolina.

"**Successor Declarant**" shall mean any entity that is wholly owned by a Declarant (but only for so long as the entity continues to be wholly owned by such Declarant), succeeds to all of the remaining interest of such Declarant in any portion of the Properties, and to which the rights of Declarant hereunder have been transferred pursuant to an express assignment recorded in the Registry.

"**Target Zone**" shall mean and refer to the property located in Randolph County, North Carolina and depicted on the map attached hereto as Exhibit D, which property as shown is bounded by Starmount Road, Troy Smith Road, Old US 421, Julian Airport Road and US Highway 421.

"**Tract**" shall mean and refer to any one of the County Tract, the Foundation Tract or the NCRR Tract and "Tracts" shall mean and refer to two or more of such tracts.

ARTICLE II
USE RESTRICTIONS

Section 2.1. General Use Restrictions. Except as otherwise provided in Section 2.2 below, use of the Properties shall be restricted to commercial, manufacturing, industrial, retail and office uses, provided however, no portion of the Properties may be used for any of the Prohibited Uses.

Section 2.2. Limited Permitted Residential Use. Notwithstanding the provisions of Section 2.1 above, however, with respect to each portion of the Properties currently used for residential purposes, such residential use may continue until the earlier to occur of any one of the following events: (i) any cessation of the active use of such property for residential purposes for a continuous period three (3) months; or (ii) the expiration or earlier termination of the Joint Marketing Period.

ARTICLE III
BUILDING RESTRICTIONS

Section 3.1. Common Boundary Buffer Area. Upon the expiration or earlier termination of the Joint Marketing Period, a "Common Boundary Buffer Area" extending thirty-five (35) feet on either side of all Common Boundaries automatically shall come into effect. The Declarants shall execute and cause to be recorded in the Registry a notice of expiration or termination, as the case may be, of the Joint Marketing Period, but the failure of the Declarants to record such a notice shall not affect the establishment of Common Boundary Buffer Areas as herein provided. Except as otherwise provided in Section 3.3 below, the only uses permitted within a Common Boundary Buffer Area are the installation, repair and replacement of underground utilities, and except for Improvements relating to such use or as permitted pursuant to Section 3.3, no Improvements shall be erected, placed, maintained or permitted to remain

within a Common Boundary Buffer Area; provided, however, that any use or Improvement within a Common Boundary Buffer Area existing at the time such Common Boundary Buffer Area is established shall be permitted to continue or remain, as the case may be, until such time as construction of any new Building Improvements is commenced on the property of which such Common Boundary Buffer Area is a part.

Section 3.2. **Disturbance of Common Boundary Buffer Area**. Following any disturbance of the existing state (whether vegetative or improved) of any portion of a Common Boundary Buffer Area, the disturbed portions of the Common Boundary Buffer Area shall be restored with the installation of at least one row of fast growing evergreen trees (a minimum of four (4) feet in height at the time of planting) evenly spaced ten (10) feet apart.

Section 3.3. **Use of Common Boundary Buffer Area.** With the written consent of the owner(s) of each portion or portions of the Properties that abut (disregarding street rights of way, and any strips or gores) a Common Boundary Buffer Area ("Abutting Owner"), in the sole discretion of such Abutting Owner, roadway improvements may be constructed within a Common Boundary Buffer Area, but in such event the Common Boundary Buffer Area shall be extended to include an additional area equal to the area of the Common Boundary Buffer Area on which such roadway improvements are to be located, such extended area to be specifically described in an instrument recorded in the Registry, executed by the owner of the Common Boundary Buffer Area, as extended, and the Abutting Owner.

Section 3.4. **Building Improvement Setbacks**. No Building Improvement shall be located on any portion of the Properties within fifty (50) feet of a Common Boundary Buffer Area, as the same may be extended pursuant to Section 3.3 above.

ARTICLE IV
GENERAL TERMS

Section 4.1. Binding Effect. This Declaration and all of the provisions hereof are and shall be real covenants running with the Properties, however further subdivided or reconfigured, and shall burden and bind the Properties for the duration hereof. This Declaration shall be binding on all persons or entities having any right, title, or interest in all or any portion of the property now or hereafter subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof. To that end, this Declaration shall be deemed incorporated in all deeds and conveyances of the Properties hereinafter made and every person or entity acquiring or holding any interest or estate in any portion of the Properties shall take or hold such interest or estate subject to the terms and provisions of this Declaration. Each purchaser or grantee of any interest in any real property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance thereof, thereby agrees that the conditions, covenants, restrictions and reservations of this Declaration may be extended, terminated, amended or withdrawn as provided herein.

Section 4.2. Duration, Extension and Termination. The provisions of this Declaration shall run with and bind title to the Properties, shall be binding upon and inure to the benefit of the parties hereto their respective heirs, executors, legal representatives, successors, and assigns. The provisions of Article II of this Declaration shall be and remain in effect until the twentieth (20th) anniversary of the first recording of the Declaration in the Registry, whereupon such provisions shall automatically be extended for successive periods of ten (10) years each until such time as the owners of at least seventy percent (70%) of the total acreage of the Properties, and during the Declarant Approval Period, each Declarant, execute and cause to be recorded in the Registry an instrument providing for the termination and abolishment of such provisions; provided, however, that no such instrument providing for the termination and abolishment of the provisions of Article II of this Declaration shall be effective unless made and recorded at least one (1) year in advance of the effective date of such termination and abolition. Any Common Boundary Buffer Area and the restrictions applicable to each such area as established and provided in Article III of this Declaration may at any time be terminated with the consent and approval of the owners of both the property burdened and the property benefitted by such buffer area and, during the Declarant Approval Period, the consent and approval of each Declarant.

Section 4.3. Amendment; Withdrawal of Property. The provisions of Article II of this Declaration may be amended from time to time by an instrument placed of record in the Registry and executed by the owners of at least seventy percent (70%) of the total acreage of the Properties, and during the Declarant Approval Period, by each Declarant. Provided, however, that if an amendment to the provisions of Article II hereof shall cause any than existing permitted use of any portion of the Properties to be in violation of this Declaration as amended, as to that portion of the Properties so used, such then existing permitted use shall be permitted and allowed to continue for so long as that use of such property continues. The location of any Common Boundary Buffer Area and the restrictions applicable thereto as provided in Article III hereof may be modified or amended at any time with the consent and approval of the owner(s) of the property on which the Common Boundary Buffer Area is located and the Abutting Owner,

provided however that during the Declarant Approval Period, the consent and approval of each Declarant also shall be required. In addition, during the Declarant Approval Period, the Declarants, by recording in the Registry an instrument signed by all of the Declarants, shall have the power and authority to reduce the width of any Common Boundary Buffer Area by up to thirty percent (30%). Prior to the twentieth (20th) anniversary of the first recording of the Declaration in the Registry, portions of the Properties may be removed from the encumbrance of the provisions of this Declaration by an instrument placed of record in the Registry and executed (i) by all Declarants, if any, and (ii) by the owner(s) of the property to be removed if not owned by a Declarant; provided, however, that regardless of such removal, any existing Common Boundary Buffer Area(s) located on the property to be removed shall remain in effect and shall continue to be subject to the provisions of Section 3.1, 3.2 and 3.3 hereof, as the same may be modified, amended or terminated in accordance with the terms hereof. No such removal of property shall give rise to the creation of any new Common Boundary Buffer Areas on the remaining portions of the Properties.

Section 4.4. Extension of Agreement to After Acquired Property. Each Tract, and by extension, the Properties, is defined to include any additional property within the Target Zone acquired by a Declarant prior to the expiration or earlier termination of the Joint Marketing Period. The imposition of this Declaration on any such after-acquired property shall occur automatically upon a Declarant's acquisition of title. In order to provide record notice of the imposition of this Declaration within the chain of title of such after-acquired property, contemporaneously with any acquisition of additional property within the Target Zone, the acquiring Declarant shall execute (without the requirement that the other Declarants join in such execution) and record in the Registry an instrument that expressly subjects such additional property to the terms of this Declaration in a manner so as to bind subsequent owners of such property.

Section 4.5. Miscellaneous.

(a) This Declaration concerns real property located in the State of North Carolina and shall be governed by and interpreted in accordance with the laws of the State of North Carolina. The venue for any action or suit brought relating to this Declaration or the enforcement of any provisions hereof shall be Randolph County, North Carolina.

(b) Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

(c) This Declaration may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement.

[Execution Pages Follows]

IN WITNESS WHEREOF, **RANDOLPH COUNTY**, being one of the Declarants to this DECLARATION RESTRICTIVE COVENANTS, has caused this instrument to be executed as of the date set forth in the introductory.

RANDOLPH COUNTY

By: _____
Name: _____
Title: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

_____, as _____ of **RANDOLPH COUNTY**.

DATE: _____, 2016

_____
Signature of Notary Public

[NOTARY PUBLIC STAMP OR SEAL]

Printed Name: _____
My Commission expires: _____

IN WITNESS WHEREOF, **GREENSBORO-RANDOLPH MEGASITE FOUNDATION, INC.**, a North Carolina non-profit corporation, being one of the Declarants to this DECLARATION RESTRICTIVE COVENANTS, has caused this instrument to be executed as of the date set forth in the introductory.

GREENSBORO-RANDOLPH MEGASITE FOUNDATION, INC.

By: _____
Name: E. S. Melvin
Title: President

STATE OF NORTH CAROLINA
COUNTY OF _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

E. S. Melvin, as President of **GREENSBORO-RANDOLPH MEGASITE FOUNDATION, INC.**, a North Carolina non-profit corporation.

DATE: _____, 2016

_____
Signature of Notary Public

[NOTARY PUBLIC STAMP OR SEAL]

Printed Name: _____
My Commission expires: _____

IN WITNESS WHEREOF, **NORTH CAROLINA RAILROAD COMPANY**, a North Carolina corporation, being one of the Declarants to this DECLARATION RESTRICTIVE COVENANTS, has caused this instrument to be executed as of the date set forth in the introductory.

NORTH CAROLINA RAILROAD COMPANY,
a North Carolina corporation

By: _____
Scott M. Saylor, President

STATE OF NORTH CAROLINA
COUNTY OF _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Scott M. Saylor, as President of NORTH CAROLINA RAILROAD COMPANY, a North Carolina corporation.

DATE: _____, 2016

_____
Signature of Notary Public

[NOTARY PUBLIC STAMP OR SEAL]

Printed Name: _____
My Commission expires: _____

975677

Schedule 1
List of County Properties

	Current Property Owner	Attached Map Lot Reference	Acres	Property Address	PIN	Bk / Pg
1.	Randolph County	1	10.67	0 Kimrey Lane	8718805301	2436 / 460
2.	Randolph County	2	2.2	8169 Old 421 Rd	8718534909	2436 / 463
3.	Randolph County	3	7.78	5184 Orange Blossom Dr	8718337986	2436 / 465
4.	Randolph County	4	2.0	5463 Troy Smith Rd	8718900561	2436 / 469
5.	Randolph County	5	50.0	5777 Browns Meadow Rd	8718029180	2436 / 856
6.	Randolph County	6	22.54	0 Browns Meadow Rd	8718622185	2436 / 858
7.	Randolph County	7	100.00	0 Old 421 Rd 0 NR Old 421 Rd	8718629905 8718519048	2436 / 1042
8.	Randolph County	8	22.16	5585 Kimrey Lane	8718703247	2438 / 1075
9.	Randolph County	9	15.2	5587 Kimrey Lane	8718706850	2438 / 1078
10.	Randolph County	10	6.87	5642 Kimrey Lane	8717895776	2438 / 1082
11.	Randolph County	11	7.95	8807 Old 421 Rd	8708937765	2439 / 1205
12.	Randolph County	12	7.76	5301 Orange Blossom Dr 0 Orange Blossom Dr	8718435778 8718333976	2439 / 1201
13.	Randolph County	13	77.09	8805 Old 421 Rd	8708929917	2451 / 327
14.	Randolph County	14	6.7	4683 Iron Horse Trail	8708836406	2452 / 1262
15.	Randolph County	15	8.97	5990 Julian Airport Rd	8708832126	2452 / 1258
16.	Randolph County	16, 17	34.6	5938 Julian Airport Rd	8708822458	2456 / 771
17.	Randolph County	18	33.46	5682 Macedonia Loop Rd	8718812478	2455 / 632
18.	Randolph County	19, 20	1.38 1.91	5515 Troy Smith Rd 0 Troy Smith Rd	8718900964 8718910164	2452 / 1260
19.	Randolph County	21	5.72	5353 Troy Smith Rd	8717895590	2451 / 323
	Total Acreage:		**424.96**			

Schedule 2
List of NCRR Properties

	Current Property Owner	Attached Map Lot Reference	Acres	Property Address	PIN	Bk / Pg
1.	Greensboro-Randolph Megasite Foundation, Inc.	62	16.00	5303 Browns Meadow Rd (former Wicker Property)	8717084158	2472 / 379
2.	Blakley Family, LLC	22	197.38	0 Browns Meadow Rd	8718326247	2149 / 591
3.	Blakley Family Trust & Blakley survivor's Trust	23	8.03	5892 Browns Meadow Rd	8718237518	2264 / 824
4.	Blakley Family Trust & Blakley Survivor's Trust	24	4.87	5915 Browns Meadow Rd	8718232522	2264 / 816
5.	Dexter & Sandra Blakley Survivor's Trust	25	24.67	0 Browns Meadow Rd	8718203615	2156 / 806
6.	Blakley Family Trust & Blakley survivor's Trust	26	47.90	0 Browns Meadow Rd	8717491558	2264 / 812
7.	Blakley Family Trust & Blakley Survivor's Trust	27	43.50	0 Browns Meadow Rd	8717498573	2264 / 820
8.	Dexter & Sandra Blakley Survivor's Trust	28	1.70	5252 Three Lakes Dr	8717283760	2156 / 810
9.	Blakley Family Trust & Blakley survivor's Trust	29	36.74	0 Hoots Hollow Rd	8717475282	2264 / 832
10.	Dexter & Sandra Blakley Survivor's Trust	30	2.10	5248 Browns Meadow Rd	8717173435	2001 / 2823
11.	Blakley Family Trust & Blakley survivor's Trust	31	51.70	0 Hoots Hollow Rd	8717364737	2264 / 828
12.	Dodson Lake Inc	32	107.27	5990 Starmount Rd	8717257655	1442 / 1101
13.	Salamander Holdings LLC	33	11.78	0 Browns Meadow Rd	8717290473	1817 / 3168
14.	Three Lakes Club Inc.	34	77.00	5331 Three Lakes Dr	8717392106	1727 / 2144
15.	Michael Brown, Roger Brown, Stephen Brown, & Johnnie Greeson Brown	38	92.90	5545 & 5569 Browns Meadow Rd	8718006776	2323 / 674
16.	Stephen Brown	39	8.00	5691 Browns Meadow Rd	8718019509	1239 / 260
17.	Michael P. DeMaria	40	97.79	5373 Browns Meadow Rd	8717097208	2000 / 1121
18.	Janet Norrell	98	20.10	5368 Browns Meadow Rd	8717280026	1136 / 536
19.	Janet Norrell	99	13.30	0 Browns Meadow Rd	8717164916	1070 / 611
	Total Acreage:		**862.73**			

Schedule 3
Properties Owned By The Megasite Foundation

	Current Property Owner	Attached Map Lot Reference	Acres	Property Address	PIN	Bk / Pg
1.	Greensboro-Randolph Megasite Foundation, Inc.	73	3.67	4653 Iron Horse Trail	8708836808	2463 /920
2.	Greensboro-Randolph Megasite Foundation, Inc.	69	1.10	4634 Iron Horse Trail	8708830438	2464 / 1060
3.	Greensboro-Randolph Megasite Foundation, Inc.	35	4.18	0 Old 421 Road	8718540083	2436 / 836
4.	Greensboro-Randolph Megasite Foundation, Inc.	53	1.35	4622 Iron Horse Trail	8708737571	2472 / 1001
5.	Greensboro-Randolph Megasite Foundation, Inc.	59	1.02	5700 Julian Airport Rd	8708706808	1214 / 1968
6.	Greensboro-Randolph Megasite Foundation, Inc.	64	2.41	5469 Troy Smith Rd	8718807740	2474 / 1657
7.	Greensboro-Randolph Megasite Foundation, Inc.	65	3.30	0 Troy Smith Rd	8718809167	1921 / 224
8.	Greensboro-Randolph Megasite Foundation, Inc.	76	22.27	5744 Julian airport Rd	8708812608	2474 / 1761
9.	Greensboro-Randolph Megasite Foundation, Inc.	92	2.11	5487 Troy Smith Rd	8718809618	2480 / 1144
10.	Greensboro-Randolph Megasite Foundation, Inc.	36	1.2	7060-7080 Old 421 Road	8718446157 (Guilford County)	7690 / 1891 *
	Total Acreage:		**42.61**			

*Guilford County

Schedule 4
List of Properties To Be Acquired By The Megasite Foundation

	Current Property Owner	Attached Map Lot Reference	Acres	Property Address	PIN	Bk / Pg
1.	Phillip W. Neal and Martha L. Neal	37	5.33	4635 Crutchfield Farm Rd	8708808779	1245 / 1169
2.	Terence N. Hildebrand and Debra M. Hildebrand	55	10.66	4593 Crutchfield Farm Rd	8708800779 8708805737	2021 / 2460 1448 / 1057
3.	Alan B. Currin and Amber C. Currin	58	5.50	4655 Crutchfield Farm Rd	8708901767	1813 / 3902
4.	Able Swordplay, LLC	63	6.19	5593 Troy Smith Rd	8718911708	2371 / 166
5.	Ellen O'Briant Burwell and James H. Burwell	67	33.39	5680 Macedonia Loop Rd; 0 Macedonia Loop Rd; 0 Macedonia Loop Rd	8718821157 8718712763 8718820192	2349 / 489 2349 / 494 2407 /23
6.	Gertrude J. Caviness	68	1.00	6054 Julian Airport Rd	8708738300	1037 /209
7.	Donna Smith Johnson	70	.53	4621 Iron Horse Trail	8708738605	1915 / 146
8.	Alejandra Salinas Garcia	72	.45	0 Julian Airport Rd	8708739791	2405 / 849
9.	Jose Socorro Garcia	74	.50	4639 Iron Horse Trail	8708830791	2245 /1192
10.	Allen L. Perkins	75	3.40	5950 Julian Airport Rd	8708727822	2474 /1510
11.	Nancy A. Pierce	77	1.00	5746 Julian Airport Rd	8708718522	1218 / 38
12.	Bobby Pierce	78	1.43	5722 Julian Airport Rd	8708716649	1568 / 550
13.	Buddy J. Mabe and Pamela J. Mabe	71	.45	6142 Julian Airport Rd	8708738745	1975 / 557
	Total Acreage:		**69.83**			

SCHEDULE 5

PINs: 8718029180, 8708937765, 8708929917

Prepared by: Ellis & Winters LLP (MGW)

Return to: Grantee c/o Charles E. Burnell, Jr., Vice-President Real Estate,
North Carolina Railroad Company, 2809 Highwoods Boulevard, Suite 100, Raleigh, NC 27604

The hereinafter-described property does not include the primary residence of the GRANTOR.

NORTH CAROLINA
RANDOLPH COUNTY

THIS DEED OF EXCLUSIVE, PERMANENT and PERPETUAL EASEMENT (this "Easement") made this _____ day of _____, 2016, by the COUNTY OF RANDOLPH, a North Carolina county and political subdivision of the State of North Carolina, with a primary address of Randolph County Office Building, Second Floor, 725 McDowell Road, Asheboro, North Carolina 27205 (hereinafter "COUNTY" or "GRANTOR") in favor of NORTH CAROLINA RAILROAD COMPANY, a North Carolina corporation with a primary address of 2809 Highwoods Blvd., Suite 100, Raleigh, North Carolina 27604, and its successors and assigns (hereinafter "NCRR" or "GRANTEE").

WITNESSETH:

WHEREAS, the COUNTY and NCRR have entered into agreements related to the development of an industrial site commonly known as the Greensboro-Randolph Megasite

(hereinafter referred to as "Megasite Project") and necessary collateral railroad track and other improvements; and

WHEREAS, the COUNTY is the owner of certain tracts of land located in Randolph County, North Carolina, as more particularly described on **Exhibit A** hereto (the "County Property"), which are intended to make up a portion of the Megasite Project; and

WHEREAS, NCRR is the owner of certain tracts of land located in Randolph County, North Carolina, as more particularly described on **Exhibit B** hereto (the "NCRR Property"), which are intended to make up a portion of the Megasite Project and which, collectively, are adjacent to the County Property; and

WHEREAS, County desires for a portion of the County Property to be used for the location of a railroad track extension from the existing railroad line adjacent to the County Property to the NCRR Property (the "Railroad Extension"); and

WHEREAS, NCRR has requested a permanent, perpetual and exclusive easement with respect to that portion of the County Property to be used for construction and operation of the Railroad Extension; and

WHEREAS, the Randolph County Board of Commissioners authorized and approved the granting of this a permanent, perpetual and exclusive easement for the purpose herein set forth per Resolution 2016-_____ adopted by the County of Randolph on _____ ___, 2016, which resolution is attached hereto as **Exhibit C**; and

WHEREAS, said permanent, perpetual and exclusive easement shall burden the County Property and benefit the NCRR Property irrespective of whether Megasite Project comes to fruition.

NOW, THEREFORE, for and in consideration of the premises and the sum of ONE DOLLAR ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, GRANTOR, subject only to any reservations and conditions herein set forth has bargained and sold, and by these presents does bargain, sell, grant and convey unto the GRANTEE, its successors and assigns, a permanent, perpetual, and exclusive right of way easement, two hundred feet (200') in width, in the approximate location shown on **Exhibit D** to this Easement (such 200' wide strip hereinafter referred to as the "Easement Area"). It is understood and agreed that the general location of the Easement Area is shown on Exhibit D and that the final and definitive location of the Easement Area shall become established by and upon the final installation and erection of the Railroad Extension in substantial compliance with Exhibit D. The centerline of the railroad track extension shall be the centerline of the Easement Area. At such time as the final location is determined, Grantee shall cause a survey of the Easement Area to be prepared, which survey will reflect the location of the Easement Area and will be utilized to create a legal description of the Easement Area. The parties agree to execute an amendment to this Easement, which amendment will contain the final and definitive description of the Easement Area.

GRANTEE may use the Easement Area for railroad purposes, including but not limited to all purposes allowed under the NCRR Charter, and for any other lawful purpose, including but not limited to those authorized by N.C. Gen. Stat. §124-12 and §124-13.

To have and to hold said right of way and easement rights unto GRANTEE, its affiliates, successors, and assigns, continuously and subject to the reservations set forth herein.

And GRANTOR covenants with GRANTEE, that GRANTOR has the right, power and authority to convey the easement described in this Easement, has done nothing to impair such

title as GRANTOR received, and GRANTOR will warrant and defend the title against the lawful claims of all persons claiming by, under or through GRANTOR.

The parties agree that this Easement affects and burdens the County Property and is appurtenant to and benefits the NCRR Property.

IN WITNESS WHEREOF, GRANTOR has caused this instrument to be executed by the duly authorized representative of GRANTOR, and with the attestation indicated, as of the day and year first above written.

RANDOLPH COUNTY, a North Carolina county and political subdivision

By: _____
_____, Randolph County
Chairman to the Board of Commissioners

ATTEST:

By: _____
_____, Clerk to the Board

STATE OF NORTH CAROLINA

RANDOLPH COUNTY

I, _____, a Notary Public of the State and County aforesaid, certify that _____ acknowledged that she is Clerk to the Board of Commissioners of Randolph County, and that by authority duly given and as the act of the Board, the foregoing instrument was signed in its name by _____, its Chairman, sealed with its corporate seal, and attested by herself as its Clerk.

WITNESS my hand and official seal, this ____ day of _____, 2016.

_____
Notary Public

My commission expires: _____.

EXHIBIT A

Identification of County Property

Megasite Lot 5	PIN 8718029180; 50.00 acres; DB 2436, p 856
Megasite Lot 11	PIN 8708937765; 7.95 acres; DB 2439, p 1205
Megasite Lot 13	PIN 8708929917; 77.09 acres; DB 2451, p 327

EXHIBIT B

Identification of NCRR Property

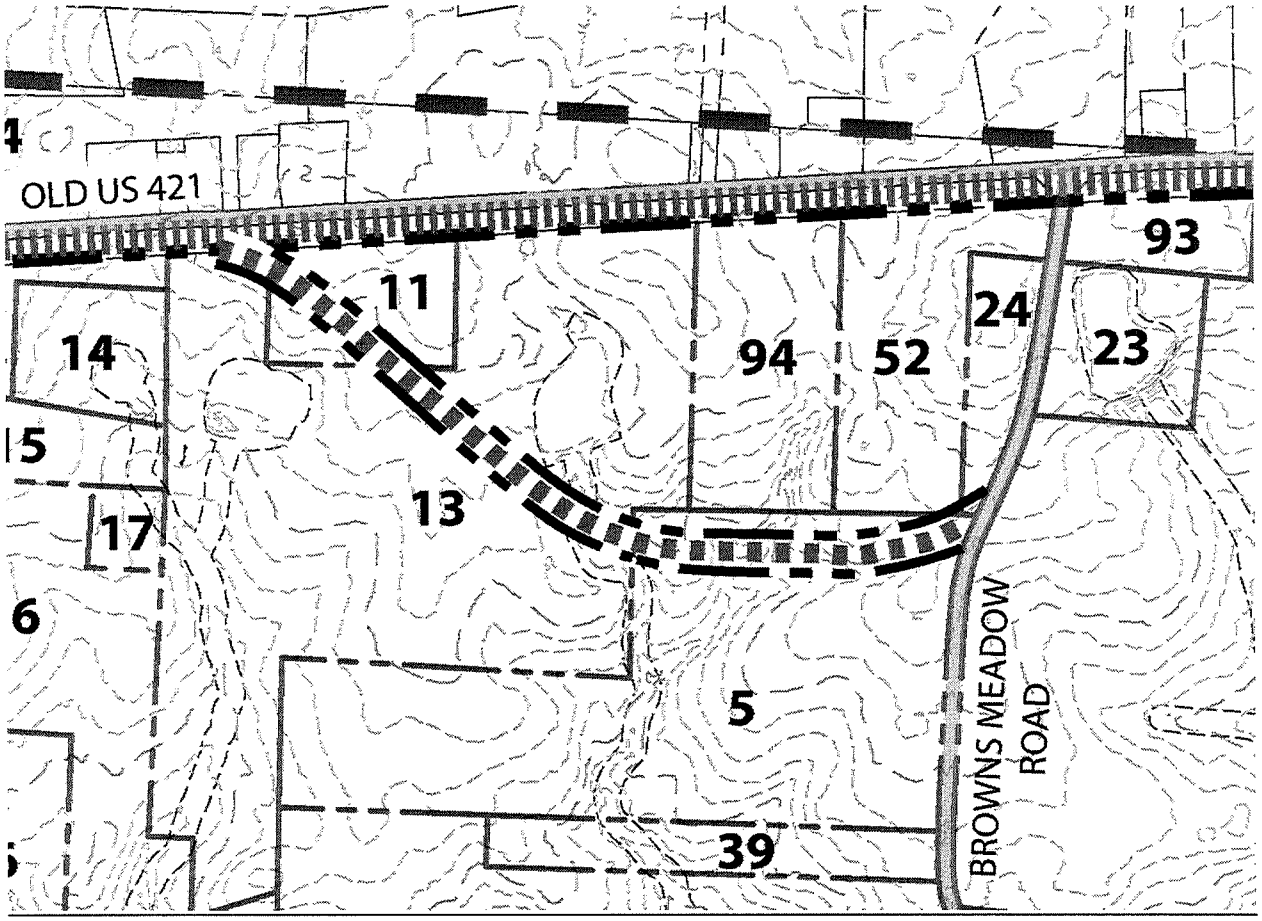
Megasite Lot 22	PIN 8718326247	197.38 acres
Megasite Lot 23	PIN 8718237518	8.03 acres
Megasite Lot 24	PIN 8718232522	4.87 acres
Megasite Lot 25	PIN 7818203615	24.67 acres
Megasite Lot 26	PIN 8717491558	47.90 acres
Megasite Lot 27	PIN 8717498573	43.50 acres
Megasite Lot 28	PIN 8717283760	1.70 acres
Megasite Lot 29	PIN 8717475282	36.74 acres
Megasite Lot 30	PIN 8717173435	2.10 acres
Megasite Lot 31	PIN 8717364737	51.70 acres
Megasite Lot 32	PIN 8717257655	107.27 acres
Megasite Lot 33	PIN 8717290473	11.78 acres
Megasite Lot 34	PIN 8717392106	77.00 acres
Megasite Lot 38	PIN 8718006776	92.90 acres
Megasite Lot 39	PIN 8718019509	8.00 acres
Megasite Lot 40	PIN 8717097208	97.90 acres
Megasite Lot 62	PIN 8717084158	16.00 acres
Megasite Lot 98	PIN 8717280026	20.10 acres
Megastie Lot 99	PIN 8717164916	13.30 acres

EXHIBIT C

County of Randolph Resolution

EXHIBIT D

Location of Easement Area



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MINUTES

RANDOLPH COUNTY PLANNING BOARD

February 5, 2008

The Randolph County Planning Board met at 6:30 p.m., on Tuesday, February 5, 2008, in the Commissioners' Meeting Room, Randolph County Office Building, 725 McDowell Road, Asheboro, North Carolina.

1. **Chairman Lynden Craven** called to order the Randolph County Planning Board meeting at 6:30 p.m.

2. **Hal Johnson**, Planning Director called roll of the members: **Lynden Craven**, Chairman, present; **Jim Rains**, Vice Chairman, present; **Larry Brown**, present; **Phil Ridge**, absent; **Chris McLeod**, present; **Reid Pell**, present; **Wayne Joyce**, present; and **Danny Shaw**, Alternate, present (substituting for regular member Ridge). **County Attorney Alan Pugh** was present for this meeting.

3. **Brown** made the motion, seconded by **Pell**, to **approve** the Minutes of the January 8, 2008 Randolph County Planning Board meeting. The motion passed unanimously.

4. **REQUESTS FOR A SPECIAL USE PERMIT:**

Swearing in of the Witnesses - *"Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."*

One person took this oath.

A. **DONALD ESTLER & MARLA HYATT,** Franklinville, North Carolina, are requesting a Special Use Permit for a Rural Family Occupation to obtain a automotive dealer's license with a display of 6 cars (2 cars will be displayed at the road and 4 cars kept at the residence as per site plan) at their residence located at 3678 Mack Lineberry Road, 35.98 acres, Rural Growth Area, Franklinville Township, Zoning District RA, Tax ID #8710029674.

Estler was present and explained that he is retired and would like the license to be able to operate a small business for supplemental income. Estler said that he

won't have much drive-by sales and he plans to keep most of the vehicles back off the road at his residence. Estler said that he doesn't plan any car repairs and there will be no additional employees. **Brown** asked if Estler plans to have a sign. **Estler** said that he doesn't plan to have a sign at the road.

There was no one present in opposition to this request.

Rains made the motion, seconded by **McLeod**, to **approve** this request for a Special Use Permit. The motion passed unanimously.

5. REQUESTS FOR PROPERTY REZONING:

A. **JEROME DAVIS**, Archdale, North Carolina, is requesting that 20.5 acres out of 58.36 acres located on Elmer Beeson Road, New Market Township, be rezoned from RA to RBO-CD. Rural Growth Area. Tax ID# 7737832650. The proposed Conditional Zoning District would specifically allow the operation of a sports riding arena and facility as per site plan.

- ***Technical Review Committee Recommendation***

The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommends to the County Planning Board that this request be approved.

The Technical Review Committee found the following Policies within the Growth Management Plan that support determination of consistency with the adopted plan with this recommendation are:

Policy 1.3 The continued growth of Randolph County's heritage tourism industry will be encouraged.

Policy 10.4 The County should recognize through land use decisions that properly designed development can co-exist along conservation areas, protecting our natural heritage and making Randolph County's quality of life

sustainable.

Johnson explained that this request was sent back to the Planning Board due to the fact that there was no one present at the Commissioners' Meeting to represent Davis. Johnson said there were some questions that came up during the Commissioners' Meeting about possible expansion of the facility.

Davis was present and explained his operation and his intentions. Davis said that they have one big event in August every year. Davis said they would like to try to have more events throughout the year. Davis said they have updated their concession stand and would like to be able to hold weekly events. Davis said the new events would be kids rodeos, cattlemen association seminars, etc. Davis said these events are smaller than the event that is held in August. Davis said the one event they hold each August brings approximately 7,000 people to the area. Davis said the first year they held the August event they did have some traffic problems on Elmer Beeson Road. Davis said they have since made plans for overflow traffic and the problem has not continued. Davis said he has employees up and down the road to prevent cars from parking along the road. Davis explained that he also has security employed for these events. Davis said no alcohol is allowed on the premises. Davis said that he would agree to not allow parking along the roadside as a condition of his rezoning.

Jack Swigart, 2912 Spencer Road, said that one of his big concerns is that Elmer Beeson Road becomes quite crowded during these events. Swigart said that Spencer Road will be cut-off by the new by-pass and their only access will be from that end of Spencer Road. Swigart said he would like to see DOT improve Elmer Beeson Road with a turn-lane to handle the added traffic. Swigart asked if the County noise ordinance required that noise stop at 10:00 p.m. **Pugh** said that noise ordinances were difficult to enforce out in rural areas. **Swigart** asked if portable toilets would be allowed for these events. Swigart asked how many events would be held each year. **Davis** answered that the weekly events would probably be just a couple hundred people. **Swigart** said that he has lived at this location for 28 years.

There were 3 people present in opposition to this request.

Johnson said that one of the issues is the concern for Elmer Beeson Road. Johnson said the Board could ask DOT if they would consider upgrading the road. **McLeod** said that he went to one of these events and the security was mainly off-

duty Sheriff employees and they did a good job moving cars of the road. McLeod said he didn't feel the Davis' should be required to improve the road. **Rains** said that DOT would not require a turn-lane with this being an existing facility.

Rains asked if there were any time limits (for the events) in the application. **Johnson** answered no.

McLeod made the motion, seconded by **Brown**, to recommend to the Commissioners that this request be **approved**. The motion passed unanimously.

B. **BARRY MANESS**, Asheboro, North Carolina, is requesting 30.00 acres out of 42.76 acres located on Joe Farlow Road., Richland Township, be rezoned from HI-CD/RA to HI-CD. Primary Growth Area. Tax ID# 7666057269. The proposed Conditional Zoning District would specifically allow the operation of a motorcycle course and training facility as per site plan.

- ***Technical Review Committee Recommendation***

The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommends to the County Planning Board that this request be approved as the request is a less intense use as the current approved plan for a trucking terminal.

The Technical Review Committee found the following Policies within the Growth Management Plan that support determination of consistency with the adopted plan with this recommendation are:

Policy 3.2 Industrial development should be on land that is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land should be encouraged.

Policy 3.3 Heavy industrial sites should be separated from nonindustrial areas by natural features, green belts and/or other suitable means.

Policy 3.4 Light industrial sites should be located in urbanized areas to take advantage of available services and to reduce home-to-work distances. Careful design and/or buffering shall be required to insure compatibility with surrounding areas.

Maness was present for this meeting. Maness presented a booklet to the Board concerning his request. Maness said his children race trail bikes and the closest track that his children can practice on is a 1 ½ hour drive each way. Maness said he felt this site would be a good location for training. Maness said that the operation would be open from 10 am to 10 pm each day and from 12 pm to 10 pm on Sundays. Maness said that there may be as many as 12 students training with them. Maness said the track will be dirt and showed the Board pictures of the a track in Raeford, North Carolina that they currently use. Maness presented pictures of riders and explained that the track will be used by members only. Maness said that 90% of the riders are under 15 years of age. Maness explained that the maximum number of riders could be 50-75 riders but normally 20-30 riders. Maness said there will be approximately a dozen part-time employees. Maness said that these kids ride (race) all over the country. Maness said that they are proposing lights for the track and are working with DOT with the lighting plan due to the close proximity of the interstate. Maness said that the lighting would be similar to football fields at the high school and the lighting would be projected on the track and away from the neighboring residences.

David Peryear, Attorney representing Maness, reminded the Board that the property is currently approved from a trucking terminal. Peryear said that this proposed use is for families and tourist and the Maness' will be living on the property. Peryear said that the request does meet several of the Policies within the Growth Management Plan. Peryear said that this request would draw people from across the state to use this facility. Peryear said that this would be a benefit to the County's economy. Peryear said that this would be a tourist attraction and would be good for the County. Peryear listed the following Growth Management Policies he felt this request met:

Policy 1.1 *The County will encourage new and expanding industries and businesses which: (1) diversify the local economy, (2) utilize more highly skilled labor force and (3) increase area residents' incomes.*

Policy 1.3 *The continued growth of Randolph County's heritage tourism industry will be encouraged.*

Policy 1.6 *Planning and development decisions should be based on the principal of promoting investment in Randolph County to expand employment opportunities while preserving and improving the quality of life for all county residents.*

Policy 3.2 *Industrial development should be on land that is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land should be encouraged.*

Policy 3.6 *New industrial development should be encouraged to locate in existing and planned industrial parks.*

Policy 4.2 *Highway oriented commercial uses should be clustered along segments of arterial streets and contain land uses that are mutually compatible and reinforcing in use and design. They should be designed in a way that minimizes signage, access points and excessive lengths of commercial strip development.*

Policy 4.4 *Commercial uses should be encouraged to develop by consolidation and deepening of existing commercially zoned property, only when such consolidation and deepening can be developed in a way that lessens the effect of incompatibility with adjoining residential land uses.*

Policy 6.5 *The protection of viable rural neighborhoods should be encouraged by compatible residential development to insure the continued existence as a major housing source and as a reflection of the long term quality of life in Randolph County.*

Policy 7.4 *Protection of public water supply watersheds and the water quality critical areas shall be considered in rezoning and development proposals. Industrial and heavy commercial development shall not be promoted within the water critical areas of Randolph County.*

Policy 8.4 *The County should approach land use and economic development decisions, not as isolated individual issues, but as part of a larger interconnecting framework of building sustainable growth within Randolph County.*

Pugh asked if any considerations have been made to reduce noise such as berms,

vegetative buffers, hours of operation, etc. **Peryear** said that Maness has spoken with people in the area and asked Maness to answer this question. **Maness** said that there are steps to keep noise down. Maness said that he does plan for some berms and vegetation. Maness said there is a 12 ft. rise from the parking lot to the adjoining property. Maness said they do plan to build a berm that should protect Bobby Moran Drive residents.

Rains questioned the grade changes on the track and **Maness** said there would be grade changes as much as 15 to 20 ft in height. **Rains** asked about the trailer parking and if they would be staying there over-night. **Maness** said that the trailers would be stay overnight and are usually self contained. **Pell** asked if there would be several campers and **Maness** said it would normally be only 1 or 2 trailers that stayed over night. **Maness** added the condition of daily hours of operation from 10 am to 10 pm and Sundays from 12 pm to 10 pm.

Tim Richardson, 390 Burney Road, told the Board that he owns the property north of the proposed site. Richardson said that a corner of his property is zoned for an asphalt plant. Richardson said it is his intention to build his residence on his property. Richardson said that if the Maness' were doing this for their personal use (his family and a few friends) this would be okay. Richardson said that the number Maness is proposing is going to be a noise problem. Richardson said that this would be like listening to lawnmowers running all day long 7 days a week. Richardson said that the only access to this property and to his property is a private road. Richardson said that this could cause traffic problems along this small private road. Richardson said that he felt this growth would be at the neighbors expense. Richardson said that the lighting will be a nuisance to the neighbors. Richardson said that these bikers are going to cause a noise problem for him and the neighbors. Richardson said that he has had the opportunity to sell his property for another asphalt plant but he didn't want to burden his neighbors. **Pugh** explained that this Board must have rational land use policies to consider when making land development decisions. Pugh said that this area is considered a Primary Growth Area. Pugh said that this type of growth area is required to take those policies into consideration.

<u>There were 2 people present in opposition to this request</u>.

Rains said there are a lot of opportunities on the property to use existing vegetative buffers to assist with noise abatement. Rains said that berms would require a significant amount of grading work. **McLeod** said that he felt the

proposed berm and maintaining the existing vegetation along the driveway on the east side would help with noise control. **Pugh** asked Maness if he would consider a condition on his RA zoned area to maintain the existing tree growth. **Maness** agreed to maintain all the vegetation existing east of the old drag strip. Maness also agreed to a 30 ft. existing no-cut buffer along the northern property line.

Pell made the motion, seconded by **Joyce**, to recommend to the Commissioners that this request be **approved**. The motion passed unanimously.

6. **Election of Officers.**

Brown said that he felt the current Chairman and Vice Chairman are doing a good job and should continue if they would agree to do so.

McLeod agreed that the current officers have done a good job, but felt that Rains should be given the opportunity to serve as Chairman this year and Craven should serve as Vice Chairman.

Pell agreed with McLeod and made the motion to nominate **Rains** for **Chairman** and **Craven** for **Vice Chairman**. Both Rains and Craven accepted their nomination. **McLeod** seconded this motion and the motion passed unanimously.

7. Johnson told the Board that the Commissioners have moved their March meeting to March 10th. Johnson asked the Board if they would like to move their meeting to March 11th. It was the consensus of the Board to move their March meeting to the 11th.

8. The meeting adjourned at 7:54 p.m. There were 25 people present for this meeting.

NORTH CAROLINA
RANDOLPH COUNTY

Hal Johnson

Planning Director

2-11-08

Date

Clerk/Secretary

RANDOLPH COUNTY, NORTH CAROLINA 1779

COPY

- *The site plan attached to this request shall be followed as part of the Conditional zoning approval*
- *No parking shall be allowed along Elmer Beeson Road. The applicant shall be responsible for providing security staff to insure that overflow parking is directed in a safe and orderly manner.*
- *Adequate bathroom facilities, as approved by the Health Department, shall be maintained for all events*

and with the following additional conditions.

- *1 event per week with no more than a total of 24 in a year (all events to end by 11 p.m.)*
  The 24 events may consist of the following: 20 small weekly events (attended by 999 or fewer participants), 4 large events lasting up to 3 days (attended by 1,000 or more participants)

2. BARRY MANESS, Asheboro, North Carolina, is requesting 30.00 acres out of 42.76 acres located on Joe Farlow Road., Richland Township, be rezoned from HI-CD/RA to HI-CD. Primary Growth Area. Tax ID# 7666057269. The proposed Conditional Zoning District would specifically allow the operation of a motorcycle course and training facility as per site plan. The Planning Board reviewed this request at public meeting on February 5, 2008, and unanimously recommended that this request be approved with the following conditions:

- The site plan as submitted shall be part of this Conditional zoning request.
- The applicant shall maintain all existing vegetation east of the old drag strip and reflected on the site plan.
- There shall be a 30 ft. buffer consisting of existing vegetation along the northern property line.

of consistency with the adopted plan with this recommendation:

Policy 3.2 Industrial development should be on land that is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land should be encouraged.

Policy 3.3 Heavy industrial sites should be separated from nonindustrial areas by natural features, green belts and/or other suitable means.

Policy 3.4 Light industrial sites should be located in urbanized areas to take advantage of available services and to reduce home-to-work distances. Careful design and/or buffering shall be required to insure compatibility with surrounding areas.

Barry Maness, applicant, spoke in support of his request. He said that he had just received an approval letter from NCDOT for his lighting plan. He also presented a packet of information to the Board with a site plan, a lighting plan, pictures of racing events, information about the type of fencing he plans to use and a picture of the house he plans to build for himself on the property.

David Peryear, attorney representing Mr. Maness, said that the applicant does not own the property yet; it's under contract pending approval of this request. He said that the property is currently zoned heavy industrial due to the asphalt plant that was previously there and the current trucking company and the proposed use would be no worse than what's already permitted; the neighbors can't expect a quiet, genteel neighborhood here. He said the proposed use is consistent with the current zoning. Also, the training facility will promote tourism for the County as there aren't very many of these training facilities around; it should bring people from all over, possibly even from overseas. Since the people who will come to use the facility are motorsports enthusiasts, they will probably visit the motorsports attractions in the area as well. He reemphasized that the request is entirely consistent with the Growth Management Plan as was indicated by the Planning Board's recommendation. Also, since Mr. Maness plans to build his own home there, this should be some assurance to the neighbors that the facility will not be a nuisance to the neighborhood.

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Scott Cole, 312 Copple's Rd., Asheboro, said that he is opposed to this request because his family will be adversely affected by this facility. He's also concerned that the site plan does not show rest room facilities; where will these people use the bathroom? Since many of the visitors to the facility will probably be in motor homes, where will they dispose of their sewage? Mr. Cole explained that the asphalt plant that was previously here was just a temporary one for the construction of I73-74.

Mary Brewer, adjoining property owner, said that she has been a resident here for 30 years. It's a quiet neighborhood, and she would like to keep it that way. She said that Mr. Maness came to her house and said he would build a house there and didn't mention anything about a race track. She's also concerned that this facility will attract the wrong type of people. Other concerns involved the hours of operation. She asked Board members to consider the request as if it was in their own neighborhood.

Alan Copple, 6356 US Hwy. 220 S., Asheboro, said that he lives 1/8-mile as the crow flies from the track and has lived there his whole life. He enjoys lying in his hammock by the pond and watching his grandkids play in the quiet neighborhood. He said that when the asphalt plant was operating, he couldn't hear it and can't hear the trucking company now. The noise from I-73 is not bad, but the noise from a racing facility would be very loud and continuous and impossible to get used to.

Elizabeth Carnwale, 146 Scott Farm Rd., Asheboro, said that she goes to bed early and doesn't want to listen to the noise seven days a week; there should be a time limit on its operation because it's continuous noise. Her son rides bikes, but she tries to keep her son from bothering folks.

Kay Copple, 6356 US Hwy. 220 S., said she came to a meeting several years ago opposing a proposed drag strip but the property wasn't zoned heavy industrial then. The bypass noise isn't annoying like the constant noise from a bike track would be. She said that after the meeting several years ago, they were threatening that worse things would come; the asphalt plant came, but it was temporary. She said that the proposed track is awfully close to neighbors. She also has concerns about the hours of operation and the fact that it could later be a spectator facility in addition to a training facility.

Sue Snipes, 354 Scott Farm Rd., said that they love the peace and quiet from her husband's family farm and frequently watch deer and beavers in the neighborhood. However, the constant noise of motorcycles will end this tranquility. She added that the bypass noise isn't bad at all. She also has concerns about the dust that a dirt track will create. A training facility might be good for the kids, but this isn't the right place to have it.

Mark Bouldin, 225 Bobby Moran Dr., said that he works swing shifts and sleeps during the day; the noise from the bikes will keep him awake. If this is approved he'll be forced to move, which is a shame since he's lived there since 1985.

April Locke, 132 Scott Farm Rd., said that they have horse pastures and the noise will rile her horses. She said this is farmland and they don't want this much noise seven days a week and at night.

Tim Richardson, 390 Burney Rd., Asheboro, said that he lives north of the proposed track and a corner of his property is zoned for an asphalt plant. He said that there are other neighbors who oppose the request, but they couldn't attend this meeting. He's concerned about the days and hours of operation. He rides four-wheelers but tries to respect other people when he rides. This proposed facility will be very loud and he said there needs to be a limit on the hours of operation. Also the dust and lights will be a problem.

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Paul Bauer, 425 Scott Farm Rd., said that he's lived here for 17 years and his mother-in-law was raised here. He would like clarification on the hours of operation. He has noise concerns as well.

The Board discussed with the applicant plans for hours of operation and bathroom facility needs. Mr. Maness said that the Health Department said that Porta-johns would be sufficient. He said that he understands that he has to keep the dust under control because of I-73 being in close proximity of the track.

Commissioner Kemp made a motion to approve the request of Barry Maness with the recommended conditions of the Planning Board and with the added condition: hours of operation will be 10 a.m. to 10 p.m. Monday through Saturday and 12:00 (Noon) to 10 p.m. on Sunday. Commissioner Frye seconded the motion for the sake of discussion. Due to confusion during the vote, Chairman Holmes asked the Board to revote via individual poll of each Commissioner: Kemp-Aye, Haywood-Aye, Lanier-Aye, Frye-No, Holmes-Aye; therefore, the request was approved by a vote of 4-1, with Frye opposing, to approve the request of Barry Maness, as determined consistent with the adopted policies of the Growth Management Plan and with the recommendations of the Planning Board and the added condition concerning hours of operation.

Adjournment

At 9:20 p.m., there being no further business, the meeting adjourned.

J. Harold Holmes, Chairman

Darrell L. Frye

Phil Kemp

Stan Haywood

Arnold Lanier

Cheryl A. Ivey, Clerk to the Board

Minutes

RANDOLPH COUNTY PLANNING BOARD

February 16, 2016

The Randolph County Planning Board met at 6:30 p.m., on Tuesday, February 16, 2016, in the 2nd Floor Meeting Room, Randolph County Historic Courthouse, 145 Worth Street, Asheboro, North Carolina.

1. **Chairman Reid Pell** called to order the Randolph County Planning Board meeting at 6:30 p.m.

2. **Jay Dale**, Planning Director, called roll of the members: **Reid Pell**, Chairman, present; **Wayne Joyce,** Vice Chairman, present; **Chris McLeod,** present; **Phil Ridge**, absent; **Jim Rains,** present; **Kemp Davis**, absent; **Larry Brown**, present, and **Ralph Modlin**, Alternate, present (substituting for Phil Ridge). County Attorney **Ben Morgan** was also present.

3. **REQUEST FOR PROPERTY REZONING:**

   A. **CLIMAX SOLAR PROJECT, LLC.**, Carrboro, North Carolina, is requesting that 48.07 acres located on NC Hwy 22 North (approximately 500 ft. north of Old Red Cross Road), Providence Township, be rezoned from RA to RIO-CD. Tax ID# 7797590264. Secondary/Rural Growth Area. Sandy Creek Watershed. The proposed Conditional Zoning District would specifically allow the development of a 5 mega-watt PV solar farm as per site plan. Property Owner - David R. Hinshaw.

   Technical Review Committee Recommendation:

   The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the 2009 Growth Management Plan adopted by the Board of County Commissioners. The Technical Review Committee recommends to the County Planning Board that this request be approved.

   Examples of Growth Management Policies that the Technical Review Committee found supporting this recommendation are:

   Policy 2.11 The County should continue to encourage & promote "clean" industry within Randolph County.

   Policy 3.6 The County should encourage the use of performance-based rural

industrial overlay zoning when the use of large acreage, natural buffers, and extensive landscaping would not have substantial adverse impact upon the general area growth characteristics, and the location of such a site would substantially increase economic activity, job creation, and the tax base of Randolph County.

April Montgomery, 151 Chatham Street, Sanford, North Carolina, represented Solar and reviewed the setbacks, and explained that the property will be fenced. **Rains** asked if they would be disturbing the wetlands on-site. She said they will be working with Army Corp of Engineers concerning the wetlands located on the property. **Brown** asked how much power the site would produce, and Montgomery answered the facility would be a 5 mega-watt site.

Kim Gunter, 8267 NC Hwy 22 North, Climax, told the Board that she lives directly across the street from this site. She asked how far the facility would be setback from the highway, and she was answered it that it would at least 100 ft. from the street. Gunter said that she was concerned of how this would look and asked if there would be any type of buffer. She said these things are not very attractive and asked the Board to deny the request.

Montgomery said that the application and site plan were prepared in accordance with the County zoning requirements. She said they were would be landscaping within the setback area, and the foliage would be fence height. She said that the property owner plans to clear-cut the property in the near future. When asked, she could not answer how much road frontage the property had. She said that the panels would face due south and they would be installed in rows with some seperation between each row. **Dale** asked what type of buffering would be be proposed. He discussed a level 3 buffer and she was agreeable to that buffer. **Dale** advised that if the Board chose to recommend that this request be approved the Planning Staff could work with the applicant to determine appropriate buffers for the Commissioners to consider at their hearing.

Kevin Gunter said that his concern is if the solar panels are damaged there could be some damage to the environment. He questioned if silicon or other types of chemicals could possibly leak into the environment if the panels were damaged. He said this things cause a lot of dead birds and how the contamination could effect the water table and local wildlife. He said is research has also said that these solar farms create heat in the area they are located and how would this effect the temperature in the air. He said he thought one had been denied and **Dale** said he could not recall any that had been denied. He said he may have gotten some bad information.

Montgomery said that they don't use hazardous material that would run out of their panels. She said all materials are baked into the panels and are not in liquid form. She said they have some inverters that use oil, but no more than any other

normal residential usage. Montgomery said that the issue of birds are normally at those solar farms built out west. They are much larger farms and appear to be a pond to birds from high altitudes. She said they have not had any of these problems on solar farms installed in the Southeast.

McLeod said he thought there should be buffers at the entrance of the property. **Dale** said we could work on the buffers with the applicants prior to the Commissioners meeting.

Joyce made the motion, seconded by **McLeod**, to recommend **approval** to the Board of Commissioners with the condition of buffers, to be worked out with the Planning Staff, along Hwy 22 North. The motion passed unanimously.

B. **JULIAN BUTLER**, Greensboro, North Carolina, is requesting that 5.00 acres (out of 24.18 acres) located at 3079 Pike Farm Road, Liberty Township, be rezoned from RA to RBO-CD. Primary Growth Area. Rock River Watershed. Tax ID# 873567280. The proposed Conditional Zoning District would specifically allow an event center in a proposed 69 ft. x 49 ft. structure as per site plan.

Technical Review Committee Recommendation:

The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the 2009 Growth Management Plan adopted by the Board of County Commissioners. The Technical Review Committee recommends to the County Planning Board that this request be approved.

Examples of Growth Management Policies that the Technical Review Committee found supporting this recommendation are:

Policy 4.1 Provide for sites in Randolph County jurisdiction where rural commercial activity can locate; with the goal of increasing economic activity; job creation, and the provision of services to the rural community.

Policy 7.1 Development activities in the 100-year floodplain shall be discouraged. If development must occur, low-intensity uses such as open space, recreation, and agricultural activities shall be preferred.

Resolution Adopting the 2009 Randolph County Management Plan, Resolution #3. Ensure the opportunity for landowners to achieve the highest and best uses of their land that are consistent with growth management policies in order to protect the economic viability of the County's citizens and tax base.

Julian Butler was present and explained that the property is a tobacco farm that

he grew up. He is asking the Board to allow him to use this as a multi-purpose building for things such as weddings. He said it would be primarily used for a wedding venue on the weekends. He said there would be no outdoor concerts.

There was no one present in opposition to this request.

McLeod made the motion, seconded by **Joyce**, to recommend to the Commissioners that this request be **approved**. The motion passed unanimously.

C. **BKM RANDOLPH, LLC.,** Asheboro, North Carolina, is requesting to amend the Conditional Zoning District located at 279 Joe Farlow Road, on 25.02 acres, Richland Township, Primary Growth Area, Zoning District HI-CD. Tax ID# 7666058421. The proposed Conditional Zoning District would specifically allow the property to be used as a motor sports facility and outdoor physical fitness events as per site plan.

Technical Review Committee Recommendation:

The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the 2009 Growth Management Plan adopted by the Board of County Commissioners. The Technical Review Committee recommends to the County Planning Board that this request be approved.

Examples of Growth Management Policies that the Technical Review Committee found supporting this recommendation are:

Policy 1.3 The benefits of economic development should be balanced against the possible detrimental effest such development may have on the quality of life enjoyed by area residents.

Policy 1.4 The continued growth of Randolph County's tourism industry will be encouraged.

Dale reviewed the request and explained the type of events such as racing track and trails for ATVs, motorcycles, UTVs, go-carts, etc.; tractor pulls, truck pulls, and demolition derbies; foot races and other physical events; bmx bicycle races; and special events (such as haunted trails, July 4th fireworks, Christmas and Thanksgiving events).

David Puryear, Attorney, 5501-Unit E Adams Farm Lane, Greensboro, represented Barry Maness. He said that this matter was before this Board in February 2008 and this Board recommended approval for this property that would specifically allow a motorcycle course and training facility as per site plan. He said that the primary issue of concern at that time was noise. He said concerned

potential noise

neighbors spoke at that time to the Commissioners and the Commissioners approved Maness' request despite those objections. He said this property is currently in a primary growth area and a HI zoning district. He described this facility as an important nexus to bring in tourists to the County. He said if the issue is noise, all the new uses being requested are less intensive or no more intensive than what is all ready permitted under the current zoning. He said Maness is now asking to be allowed for things such as tractor pulls, demolition derby events, physical fitness events, etc. He said that the fact is these type events would not create any additional noise. He said they are asking for events that could bring in income to allow the property to support itself financially. He said if this request is not approved Zoo City will probably have to close.

Modlin asked if they would be increasing the size of facility or just the uses. **Puryear** answered that they aren't increasing that size of the property but they are asking for additional buildings on the property. He said these new buildings would be to add permanent toilets and use in operation with the other uses. He said there may be events with temporary food vendors. This is ment to be an off-road type vehicle facility, not car racing or oval track racing.

Barry Maness, Zoo City Sports Park, said he would answer any questions the Board may have. **Rains** asked if there are any existing buildings. **Dale** said there is a mobile office unit, but any other existing buildings would be replaced. **Maness** said that 5 years ago a man asked him to sponsor a Rugged Maniac Race. Maness said that the event has grown to 15,000 people that participate/attend and it is the largest Rugged Maniac in the US. **Dale** said that Maness has been approached by the Army to have a physical fitness competition (no firearms are used). **Maness** said that the UTVs are becoming popular and bicycle events also. Maness said they've also hosted a yearly truck and tractor pull for the last 5 years. He said all the proceeds from that event is donated Fayetteville Street Christian School.

There were 13 citizens present in favor of this request.

There were 45 citizens present in opposition to this request.

Ruben Blakely, P.O. Box 543, Randleman, North Carolina, said that his son is 8 years old and he has raced at Zoo City for 2 years. He said at first they went to watch and they've been racing ever since. He described the facility as family-friendly and all the participants are very supportive of each other. He said the Maness' make you feel apart of the motorcross family. He said they have raced at other tracks, but none display the sportsmanship that you find at this track. He said this activity has helped him to teach his son many life lessons including that if you help others and treat them with respect, you'll get help and respect back. He said he would really hate if there was no Zoo City for families to enjoy.

Brent Trotter, 753 Moore Road, Asheboro, said that he works at the Cycle Center, and the big issue in their business is answering where people can go to ride off-road vehicles. He said Zoo City has provided a place that is safe with a friendly environment. He said his family has enjoyed the Saturday night events. He said many of their friends drive more than 2 hours to come to this facility. He said there is a need for this type of event and now the County is trying to close them. Trotter said if the kids are riding at Zoo City we know where they are and what they are doing.

Tammy O'Kelley, Director of Randolph Tourism Development Authority, 145 Worth Street, Asheboro, said that she was asked by the TDA Board to represent them in support for Zoo City. She said Zoo City is one of their best tourism partners. She said the TDA has provided some matching funds for the Rugged Maniac Events. She said that during that event all the hotel rooms in Randolph County were sold out. She said Zoo City is ranked 8th in the County's Tourist Venues. She said the tourist industry brings 1.28 million dollars in local revenues and 1056 jobs to Randolph County. She said for the County to lose one of its top-ten tourist attractions would be a big deal.

what / how much revenue for Zoo City? How do they know?

Jacob Trotter said that he is12 years old and he loves to go to zoo city and ride with his friends. He said everyone there is great. He said if you close this track, we will not be able to race as much because of how far the other tracks are located.

Lisa Pulliman, 121 Bollings Lane, (next to Joe Farlow Drive), said that she hardly ever hears anything from this track. She said she didn't think tractor pulls would create any more noise than the motorcycles. She said 90% of her time is spent outside from Spring until December, and she hardly hears anything from this tract, no noise, fighting, etc.

The Board took a 5 minute break.

Mark Myers, Pastor of Grace Temple Church, said that they have been there for 38 years and they don't have a problem with the current activities. He said that he did feel the tractor pulls and demolition derbies would be a lot louder though. He asked if they plan to expand their parking. Myers said during the Rugged Maniac Events they've used the church parking lot. He said he was concerned with operating hours and how far these new events could go. He said they are concerned with the possible disruption these new events could have on the Church's worship activities.

Michael Poindexter, Pastor of Lighthouse Baptist Church, said he didn't think the purpose of the meeting was to shut down the track. He said they have offered their church parking lot for the Rugged Maniac Events. He said they are not opposed to Zoo City and it's current events. He said but if you upgrade to the size

motors of mudbog vehicles and tractors used for tractor pulls, they would be loud enough to disrupt the Church. He said they can hear the bikes for their parking lot now and he was sure that they would be able to hear the tractor pulls and mudbog events inside their sanctuary. He said they are very concerned how these changes would effect the Church on Sundays.

Scott Etheridge, 176 East Salisbury Street, Asheboro, said that he has his bike worked on by Dave and Brent at Cycle Center and he is concerned that after this meeting they may not be his friends. He said that he concurs with the pastors. He said he would not be here on his 15th wedding anniversary if everything was copacetic. He said he solutes anyone that works hard to make a living, but his issue is they have invested their lives, family and homes here. He said now on some evenings their quality of life is being challenged. He said no one is trying to shut them down, but there is a big difference in a motorcycle engine and a truck engine. He said it was originally zoned for a motorcycle training facility, but there are races being held now, sometimes until 11 at night. He said they hear them because of the PA system Zoo City uses. He told the Board that teaching kids lessons or good times is not what they should consider. Etheridge said Darrell Frye once said Randolph County is so different because Randolph County families make up the backbone of this County. He said but when you have to go inside because you can't hear each other talk, you've lost something. He said what do I do with my home if this gets bigger. He said he knows that these racers say that they will have to drive 2 hours (if Zoo City closes), but where do the neighbors go to enjoy their peaceful life. He said his neighbors have been here for more than 100 years and now we have to trade our way of life for a mudbog. Etheridge told the Board that when you do the balancing test, the way to know what is right is to use the *Hood Test*. He said that is when you can read your verdict and it doesn't matter whose there (under the hood) when you remove the hood from their head. He asked the Board to please look out for them so they don't have to sell their homes, and leave this peaceful community.

Anthony Copple, 6524 US Hwy 220 South, said that he lives northeast of this track and he can hear it. He said its bearable but sometimes it gets loud. He said he realize that these motorcycle events are going to happen, but if they are allowed to have tractor pulls the noise could become unbearable. He said some of these tractors are very loud. He said now they are a nuisance, but it is not unbearable, but if these things are allowed it will be unbearable. He said he wanted the Board to consider some possible conditions. He said he was afraid that this would turn into a monster down the road.

Tom Wright, 301 N Elm, Greensboro, said that he is a lawyer representing Scott Etheridge. He said the issue has always been noise. He said no one opposes the seasonal events at the 4th of July or the Rugged Maniac events. The noise ordinance doesn't adequately control the noise in the County. He said the noise issue was not adequately addressed at the time the Board approved Maness' first

request. He said that this HI-CD site is surrounded by residential properties. He said the neighbors and churches are bothered by the noise. He advised that the property was originally zoned HI for asphalt plant with the condition that the property revert back to RA once the highway project was completed. Then a truck terminal was permitted on the site, and now the Maness' were approved a motorcycle trail course and training facility. He said the races were not requested when the Board approved the training facility. There was a 30 ft. buffer added at this Board's meeting (when his request was originally considered) and at the Commissioners meeting, they placed a 10:00 p.m. time limit. He said we've already heard testimony that races are now the primary use and now a PA system is needed (for racing) and the operation hours exceed the deadline. Now the applicant is asking for permission for what they have already done to grow beyond what was approved in 98. He said no one denies that it is a good tourist attraction, but the community was told that Maness was going to build his home here and that should be of some assurance to the neighborhood. He said the Maness' haven't built there home here but they have increased the facility. He said they were told by Hal Johnson that in 2010 they would be permitted 2 races a year and now it has grow well beyond that. He said it was his understanding that there have been several incidents with the applicant not complying. He said people in the community are having a hard time with the noise and this is an issue that needs to be addressed. He said if you add a tractor pull with no restrictions there is no guarantee that the level of noise will be acceptable. This would also be the case with demolition derbies and mudbog events. He said some reasonable accommodations should be made between this facility and the people who live in the community. He asked the Board to consider the following conditions:

1. Change the hours for operations to cease - weekdays 7:30 pm, Saturday 9 pm, and Sunday only operate from 12 pm to 7:30 pm *(these hours would be set for only those events that create excessive noise - not to include the physical fitness events)*
2. The PA system should be restricted *(especially no concerts)*
3. There should not be simultaneous motor events on different tracks or areas *(only one race at a time)*
4. Maintain existing vegetation in place as required under existing conditions and the Board should require a Level 2 or 3 buffer to be put back in place along the highway
5. The Board should consider hard-noise abatement devices along the highway

Wright said they are not asking for the track to be closed down, but they are asking for this Board to address the noise. He said they are not opposed to other events, but they are concerned with the racing and noise events that are already taking place on the site.

Rains asked Wright what he thought a would be a reasonable noise level. **Wright**

said he's not proposing a decibel level be measured but more the time the noise is being created. Wright said they didn't have a problem with the asphalt plant or trucking terminal, but operating hours were different. He said they felt the noise problems should be addressed in time restrictions.

Jerry Gillispie, 4302 New Hope Road, said that he would like them to consider his family on Sunday afternoons and the warm evenings during the week. He said he doesn't need any more noise to go with what they've got. I've been here all my life.

Johnny Dorsett, adjoining property owner, said not only can he not sit outside, he has to turn his tv up inside. He said you can forget about sleeping.

Barry Cole, Copple Road Extension, said he is the 4th generation that has lived on their property on Copple Road Extension. He said he's not trying to shut the track down, but if you are from Liberty Randleman, or Adams Farm, you won't hear it. He said he didn't have a problem with what they are doing now, but he don't want anymore. He said he would like the Board to considered all this and determine if they would like it in their neighborhood.

Bo Redmon, Lighthouse Baptist Church member, said that mud-drags are part of mudbogging. He said that the type of noise that this creates is a nuisance. He said he is thrilled that these children are learning life lessons out at the track, but if his children are trying to sit in church and learn values, they can't get those values with all that noise. He said he was glad these children learn lessons about sportsmanship, but what about his child. He said he loves these types of events, but we ask that you limit it.

James Langley, member of Lighthouse Baptist Church, said he builds these type of motors for a living. He said they are more horsepower and they make a lot more noise than dirt bikes. He said they love the track and its good for the community, but they are concerned about the noise these massive machines make.

Puryear thanked the people for coming out tonight. He said that his clients didn't know the issues in the community. He said it has been suggested that there have been several citations issued. There was a letter of notice in 2013 of violation. He said they have not been able to find out who complained. He said the proposal for restrictions and changes are fundamentally difficult, because it is the first time hearing them. He said one thing is we don't want to stop what is going on there. Puryear said that training is racing and racing is training in motor sports. He said the tractor pull was an old timey tractor pull and not these large machines being described. He said the Maness' are planning to build a home here in the long term. He said there have not been enforcement issues, only a single notice of violation. He said so far as they know there has never been a noise complaint from the Sheriff's Department or the neighbors. He said they feel the restrictions

they included on the original application are reasonable and we would ask for it to be approved.

Morgan asked if the applicant was clear in what was approved in 2008. **Puryear** said it was to allow a motorcycle course and training facility as per site plan, which included maintaining vegetation east of the old drag strip and 30 ft. buffer along the north property line. Puryear said it's not like a racing hasn't ever been done on this property.

Etheridge said that the drag strip operated illegally back then and someone was killed and it was shut down. He said he felt his remark is disingenuous.

McLeod said that there was an hour of operation that the facility be closed by 10 pm.

Rains asked if the new application opened the original approval up for possible additional conditions. **Morgan** answered yes. Morgan advised Puryear that the Board has heard lots of information and concerns tonight and the applicant could withdraw this request, consider the issues, and resubmit a more detailed plan.

Ralph Modlin asked the location of the churches.

Rains asked where the Maness' plan to construct their residence. **Dale** answered on adjoining property owned by the Maness' (to the east of this property). **Rains** asked if the applicant would have any response to withdraw the applicant. **Puryear** said they would not withdraw at this time. **Morgan** said he would point out that this type of rezoning is a two-step process and advise the applicant that if the Board votes on this request, he has 5-days after this vote to withdraw this request. If it is not withdrawn in 5-days, this request will be heard and voted on by the Commissioners. If the Commissioners deny this request, the applicant would have to wait one year prior to resubmitting the request. **Puryear** said they are not withdrawing at this time.

Rains made the motion to recommend **approval** with the conditions:

1. operation hours Monday through Friday from 9 am to 7:30 pm, Saturday 9 am to 10 pm , and Sunday from 12 to 7:30 pm
2. 1 single event per day - motorcycle, bicycle or physical event
3. disallow tractor pulls, truck pulls, mudbogs, demolition derby or any activity that is not a 2-wheel or 4-wheel motorcycle or bicycle event
4. authorize Rugged Maniac, foot races, or physical events (with no firearms allowed of any kind)
5. 4 special events per hear to include July 4th fireworks, haunted trails, Christmas, and one other event
6. Accept on-site food preparation concession and sales, and on-site toilet

facilities

7. all parking would be on-site for all events or a pre-arranged satellite facility with bus services
8. a level 3 buffer to be installed in areas that appear to have lost its original natural foliage (re-install buffers where they have been removed) ultimately at the discretion of the Planning Staff

***Rains** asked for the Commissioners to address some sound limitation to be determined. He said he personally believe this should be a decibel level. **Morgan** said it is difficult to create a decibel level or a horsepower level. He told Rains to either restrict it or not, but provide the Board with something to respond to. Rains asked for this condition to be stricken from the motion.*

Morgan reviewed the motion for the Board. **McLeod** seconded the motion.

Morgan asked the applicant if these conditions were acceptable. The applicant would not agree to these conditions. The motion died.

Rains made the motion to recommend to the Commissioners that this request be **denied**. **Modlin** asked Dale to review the application again. Jay Dale reviewed the request. **Modlin** seconded the motion and the motion passed by a vote of 4 to 2 . Pell and McLeod voted against the motion.

Examples of Growth Management Policies that support this recommendation:

Policy 1.1 Sustainable economic development, environmental protection, and quality of life, shall be pursued together as mutually supporting public policy goals.

Policy 3.2 Heavy industrial sites should be separated from nonindustrial areas by natural features, green belts and/or other suitable means.

4. The meeting adjourned at 8:45 p.m. There were 78 citizens present for this meeting.

NORTH CAROLINA
RANDOLPH COUNTY

Jay Dale

Planning Director

2-23-2016

Date

Jill M. Wood

Clerk to the Board

COPY

COUNTY OF RANDOLPH
Department of Building Inspections
204 E Academy St - PO Box 771 - Asheboro NC 27204-0771

RESIDENTIAL GENERAL CONSTRUCTION PERMIT

Applicant: GLASS, JEFF
Address: 4092 GOLDEN MEADOW RD
City, St. Zip: ASHEBORO, NC 27205

Date: 04/20/2012
Parcel #: 7666153291
Application #: 0802879

Owner: MANESS, BARRY JAMES
Address: 1413 RICHARD'S CIR
City, St. Zip: ASHEBORO, NC 27204

Contact Name: MANESS,BARRY JAMES & KRISTA LEIGH
Contact Phone Number: 964-6699

LOCATION INFORMATION:

Address: 213 JOE FARLOW RD ASHEBORO, NC 27205
Township: 17 - RICHLAND
Acreage: 18.9700

Subdivision:
Lot number:

CONTRACTOR INFORMATION:

Contractor: GLASS, JEFF
Phone #: 336-241-2662

License #:

RELATED PROFESSIONAL:

Professional:

Phone #:

BUILDING INFORMATION:

Class Of Work:	NEW CONSTRUCTION		
Type Of Residential Building:	SINGLE FAMILY		
Soil Erosion Plan Required:	NO	Number Of Fireplaces:	0
Number Of Dwelling Units:	1	Number Of Flues:	0
Width Of Structure:	69	Heated Area:	2320 sq.ft.
Depth Of Structure:	40	Unheated Area:	1400 sq.ft.
Foundation Material:	BRICK/BLOCK	Finished Basement Area (Sf):	0 sq.ft.
Exterior Wall Material:	VINYL SIDING	Unfinished Basement Area (Sf):	0 sq.ft.
Number Of Stories:	2.0000	Construction Value:	$269,893
Number Of Bedrooms:	3		

Total Permit Fee: $819.68

Comments: CONVERTED DATA

If your development disturbs more than one (1.00) acre of soil during construction you **must** file a Soil Erosion and Sedimentation Control Plan with the State of North Carolina. It is also possible that you must obtain a National Pollutant Discharge Elimination System (NPDES) Permit for stormwater discharges from construction activities. This requirement is pursuant to North Carolina General Statutes 135A-357 and 160A-417. If additional information is required about soil erosion and sedimentation control plan requirements, you should contact the North Carolina Sedimentation Control Commission or the North Carolina Department of Environment and Natural Resources or the Land Quality Section office in our area. If additional information is needed about NPDES permits, you should contact the United States Environmental Protection Agency or the North Carolina Department of Environment and Natural Resources.

- LOCAL TELEPHONE NUMBER -
Asheboro: (336) 318-6565 - Greensboro/Liberty: (336) 218-4565 - Archdale/Trinity: (336) 819-3565
http://www.co.randolph.nc.us

COPY

***** CONSTRUCTION SHALL MEET ALL APPLICABLE STATE BUILDING CODES. *****

The undersigned contractor does hereby affirm under penalties of perjury that the person(s), firm(s) or corporation(s) performing the work set forth in the permit:

N/A while working on the project for which the permit is sought. It is understood that the Inspection Department issuing the permit may require certificates of coverage of Workers' Compensation insurance prior to issuance of the permit and at any time during the permitted work from any person, firm or corporation carrying out the work.

The undersigned hereby makes application as designated above, and agrees to all applicable laws of Randolph County and the State of North Carolina. The undersigned further states that all statements made hereon are true.

Authorized County Official: KIM HEINZER

Signature of Contractor or Owner

AT&T 10:02 PM

2 hrs · Instagram ·

#Repost @zoocitymxasheboronc with @repostapp.

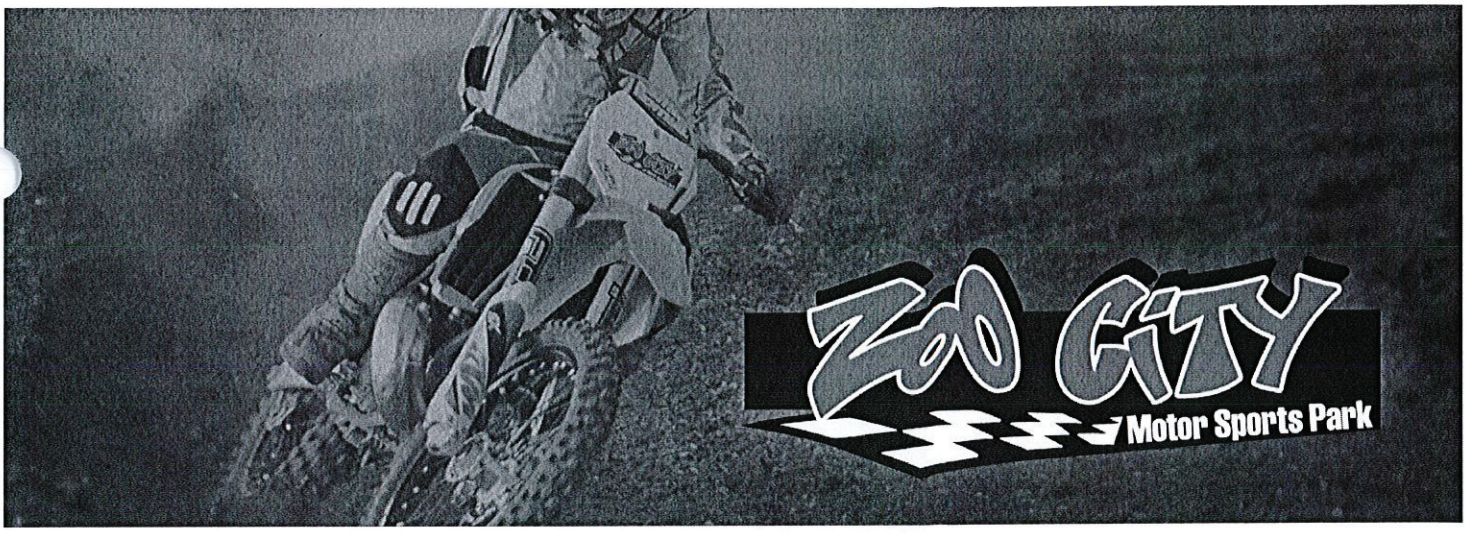
. . .

Attention: anyone who has ever experienced ZOO CITY MOTOR SPORTS PARK (members, potential members, spectators, and friends): Randolph County is trying to restrict our zoning requirements (so strict) to the point that we will not be able to hold events enough for us to stay in business, so we need everyone's support to keep Zoo City Alive. We have been dedicated to provide a fun, safe, and family friendly atmosphere , thus, we do not won't to see it go. We love all our members and all our supporters and we are working hard for you guys and girls. PLEASE help us in the fight to stay alive by being at the old Randolph County Courthouse 145 Worth Street, Asheboro, NC 27203 on March 7, 2016 at 6:00pm. We need everyone PLEASE! We want everyone to know we love you, and thank you for all you have done for Zoo City. We appreciate each and everyone of you for your continued support. **#fightforzoocity** . Please keep dignity and respect the ones who are working against us (pray for them all). We need to let them know our kids need us and a facility like Zoo City to grow up and become successful young men and women in our community. Also the amounts of revenue, we all have invested in our kids lives (and this county).

March 7 is our only hope, PLEASE be in attendance. This meeting will be with the county commissioners. Very important!

GOD BLESS YOU ALL!

News Feed Requests Messenger Notifications More



Southeast MX Series - 2016 Schedule

Mar 26 Apr 16 & 23 May 7, 14 & 21 Jun 11, 18 & 25 Jul 9, 16 & 23 Aug 6, 13 & 27 Sept 10 & 17

Gates Open 3pm, Practice 4pm, Race to Follow

General Admission $10, Under 12 $5 Race Fee Am & Youth $25 Pro $40

2016 Open Practice

Sunday Practice Dates To Be Announced

Tuesday & Thursday Practice April 5 - September 29

$25.00 per Rider

Zoo City Motor Sports Park Membership Required($10.00 per Year / $5.00 per Day)

zoocitymxpro@yahoo.com

Zoo City Motor Sports Park, LLC
279 Joe Farlow Road
Asheboro, North Carolina 27205

Use your browser to print this page.

Zoo City MX

RiderPlanet USA

Last Updated: 12/27/2015

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DESCRIPTION

Last Known Status **Open**

This **motocross park** features a long 1.25 mile main track and a separate peewee track for the little guys. The track is 25 feet wide and features the standard obstacles including doubles, tables, rockers, step up and step downs, along with an extra large 85 foot triple and a few natural hills and sweepers.
Amenities include water, bike wash, restrooms, concessions, a playground, group picnic area and wireless internet. There is also a mountain bike course and a trail loop for both ATVs and dirtbikes. Primitive camping is permitted. Call before you haul.

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LOCATION

Nearest City **Asheboro, NC**

Address 279 Joe Farlow Road, Asheboro, NC 27205

Street Map

Trail Map

From: Charlotte, NC
1) I-85 N to exit 96
2) Take ramp right for US-64 toward Asheboro, continue 0.3 miles
3) Turn right on US-64, continue 21.7 miles
4) Take I-73 South / I-74 East, continue 6.7 miles
5) Take exit 49 New Hope Church Road, continue 0.3 miles
6) Turn left on New Hope Church Road, continue 0.5 miles
7) Turn right on US-220 Alt, continue 1.5 miles
8) Turn right on Joe Farlow Road, continue 0.1 miles.

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AREA TYPE

Area **Trail, Track**

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Land	Privately Owned / Commercial

QUALITY

Rating Good

Recommended Stay Full Day

MX TRACK

Features	Public, Watered, Groomed, Starting Gate
Max Engine Size	No Maximum
Min Engine Size	No Minimum

MX TRACK

Features	Public
Max Engine Size	No Maximum
Min Engine Size	No Minimum

REGULATIONS

Permit Required	No	
Dates Open	**Dates vary. Call before you haul.**	
Spark Arrestor	No	*A spark arresting **silencer** or **end cap** is not required but is always recommended.*
Noise Limit	No	*Quiet hours are 10pm-10am.*
Whip Flags	Not Required	
Maximum Vehicle Width		
Motorcycles	**Permitted**	
Four Wheelers	**Some Areas**	
UTVs / SXS	Prohibited	
SUVs / Jeeps (registered)	Prohibited	
	Prohibited	

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Dune Buggy/Sand Rail 4x4 (unregistered)		
Two Strokes / 2 Cycle Engines	No Restriction	
Helmets Required	**Yes**	
Bicycles	Some Areas	*This park has a mountain bike course.*
Hiking	No Restriction	*This park has a playground area.*
Horseback	Prohibited	
Camping	Some Areas	*Overnight stays are permitted for race events.*
Campfires		
Night Riding	Unknown	
Cross Country	Prohibited	*riders must stay on trail*
Alcohol	Prohibited	
Fireworks	Prohibited	
Firearms	Prohibited	
Emergency / Law Enforcement		
Insurance	*Disclaimer: RiderPlanet strongly recommends that all visitors get insurance for their ATV, UTV or motorcycle before visiting any of the locations shown on this website.	

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warranted to be current or f
use this information to know
manner, and wear all necess
motorcycle boots, long prote
RiderPlanet, LLC and it's spo
or fines that may be impose
depicted areas. RiderPlanet
insurance and obtain medica
described on this website sh
applicable land managemen
that may have been inadver
endorsement by, or affiliatio*

FEES

Parking	**($0.00)**
Entry	**Certain Times ($0.00)** **fees vary, call track for details**
Riding	**($0.00)**
Camping	**Tent: $0.00** **RV: $0.00** **Addtl. Vehicle: $0.00**

KEY SERVICES

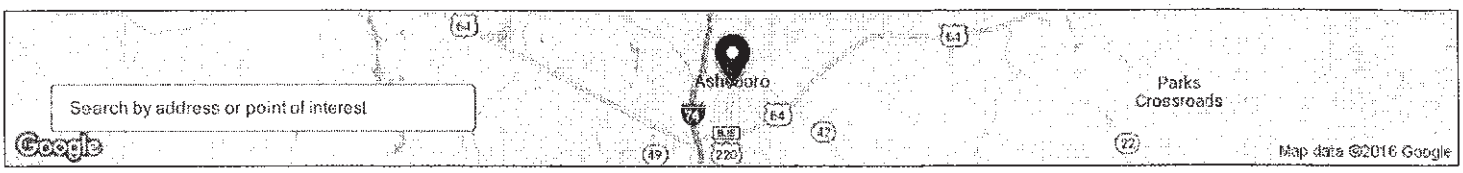
First Aid	5-20 Miles (N)	*Randolph Hospital (336) 625-5151*
Gasoline	5-20 Miles (N)	*Exxon (336) 629-0191*
Diesel	5-20 Miles (N)	*Exxon (336) 629-0191*
Water	**On Site**	
RV Hookup	5-20 Miles (NE)	*Deep River Campground and RV Park (336) 629-4069*

RV Disposal	5-20 Miles (NE)	*Deep River Campground and RV Park (336) 629-4069*
Campground	5-20 Miles (NE)	*Trails End Family Campground (336) 629-5353*
Conv Store	5-20 Miles (NE)	*Walmart Supercenter (336) 626-0004*
Swim Area	30+ Miles (NW)	*High Rock Lake Marina (336) 798-1196*
Water Body	**On Site**	*Kings Creek*
Boat Ramp	30+ Miles (NW)	*High Rock Lake Marina (336) 798-1196*

Contact Info

Zoo City Motor Sports Park
279 Joe Farlow Road
Asheboro, NC 27205
(336) 964-6699
(336) 302-7030
zoocitymxmom@yahoo.com
ride@zoocitymx.com
www.zoocitymx.com

Things to Do in Asheboro



ATTRACTION TYPE:

- Outdoor Activities (3)
- Nature & Parks (4)
- Zoos & Aquariums (1)
- Museums (2)
- Shopping (9)
- Food & Drink (1)
- Fun & Games (2)
- Sights & Landmarks (1)
- Classes & Workshops (1)

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Asheboro Hotel Deals

SAVE UP TO 60% ON HOT RATE® HOTELS

Based on national rates. SEE DEALS

Sort by: Ranking

Certificate of Excellence

North Carolina Zoo

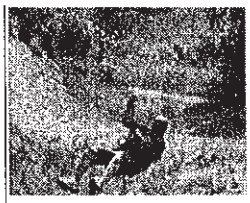
#1 of 20 things to do in Asheboro

853 reviews

"Still a good amount to see during..." 03/01/2016

"Gorgeous!" 03/01/2016

Zoos



Certificate of Excellence

Richland Creek Canopy Tours

#2 of 20 things to do in Asheboro

73 reviews

"Super FunTime!!!" 02/21/2016

"Great Fun" 01/05/2016

Hiking Trails

Tot Hill Farm Golf Club

#3 of 20 things to do in Asheboro

39 reviews

"Tough But Beautiful" 02/14/2016

"Best course in this area!" 01/14/2016

Golf Courses

N.C. Aviation Museum

#4 of 20 things to do in Asheboro

30 reviews

"Flying High!" 02/08/2016

"History of the planes and choppers" 11/22/2015

Military Museums | Specialty Museums

American Classic Motorcycle Museum

#5 of 20 things to do in Asheboro

19 reviews

"wow" 02/26/2016

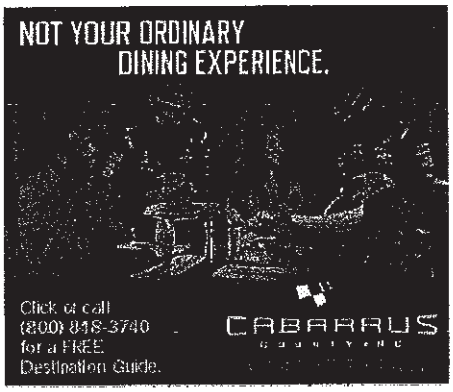
"Fascinating for motorcycle enthusi..." 09/01/2015

Asheboro weather essentials

Month
High
Low
Precip

Mar
54°F
34°F
3 in
Apr
64°F
42°F
4 in
May
71°F
50°F
3 in
Jun
78°F
58°F
3 in
Jul
81°F
62°F
3 in
Aug
80°F
62°F
4 in
More weather for Asheboro
C° | F°

Powered by
Weather Underground



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Add your review >

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Asheboro Maps

Recently Reviewed Hotels around Asheboro

Brookstown Inn
4.5 out of 5, 373 Reviews
Last reviewed Mar 3, 2016

Hampton Inn High Point
4.5 out of 5, 292 Reviews
Last reviewed Mar 2, 2016

Home2 Suites by Hilton Greensboro Airport
4.5 out of 5, 173 Reviews
Last reviewed Mar 3, 2016

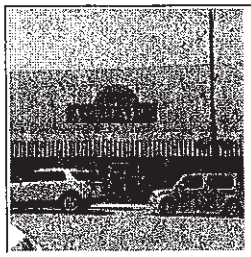
Suburban Extended Stay Hotel of Greensboro - W. Wendover
3.5 out of 5, 77 Reviews
Last reviewed Mar 2, 2016

Hampton Inn Asheboro
4.5 out of 5, 427 Reviews
Last reviewed Mar 2, 2016

BEST WESTERN PLUS Burlington

Specialty Museums

Four Saints Brewing Company
#6 of 20 things to do in Asheboro
13 reviews
"Great brewery!" 03/03/2016
"Cozy Taproom" 01/09/2016
Breweries



Collector's Antique Mall
#7 of 20 things to do in Asheboro
12 reviews
"Collector's Antique Mall" 11/22/2015
"GOOD VARIETY OF CLEAN MERCHANDISE" 09/01/2015
Antique Shops | Shopping Malls

Cinemark Asheboro
#8 of 20 things to do in Asheboro
9 reviews
"Great theater with great value and..." 12/31/2015
"Good Theater with Typical Prices..." 06/25/2015
Movie Theaters

Flea Marketeers
#9 of 20 things to do in Asheboro
7 reviews
"Always the same stuff" 02/11/2016
"Great Store, Good Stuff, Low Price..." 01/21/2016
Flea & Street Markets

Sunny Slopes Farm
#10 of 20 things to do in Asheboro
5 reviews
"Wonderful petting zoo!!!!" 08/17/2015
"A place kids love" 03/17/2015
Farms

Super Jumps
#11 of 20 things to do in Asheboro
3 reviews
"Love this place." 08/11/2014
"Great for birthday parties" 03/06/2014
Playgrounds

Vintage Cottage
#12 of 20 things to do in Asheboro
2 reviews
"Great place to find browse for fur..." 01/05/2016
"love the back entrance" 08/28/2015
Specialty & Gift Shops

Birkhead Mtn Wilderness
#13 of 20 things to do in Asheboro
2 reviews

4.5 out of 5, 332 Reviews
Last reviewed Mar 1, 2016

Courtyard by Marriott Burlington
4.5 out of 5, 107 Reviews
Last reviewed Feb 27, 2016

Comfort Inn
3.5 out of 5, 106 Reviews
eviewed Feb 27, 2016

ld Inn & Suites High Point Archdale
4 out of 5, 111 Reviews
Last reviewed Feb 27, 2016

Comfort Inn Near High Point University
4 out of 5, 47 Reviews
Last reviewed Feb 13, 2016

Holiday Inn Express Asheboro
4 out of 5, 111 Reviews
Last reviewed Jan 28, 2016

Comfort Inn Thomasville
3.5 out of 5, 29 Reviews
Last reviewed Jan 23, 2016

Fairfield Inn & Suites Asheboro
4.5 out of 5, 185 Reviews
Last reviewed Jan 20, 2016

Holiday Inn Express Burlington
4 out of 5, 126 Reviews
Last reviewed Jan 21, 2016

Corporate Suites of Burlington
3 out of 5, 29 Reviews
Last reviewed Dec 29, 2015

Recent reviews in Asheboro

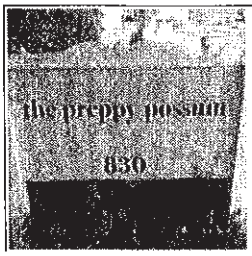
North Carolina Zoo
"NC zoo day trip"
"Great day trip. Not crowded in the winter season. Unique setting.... Not the typical"zoo"appearance. Inexpensive. Consider the yearly membership if you plan on going more than once."

North Carolina Zoo
"Still a good amount to see during winter!"
"We traveled to see this zoo in February when it was 40-50 degrees. We were worried most of the animals would be away because of the colder temps, but there was still plenty to see. There were an impressive amount of animals and they all appeared to be well
If you have kids, there's lots of sid..." More >

Carolina Zoo
"Gorgeous!"
"Okay, so going to a zoo you might ask, gorgeous? Yes it was!!! Being from Ohio we don't see a lot of the wild life they had in NC. The way they split the experience was a new take for us, and the pictures we took!!!! Many many memories for us!"

"Mehh" 01/12/2016
"Very Rugged" 12/15/2015

Nature & Wildlife Areas

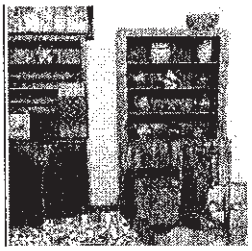


The Preppy Possum
#14 of 20 things to do in Asheboro
1 review
"Creative Therapy" 07/06/2015

Lessons & Workshops

Acme-McCrary Hosiery & Apparel Outlet
#15 of 20 things to do in Asheboro
1 review
"Made In America" 02/10/2016

Factory Outlets



William Ivey Southern Antiques
#16 of 20 things to do in Asheboro
1 review
"beautiful pottery" 08/25/2015

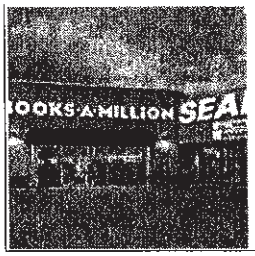
Antique Shops

K&A Consignments and Collectibles
#17 of 20 things to do in Asheboro
2 reviews
"nice antique store" 07/10/2015
"Multiple vendors and variety of me..." 04/23/2015

Antique Shops

Latham's Pottery
#18 of 20 things to do in Asheboro
1 review
"Latham's Pottery ... a great Potte..." 03/25/2015

Specialty & Gift Shops



Randolph Mall
#19 of 20 things to do in Asheboro
5 reviews
"Mall needs renovation disgusting r..." 06/21/2015
"Sad mall slowly dying" 05/07/2015

Shopping Malls

New Moon Art & Treasures
#20 of 20 things to do in Asheboro
Be the first to review this attraction

Specialty & Gift Shops

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FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT #FCU-10-13
CINDY MARVIN
JULY 20, 2010

A report to the Flathead County Board of Adjustment regarding a request by Cindy Marvin for a conditional use permit to allow for a motocross track as a Low-impact Recreation Facility in the AG-80 West Valley Overlay of the Westside Zoning District.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on August 3, 2010 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is within the advisory jurisdiction of the West Valley Land Use Advisory Committee. At a public meeting to be held on July 27, 2010 at 7:00 PM at the Stillwater Grange Hall, 1810 West Reserve Drive Kalispell the Committee will review the proposal and forward a recommendation to the Flathead County Board of Adjustment.

B. Board of Adjustment

The Flathead County Board of Adjustment will hold a public hearing regarding the proposed land use on August 3, 2010 at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building. This space is reserved for a summary of the Flathead County Board of Adjustment's discussion and decision at that hearing.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

Tanner Marvin
1775 West Valley Drive
Kalispell, MT 59901
(406) 257-4161

ii. Landowner(s)

Grosswiler Dairy Inc.
c/o Cindy Marvin
290 West Valley Drive
Kalispell, MT 59901
(406) 752-3708

iii. Technical Assistance

(none provided)

B. Property Location and Size

The subject property is approximately 40 acres in size and is located in the West Valley area along the east side of West Valley Drive between West Reserve Drive and Clark Drive (see Figure 1 below). The property can be legally described as Assessor Tracts 4 and 4A located in Section 27, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property highlighted in yellow.

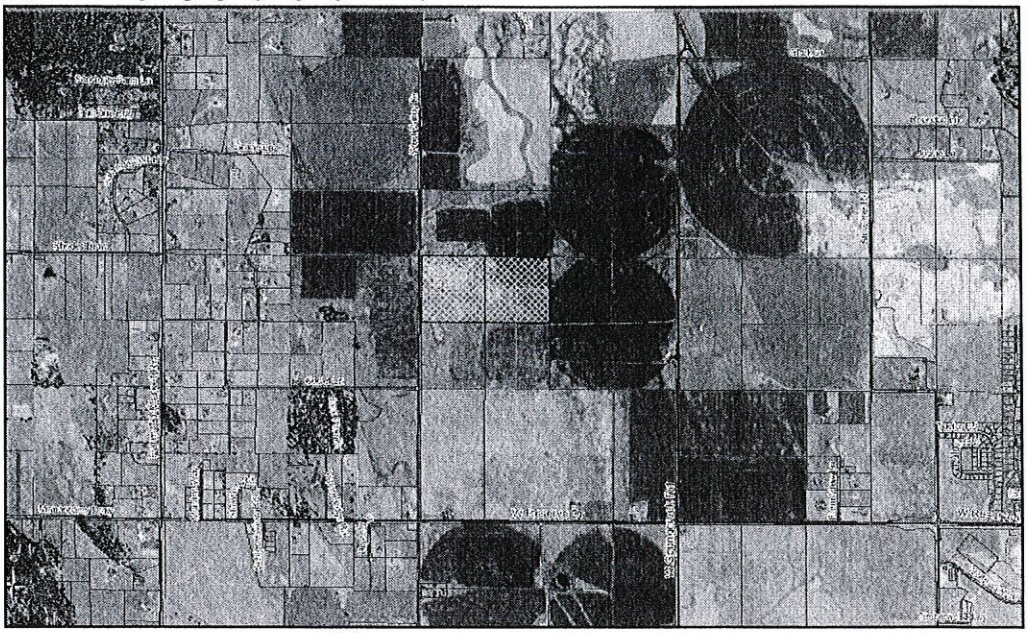
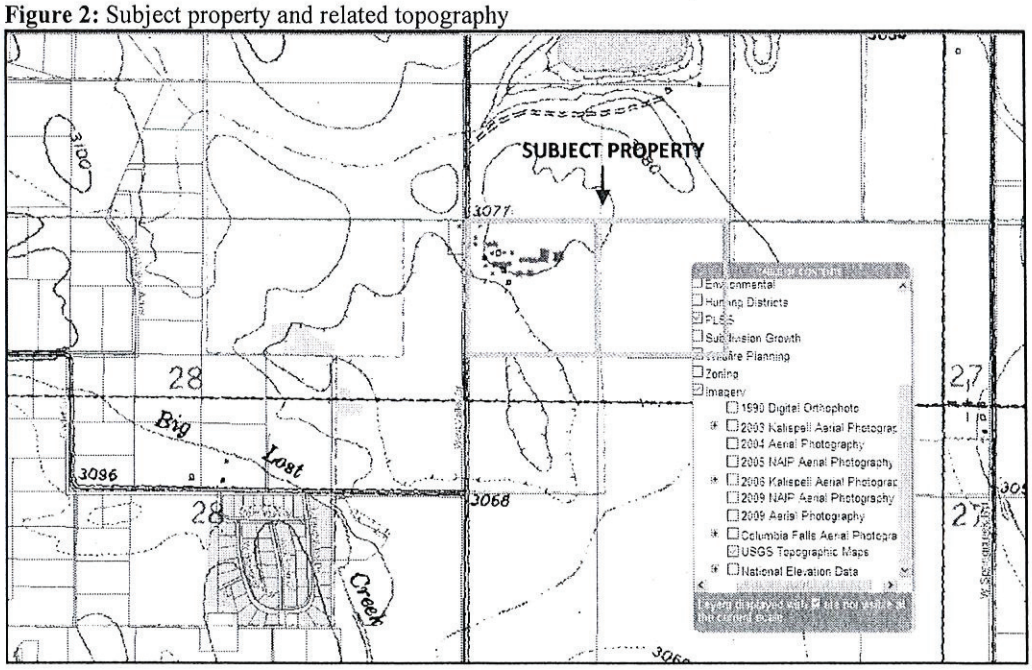


Figure 2: Subject property and related topography



C. Existing Land Use(s) and Zoning

The property was used as a dairy in the past, and is currently developed with various residential and farm structures as well as the motocross track which is the subject of this review.

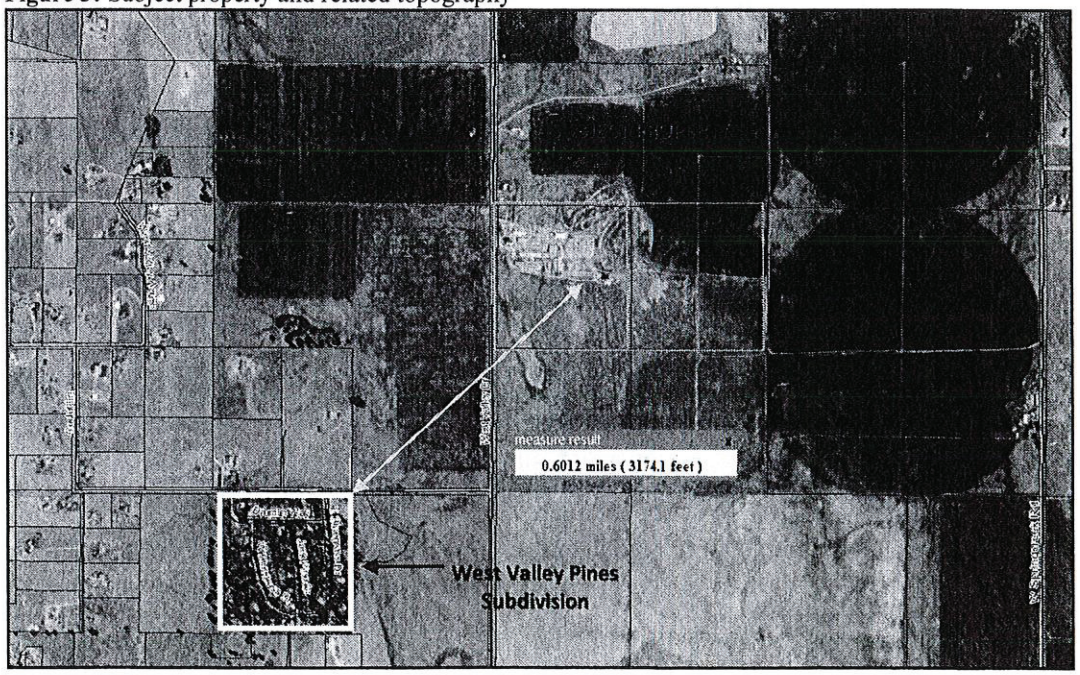
The motocross track and subject property are located within the Westside zoning district and is zoned "AG-80 West Valley Overlay (WVO)".

- AG-80 Agricultural is a district intended "*to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.*"
- West Valley Overlay (WVO) is "*a district to extend the provisions relating to the Land Use Advisory Committee and Residential Clustering of the WV West Valley Zoning District to other properties outside that district but within the jurisdiction of the West Valley Neighborhood Plan, County Resolution #1226-A.*"

D. Adjacent Land Use(s) and Zoning

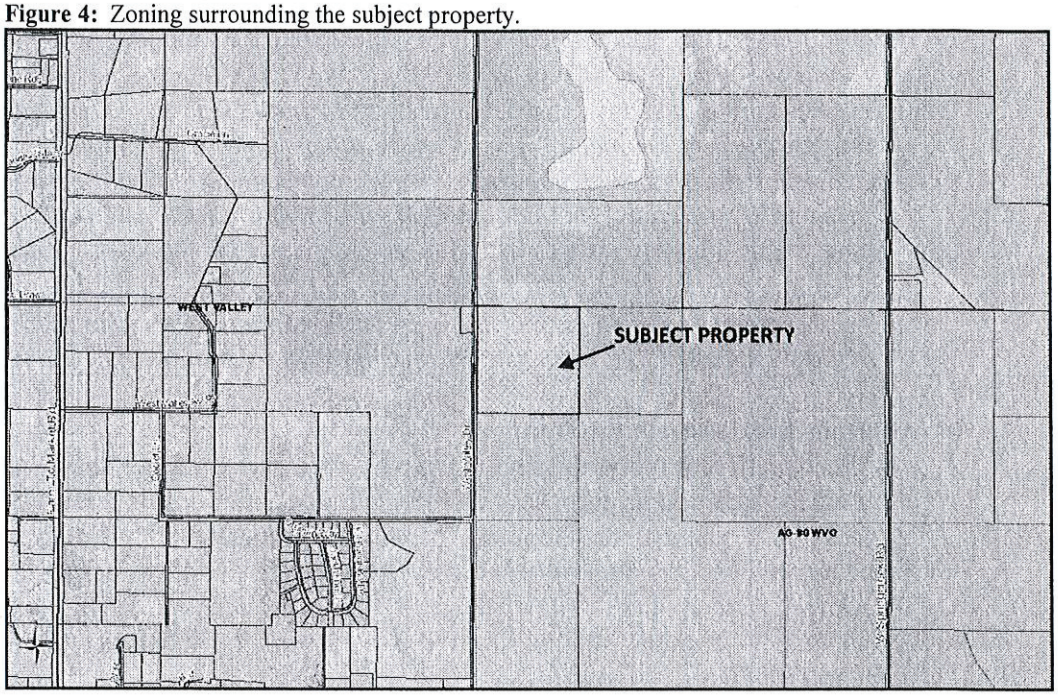
All directly adjacent properties and the general area surrounding the subject property are used for agricultural purposes with limited residential development. The nearest instances of residential development occur approximately .5 miles from the site, including residences within 'West Valley Acres to the west, residences along West Springcreek Drive, and Valley Pines, a 48 lot residential subdivision situated approximately .5 miles southwest of the motocross track (track) on the subject property (see Figure 3 below).

Figure 3: Subject property and related topography



Adjacent tracts located to the east and south of the subject property are zoned "AG-80 WVO" and area to the immediate west and north of the subject property are zoned "West Valley" within the West Valley zoning district (see Figure 4 below).

Figure 4: Zoning surrounding the subject property.



E. Summary of Request

Background

- The prior use of the property for dairy purposes has been discontinued, and the applicant has been developing and operating a motocross track (track) on-site with the intent of providing a practice and racing facility for local and non-local motocross enthusiasts.

- On April 8, 2010, a zoning complaint (FZT-10-04) was submitted to the Flathead County Planning and Zoning Office (FCPZ) due mainly to noise disturbance experienced by residents of the West Valley Pines Subdivision, which is located within the West Valley zoning district approximately 0.5 miles southwest of the actual track location. The alleged zoning violation is based on the premise that the operation was a commercial endeavor for which the operators engaged in broad promotion and race event planning via an internet social networking site, onsite posting of track rules, and collection of fees.

- In investigating the zoning complaint per FCPZ policies and procedures, communication was established between FCPZ staff, the property owner, and the current applicant.

- In addressing the zoning complaint the applicant met with FCPZ staff on May 19, 2010 when it was clarified that the track was established on portions of property lying partially within the West Valley zoning district and AG-80 WVO zoning district. It was made clear to the applicant that operation of a commercial motocross track on property within the West Valley Zoning District would not be allowable due to the applicable provisions of that district. It was further identified that operation of such a facility may be allowable as a 'recreation facility' on property located within the AG-80 WVO zoning district only if recreational facility threshold criteria could be met and upon issuance of a conditional use permit by the Board of Adjustment. Regarding an application for a conditional use permit, it was clearly communicated that the applicants would have to prove that all applicable criteria can be met.
- The May 19, 2010 discussion between FCPZ staff and the applicant concluded with of a 'plan of action' signed by those present which outlines specific terms agreed upon by the applicants in order to reach a resolution regarding the alleged zoning violation. The signed 'plan of action' (attached for reference) calls for a finite timeframe to attain zoning compliance through either ceasing all commercial track activity or taking appropriate action toward obtaining a valid conditional use permit for the facility, removing the portion of commercial track occurring within the boundary of the West Valley zoning district, voluntarily reducing and limiting hours of track riding with friends/acquaintances, voluntarily abstaining from use of amplified music and loudspeakers on the track, and communicating with neighbors, if willing, to understand and address their concerns.

Request

The applicant has requested a conditional use permit for a 'low-impact recreational facility' in order to 1) comply with requirements pertaining to the alleged non-compliance with the applicable zoning, and 2) allow the further development and operation of the motocross facility on the subject property. Proposed limited operation hours of the track facility include three practice times per week and five race events annually, details of which are further discussed below in Section IV.D.v of this report.

Pursuant to Section 3.04.030(17) of the Flathead County Zoning Regulations (FCZR), *low-impact recreation facilities* are listed as a conditional use the AG-80 zoning district.

According to the definition, a 'recreational facility' is *"A structure or use of property not otherwise listed in these regulations to accommodate the enjoyment, healthful activities, and leisure of the facility's users. Such a use may be enclosed by walls and roof (indoor) or an open-air (outdoor) arrangement. Recreational facilities are also defined as being either "high impact" or "low impact", based on the following criteria:*

1. Land Intensity – the amount of land necessary to operate the facility.
Examples: High impact – golf course, ski area
Low impact – archery range, video game arcade

Threshold: Facility requires more than twice the "minimum lot size" determined by district classification.

2. *Traffic Generation – the amount of motor vehicle traffic created by use.*
   Examples: High impact – water slide, fairgrounds
   Low impact – golf driving range, dude ranch
   Threshold: Traffic greater than or equal to 20 trips per hour at peak hours or 75 trips per day.

3. *Visibility – the visual impact of the facility; how obvious its presence is.*
   Examples: High impact – water slide, ski area
   Low impact – dude ranch, day camp
   Threshold: Structures unusual compared to surrounding uses are visible from adjacent roadways.

4. *Risk – the possibility of danger to adjacent landowners or property.*
   Examples: High impact – zoos, rifle ranges
   Low impact – bike rental, fishing
   Threshold: Reasonable chance of danger or damage to nearby property or people.

If a facility is determined to have a "high" rating in any of these categories, it shall be considered a "high-impact" recreational facility.

Whether the proposal conforms to all applicable criteria for granting of a Conditional Use Permit and whether or not the motocross facility actually meets the definition of a low-impact recreational facility may be determined through adequate review and evaluation of the proposal relative to all applicable criteria by the Board of Adjustment.

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on July 7, 2010, pursuant to Section 2.06.040 (3) of the Zoning Regulations. Legal notice of the public hearing on this application was published in the July 18, 2010 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on May 21, 2010:

- Flathead County Public Works Department
  - Reason: The proposal has the potential to impact County facilities.
- Flathead County Solid Waste
  - Reason: The proposal has the potential to impact County facilities.
- Flathead City-County Health Department
  - Reason: Approval and implementation of the proposal would necessitate availability of proper sanitation facilities for track users and spectators, and review and permitting of such facilities is administered by the department.
- Flathead County Sheriff

- Reason: The proposal has the potential to impact public health and safety.

- West Valley Fire District
  - Reason: The property is located within the department's jurisdiction.

III. COMMENTS RECEIVED

A. Public Comments

Eleven written public comments have been received as July 20, 2010 opposing the proposed motocross track facility. No written public comments have been received to date supporting the proposed motocross track facility. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

The following is a *summarized* list of public comment and concerns received as of the date of the completion of this staff report:

- Eight written letters from area residents opposed to the motocross track.
  - Concerns regarding impacts from noise which limit the peaceful enjoyment of their home-life during non-working hours and weekends.
  - Concerns regarding impacts from noise which may affect their property values.
  - Concerns regarding impacts from noise which may affect the ability to re-sell their homes and properties.
  - Concerns regarding impacts from dust.
  - Concerns regarding impacts to health due to exposure of sound frequencies caused by motorcycles operating together in a group.
  - Concerns regarding increased traffic and signage associated with the proposed operation.
  - Concerns regarding incompatibility of the proposed operation with the applicable West Valley Neighborhood Plan.
  - Concerns regarding future enforcement of conditions, if the proposal is approved.

- Letter from Henning, Keedy & Lee P.L.L.C. Attorneys at Law - retained by the West Valley Pines Homeowner's Association, LLC.
  - Concerns echo and reinforce the comments and concerns voiced in the written letters from landowners.
  - The letter is accompanied by a report from a 'noise expert' on the effects of noise exposure on the physical and psychological health of people and its impact on the quality of life. Also attached to the letter is a DVD of movie clips documenting typical crowd, dust, and sound impacts from a motocross racing event.
  - Regarding the established conditional use permit criteria, the letter cites Section 2.06.090 FCZR stating "the burden of proof for satisfying the aforementioned criteria shall rest with the applicant and not the Board of Adjustment."
  - The letter suggests the applicant cannot meet the required burden of proof that there would be no negative impact to surrounding

neighborhoods, and that stopping the proposed use at this time would negate the likelihood of expensive and protracted future litigation.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- David Prunty and Guy Foy, Flathead County Road and Bridge Department
  - The primary access from West Valley Drive should be utilized because it is paved, alleviating the need for the applicant to provide dust abatement on the county road (West Springcreek Drive).
  - West Springcreek Drive is a gravel county road and the access onto this road appears to be an unimproved dirt/gravel road and actions should be taken to control dust both on the access and the county road if utilized for ingress/egress.
- Glen Gray, Environmental Health Services
  - The applicant is proposing "four stationary outhouses throughout the property". If this refers to permanent outhouses they must be vaulted privies that meet applicable construction standards- a site evaluation and permit is required prior to installation.
  - If porta-potties are proposed, a permit is not needed, but they are only acceptable for temporary activities which have an end point.
  - Dust control is proposed by the applicant - dust control is not optional due to Flathead County Air Quality Regulations.
  - For food service, any vendor must be licensed as a mobile food service by the Department of Public Human Services, subject to inspection at any time.
- James Chilton, Flathead County Solid Waste District
  - After reviewing the application the Solid Waste District views no negative impact with solid waste issues at this time.
  - The district requires that all solid waste generated at the proposed location be hauled by private hauler; Evergreen Disposal is the licensed Public Service Commission licensed hauler in the area.

IV. CRITERIA REQUIRED FOR CONSIDERATION

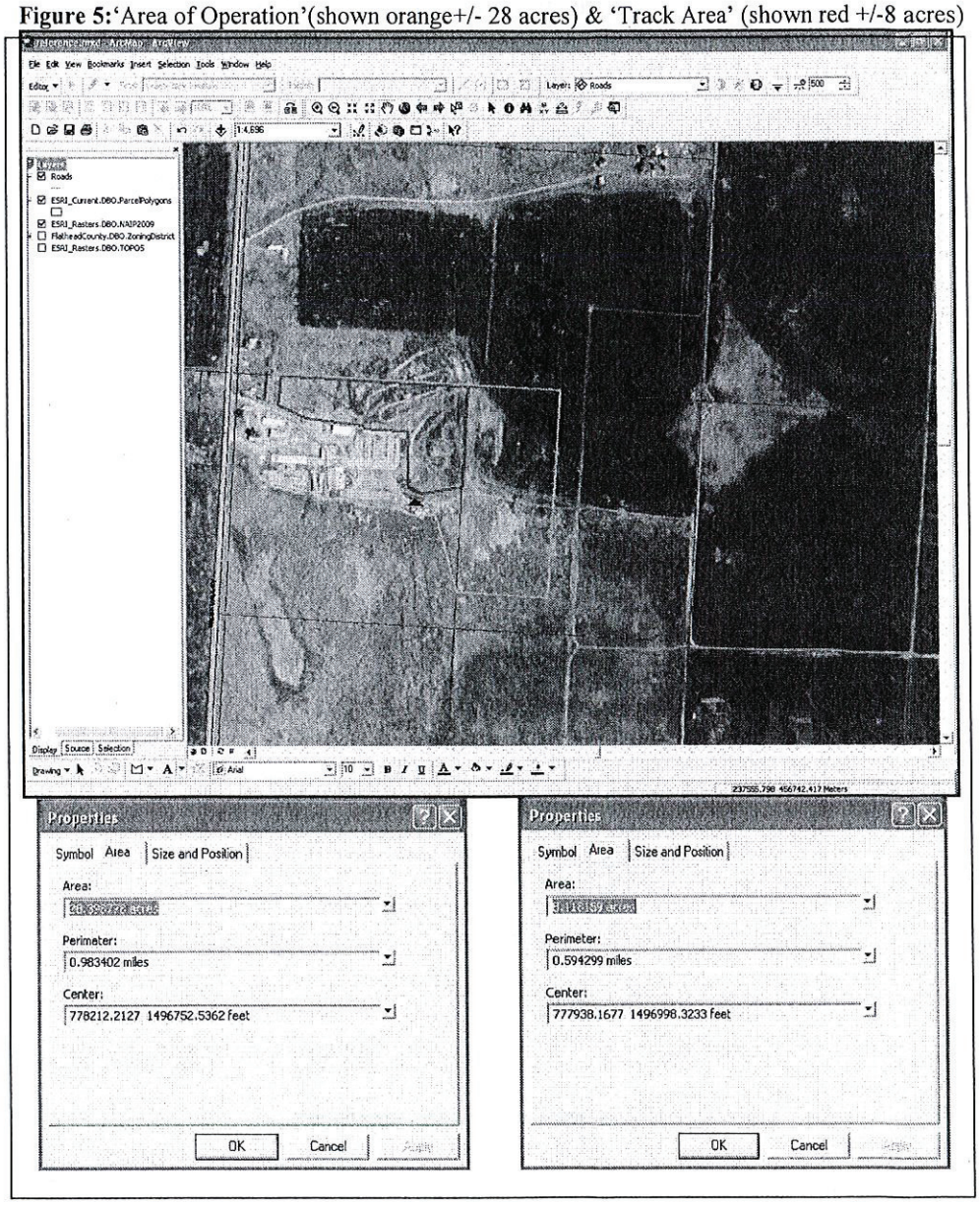
Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations (FCZR) establish the general criteria required for consideration of a Conditional Use Permit. Per Sections 2.06.080(1) other applicable criteria for the review of a low-impact recreational facility include the Conditional Use Standards for Recreational Facilities found in Section 4.15.010 FCZR and the threshold criteria for low and high impact recreational facilities found in Section 7.17.040 FCZR. What follows are the applicable criteria required for consideration of a Conditional Use Permit for a low-impact recreational facility and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate usable space

The submitted application includes a site plan indicating the 'area of operation', 'track area', and 'parking area'. As proposed, the current track is situated on Tract 4 of the subject property, while the area of operation would include portions of Tract 4A of the subject property to accommodate parking and potential future track re-configuration.

Figure 5:'Area of Operation'(shown orange+/- 28 acres) & 'Track Area' (shown red +/-8 acres)



The subject property (Tracts 4 and 4A combined) is approximately 80 acres in size. The submitted text portion of the application states the track would use two acres of land area, however staff analysis using ARC GIS mapping technology indicates the proposed 'area of operation' of the track facility would cover approximately 28 acres and the current track configuration actually covers approximately 8 acres of land (refer to Figure 5 above).

While there is a discrepancy regarding the amount of land involved with the proposed use, the total land area of the subject property is still considered to be large relative to either estimate and the property area is adequate to accommodate the proposed track, parking and circulation required of the use.

Finding #1 – The subject property is suitable for the proposed use because there is adequate useable space to accommodate the proposed 'area of operation' of the motocross track facility and the proposal complies with the applicable bulk and dimensional requirements of the zoning in place.

ii. Adequate access

The subject property has an existing gravel approach onto West Valley Drive proposed as primary ingress/egress for the facility. Additionally, the site plan and submitted text indicates the ability to use an unimproved dirt road across the owners property for additional egress onto West Springcreek Road, located east of the subject property. Comment received from the Flathead County Road and Bridge Department indicates the existing approach is preferable for all facility use because West Valley Drive is paved and West Springcreek Road is not. Airborne dust is a concern of two departments who submitted comment, and the applicant would be required to implement dust mitigation on the access road and West Springcreek Road if that route would be used for facility purposes. It is not clear whether or not an existing approach permit exists for the existing approach onto West Valley Drive. The applicant would be required to either obtain an approach permit specifically applicable for the proposed use from Flathead County Road and Bridge Department if one does not already exist, or amend the existing permit, as applicable, to accommodate the proposed use if one does already exist.

Finding #2 - The site is suitable for the proposed use because the property has direct access onto paved West Valley Drive via an existing gravel approach which may be adequately permitted and improved to accommodate the vehicle traffic created as a result of the proposed use.

Finding #3 - A proposed additional egress for facility use via West Springcreek Road does not presently appear to be appropriate for facility use because it is relatively unimproved in terms of width and construction and would cause the generation of airborne dust from increased vehicular use of both the access road across the owner's land and West Springcreek Road.

iii. Absence of environmental constraints

The subject property and 'area of operation' has been used for extensive dairy purposes in the past. There are no streams, rivers, wetlands or riparian areas in the 'area of operation', and the site does not appear to be subject to shallow ground water as it occurs near the top of a topographic rise. The site doesn't appear conducive to substantial wildlife use and has no apparent critical wildlife habitat.

Finding #4 – The property is suitable for the proposed use because the property is absent of environmental constraints including steep topography, critical wildlife habitat, riparian areas and high groundwater.

B. Appropriateness of design

i. Parking scheme

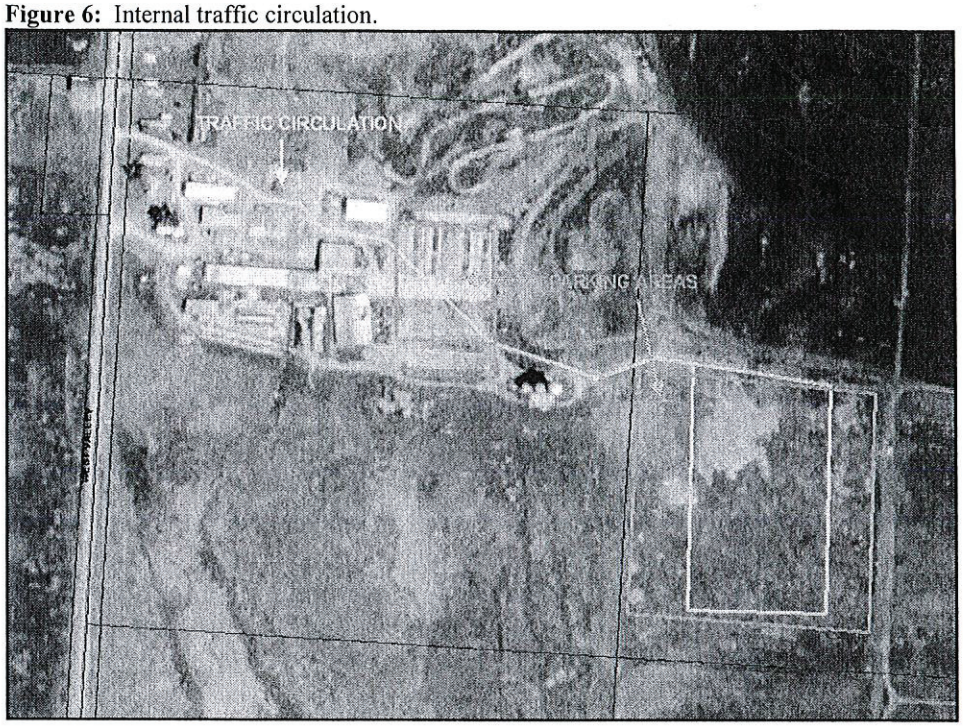
The applicant has proposed parking in specific dirt lot areas on both tracts of the subject property, as indicated on the submitted site plan. Generally, the majority of parking would occur on a portion of Tract 4A in an area approximately 500'X600' in size covering 300,000 ft^2. Chapter VI FCZR addresses parking, and indicates the standard vehicle space is 9'X20' feet in size. It is assumed a large number of track users may use large vehicles and trailers for hauling motorcycles, and dimensions required for trailers and large vehicles are not specified in the regulations. Assuming a vehicle with a trailer would need twice the space for parking required of a standard vehicle (9'X 40' - 360 ft^2), the proposed parking appears adequate to accommodate participants and spectators of the proposed use assuming the operators establish adequate demarcation of all parking surfaces and associated traffic circulation aisles as required per Section 6.14.010 FCZR.

Finding #5 – The proposed parking appears acceptable because adequate space is available for participant and spectator parking onsite, on-street parking on the public road is unnecessary, and the proposed parking areas may be adequately demarcated to define parking spaces and associated traffic circulation aisles in compliance with applicable parking standards outlined in Chapter VI FCZR.

ii. Traffic circulation

Vehicle traffic would enter and exit the site using the existing gravel approach onto West Valley Drive. The applicant has proposed a conceptual and non-specific internal traffic circulation scheme as indicated on the submitted site plan. Generally, internal traffic circulation would involve vehicles accessing the site through the established gated entrance, proceeding eastward through the farm infrastructure to gain access to the proposed parking areas, as depicted on Figure 6 below (created by staff for reference).

Figure 6: Internal traffic circulation.



As proposed, access to the parking areas would entail two-way traffic circulation which requires a 20 foot wide roadway pursuant to Section 6.16.020(3) FCZR. Based upon observations from the staff site visit and from measurements derived from available imagery, the internal access route is less than 20 feet wide in several locations, and would be required to be improved to at least a 20 foot width in its entirety. Per Section 6.14.010 FCZR, the entire internal access route should be required to be adequately demarcated prior to operation of the facility involving use by the general public.

Finding #6 – The proposed site plan does not meet the design guidelines set forth in the Flathead County Zoning Regulations requiring minimum width for two-way traffic circulation because portions of the proposed internal access route are between 10-15 feet in width and roadways for two-way traffic are required to be 20 feet in width.

Finding #7 - The proposal for traffic circulation would present a hazard to public health and safety because the proposed internal access route follows an irregular and confusing path, is not adequately demarcated, and is not of sufficient width to allow for safe passing of oncoming two-way traffic.

iii. Open space

As previously stated, the proposed 'area of operation' of the track facility would cover approximately 30 acres with the current track configuration covering approximately 7 acres of land, and the site is developed with numerous existing farm-related and residential structures. A substantial portion of the 80 acre subject property remains open as undeveloped and farmed land. The proposal

complies with the applicable threshold criteria regarding land intensity (#1) for recreational facilities which infers a low-impact recreational facility should not require twice the minimum lot size determined by district classification (80 acre minimum lot size in the AG-80 WVO district).

Finding #8 – There is adequate open space associated with the proposed low-impact recreational facility because the proposed 'area of operation' is able to be developed with the proposed motocross track in compliance with applicable land intensity threshold criteria for recreational facilities and in such a way that the subject property has remaining open space in excess of 50 acres.

iv. **Fencing/screening**

The site is located on a topographic rise causing the location to be very visible from West Valley drive and surrounding area properties. The site plan indicates fencing along West Valley Drive and along the southwest periphery of the 'area of operation'. The application does not include any text description of proposed fencing/screening, and it is unclear whether the applicant is simply acknowledging existing farm fencing or if the applicant intends to construct new fencing to serve as a visual and/or sound barrier between the proposed motocross track and affected area residents.

The proposed motocross track is not anticipated to be highly visible unto itself, as it is generally low level in relation to the surrounding terrain and existing structures which may act as a visual screen. While it is not anticipated that regular practice times would create a visual nuisance, participant and spectator vehicles, spectator crowds, and potential sponsor advertising banners typical of motorized racing events would be highly visible during race events and may become a potential visual nuisance.

Public comments have indicated great concern regarding noise from the existing and proposed motocross activities. Limited staff research (references attached with this report) leads the reviewer to doubt the effectiveness of non-specialized fencing on reducing the impacts of sound on surrounding properties, and limited research indicates vegetation does not serve as a particularly effective mitigation to the disturbing sound frequencies typical of standard motocross vehicles which appear to typically range from 86 to 120+ decibels (dbA), generally depending upon variable factors including engine size and type, muffler set-up, and rpm's at time of monitoring.

Finding #9 – Proposed fencing/screening that would minimize noise and visual impacts to area residents appears inadequate because the application provides no description of intended purpose, materials, or height, nor does the applicant provide proof of effectiveness of proposed fencing as a mitigation technique for the anticipated impacts.

v. **Landscaping**

No landscaping is specifically required of the conditional use permit request. Regarding this criterion, the application states 'see attached map', and the map indicates nothing pertaining to landscaping.

Finding #10 –The ability for existing and/or proposed landscaping to mitigate potential visual and noise impacts to adjacent properties and area residents is not able to be reasonably evaluated because the submitted application does not address landscaping.

vi. Signage

Regarding this criterion, the application states 'see attached map', and the map indicates nothing pertaining to signage. To date, the track has used limited directional signage located across the street and signage on the gate indicating track rules. Any future signage would be required to meet applicable standards and guidelines pursuant to FCZR Section 5.11.

Finding #11 – There would be limited visual impacts resulting from signage on the proposed facility because it is presumed future signage would be compliant with applicable requirements set forth in the Flathead County Zoning Regulations.

vii. Lighting

The application indicates the motocross facility will not be lighted, stating "the track will never operate in the dark hours therefor we have no lighting". Any exterior lighting shall comply with performance standards set forth in FCZR Section 5.12.

Finding #12 – There will be limited visual impacts resulting from lighting of the proposed facility because the track is proposed to not operate in the dark and any future exterior lighting would be required to comply with applicable provisions set forth in the Flathead County Zoning Regulations.

C. Availability of Public Services and Facilities

i. Sewer

The subject property is currently served by individual septic system(s) for the uses already established. The proposal indicates participants and spectators of the motocross facility would be served by a "minimum of four stationary outhouses throughout the property." It is unclear as to whether the 'stationary outhouses' would be permanently constructed vaulted privies or portable outhouses provided by a service provider, and it is unclear whether four outhouses would adequately serve the needs of the potential number of participants and spectators that would be present on practice days and race days.

As indicated by Glen Gray of Flathead County Environmental Health Services, if permanent outhouses are established they must be vaulted privies that meet applicable construction standards and a site evaluation and permit is required prior to installation. If portable outhouses are proposed, a permit is not needed, but they are only acceptable for temporary activities which have an end point.

ii. Water

There are no public water services available and the subject property is currently served by existing well(s). Regarding this criterion, the application only states "numerous hydrants throughout the property". It appears the applicant is referring to water for dust control, and it is not clear whether or not the 'hydrants' provide potable water. In order to provide a commercial race event to the general public it is presumed that potable water should be made available to participants and spectators in order to not create a hazard to public health and safety. If food and beverages are to be provided by mobile food vendors, any vendor must be licensed as a mobile food service by the Department of Public Human Services, subject to inspection at any time.

Finding #13 – The proposed use would have minimal impact on public services and facilities because the facility would be served by private means for water, sewer, and food vending services, all of which would be required to be permitted, as applicable, prior to beginning operations.

iii. Storm Water Drainage

According to submitted statements all stormwater runoff from the subject property currently drains into the existing drainage ditches surrounding the property. Current zoning regulations do not require that stormwater management techniques be implemented, however, in the event development of the facility will cause more than 1 acre of land to be "disturbed", the applicant is required to obtain permit coverage under the *General Permit for Storm Water Discharges Associated with Construction Activity*, issued by the Montana Department of Environmental Quality (A.R.M. 17.30.1102(28)).

Finding #14 – Stormwater drainage has been adequately addressed for the conditional use process because the proposed use will result in no increase in impervious surface, and runoff resulting from the motocross track could be retained onsite and directed toward existing drainage ditches that appear able to accommodate additional run-off created.

Finding #15 – It appears development of the motocross facility is subject to compliance with stormwater provisions administered by the Montana Department of Environmental Quality because track development is non-agricultural and has resulted in the disturbance of more than one acre of land.

iv. Fire Protection

The subject property is located within in the West Valley Fire District, with a fire station located approximately four miles east at the corner of Reserve Loop and U.S. Highway 93.

v. Police Protection

The subject property is served by the Flathead County Sheriff's Department. Relatively quick response times would be anticipated given the property's location near to a major highway and between the urbanized areas of Kalispell and Whitefish.

vi. **Streets**

As previously discussed, the subject property has direct access onto West Valley Drive via an existing gravel approach The application proposes an additional access point which would approach onto West Springcreek Road, but comment from the Flathead County Road and Bridge Department indicates its preference for the facility to only use West Valley Drive for ingress/egress due to poor conditions on West Springcreek Road, indicating use of that route would require extensive dust control by the applicant.

Pursuant to Section 6.16.020(4) FCZR all accesses onto County roads shall have been approved by the County Road Department with the issuance of an encroachment permit. Such permits shall be obtained prior to the construction and/or use of such access. It is not clear whether the existing approach onto West Valley Drive has previously undergone review and approval from the Flathead County Road and Bridge Department.

Finding #16 - Pursuant to Section 6.16.020(4) FCZR the applicant should obtain either a new or amended encroachment permit for the existing approach onto West Valley Drive because the proposed use would introduce significant changes in the number of ingress/egress trips which may impact functionality of the approach or introduce impacts to the paved road.

Finding #17 - Impacts to public services and facilities are accessible because the subject property is in an area of the county served by the West Valley Fire District and the Flathead County Sheriff, and has direct access onto West Valley Drive, a paved county road adequate to serve the sporadic traffic generated by the proposed use, subject to the approval and issuance of an encroachment permit.

D. Immediate Neighborhood Impact

i. **Excessive traffic generation**

Regarding this criterion the application states that that for practice times the facility will not exceed 75 vehicle trips per day and indicate race events will generate traffic exceeding 75 vehicle trips per day. West Valley Drive is paved 24 feet wide and the area is sparsely populated with few residential driveways directly accessing the road in the vicinity of the proposal site. It is not anticipated the estimated traffic generation would be problematic on typical 'practice times' because usage is not concentrated at a particular time of day. Traffic generation may be problematic on race event days because usage would appear to be more concentrated at particular times of day depending on race times of scheduled races of different size category, and 'bottleneck' congestion could occur with participant and spectator vehicles and trailers at the relatively narrow entrance to the facility. The application speaks very little to this matter and provides no clarifying information to the contrary of staff's assumptions.

Finding #18 – Increased amounts of additional vehicle traffic on race event days may result in congestion causing traffic to 'jam' on West Valley Drive at the facility entrance because multitudes of participants and spectators will likely

arrive in vehicles with or without trailers at key times relative to scheduled races of different size category.

ii. Noise or vibration

The application states "dirt bikes and ATV's are required to have silencers which average the sound level to be at 93 dB which is below the State regulations...". Flathead County does not have an adopted noise ordinance, nor are there any adopted standards regarding maximum allowable decibel levels in the Flathead County Zoning Regulations.

Numerous complaints regarding noise from motocross activity and a recent zoning violation regarding purported 'commercial use' of the motocross track and its associated noise have been submitted to the Flathead County Planning and Zoning Department. Noise impact to area residents in the West Valley Pines Subdivision, located approximately .5 miles from the track, is the primary concern regarding the proposal. Numerous voiced concerns regarding noise generally include impacts to enjoyment of home-life during non-working hours and weekends, perceived adverse impacts to property values, and impacts to health. Figure 2 (above) indicates the topography of the subject property relative to the surrounding immediate neighborhood. As seen in Figure 2 the terrain directly southwest of the proposal site descends in a bowl-like depression which appears to direct noise from the motocross track toward the West Valley Pines Subdivision much like a funnel.

It appears from general research on the topic that motocross facilities are often designed and planned with the assistance of professional consultants who plan and design track locations and configuration with built-in sound mitigation measures such as 'berming' and 'digging-in' to attenuate the intensity of sound traveling off-site. In attempting to mitigate noise impacts the applicant:

- has situated the starting line against a north facing wall of a building to prevent the loudest concentration of sound, caused by cumulative high rpm's with simultaneous acceleration, to be blocked from direct exposure to the southwest direction where affected residences are located; and
- proposes no noise after 8:00 pm on practice times and strictly enforced "quiet time" from 10:00pm - 6:00 am on race events.

Aside from these considerations it doesn't appear there have been any other substantial design elements implemented to mitigate noise impacts to the immediate neighborhood. The proposed limited hours of operation (see section v. of the report below) happen to coincide with times that residents are typically at home, namely evenings and weekends. It appears no compelling proof has been presented by the applicant that there will be no detrimental noise impacts to the surrounding neighborhood.

Finding #19 – Numerous comments and concerns regarding noise impacts to residents living within the West Valley Pines Subdivision have been submitted alleging the peaceful enjoyment of their homes, their property values, and their general health and well being are being adversely impacting by the motocross

activities occurring on the proposal site because the noise travels, unimpeded by topography or other barriers, from the source to the location of their homes.

Finding #20- Applicant attempts to mitigate motocross related noise impacts to area residents are relatively ineffective because the track is located on a hill above the subdivision, no professional consultation has been used to deliberately design the track to minimize noise impacts, and proposed limited hours of operation coincide with times when residents are typically home in the evenings and on weekends.

iii. **Dust, glare or heat.**

The proposed use is not anticipated to generate glare or heat, but it is anticipated to generate substantial dust unless active dust mitigation is implemented. For this purpose, the track has been developed with a system of water valves and sprinkling devices to minimize generation of airborne dust from track use. The application indicates a watering truck will frequently water the track to minimize dust, but does not address the need for dust mitigation on the approach, internal traffic circulation areas, and parking areas.

Finding #21 – The proposed use has the potential to create substantial environmental impact due to generation of airborne dust because motocross activity agitates exposed soils and the approach and all internal access, parking areas, and traffic circulation areas are comprised of dirt and gravel.

iv. **Smoke, fumes, gas, or odors**

The application indicates motorcycles pass emission tests before being sold, and due to the fact that current trends in motocross racing involve mainly motorcycles with 4-cycle engines, the facility won't create unreasonable impacts due to smoke, fumes, gas, or odors. There is no requirement to use motorcycles with 4-cycle engines, and it is assumed there would be 2-cycle engines riding on-site which use gas mixed with oil, producing fumes, smoke, and odors. However direct impacts to area residents are not anticipated as the nearest off-site residences are located at least .5 miles from the proposal site.

Finding #22 – Immediate neighborhood impacts resulting from smoke, fumes, and odors are not anticipated to be significant due to the approximate half mile distance between the track and area residents, and the likelihood that fumes, smoke, and odors would dissipate in the air within that distance.

v. **Inappropriate hours of operation**

Proposed operation hours of the track facility include:

Open Practice Time (pending CUP approval)

- Tuesdays and Thursdays from 3:30 PM to 8:00 PM during the school year
- Tuesdays and Thursdays from 10:00 AM to 6:00 PM during the summer
- Saturdays from 10:00 AM to 6:00 PM

Race Events (pending CUP approval)

- Two in summer 2010 - June 19 (cancelled), August 21-22
- Five annually (pending CUP approval)

As discussed above, the proposed hours of operation generally coincide with times when residents and their families are home, which may be considered a burden to the resident who is subjected to constant disturbing noise during the hours of operation, weekly throughout the spring, summer, and fall months of the year.

Finding #23 - While the proposed hours of operation may appear a compromise from full time motocross activity, they would have an impact on the surrounding neighborhood because the hours of operation coincide with evening and weekend hours residents are typically at home.

E. Conditional Use Standards For Recreational Facilities (per 4.15.010 FCZR)

Section 4.15.010 FCZR states: *Due to the diverse nature of the potential recreational facilities that may be proposed or developed in the planning jurisdiction, no specific standards are established. However, proposed uses that must obtain a Conditional Use Permit may be reviewed subject to a number of criteria. These criteria may include, but are not limited to, traffic generation, parking availability, impact on surrounding uses, landscaping, noise generation, and accessibility. Mitigation strategies for the possible impacts of recreational facilities that must obtain a Conditional Use Permit may be submitted with the permit application materials.*

The submitted application includes a text element that is an expanded discussion of the applicant's perspective on the criteria listed above, which has been addressed in this report under sub-headings A-D above. The applicant discussion includes perspective on the benefits that providing a motocross facility would provide to the Flathead Valley and its residents including:

- economic benefit by attracting racers and spectators to the area from distant places;
- providing family-oriented recreation and fun;
- providing a drug and alcohol free riding opportunity;
- providing riding opportunity for people of all ages;
- providing a place to legally ride dirt bikes and ATVs; and
- providing a riding opportunity that's close to town and affordable.

Finding #24- The proposed use would offer some important benefits to Flathead County because it would potentially be a draw for tourists, spectators, and racers to visit the county and contribute to the local economy and it would provide a form of recreation not readily available within the Flathead Valley.

F. Recreational Facilities Threshold Criteria (per 7.17.040 FCZR)

A 'recreational facility' is *"A structure or use of property not otherwise listed in these regulations to accommodate the enjoyment, healthful activities, and leisure of the facility's users. Such a use may be enclosed by walls and roof (indoor) or an open-air (outdoor) arrangement. Recreational facilities are also defined as being either "high impact" or "low impact", based on the following criteria:*

1. Land Intensity – the amount of land necessary to operate the facility.
Examples: High impact – golf course, ski area

Low impact – archery range, video game arcade
Threshold: Facility requires more than twice the "minimum lot size" determined by district classification.

2. *Traffic Generation – the amount of motor vehicle traffic created by use.*
Examples: High impact – water slide, fairgrounds
Low impact – golf driving range, dude ranch
Threshold: Traffic greater than or equal to 20 trips per hour at peak hours or 75 trips per day.

3. *Visibility – the visual impact of the facility; how obvious its presence is.*
Examples: High impact – water slide, ski area
Low impact – dude ranch, day camp
Threshold: Structures unusual compared to surrounding uses are visible from adjacent roadways.

4. *Risk – the possibility of danger to adjacent landowners or property.*
Examples: High impact – zoos, rifle ranges
Low impact – bike rental, fishing
Threshold: Reasonable chance of danger or damage to nearby property or people.

If a facility is determined to have a "high" rating in any of these categories, it shall be considered a "high-impact" recreational facility.

Following is a description of how the proposed facility does or does not meet the recreation facility threshold criteria based on evaluation of the submitted application:

1) Land Intensity: The facility does not require more than twice the "minimum lot size" of the AG-80 district, as that would require 160 acres of land. <u>This criterion is met.</u>

2) Traffic Generation: During practice time traffic would most likely be less than 20 trips per hour at peak hours and less than 75 trips per day. For typical motocross race events traffic would likely be greater than or equal to 20 trips per hour at peak hours or 75 trips per day, as stated by the applicant. <u>This criterion is not met.</u>

3) Visibility: No structures are proposed; therefore *structures* visible from adjacent roadways are not unusual compared to surrounding uses. If the intent of this provision is simply structures, the criterion is met, however, if visibility is interpreted to mean prominence, such as the degree to which something is easily noticed by and catches the attention of the public or a group of people, the criterion would not be met due to the degree of disturbing noise generated by the proposed use. <u>This criterion may be met or not met, depending on interpretation - while the motocross track's presence is not necessarily visually obvious, the track is audibly obvious during hours of operation due to unmitigated noise impacts</u>.

4) Risk: If reasonable chance of danger or damage to nearby property or people includes damage to property values or impact on neighboring residents' physical and emotional well being <u>this criterion appears not met</u>, based on public comments submitted and evaluated.

Finding #25- Subject to compliance with the threshold criteria for low and high impact recreational facilities outlined in 7.17.040 FCZR, the proposed motocross track meets the definition of a high-impact recreational facility because the low impact recreational facility threshold criteria for *traffic generation* has a high rating and is not met as race event traffic would be greater than or equal to 20 trips per hour at peak hours or 75 trips per day, as stated by the applicant.

Finding #26- Subject to compliance with the threshold criteria for low and high impact recreational facilities outlined in 7.17.040 FCZR, the criteria for *visibility* appears to not be met as the motocross track's presence is audibly obvious during hours of operation due to unmitigated noise impacts

Finding #27- Based on submitted comments, there is reasonable cause to believe property values would be negatively impacted by continued operation of the motocross track in its current location on the subject property. Subject to compliance with the threshold criteria for low and high impact recreational facilities outlined in 7.17.040 FCZR, the criteria for *risk* appears to not be met as operation of the facility would damage neighboring residents' property values and impact their physical and emotional well being due to frequent and persistent noise impacts from the motocross activities.

V. SUMMARY OF FINDINGS

1. The subject property is suitable for the proposed use because there is adequate useable space to accommodate the proposed 'area of operation' of the motocross track facility and the proposal complies with the applicable bulk and dimensional requirements of the zoning in place.
2. The site is suitable for the proposed use because the property has direct access onto paved West Valley Drive via an existing gravel approach which may be adequately permitted and improved to accommodate the vehicle traffic created as a result of the proposed use.
3. A proposed additional egress for facility use via West Springcreek Road does not presently appear to be appropriate for facility use because it is relatively unimproved in terms of width and construction and would cause the generation of airborne dust from increased vehicular use of both the access road across the owner's land and West Springcreek Road.
4. The property is suitable for the proposed use because the property is absent of environmental constraints including steep topography, critical wildlife habitat, riparian areas and high groundwater.
5. The proposed parking appears acceptable because adequate space is available for participant and spectator parking onsite, on-street parking on the public road is unnecessary, and the proposed parking areas may be adequately demarcated to define parking spaces and associated traffic circulation aisles in compliance with applicable parking standards outlined in Chapter VI FCZR.

6. The proposed site plan does not meet the design guidelines set forth in the Flathead County Zoning Regulations requiring minimum width for two-way traffic circulation because portions of the proposed internal access route are between 10-15 feet in width and roadways for two-way traffic are required to be 20 feet in width.
7. The proposal for traffic circulation would present a hazard to public health and safety because the proposed internal access route follows an irregular and confusing path, is not adequately demarcated, and is not of sufficient width to allow for safe passing of oncoming two-way traffic.
8. There is adequate open space associated with the proposed low-impact recreational facility because the proposed 'area of operation' is able to be developed with the proposed motocross track in compliance with applicable land intensity threshold criteria for recreational facilities and in such a way that the subject property has remaining open space in excess of 50 acres.
9. Proposed fencing/screening that would minimize noise and visual impacts to area residents appears inadequate because the application provides no description of intended purpose, materials, or height.
10. The ability for existing and/or proposed landscaping to mitigate potential visual and noise impacts to adjacent properties and area residents is not able to be reasonably evaluated because the submitted application does not address landscaping.
11. There would be limited visual impacts resulting from signage on the proposed facility because it is presumed future signage would be compliant with applicable requirements set forth in the Flathead County Zoning Regulations.
12. There will be limited visual impacts resulting from lighting of the proposed facility because the track is proposed to not operate in the dark and any future exterior lighting would be required to comply with applicable provisions set forth in the Flathead County Zoning Regulations.
13. The proposed use would have minimal impact on public services and facilities because the facility would be served by private means for water, sewer, and food vending services, all of which would be required to be permitted, as applicable, prior to beginning operations.
14. Stormwater drainage has been adequately addressed for the conditional use process because the proposed use will result in no increase in impervious surface, and runoff resulting from the motocross track could be retained onsite and directed toward existing drainage ditches that appear able to accommodate additional run-off created.
15. It appears development of the motocross facility is subject to compliance with stormwater provisions administered by the Montana Department of Environmental Quality because track development is non-agricultural and has resulted in the disturbance of more than one acre of land.
16. Pursuant to Section 6.16.020(4) FCZR the applicant should obtain either a new or amended encroachment permit for the existing approach onto West Valley Drive because the proposed use would introduce significant changes in the number of

ingress/egress trips which may impact functionality of the approach or introduce impacts to the paved road.

17. Impacts to public services and facilities are accessible because the subject property is in an area of the county served by the West Valley Fire District and the Flathead County Sheriff, and has direct access onto West Valley Drive, a paved county road adequate to serve the sporadic traffic generated by the proposed use, subject to the approval and issuance of an encroachment permit.

18. Increased amounts of additional vehicle traffic on race event days may result in congestion causing traffic to 'jam' on West Valley Drive at the facility entrance because multitudes of participants and spectators will likely arrive in vehicles with or without trailers at key times relative to scheduled races of different size category.

19. Numerous comments and concerns regarding noise impacts to residents living within the West Valley Pines Subdivision have been submitted alleging the peaceful enjoyment of their homes, their property values, and their general health and well being are being adversely impacting by the motocross activities occurring on the proposal site because the noise travels, unimpeded by topography or other barriers, from the source to the location of their homes.

20. Applicant attempts to mitigate motocross related noise impacts to area residents are relatively ineffective because the track is located on a hill above the subdivision, no professional consultation has been used to deliberately design the track to minimize noise impacts, and proposed limited hours of operation coincide with times when residents are typically home in the evenings and on weekends.

21. The proposed use has the potential to create substantial environmental impact due to generation of airborne dust because motocross activity agitates exposed soils and the approach and all internal access, parking areas, and traffic circulation areas are comprised of dirt and gravel.

22. Immediate neighborhood impacts resulting from smoke, fumes, and odors are not anticipated to be significant due to the approximate half mile distance between the track and area residents, and the likelihood that fumes, smoke, and odors would dissipate in the air within that distance.

23. While the proposed hours of operation may appear a compromise from full time motocross activity, they would have an impact on the surrounding neighborhood because the hours of operation coincide with evening and weekend hours residents are typically at home.

24. The proposed use would offer some important benefits to Flathead County because it would potentially be a draw for tourists, spectators, and racers to visit the county and contribute to the local economy and it would provide a form of recreation not readily available within the Flathead Valley.

25. Subject to compliance with the threshold criteria for low and high impact recreational facilities outlined in 7.17.040 FCZR, the proposed motocross track meets the definition of a high-impact recreational facility because the low impact recreational facility threshold criteria for *traffic generation* has a high rating and is not met as race

event traffic would be greater than or equal to 20 trips per hour at peak hours or 75 trips per day, as stated by the applicant.

26. Subject to compliance with the threshold criteria for low and high impact recreational facilities outlined in 7.17.040 FCZR, the criteria for *visibility* appears to not be met as the motocross track's presence is audibly obvious during hours of operation due to unmitigated noise impacts.

27. Based on submitted comments, there is reasonable cause to believe property values would be negatively impacted by continued operation of the motocross track in its current location on the subject property. Subject to compliance with the threshold criteria for low and high impact recreational facilities outlined in 7.17.040 FCZR, the criteria for *risk* appears to not be met as operation of the facility would damage neighboring residents' property values and impact their physical and emotional well being due to frequent and persistent noise impacts from the motocross activities.

VI. RECOMMENDATION

Upon review and evaluation of this application, the request for a motocross track as a Low-impact Recreation Facility on the subject property in the AG-80 West Valley Overlay of the Westside Zoning District does not adequately conform to all applicable review criteria as required per 2.06.080(1) FCZR. Based upon the 27 Findings of Fact listed above, Staff recommends that the Flathead County Board of Adjustment adopt staff report FCU-10-13 as findings of fact and deny the conditional use permit.

Understanding the Board of Adjustment adopts Findings of Fact and approves or denies an application only after review and evaluation of all applicable criteria and information presented at a public hearing, there is a potential the Board of Adjustment may adopt Findings of Fact which differ from those proposed by staff. In the event the Board of Adjustment adopts Findings of Fact which support approval of the Conditional Use Permit the following set of draft conditions are proposed as a starting point for mitigating some impacts of the proposed use which staff has identified as being able to be adequately mitigated through conditions. Draft Findings of Fact proposed by Staff addressing criteria which appear to be inadequately mitigated or incapable of adequate mitigation would need to be changed, if adequately justified, and specific associated conditions to adequately mitigate impacts would need to be crafted by the Board of Adjustment at the time of their decision.

VII. CONDITIONS

1. The operation of the motocross facility on the subject property shall be in substantial conformance with the original application and site plan submitted and approved by the Board of Adjustment.

2. Changes or modifications to the approved use(s) or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment.

3. The approved use shall conform to the applicable development standards of the AG-80 WVO zoning district [FCZR Section 3.40.040].

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By Dr. Mercola

Noise pollution is an often-overlooked source of environmental stress that can raise your risk of serious health conditions, including heart disease. In the US it's estimated that 100 million people are exposed to unhealthy levels of noise, typically from automobile and aircraft traffic (although everything from leaf blowers and lawnmowers to loud music can also contribute).[1]

In the 1970s, the US Environmental Protection Agency (EPA) set a recommended noise exposure limit of 55 decibels in a 24-hour period, with nighttime noise weighted more heavily because it can interfere with sleep. For comparison, a quiet suburb has a decibel level of about 50, while freeway traffic is closer to 70 and a chain saw is 120 decibels.

These exposure levels haven't been assessed since 1981, however, as noise issues were deemed best handled at the state and local government level.[2] Just how much noise a person can reasonably handle without health consequences is still relatively unknown… but what *is* clear is that excess noise is a serious risk factor for your health.

Quieting Noise Pollution Could Save $3.9 Billion a Year

Noise pollution may increase your risk of hearing loss, stress, sleep disturbances, and heart disease. A new analysis conducted an environmental assessment of US noise pollution as a cardiovascular health hazard, and revealed small decreases in noise could add up to major economic savings.

The analyses suggested that a 5-decibel noise reduction would reduce the prevalence of high blood pressure by 1.4 percent and coronary heart disease by 1.8 percent. The annual economic benefit was estimated at $3.9 billion.[3]

The researchers assumed that noise exposure levels in 2013 were the same as those assessed in 1981. However, as urbanization has increased it's likely these are underestimates and reductions in noise may impact even more people than the study suggested.[4] Senior author Richard L. Neitzel of the University of Michigan School of Public Health in Ann Arbor told Reuters:[5]

> *"Most of Western Europe is far ahead of the U.S. in understanding people's noise exposure."*
>
> *In the U.S. the most recent noise exposure data we have is almost 40 years old, 'whereas in Europe they have requirements to map out and understand who's exposed to noise and have requirements to do something about it. In the U.S. we just view it as a necessary byproduct of the technology we use.'"*

How Does Noise Pollution Harm Your Heart?

According to research published in *Environmental Health Perspectives*, long-term exposure to traffic noise may account for approximately 3 percent of coronary heart disease deaths (or about 210,000 deaths) in Europe each year.[6] But, how, exactly, does noise harm your heart?

One of the key ways is by elevating stress hormones such as cortisol, adrenaline, and noradrenaline, which, over time, can lead to high blood pressure, stroke and heart failure. One review of research showed that "arousal associated with nighttime noise exposure increased blood and saliva concentrations of these hormones even during sleep."[7]

Deepak Prasher, a professor of audiology at University College in London and a member of the WHO Noise Environmental Burden on Disease working group, states:[8]

> *"Many people become habituated to noise over time… The biological effects are imperceptible, so that even as you become accustomed to the noise, adverse physiological changes are nevertheless taking place, with potentially serious consequences to human health.*
>
> *…Taken together, recent epidemiologic data show us that noise is a major stressor that can influence health through the endocrine, immune, and cardiovascular systems."*

The impact can be significant. Among women who judge themselves to be sensitive to noise, chronic noise exposure increased the risk of cardiovascular mortality by 80 percent![9] Chronic noise exposure also leads to health risks beyond your heart, such as hearing loss, diminished productivity, sleep disruption, impaired learning, and more.

Noise Pollution and Air Pollution Often Go Hand-in-Hand

Those who live near busy roadways, airports, and industrial areas are those most likely to be exposed to *both* noise pollution and air pollution. Interestingly, both fine particle matter air pollution and noise pollution are believed to increase your cardiovascular disease risk through similar biologic pathways, including by causing an imbalance in your autonomic nervous system (ANS).

Your ANS is intricately involved in regulating biological functions such as blood pressure, blood sugar levels, clotting, and viscosity. In a German study of more than 4,200 people, researchers used a measure of arterial hardening known as "thoracic aortic calcification" (TAC) to estimate heart risks.

Exposure to fine particle air pollution increased TAC scores by nearly 20 percent while exposure to noise pollution increased TAC by about 8 percent.[10] This was *after* controlling for other variables that may influence heart health, such as age, gender, smoking, physical activity, alcohol use, and more.

What this means is that people living in high-risk areas need to account for both types of pollution to protect their heart health. As researchers noted:[11]

> *"...both exposures seem to be important and both must be considered on a population level, rather than focusing on just one hazard."*

Noise Pollution Can Lead to Noise-Induced Hearing Loss

Noise-induced hearing loss (NIHL), which can occur from one very loud noise exposure (such as an explosion) or continuous exposure to loud noise over time (such as working in a factory), affects about 15 percent of Americans. According to the National Institute on Deafness and Other Communication Disorders (NIDCD):[12]

> *"Recreational activities that can put you at risk for NIHL include target shooting and hunting, snowmobile riding, listening to MP3 players at high volume through earbuds or headphones, playing in a band, and attending loud concerts. Harmful noises at home may come from sources including lawnmowers, leaf blowers, and woodworking tools.*
>
> *Sound is measured in units called decibels. Sounds of less than 75 decibels, even after long exposure, are unlikely to cause hearing loss.*
>
> *However, long or repeated exposure to sounds at or above 85 decibels can cause hearing loss. The louder the sound, the shorter the amount of time it takes for NIHL to happen. Here are the average decibel ratings of some familiar sounds:*
>
> - *The humming of a refrigerator: 45 decibels*
> - *Normal conversation: 60 decibels*
> - *Noise from heavy city traffic: 85 decibels*
> - *Motorcycles: 95 decibels*
> - *An MP3 player at maximum volume: 105 decibels*
> - *Sirens: 120 decibels*
> - *Firecrackers and firearms: 150 decibels*
>
> *Your distance from the source of the sound and the length of time you are exposed to the sound are also important factors in protecting your hearing. A good rule of thumb is to avoid noises that are too loud, too close, or last too long."*

The best way to prevent NIHL is to reduce the noise if possible, and if not wear earplugs or other protective devices to protect your hearing. If you can't do either of these, move away from the noise.

Beyond Your Heart: How Noise Pollution Harms Your Health

Noise pollution can harm your health in many ways, aside from harming your heart health and leading to hearing loss. Many of these are just beginning to be explored. For instance, a study on pregnant women found exposure to noise pollution may lead to lower birth weight.[13]

Research also suggests long-term exposure to noise pollution may have an effect on cognitive development in children and cognitive and psychological functions in adults, although more research is needed in this area.[14] One study of traffic wardens in Pakistan, who are exposed to noise levels between 85-106 decibels, found significant physio-psychological effects due to traffic noise pollution, including:[15]

Aggravated depression: 58%	Stress: 65%	Public conflict: 71%
Irritation and annoyance: 54%	Behavioral affects: 59%	Speech interference: 56%.
Hypertension: 87%	Muscle tension: 64%	Exhaustion: 48%
Low performance levels: 55%	Concentration loss: 93%	Hearing impairment: 69%
Headache: 74%	Cardiovascular issue: 71%	

There is also the issue of sleep disturbances, which is why nighttime noise pollution is thought to be worse than daytime exposures. If you can't sleep because of noise, it can cause a cascade of negative health repercussions. Research has even shown that chronic noise exposure of about 100 decibels leads to a significant reduction in testosterone levels in male rodents. According to the researchers:[16]

> *"Chronic psychological distress can cause suppression of the hypothalamic-pituitary-testicular axis and thus lead to male hypogonadism [a condition in which the body doesn't produce enough testosterone], which is associated with psycho-social dysfunction, chronic diseases, and as a result, considerable economic costs.*
>
> *Conversely, noise is a prototypal environmental stressor of growing importance, already linked to birth outcomes and diabetes. However, its effects on male testosterone levels have been paid little attention ... Research on humans is highly warranted, especially given the steady trend in Western societies for increasing the burden of both male hypogonadism and noise pollution."*

How to Minimize the Risks of Noise Pollution

What can you do about *noise* pollution in your home to protect your heart and overall health? If you live in a very noisy area, such as near a highway or airport, you may want to consider moving. If that is not an option, consider adding acoustical tile to your ceiling and walls to buffer the noise. Double-paneled windows and insulation can also help. At the very least, you can sound-treat your home by adding heavy curtains to your windows, rugs to your floors and sealing air leaks. If noise is only an issue occasionally, sound-blocking headphones can eliminate such disturbances.

If noise is an issue during the night, you may want to consider adding *pink noise* to your bedroom. Pink noise is steady with a consistent frequency, like the sound of wind or constant rain. Research shows that steady pink noise can help slow down and regulate your brainwaves for more stable sleep and improved sleep quality.[17] While pink noise CDs are available, you can also simply turn on a fan in your bedroom to block out noise disturbances and instead take advantage of this beneficial type of pink noise.

If you work in a noisy environment, be sure you are wearing ear protection at all times, and leave the site as often as possible, such as during breaks and lunch. Also be cognizant of noise exposures during your leisure time, such as that from motorcycles, lawnmowers, leaf blowers, and even loud music and television. Try to make less noise when you can, not only for your own sake but for the sake of those around you.

Noise Pollution: *A Modern Plague*

Lisa Goines, RN and Louis Hagler, MD

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Southern Medical Journal, Volume 100: March 2007, pages 287-294.

Former U.S. Surgeon General William H. Stewart said in 1978, "Calling noise a nuisance is like calling smog an inconvenience. Noise must be considered a hazard to the health of people everywhere."

Abstract

Noise is defined as unwanted sound. Environmental noise consists of all the unwanted sounds in our communities except that which originates in the workplace. Environmental noise pollution, a form of air pollution, is a threat to health and well-being. It is more severe and widespread than ever before, and it will continue to increase in magnitude and severity because of population growth, urbanization, and the associated growth in the use of increasingly powerful, varied, and highly mobile sources of noise. It will also continue to grow because of sustained growth in highway, rail, and air traffic, which remain major sources of environmental noise. The potential health effects of noise pollution are numerous, pervasive, persistent, and medically and socially significant. Noise produces direct and cumulative adverse effects that impair health and that degrade residential, social, working, and learning environments with corresponding real (economic) and intangible (well-being) losses. It interferes with sleep, concentration, communication, and recreation. The aim of enlightened governmental controls should be to protect citizens from the adverse effects of airborne pollution, including those produced by noise. People have the right to choose the nature of their acoustical environment; it should not be imposed by others.

Favor me with silence. Horace (65BCE-8BCE)

Introduction

Throughout recorded history, mankind has been plagued by a variety of both natural and manmade ills. In the 21st Century we are experiencing the man-made plague of environmental noise from which there is virtually no escape, no matter where we are – in our homes and yards, on our streets, in our cars, at theaters, restaurants, parks, arenas, and in other public places. Despite attempts to regulate it, noise pollution has become an unfortunate fact of life worldwide. In a way that is analogous to second-hand smoke, second-hand noise is an unwanted airborne pollutant produced by others; it is imposed on us without our consent, often against our wills, and at times, places, and volumes over which we have no control.

There is growing evidence that noise pollution is not merely an annoyance; like other forms of pollution, it has wide-ranging adverse health, social, and economic effects.[1-11] A recent search (September, 2006) of the National Library of Medicine data base for adverse health effects of noise revealed over 5000 citations, many of recent vintage. As the population grows and as sources of noise become more numerous and more powerful, there is increasing exposure to noise pollution, which has profound public health implications. Noise, even at levels that are not harmful to hearing, is perceived subconsciously as a danger signal, even during sleep.[2] The body reacts to noise with a "fight or flight" response, with resultant nervous, hormonal, and vascular changes that have far reaching consequences.[1-11] Despite the fact that much has been written about the health effects of noise, it seems that much of the following information is not appreciated by the medical community and even less so by the general public.[7] In 1990, an NIH panel concluded that "high visibility media campaigns are needed to develop public awareness of the effects of noise on hearing and the means of self protection. In addition to informing the public, these programs should target primary health care physicians and educators who deal with young people." (Cited in reference 7.) To these recommendations, we would add the need to inform about all the other adverse effects of noise.

Thus, the purpose of this review is to summarize what is known of these adverse health effects and to encourage physicians, nurses, and other health professionals to join with groups around the country that are trying to restore the Constitutionally guaranteed right of domestic tranquility. Noise Free America and the Noise Pollution Clearinghouse are two such organizations. There are numerous Internet sites that contain relevant information about noise and the ongoing efforts to restore quiet in communities across the United States. The interested reader should consult Noise Off (www.NoiseOFF.org), The Noise Pollution Clearinghouse (www.nonoise.org), Noise Free America (www.noisefree.org), or the League for the Hard of Hearing (www.lhh.org/noise) for additional information about this subject.

Background

Because their wheels clattered on paving stones, chariots in ancient Rome were banned from the streets at night to prevent the noise that disrupted sleep and caused annoyance to the citizens. Centuries later, some cities in Medieval Europe either banned horse drawn carriages and horses from the streets at night or covered the stone streets with straw to reduce noise and to ensure peaceful sleep for the residents. [1] In more recent times in Philadelphia, the framers of our Constitution covered nearby cobblestone streets with earth to prevent noise-induced interruptions in their important work. These examples pinpoint two major effects of noise from which men in all ages have sought relief: interruption of sleep and interference with work that requires concentration. It is interesting that noises emanating from the various types of roadways of today are still among the most important sources of environmental noise, even though the types of noise are not those that existed in Rome, Medieval Europe, or 18th century Philadelphia. Our modern roadways (including road, rail, and air) and the products of modern technology produce increasing levels of unwanted noise of varying types and intensities throughout the day and night that disturb sleep, concentration, and other functions. [4, 6, 12, 13] This noise affects us without our being consciously aware of it. Unlike our eyes, which we can shut to exclude unwanted visual input, we cannot voluntarily shut our ears to exclude unwanted auditory input. Our hearing mechanisms are always "on" even when we are asleep.[2]

The noise problems of the past pale in significance when compared with those experienced by modern city dwellers; noise pollution continues to grow in extent, frequency, and severity as a result of population growth, urbanization, and technological developments. [1, 4] For example, within the European Common Market, 65% of the population is exposed to unhealthy levels of transportation noise. [13] In New York City, maximum noise levels measured 106 dB on subway platforms and 112 dB inside subway cars. These levels have the potential of exceeding recommended exposure limits given sufficient duration of exposure. [14] In 1991, it was estimated that environmental noise increased by 10% in the decade of the 1980's. [3] The 2000 United States Census found that 30% of Americans complained of noise and 11% found it to be bothersome. Among those who complained, noise was sufficiently bothersome to make nearly 40% want to change their place of residence. [15] That noise pollution continues to grow in scope, variety, and magnitude is unquestioned; it is only the extent of the growth that remains unknown. [1]

In comparison to other pollutants, the control of environmental noise has been hampered by insufficient knowledge about its effects on humans and about dose-response relationships, but this seems to be changing as more research is carried out. However, it is clear that noise pollution is widespread and imposes long-term consequences on health. [1-11] In 1971, a World Health Organization (WHO) working group concluded that noise is a major threat to human well-being. [3] That assessment has not changed in the intervening 30-plus years; if anything, the threat has intensified.

The various sounds in our environment (excluding all those sounds that arise in the workplace) to which we are exposed can be viewed as being either necessary (desirable) or unnecessary (undesirable). One might consider the sounds produced in and around our homes by garbage disposals, dishwashers, clothes washers and dryers, refrigerators, furnaces, air-conditioners, yard maintenance equipment, and the many other mechanized time - and labor - saving devices, which we all use and enjoy, as being necessary. We are exposed to the noise of radio, television, and related technologies; children are exposed to a

wide variety of noisy toys.[5, 16] The noise of internal combustion engines (modulated by legally required mufflers), jet engines (modulated by improved design and by altered flight paths), and train horns at grade crossings (modulated by new Federal Quiet Zone rules), might all be considered necessary. There are numerous other such examples of machines or activities that produce sounds that are tolerated because they accompany a desired activity or they serve an important societal purpose, such as the sirens of emergency vehicles.

But what about sounds that accompany an undesired activity, that have no societal importance, or that we consider unnecessary? What about the sounds produced by the so-called boom-cars that are roving, pulsating noise factories? What about the uncomfortable sound levels at concerts, in theaters, and public sporting events? What about the noise of slow moving train horns in urbanized areas or the early morning sounds accompanying garbage collection? What about all the noise on our streets to which buses, trolley cars, car horns, car alarms, motorcycles, and un-muffled exhaust systems contribute? What about the risks to children from noisy toys and from personal sound systems? What about the noise of barking dogs, leaf blowers, and recreational vehicles? What about the noise of low flying aircraft? In general, sounds that we deem unwanted or unnecessary are considered to be noise. Our society is beset by noise, which is intrusive, pervasive, and ubiquitous; most important of all, it is unhealthy. Most reasonable people would agree that much of the environmental noise to which we are subjected serves no useful purpose and is therefore undesirable. The variety of noise polluting devices and activities is large and seems to be growing on a daily basis, although there is no consensus about what items are useful and desirable or noise polluting and unnecessary.

Domestic tranquility is one of the six guarantees in the United States Constitution, a guarantee that is echoed in some form or other in every state Constitution. In 1972, the Noise Control Act was passed by Congress, declaring, "...it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes health and welfare." In 1974, the Environmental Protection Agency (EPA) estimated that nearly 100 million Americans lived in areas where the daily average noise levels exceeded those

identified as being safe.[17] However, in 1982, the government abruptly terminated federal funding for the Office of Noise Abatement and Control, the vehicle by which the public was to be protected from the adverse effects of noise. The lack of funds threw total responsibility for noise control to the states, which have had a spotty and generally poor record with respect to noise abatement.[7, 18] Since the Act itself was not repealed, local and state governments may have been deterred from trying to regulate noise. Furthermore, failure to repeal the Act sent the message that noise was not an important environmental concern.[7] As a result, in the United States, most police departments seem to be unwilling or unable to respond to noise-related problems in a way that provides any measure of genuine or timely control. Yet, in most cities, as noise pollution continues to grow - some say as much as 6-fold in the past 15 years - so do complaints about noise. Complaints to police and other officials about noise are among the most frequent complaints by residents in urban environments; in 1998, noise was the number one complaint to the Quality of Life Hotline in New York City. In 1996, the Federal Environmental Agency in Germany reported two out of three of its citizens had complained about excessive noise.[18] The number of people exposed to unhealthy levels of noise in the United States is unquestionably greater than it was in 1974; the degree of oversight and control is unquestionably less.

Adverse Health Effects of Noise

The WHO has documented seven categories of adverse health effects of noise pollution on humans. Much of the following comes from the WHO Guideline on Community Noise and follows its format.[1] The guideline provides an excellent, reasonably up-to-date, and comprehensive overview of noise-related issues, as do the other recent reviews on this subject.

1. Hearing Impairment: Hearing is essential for well-being and safety. Hearing impairment is typically defined as an increase in the threshold of hearing as clinically assessed by audiometry. Impaired hearing may come from the workplace, from the community, and from a

variety of other causes (e.g., trauma, ototoxic drugs, infection, and heredity). There is general agreement that exposure to sound levels less than 70 dB does not produce hearing damage, regardless of the duration of exposure.[1, 17] There is also general agreement that exposure for more than 8 hours to sound levels in excess of 85 dB is potentially hazardous; to place this in context, 85 dB is roughly equivalent to the noise of heavy truck traffic on a busy road.[1] With sound levels above 85 dB, damage is related to sound pressure (measured in dB) and to time of exposure. The major cause of hearing loss is occupational exposure, although other sources of noise, particularly recreational noise, may produce significant deficits. Studies suggest that children seem to be more vulnerable than adults to noise induced hearing impairment.[1]

Noise induced hearing impairment may be accompanied by abnormal loudness perception (loudness recruitment), distortion (paracusis), and tinnitus. Tinnitus may be temporary or may become permanent after prolonged exposure.[1] The eventual results of hearing losses are loneliness, depression, impaired speech discrimination, impaired school and job performance, limited job opportunities, and a sense of isolation.[3, 19, 20]

In 2001, it was estimated that 12.5% of American children between the ages of 6 to 19 years had impaired hearing in one or both ears.[21] As many as 80% of elementary school children use personal music players, many for extended periods of time and at potentially dangerous volume settings.[19] There is little doubt that the use of consumer products, which produce increasingly high levels of noise and which are used with headsets or earphones, is growing and may well be responsible for the impaired hearing that is being seen with growing frequency in younger people.[19, 22-24] This form of noise is largely unregulated, despite warnings by the manufacturers.

In the young, hearing loss affects communication, cognition, behavior, social-emotional development, academic outcomes, and later vocational opportunities.[25] These effects have been well documented in a number of large scale investigations in children.[23]

Leisure-time exposure, which is generally unregulated, is increasing in other ways as well with resultant adverse effects. In a recent survey, a majority of young adults reported having experienced tinnitus or impaired hearing after exposure to loud music at concerts or in clubs. Very few (8%) considered loss of hearing a significant problem. Many of the respondents said they would be motivated to use ear protection if they were aware of the potential of permanent hearing loss (66%) or if such protection were advised by a medical professional (59%). [22]

Those working in clubs, bars, and other places of entertainment are also at risk. It is well known that rock musicians frequently have noise-induced hearing loss. Apart from the musicians themselves, employees of music clubs, where noise frequently exceeds safe levels, are at risk. [26] Thus, nearly a third of students who worked part time (bar staff or security staff) in a university entertainment venue were found to have permanent hearing loss of more than 30 dB. [27]

The WHO recommends that unprotected exposure to sound levels greater than 100 dB (for example, the sound of a jackhammer or a snowmobile) should be limited in duration (4 hours) and frequency (four times/year).[1] The threshold for pain is usually given as 140 dB; a level readily achieved in today's boom-cars. Impulse noise exposure (gunfire and similar sources of intense noise of brief duration) should never exceed 140 dB in adults and 120 dB in children. Firecrackers, cap pistols, and other toys can generate sufficient sound levels to cause sudden and permanent hearing loss. [19] Levels greater than 165 dB, even for a few milliseconds, are likely to cause acute cochlear damage. [1] It is important to remember to counsel patients that ears do not "get used" to loud noise. As the League for the Hard of Hearing notes - - they "get deaf."

2. Interference with Spoken Communication: In 1974, in an attempt to protect public health and welfare against the adverse effects of noise, the EPA published so-called safe levels of environmental noise that would permit normal communication both in and out of doors. [17]

Noise pollution interferes with the ability to comprehend normal speech and may lead to a

number of personal disabilities, handicaps, and behavioral changes. These include problems with concentration, fatigue, uncertainty, lack of self confidence, irritation, misunderstandings, decreased working capacity, disturbed interpersonal relationships, and stress reactions. Some of these effects may lead to increased accidents, disruption of communication in the classroom, and impaired academic performance. [1, 5, 10, 11] Particularly vulnerable groups include children, the elderly, and those not familiar with the spoken language.[1]

3. Sleep Disturbances: Uninterrupted sleep is known to be a prerequisite for good physiologic and mental functioning in healthy individuals. [28] Environmental noise is one of the major causes of disturbed sleep. [1, 10] When sleep disruption becomes chronic, the results are mood changes, decrements in performance, and other long-term effects on health and well-being. [3] Much recent research has focused on noise from aircraft, roadways, and trains. It is known, for example, that continuous noise in excess of 30 dB disturbs sleep. For intermittent noise, the probability of being awakened increases with the number of noise events per night.[1]

The primary sleep disturbances are difficulty falling asleep, frequent awakenings, waking too early, and alterations in sleep stages and depth, especially a reduction in REM sleep. Apart from various effects on sleep itself, noise during sleep causes increased blood pressure, increased heart rate, increased pulse amplitude, vasoconstriction, changes in respiration, cardiac arrhythmias, and increased body movement. [28] For each of these, the threshold and response relationships may be different. Some of these effects (waking, for example) diminish with repeated exposure; others, particularly cardiovascular responses, do not. [29] Secondary effects (so-called after effects) measured the following day include fatigue, depressed mood and well-being, and decreased performance. [30] Decreased alertness and disrupted circadian rhythms, which lead to accidents, injuries, and death, have also been attributed to lack of sleep. [31]

Long-term psychosocial effects have been related to nocturnal noise. Noise annoyance during the night increases total noise annoyance for the following 24 hours.

Particularly sensitive groups include the elderly, shift workers, persons vulnerable to physical or mental disorders, and those with sleep disorders.[1]

Other factors that influence the problem of night-time noise include its occurrence in residential areas with low background noise levels and combinations of noise and vibration such as produced by trains or heavy trucks. Low frequency sound is more disturbing, even at very low sound pressure levels; these low frequency components appear to have a significant detrimental effect on health.[32]

4. Cardiovascular Disturbances: A growing body of evidence confirms that noise pollution has both temporary and permanent effects on humans (and other mammals) by way of the endocrine and autonomic nervous systems. It has been postulated that noise acts as a nonspecific biologic stressor eliciting reactions that prepare the body for a "fight or flight" response.[1, 2, 6] For this reason, noise can trigger both endocrine and autonomic nervous system responses that affect the cardiovascular system and thus may be a risk factor for cardiovascular disease.[1, 2, 6, 11, 33-36] These effects begin to be seen with long-term daily exposure to noise levels above 65 dB or with acute exposure to noise levels above 80 to 85 dB.[1, 3] Acute exposure to noise activates nervous and hormonal responses, leading to temporary increases in blood pressure, heart rate, and vasoconstriction. Studies of individuals exposed to occupational or environmental noise show that exposure of sufficient intensity and duration increases heart rate and peripheral resistance, increases blood pressure, increases blood viscosity and levels of blood lipids, causes shifts in electrolytes, and increases levels of epinephrine, norepinephrine, and cortisol.[3] Sudden unexpected noise evokes reflex responses as well. Cardiovascular disturbances are independent of sleep disturbances; noise that does not interfere with the sleep of subjects may still provoke autonomic responses and secretion of epinephrine, norepinephrine, and cortisol.[29] These responses suggest that one can never completely "get used to" nighttime noise.

Temporary noise exposure produces readily reversible physiologic changes. However, noise exposure of sufficient intensity, duration, and unpredictability provokes changes that

may not be so readily reversible. The studies that have been done on the effects of environmental noise have shown an association between noise exposure and subsequent cardiovascular disease.[1, 2, 6, 33-36] Even though the increased risk for noise-induced cardiovascular disease may be small, it assumes public health importance because both the number of people at risk and the noise to which they are exposed continue to increase.[1, 2]

Children are at risk as well. Children who live in noisy environments have been shown to have elevated blood pressures and elevated levels of stress-induced hormones.[2, 11, 18]

5. Disturbances in Mental Health: Noise pollution is not believed to be a cause of mental illness, but it is assumed to accelerate and intensify the development of latent mental disorders. Noise pollution may cause or contribute to the following adverse effects: anxiety, stress, nervousness, nausea, headache, emotional instability, argumentativeness, sexual impotence, changes in mood, increase in social conflicts, neurosis, hysteria, and psychosis. Population studies have suggested associations between noise and mental-health indicators, such as rating of well-being, symptom profiles, the use of psychoactive drugs and sleeping pills, and mental-hospital admission rates. Children, the elderly, and those with underlying depression may be particularly vulnerable to these effects, because they may lack adequate coping mechanisms.[1] Children in noisy environments find the noise annoying and report a diminished quality of life.[10, 37]

Noise levels above 80 dB are associated with both an increase in aggressive behavior and a decrease in behavior helpful to others.[38-40] The news media regularly report violent behavior arising out of disputes over noise; in many cases these disputes ended in injury or death. The aforementioned effects of noise may help explain some of the dehumanization seen in the modern, congested, and noisy urban environment.[2]

6. Impaired Task Performance: The effects of noise pollution on cognitive task performance have been well-studied. Noise pollution impairs task performance at school and at work, increases errors, and decreases motivation.[11, 41] Reading attention, problem solving, and memory are most strongly affected by noise. Two types of memory deficits have been

identified under experimental conditions: recall of subject content and recall of incidental details. Both are adversely influenced by noise. Deficits in performance can lead to errors and accidents, both of which have health and economic consequences.[1]

Cognitive and language development and reading achievement are diminished in noisy homes, even though the children's schools may be no noisier than average.[18] Cognitive development is impaired when homes or schools are near sources of noise such as highways and airports.[4, 11] Noise affects learning, reading, problem solving, motivation, school performance and social and emotional development.[3, 5, 10, 18, 42] These findings suggest that more attention needs to be paid to the effects of noise on the ability of children to learn and on the nature of the learning environment, both in school and at home. Moreover, there is concern that high and continuous environmental noise may contribute to feelings of helplessness in children.[11, 18]

Noise produces negative after-effects on performance, particularly in children. It appears that the longer the exposure, the greater the effect. Children from noisy areas have been found to have heightened sympathetic arousal indicated by increased levels of stress-related hormones and elevated resting blood pressure.[18] These changes were larger in children with lower academic achievement. As a whole, these findings suggest that schools and day-care centers should be located in areas that are as noise-free as possible.[1]

7. Negative Social Behavior and Annoyance Reactions: Annoyance is defined as a feeling of displeasure associated with any agent or condition believed by an individual to adversely affect him or her. Perhaps a better description of this response would be aversion or distress. Noise has been used as a noxious stimulus in a variety of studies because it produces the same kinds of effects as other stressors.[2] Annoyance increases significantly when noise is accompanied by vibration or by low frequency components.[32] The term annoyance does not begin to cover the wide range of negative reactions associated with noise pollution; these include anger, disappointment, dissatisfaction, withdrawal, helplessness, depression, anxiety,

distraction, agitation, or exhaustion. Lack of perceived control over the noise intensifies these effects. [1, 10]

Social and behavioral effects of noise exposure are complex, subtle, and indirect. These effects include changes in everyday behavior (e.g., closing windows and doors to eliminate outside noises; avoiding the use of balconies, patios and yards; and turning up the volume of radios and television sets); changes in social behavior (e.g., aggressiveness, unfriendliness, nonparticipation, or disengagement); and changes in social indicators (e.g., residential mobility, hospital admissions, drug consumption, and accident rates); and changes in mood (increased reports of depression).[1]

Noise exposure per se is not believed to produce aggressive behavior. However, in combination with provocation, preexisting anger or hostility, alcohol or other psychoactive agents, noise may trigger aggressive behavior. [38] Our news is filled with examples of this kind of behavior.

The degree of annoyance produced by noise may vary with the time of day, the unpleasant characteristics of the noise, the duration and intensity of the noise, the meaning associated with it, and the nature of the activity that the noise interrupted. [1 Annoyance] may be influenced by a variety of non-acoustical factors including individual sensitivity to noise. [43] These include fear of the noise source, conviction that noise could be reduced by third parties, individual sensitivity, the degree to which an individual feels able to control the noise, and whether or not the noise originated from an important economic activity. [1, 10] Other less direct effects of annoyance are disruption of one's peace of mind, the enjoyment of one's property, and the enjoyment of solitude.

Greater annoyance has been observed when noise is of low frequency, is accompanied by vibrations that contain low-frequency components, or when it contains impulses such as the noise of gun shots. [1, 32] Annoyance is greater when noise progressively increases rather than remaining constant. Average outdoor residential day-night sound levels below 55 dB were defined as acceptable by the EPA; acceptable average indoor levels were

less than 45 dB.[17] To put these levels into perspective, sound levels produced by the average refrigerator or the sounds in the typical quiet neighborhood measure about 45 dB.[17] Sound levels above this produce annoyance in significant numbers of people.

The results of annoyance are privately felt dissatisfaction, publicly expressed complaints to authorities (although underreporting is probably significant), and the adverse health effects already noted. Given that annoyance can connote more than slight irritation, it describes a significant degradation in the quality of life, which corresponds to degradation in health and well-being. In this regard, it is important to note that annoyance does not abate over time despite continuing exposure to noise.[12]

Effects of Multiple Sources of Noise Pollution

Most environments contain a combination of sounds from more than one source (e.g., aircraft, motor vehicles, and trains). In urban environments, boom cars, car horns, car alarms, and public transit systems may be the offenders. In suburban areas, leaf blowers, other power equipment, and barking dogs may be the source. There is, as yet, no consensus on a model for measuring total annoyance from multiple noise sources. Adverse health effects appear to be related to total noise exposure from all sources rather than the noise from any single source.

The evidence related to low-frequency noise is sufficiently strong to warrant immediate concern. It is a special concern because of its pervasive nature, because it arises from multiple sources, and because of its efficient propagation, which is essentially unimpeded by conventional methods of either building or ear protection. Adverse health effects from low-frequency noise are thought to be more severe than from other forms of community noise. This form of noise is underestimated with the usual types of sound measuring equipment.[32, 44]

In residential populations, combined sources of noise pollution will lead to a combination of adverse effects such as impaired hearing; sleep disturbances; cardiovascular disturbances; interference at work, school, and home; and annoyance, among others. These effects are the result of stress from noise; stress that has been increasingly linked to illness.[2]

Groups Vulnerable to the Effects of Noise Pollution

Vulnerable groups, generally underrepresented in study populations, include patients with various diseases, patients in hospitals or those who are rehabilitating from injury or disease, the blind, the hearing impaired, fetuses, infants and young children, and the elderly. Although anyone might be adversely affected by noise pollution, groups that are particularly vulnerable include neonates, infants, children, those with mental or physical illnesses, and the elderly. Because children are particularly vulnerable to noise induced abnormalities, they need special protection. [5, 19] This vulnerability to noise may be an age related sensitivity but may be also be due to increased risk based on behavior (personal music systems, loud concerts) or to an inability of the very young to remove themselves from a noxious source. [5] The evidence is strong enough to warrant monitoring programs in schools and elsewhere to protect children from noise exposure. [1, 5, 19]

The effects of noise on the fetus and newborn are unclear. Exposure to noise during pregnancy may increase the risk of high-frequency hearing loss in the newborn, shortened gestation, prematurity, and intrauterine growth retardation. [5, 19, 20, 45, 46] Noise in the NICU may cause cochlear damage and may impair the growth and development of the premature infant. [24] Even though studies have been inconsistent with respect to noise and congenital malformations, the data were sufficiently compelling for the National Research Council to recommend that pregnant women avoid noisy work settings. [18]

WHO Guidelines

Because health effects are relevant to specific environments, guidelines have been proposed for the following: dwellings, including bedrooms; schools and preschools; hospitals, industrial, commercial, shopping, and traffic areas; ceremonies, festivals, and entertainment events; use of headphones for music and other sounds; impulse sounds from toys, fireworks, and firearms; and outdoors in parklands and other such areas.[1] Similar guidelines were being developed by the EPA, but ended with termination of federal funding in 1982.

Conclusions and Recommendations

As a society, our history is filled with failures to recognize the agents that cause disease; once the causes have been recognized, we have responded reluctantly, slowly, and often inadequately. The case with tobacco is an instructive one. It took many years of lobbying by dedicated individuals before legislators and the general public recognized the links between the hazards of tobacco smoke and disease; as a result laws were finally enacted and behaviors changed accordingly.

Despite the evidence about the many medical, social, and economic effects of noise, as a society, we continue to suffer from the same inertia, the same reluctance to change,and the same denial of the obvious that the anti-tobacco lobby faced a couple of decades ago. This inertia and denial are similar to those that delayed appropriate action on lead, mercury, and asbestos. Now we seem unable to make the connection between noise and disease, despite the evidence, and despite the fact, which we all recognize, that our cities are becoming increasingly more polluted with noise.

Noise makers and the businesses that support them are as reluctant as smokers to give up their bad habits. Legislators at all levels should protect us from noise pollution the same way they protected us from tobacco smoke and other forms of pollution. It is clear that laws can change behaviors in ways that benefit society as a whole.

Noise represents an important public health problem that can lead to hearing loss, sleep disruption, cardiovascular disease, social handicaps, reduced productivity, impaired teaching and learning, absenteeism, increased drug use, and accidents. It can impair the ability to enjoy one's property and leisure time and increases the frequency of antisocial behavior. Noise adversely affects general health and well-being in the same way as does chronic stress. It adversely affects future generations by degrading residential, social, and learning environments with corresponding economic losses. Local control of noise has not been successful in most places. This points out the need for improved methods of local control that should include public education, enlightened legislation, and active enforcement of noise ordinances by local law enforcement officials. Part of the solution may require federal or state legislation aimed at supporting local efforts or the restoration of federal funding for the Office of Noise Abatement and Control.

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Legend

- Fire Stations
- Roads
- Interstate Highway
- US Highway
- CountyBoundary
- CITY_CODE
- C06-Randleman

LEVEL CROSS FIRE DISTRICT

ATTACHMENT C-1

N

1 inch = 4,000 feet

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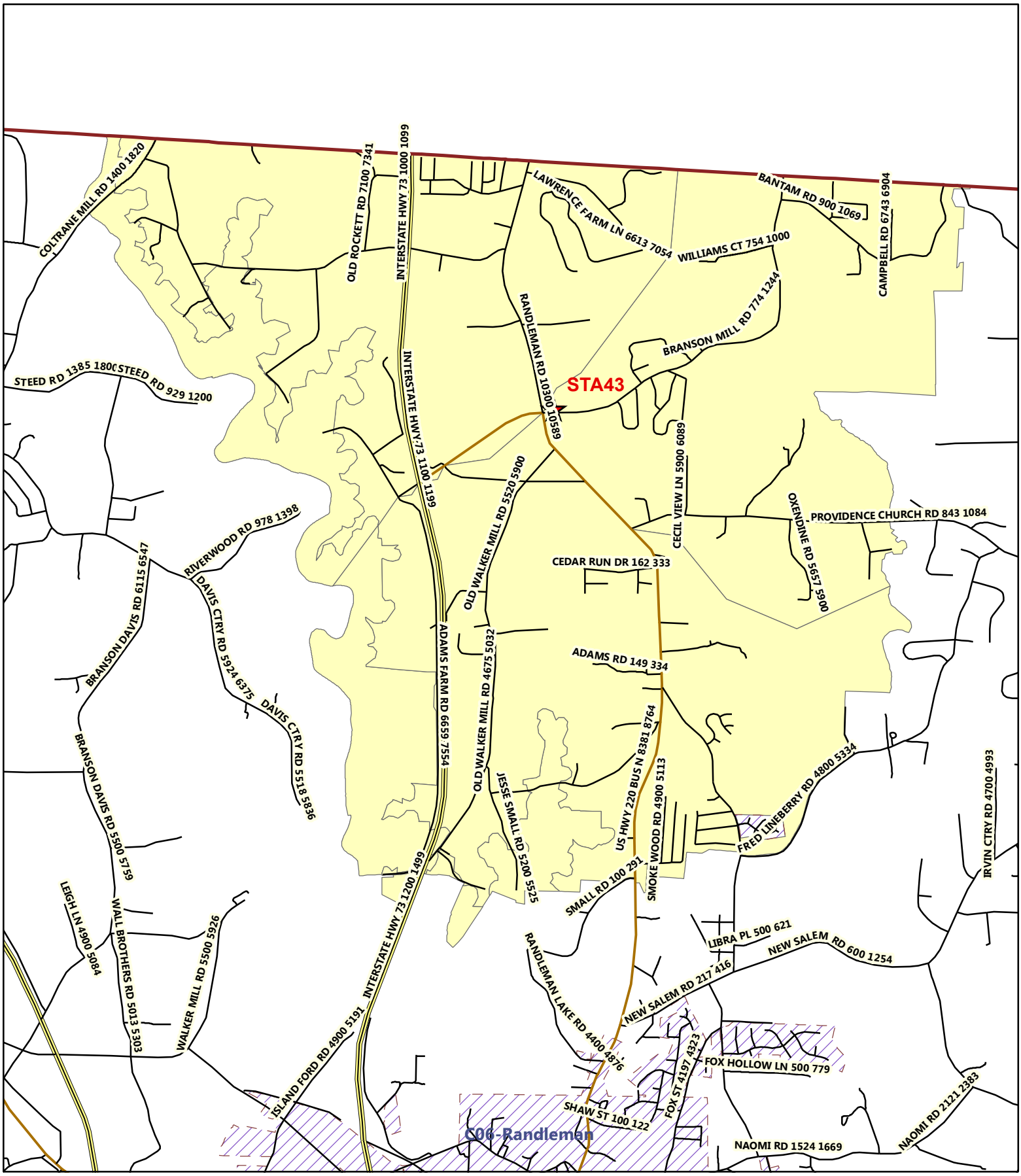

ATTACHMENT C-2

NORTHEAST FIRE DISTRICT

Legend

- Fire Stations
- Roads
- Interstate Highway
- US Highway
- CountyBoundary
- C08-Staley
- C04-Liberty

N

1 inch = 4,000 feet

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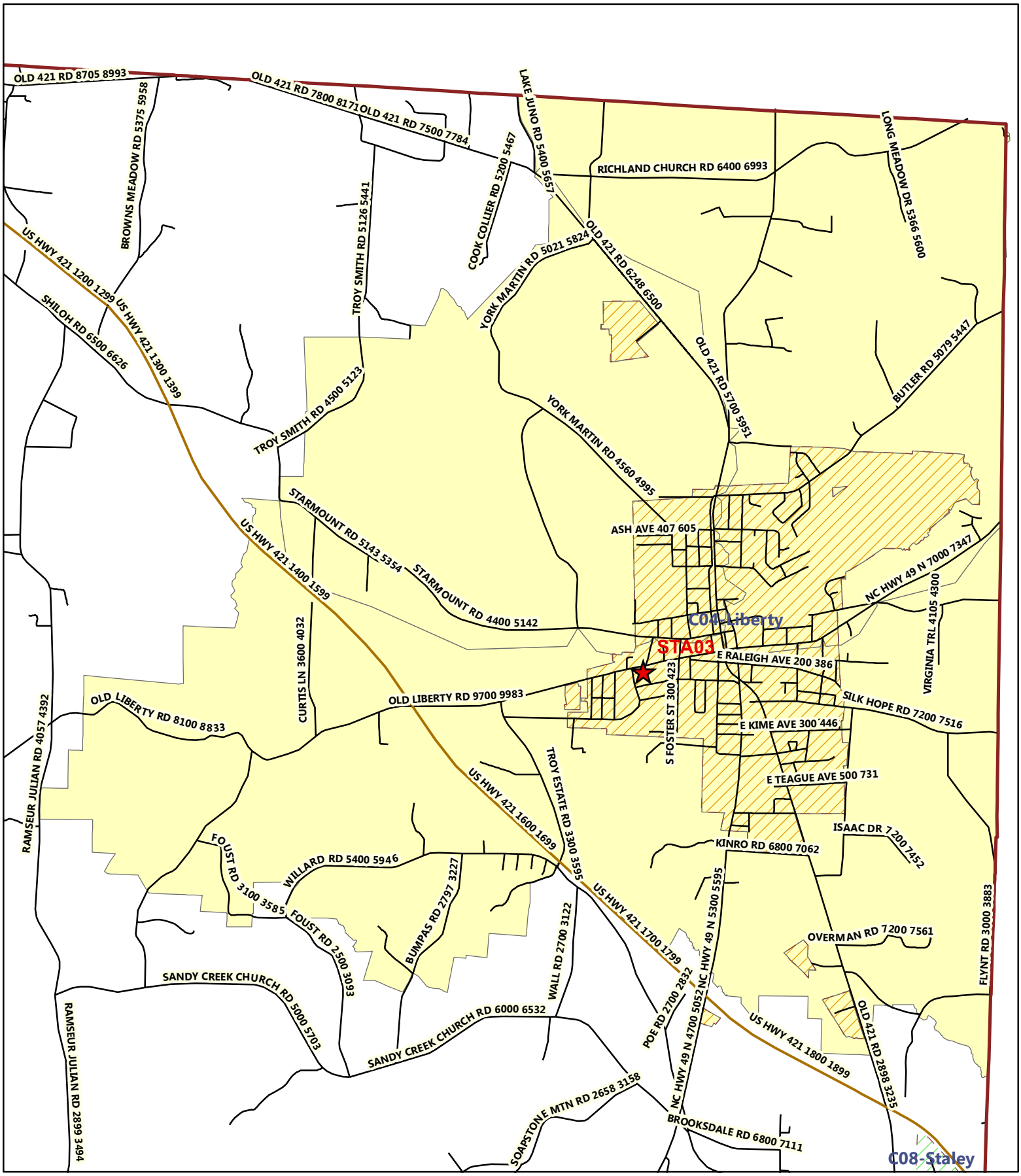


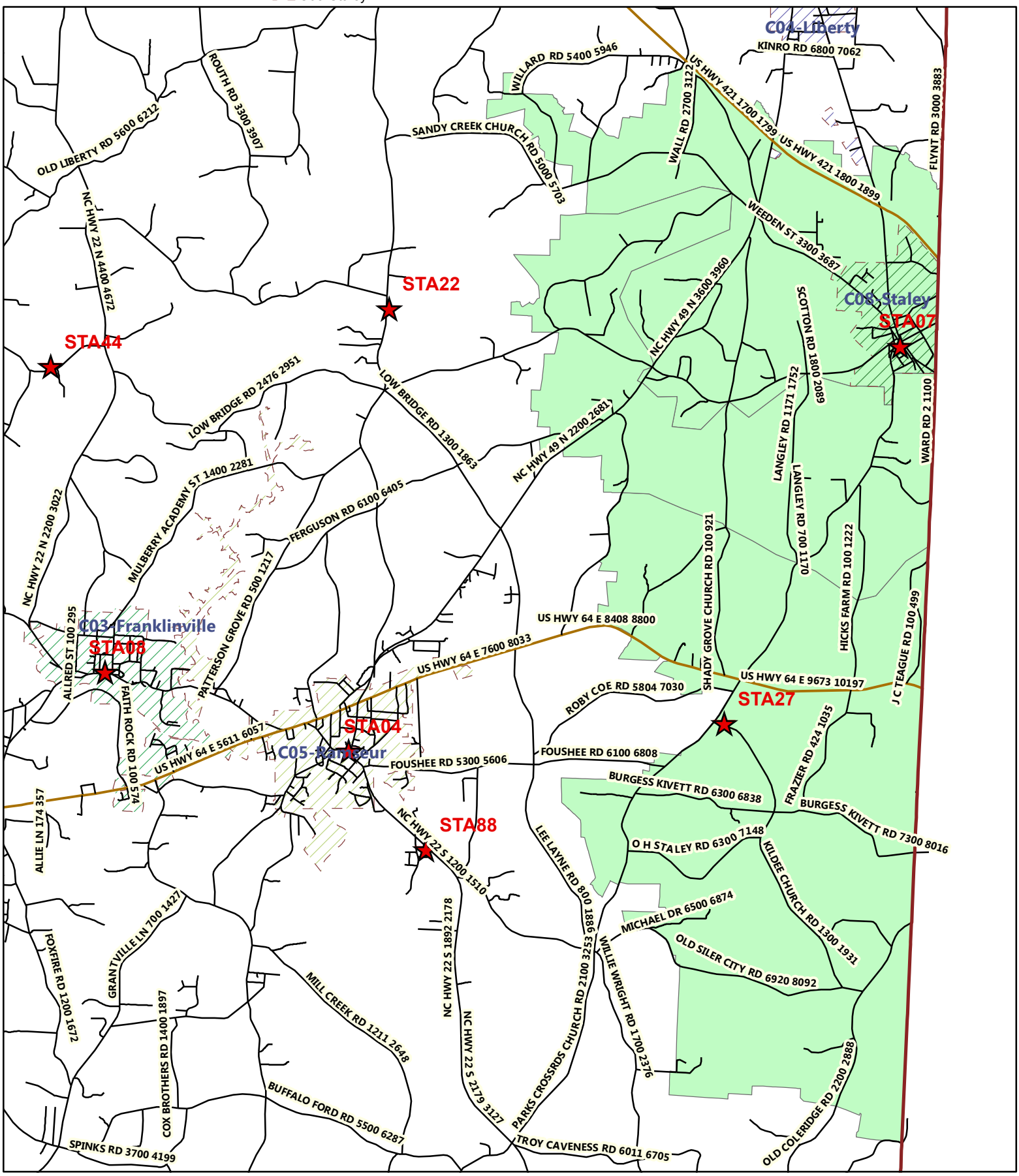
STALEY FIRE DISTRICT

ATTACHMENT C-3

Legend

- Fire Stations
- Roads
- Interstate Highway
- US Highway
- CountyBoundary
- CITY_CODE
- C03-Franklinville
- C04-Liberty
- C05-Ramseur
- C08-Staley

N

1 inch = 6,700 feet

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