

# MINUTES

## RANDOLPH COUNTY PLANNING BOARD

March 11, 2008

The Randolph County Planning Board met at 6:30 p.m., on Tuesday, March 11, 2008, in the Commissioners' Meeting Room, Randolph County Office Building, 725 McDowell Road, Asheboro, North Carolina.

1. **Chairman Jim Rains** called to order the Randolph County Planning Board meeting at 6:30 p.m.
2. **Hal Johnson**, Planning Director, called roll of the members: **Jim Rains**, Chairman, present; **Lynden Craven**, Vice Chairman, present; **Larry Brown**, present; **Phil Ridge**, present; **Chris McLeod**, present; **Reid Pell**, present; **Wayne Joyce**, present; and **Danny Shaw**, Alternate, present. **County Attorney Alan Pugh** was present for this meeting.
3. **Pell** made the motion, seconded by **Craven**, to **approve** the Minutes of the February 5, 2008 Randolph County Planning Board meeting. The motion passed unanimously.
4. **REQUESTS FOR PROPERTY REZONING:**
  - A. **KLAUSSNER INVESTMENT CORPORATION**, Asheboro, North Carolina, is requesting 15.52 acres located on US Hwy 220 S., Cedar Grove Township, be rezoned from RR to HC. Primary Growth Area. Tax ID# 7658511394. It is the desire of the applicants to use the property for commercial development

- **Technical Review Committee Recommendation**

*The Technical Review Committee met and reviewed the application for a straight Highway Commercial rezoning. The Technical Review Committee 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 recognized that these parcels are located in a Primary Growth Area and recommends to the County Planning Board that this request be approved as consistent with previous rezonings approved by the Planning Board and County Commissioners along the Highway 220 Primary Growth corridor.*

*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 4.1 Commercial development should be encouraged to occur in clusters or planned shopping centers to minimize the proliferation of “retail strip” locations.***

***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 4.5 Effective buffering and/or landscaping should be provided where commercial development adjoins existing or planned residential uses.***

**Hal Johnson**, Planning Director, said the request is for that portion of property bordering US Hwy 220 and included the property along Pinewood Road and clubhouse as reflected on the maps. Johnson submitted a letter, provided by the attorney for the applicant, modifying the original straight Highway Commercial rezoning request to a Conditional District request. The modification to a Highway Commercial Conditional District was intended to specify and exclude certain land uses that would normally be permitted in a Highway Commercial zoning district. Johnson read, for the record, those uses to be excluded in the Conditional request:

- Amusements, out-of-doors (e.g. roller coasters, fairgrounds)
- Automobile body shops (excluding open storage of wrecked vehicles)
- Automobile sales
- Automobile service stations
- Automobile storage (excluding wrecked & junked vehicles)
- Automobile and truck rental
- Boats, Recreational Vehicle Sales & Service
- Bottling Plants
- Builder Supply Sales
- Bus station
- Cabinet Making
- Compartmentalized storage for individual storage of residential & commercial goods
- Contractor’s yard and outside storage
- Exterminating services
- Farm machinery sales

Flea markets (indoors)  
Flea markets (out-of-doors)  
Food freezer operations  
Industrial Equipment sales & services  
Laboratory, medical & dental  
Laboratory, research  
Machine shop, welding shop  
Mobile home, travel trailer, camper, marine, recreational vehicle sales  
Outdoor storage yard  
Printing and reproduction  
Repair, rental and service of products sold at retail in same district  
Service stations  
Taxi stand  
Temporary carnivals, rides, ferris wheels  
Theater, drive-in  
Trailer rentals  
Upholstering and furniture refinishing  
Wholesales sales or service

Johnson then reviewed all those uses that could be permitted if the request was approved:

Accessory Uses

Agricultural uses (not regulated with the exception of swine farms)  
Air fields (general aviation)  
Amusements, indoor commercial (e.g. bowling alleys, skating rinks)  
Apparel and accessory sales  
Auction sales, temporary, one-time use  
Automobile car-wash, drive through, repairing vehicle stacking  
Automobile parts sales  
Bank & Savings and Loans  
Barber & beauty service  
Churches and their customary uses including child care on premises  
Clinics, medical, dental  
Clubs and lodges, private, non-profit  
Clubs and places of entertainment (commercial)  
Community centers, public or private, non-profit for assembly and recreation  
Day care facility  
Drive-in widow services (banks, laundries, fast-food, etc.) where use is permitted in district  
Dry cleaning and laundry  
Farm supplies sales (feed, seed, fertilizer, etc.)

Fire, sheriff and emergency services  
Florists  
Funeral homes  
Gift shops  
Golf, miniature  
Governmental offices  
Grocery store  
Hardware, paint & garden supplies  
Home occupations  
Hotels & motels  
Home furnishings & appliance sales  
Health and Social Services centers  
Laundry or Dry Cleaning, self-service  
Library, public  
Locksmith, gunsmith  
Mixed commercial and residential use where commercial use is primary and both  
occupy same structure or lot  
Nursery and plant cultivation and sales  
Office supplies sales  
Pharmacy and drug store  
Post Office  
Pottery Manufacture and sales  
Professional and business offices  
Radio or television studio  
Retail sales, not listed elsewhere  
Restaurant  
Retail stores and shops (excluding vehicle sales) not otherwise listed herein  
Service establishments including but not limited to barber and beauty shops, small  
repair and rental  
Sign, directional gateway  
Sign, outdoor advertising (off-premises)  
Sign, on-premises  
Tailor shop  
Temporary buildings, incidental to development  
Veterinary clinics  
Wholesale sales, not otherwise listed

**Johnson** said that with the exception of the excluded uses, there were no other conditions or site plans attached to the Conditional rezoning request.

**Jon Megerian**, Attorney representing Klausner Investment Corporation, was present and said that the letter he submitted listed those obvious uses that should

be excluded and his clients would consider any additional uses the Board felt should also be excluded. Megerian said his clients certainly would not want to develop anything that would harm their investment of the County Club and golf course. Megerian presented a site plan designed by their golf course architect with proposed buffers, plantings, and berms for the Board to consider. Megerian said they felt this plan would be adequate to protect the property from the highway. Megerian said the property is on a highway corridor in a Primary Growth Area and should be used for commercial development. Megerian said the Technical Review Committee has also recommended approval of this request and listed policies from the Growth Management Plan supporting this approval. Megerian said this request is an appropriate transition from the major highway thoroughfare to the golf course. Megerian said if there are legitimate concerns raised by adjoining land owners or folks that live nearby his clients would consider what could be done to work out those concerns. Megerian said the applicant will do anything within reason to make this request work for the community. Megerian said the plan is entirely within the Growth Management Plan for this area. Megerian asked to be allowed to respond after any opposition expresses their concerns because he is unaware of what concerns, if any, the community may have. **Pugh** said that he has driven by this area many times and asked Megerian if the adjoining property to the east was owned by the applicant. **Megerian** answered yes.

**Bob Hornik**, Brough Law Firm, 1829 E. Franklin Street, Chapel Hill, North Carolina, was present and said that he represents 23 property owners, in the Pinewood Country Club community, who are opposed to this request. Hornik said that by submitting this application as written the applicant has turned the process on its head. Hornik said that the County Zoning Ordinance states *if the applicant believes that development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise made the rezoning more in accordance with principles underlying the Randolph Growth Management Plan, he shall apply for rezoning to the appropriate Conditional Zoning District specifying the nature of his proposed development. (Article XIII Administrative and Legal Provisions, Section 4 Changes and Amendments, paragraph m.)* Hornik said that the applicant still wants the right for the owner to use any one of the 54 uses that are permitted in a Highway Commercial Zoning District and not excluded from his application. Hornik said that is not the way Conditional Zoning is done. Hornik said that the applicant is asking the neighbors to list possible conditions for this request. Hornik said that the applicant is basically not listing any conditions on his application for Conditional District Zoning. Hornik said that this is an improper use of Conditional Zoning. Hornik said he wants the Board to consider if the request would constitute spot zoning. Hornik said that there is a Community Shopping Zoning District north of the

property but the remaining properties in the area are rural residential uses. Hornik said the burden of proof to prove this request would not be illegal spot zoning is on the applicant and the Board. Hornik said that the site plan only shows the long narrow strip of property and not that section north of Pinewood Road. Hornik said that the berms are being proposed on the adjoining tract of land (golf course) not the property in question and therefore could not be considered part of the application. Hornik said technically the application would have to list that property also. Hornik said that a 6 ft. to 8 ft. berm would not protect his clients from any structures proposed on the site. Hornik said that there are numerous incompatible uses being proposed. Hornik said the Growth Management Plan list policies to minimize strip development and this property lends itself to strip development only. Hornik said the Growth Management Plan encourages the use of transitional development as a buffer between incompatible uses. Hornik expressed the concern of the traffic patterns along Bus Hwy 220. Hornik said that the applicant is planning an unspecified use on the property with no plan to fix the “hairpin turn” adjoining the property. Hornik said the application doesn’t meet the requirements of the Ordinance. Hornik said unless or until the applicant comes to the Board with a specific site plan and application listing specific uses the Board could not consider the request. **Pell** asked Hornik where his 23 clients currently live. **Hornik** said starting with the first house on Pinewood Road continuing on into the development. Hornik said his clients have great views of this property. **Pugh** said the application appears to be really a request for straight rezoning with the applicants wanting to assure the community that only specific uses would be considered for development. **Pugh** asked Hornik if his clients were opposed to any type of commercial development. **Hornik** said that he was not prepared to answer that question for his clients. **Pugh** asked Hornik if he agreed the property is within a Primary Growth Area and **Hornik** agreed. **Pugh** asked Hornik if he agreed that the applicant wants flexibility. **Hornik** said that under Conditional Zoning it is the applicant’s job to specifically state the use of the property and it is not the adjoining property owners’ job to determine their request. **Pugh** said that you recognize the property is within the Primary Growth Area along a major thoroughfare that will soon become an interstate. **Hornik** said all the more reason for the applicant to have a specific plan.

**Jenny Jones**, Pinewood Road, said that 14 years ago they lived in Winston-Salem and they kept their house alarm set day and night. Jones explained that her husband travels in his business therefore they could live most anywhere. Jones said they spent a lot of time an effort looking for a place to raise their family. Jones said they looked at what different amenities, school districts, etc. different communities had to offer in North Carolina. Jones said after all their research they settled on the Asheboro community. Jones said that her husband travels a tremendous amount and moving to this small town in a protective residential

community, they felt safe and have been very happy here for 13 years. Jones said that they are concerned for more traffic to be added to this property. Jones said that her husband counted from 7 am - 7:30 am (on a weekday) there were 197 cars, two tractor trailer trucks, and six school buses that came through this intersection. From 7:30 am to 8 am there were 458 cars, 10 tractor trailer trucks, and four buses through that same intersection. Jones said the other big issue for her is that they have been told there would be a hotel placed on the property. Jones said that this type of development welcomes transits to the community. Jones said that people staying in the hotel would possibly be offered golf package deals and be able to use the golf course and therefore these people would be in their front yard and back yard. Jones said that if this development was approved, there would be many transits looking into their property and they would be back to using an alarm system night and day again. Jones said this would just not be agreeable to them. **Pugh** asked Jones if she would be opposed to any of the property being used commercially. **Jones** said that she would not be able to answer that question without seeing a proposal. Jones said that she would love to think that at the most the property would be developed with condos. **Pugh** asked Jones if she would be opposed to medical or professional offices. **Jones** said that she didn't know without seeing a plan. Jones said she would also be concerned with the lighting of the property.

**Gwen Hall**, 664 Nassau Trail, said that every day she has tried to envision how the property would look developed. Hall said that she just can't visualize this. Hall said that she would be opposed to any development of this property.

**Jim Webster**, 480 Nassau Trail, said that he can look out his windows and see the beautiful golf course and he applauds Klaussner for what they have done with the course. Webster said that he is concerned about how this will affect their property values and they would be very concerned with a hotel. Webster said this type of development may possibly affect their safety.

**There were 11 people present in opposition to this request.**

**Robert Whalley**, 632 Nassau Trail, said that he moved here for the rural atmosphere. Whalley said that he realized that growth happens everywhere but they want to know what will be done here. Whalley said that Business Hwy 220 is a major corridor and this is a two-lane highway with a traffic problem. Whalley said that he felt a study should be required by DOT to determine what needs to be done to fix their traffic problems. Whalley said there should at least be some turn lanes or something at this location before it is commercially development.

**R W Carter, Jr.**, 450 Pinewood Road, asked what would be developed on the

upper property. Carter said there should be a specific plan to be considered by the Planning Board.

**Megerian** said he would like to clarify some of the concerns expressed. Megerian said that this request would not be spot zoning. Megerian said the property to the north is zoned commercially with a conditional use zoning. Megerian said that it is not illegal to not present a site plan, it's just unusual. Megerian said that this is clearly along a highway. Megerian said that he felt Whalley was correct and he would be shocked if DOT didn't require turning lanes at this intersection (paid for by the applicant). Megerian said that there will be a study and DOT will have stringent requirements. Megerian said that they would remove additional permitted uses but they do propose possibly a hotel, a restaurant, etc. Megerian said that he didn't feel they would be able to do anything to satisfy most of the opposition here. Megerian said that they can't exclude a hotel or restaurant. Megerian said these uses would be the highest and best use for the property.

**Nadene Johnson**, 5918 US Hwy 220 S, power of attorney for adjoining property owner Opal Beasley, said that her concern would be what kind of development would go on the most southern end of the property. **Megerian** said that his client would answer more specifics. **JB Davis, Klaussner Investments**, said that they made an offer on the Beasley home that was below the asking price, but they felt was fair. Davis said their offer was turned down. Davis said that they were involved with the process of getting the new turn-lane on Hwy 220 Bus. Davis said that he agreed that something needs to be done with the intersection and they would work with DOT to work out this concern. Davis said that they purchased the property 20 years ago. Davis said that we could make our golf course public at any time or we could develop the property residentially if we so chose without asking anyone. Davis said that they have spent their company's monies to enhance the golf course on two occasions. Davis said that everything that they have done has been in the best interest of the community and we did not push for these people to be annexed in the City. Davis said they asked for their property only to be annexed. Davis said we are not someone from the outside coming into this area to destroy the community. Davis said that we plan to enhance the community. Davis said we would not do anything we feel would harm the community. Davis said that they are not upset with those in opposition, and we have tried to workout something with Food Lion to purchase their property (to the north of Pinewood) so that they could do additional residential development there. Davis said that they could then eliminate the entrance at its current location which would make things much nicer when entering Pinewood. Davis said that he believed Pinewood needs to form a homeowners' association to address many issues in the community. This would help to resolve issues currently in

Pinewood. **Pugh** asked Davis if he was requesting the zoning at this time so when they decide what they want to do develop they can move more quickly. **Davis** answered yes. **Pugh** asked Davis that considering Klaussner has spent millions of dollars on the golf course and country club facilities, do you think whatever is developed on this site would impact your property. **Davis** said they think so. Davis said that today Pinewood is a private club but it is Klaussner's discretion to determine how long or if it remains private. Davis said that they would do what would be in keeping with Pinewood Country Club. Davis said he is a 'straight shooter' and will do what he says. **Ridge** asked how close to the southern property line would they develop; and **Davis** answered that he didn't know at this time. **Ridge** said that he felt there should be a buffer next to the home adjoining the southern end of this site. **Davis** said that he agreed with Ridge. Davis discussed buffers that they have installed in the past that they were not required to plant. Davis said they have planted 'boat loads' of leyland cypress trees to enhance their properties here. Davis used the example of all the trees they planted for the Websters' view.

**Hornik** said that no one has any problem with what Davis has done in the past but the problem is this property and what will be done in the future. Hornik said there are just no specifics listed here. Hornik said that we need to know what this applicant is proposing to do. **Pugh** asked Hornik to read *Article XIII Administrative and Legal Provisions, Section 4 Changes and Amendments, paragraph m* again. **Hornik** read *if the applicant believes that development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise made the rezoning more in accordance with principles underlying the Randolph Growth Management Plan, he shall apply for rezoning to the appropriate Conditional Zoning District specifying the nature of his proposed development.* Hornik added otherwise we are looking at a general rezoning and all uses must be found to be of appropriate use.

**Ridge** asked Pugh his opinion. **Pugh** said what the applicant really wants is a straight rezoning but has made an effort to reassure people that a lot of the uses would be excluded. **Pugh** said that this request is very creative, but he agrees with Hornik that once you request a conditional district then our ordinance requires that you state specifically what the property is to be used for. **Pugh** said that if the applicant wants to modify their request to a straight Highway Commercial Zoning request before it goes to the Commissioners then this could be done. **Pugh** said that after a public hearing and a recommendation has been made by the Planning Board, then if the applicant wants to change the request to a straight Highway Commercial Zoning request he has the right to do so.

**Johnson** said that what the Technical Review Committee considered when

making their decision was first our Growth Management Plan. The TRC recognized that this is a Primary Growth area. Second the TRC looked at the history of zoning changes that have been made in this area. The TRC recognized that we have consistently rezoned properties in this area for commercial development. Johnson said but there are also other considerations such as the traffic conditions and availability of public water and sewer. Johnson said that he talked to Reuben Blakely, District Engineer, NCDOT, concerning this issue. Blakely said that the applicant will have to provide a traffic impact analysis (study) for NCDOT to determine what changes the developer may be responsible for prior to commercial development. Johnson said also if more than one commercial use is placed on the property a Special Use Permit would be required for a Planned Business Development. This would require the developer to come back before the Planning Board for issuance of that permit.

**McLeod** said that he felt the applicant was trying to be a good neighbor. **Pugh** said that he has to question what happens after this Board and the Commissioners make their decisions. Pugh said those decisions may have to be defended in Court. Pugh said that legally the Board could recommend to the Commissioners that a straight Highway Commercial Zoning would be appropriate under the Growth Management Plan and under the law. Pugh said that a straight Highway Commercial Zoning is defensible based on the Plan and the Ordinance. Pugh said that based on our practice, it could be reverted by the applicant back to a straight zoning request between this Board meeting and the Commissioners' meeting.

**Brown** made a motion to recommend to the Commissioners that this request be **denied**. **Craven** seconded the motion. **The motion failed to pass by a vote of 2 to 4. Ridge, McLeod, Pell, and Joyce voted against the motion.**

**McLeod** asked if this request could be modified after this meeting.

**Johnson** said that the Planning Board can decide that the request for a Conditional District rezoning is not appropriate due to the lack of a specific site plan or designation of intended use. Johnson said Klaussner originally filed for a straight Highway Commercial rezoning classification. The Planning Board could decide that this original request for a straight rezoning to Highway Commercial was appropriate, or not, and make a recommendation to the County Commissioners on the straight Highway Commercial designation. Johnson reminded the Board that the Technical Review Committee (TRC) had recommended to the Planning Board that the request be approved for a Highway Commercial rezoning classification. Johnson said the Planning Board was acting only as an advisory body to the Board of County Commissioners who make the

final decision after the formal public hearing on April 7. **Pugh** agreed with Johnson and said that the motion could be modified to include if the request had been for a straight Highway Commercial rezoning that the Planning Board would have recommended approval.

**Brown** said he was not willing to modify his motion.

**Ridge** said that he realized that Klaussner owns most of the property adjoining the property and he didn't think they would do anything to harm the community.

**Pell** asked if the developers would come back to the staff for buffers and other development considerations. **Johnson** said that the developer would not be required to consult with staff concerning buffers unless it was included in a Special Use Permit or a Conditional Zoning.

**Motion failed by a vote of 4 to 2.**

**Ridge** said he felt it would be more appropriate for the property to be considered for a straight rezoning. Ridge said he would make a motion to deny the request for a Conditional Zoning District, but if it had been a straight rezoning he would recommend approval. **Pugh** told Ridge that he could only act on what request was before the Board and that was a request for Conditional Zoning. **Pugh** advised the Board that the same motion(Brown's) could be made again but it would have to be made by another member. Pugh advised the Board that the Commissioners would understand their intentions after review of the Minutes from this meeting.

**Ridge** made the motion that the request be **denied**. **Brown** seconded the motion. The motion passed by a voted of 4 to 3. **McLeod, Joyce, and Pell** voted against the motion.

- B. **GREGORY BURKHART**, Archdale, North Carolina, is requesting that 2.00 acres out of 6.02 acres located at 2735 Banner Whitehead Road, New Market Township, be rezoned from RA to RBO-CD. Randleman Lake Watershed. Secondary Growth Area. Tax ID# 7736768964. The proposed Conditional Zoning District would specifically allow the property owner to sell his existing residence separate from his existing Rural Family Occupation of specialized motor parts and convert his small business facility of 2400 sq. ft to a commercial operation with an additional expansion of 4800 sq. ft. 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 reviewed this request and the majority 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 4.7 The County should encourage the use of rural business overlay districts to provide locations where compatible rural land uses such as neighborhood retail and service establishments can be located in general proximity to established rural residential areas with the goal of reducing automobile travel distances and promoting better livability in the rural community.*

*Policy 7.5 Site plans should be provided that design built upon areas to specifically minimize stormwater runoff impact to streams and other receiving waters.*

*Policy 7.8 Stormwater runoff should be designed in a manner that it will be transported from the development by vegetated conveyances to the maximum extent possible.*

**Burkhart** stated he purchased the property three years ago from the original property owners and the original property owners still live in the house. **Burkhart** said the original property owners obtained the Special Use Permit for the business. **Burkhart** said that he now plans to sell the house back to the original owners and maintain the business. **Burkhart** said he employs three people currently and the proposed expansion would be years away but it is being requested for future expansion.

**There was no one present in opposition to the request.**

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

- C. **FRED BURGESS**, Climax, North Carolina, is requesting that .75 acres out of 5.00 acres located at 6767 NC Hwy 22 North, Providence Township, be rezoned from RA to OI-CD. Polecat Creek Watershed. Rural Growth Area. Tax ID# 7796160193. The proposed Conditional Zoning District would specifically allow

the operation of an insurance office in the existing 1,800 sq. ft. building

- **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 reviewed this request and the majority 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 4.3 Rural area commercial development should be limited to neighborhood business uses, farm supply stores, and generally accepted rural business establishments.*

*Policy 4.6 Compatible land uses such as rural neighborhood retail and service establishments located close to general residential areas should be considered during the rezoning process with the general goal of reducing automobile travel distances and promoting better livability in the community.*

*Policy 5.1 Office and institutional development should be encouraged to locate as transitional land use between activities of higher intensity and those of lower intensity.*

**Burgess** was present and explained that he owns 13+ acres here and he wants to use the existing building for an insurance office and only wants to zone the acre around the building.

**There was no one present in opposition to this request.**

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

5. The meeting adjourned at 8:43 p.m. There were 39 people present for this meeting.

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*HAL JOHNSON*

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**NORTH CAROLINA  
RANDOLPH COUNTY**

**Planning Director**

*JILL WOOD*

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**Date**

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**Clerk/Secretary**