



**MOORE COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING
THURSDAY, JUNE 2, 2022**

The Moore County Board of Commissioners convened for a Special Meeting at 5:30pm, Thursday, June 2, 2022, in the Commissioners' Meeting Room of the Historic Courthouse, 1 Courthouse Sq., Carthage, NC.

Commissioners Present:

Chairman Frank Quis, Vice Chair Catherine Graham, Jerry Daeke, Otis Ritter, Nick Picerno

Chairman Quis called the meeting to order. The purpose of the meeting was to continue a quasi-judicial hearing regarding a request by Tri South Builders, Inc. for a Special Use Permit for a Major Conservation Subdivision Preliminary Plat approval for 53 lots on 73.77 acres, ParID 00034394, located on Union Church Road, Carthage, owned by James and Carolyn Ring, per Deed Book 2368, Page 240. The hearing was originally opened on May 16, 2022.

Chairman Quis reopened the hearing. County Attorney Misty Leland restated the request and then witnesses were sworn in by the Clerk. Ms. Leland provided opportunity for Board members to reveal information or special knowledge about the case and opportunity to withdraw due to conflicts and there was none. Ms. Leland reviewed the five findings of fact that had to be met and then called forward Michael Parker, representing himself and other community members in opposition to the Special Use Permit request. Mr. Parker asked for a motion to dismiss. Upon motion made by Commissioner Picerno, seconded by Commissioner Graham, the Board voted 5-0 to deny Mr. Parker's motion to dismiss. Mr. Parker asked the Board for a motion to dismiss based on the applicant's failure to make a prima facie showing. Upon motion made by Commissioner Graham, seconded by Commissioner Daeke, the Board voted 5-0 to deny Mr. Parker's motion to dismiss. The hearing proceeded over approximately four hours as Mr. Parker called several witnesses and referenced exhibits.

A transcript and documents for the record are hereby incorporated as a part of these minutes by attachment as Appendix A.

Upon motion made by Commissioner Graham, seconded by Commissioner Daeke, the Board voted 5-0 to continue the hearing to June 23, 2022, at 4:00pm.

Adjournment

Upon motion made by Commissioner Graham, seconded by Commissioner Picerno, the Board voted 5-0 to adjourn the June 2, 2022, Special Meeting of the Moore County Board of Commissioners at 9:48pm.



Francis R. Quis, Jr., Chair



Laura M. Williams, Clerk to the Board



Appendix A
06/02/2022

BEFORE THE
MOORE COUNTY BOARD OF COMMISSIONERS
JUNE 2, 2022

TRANSCRIPT OF QUASI-JUDICIAL HEARING/PLANNING
SPECIAL USE PERMIT REQUEST
MAJOR CONSERVATION SUBDIVISION PRELIMINARY PLAT APPROVAL
(UNION CHURCH ROAD)

Frank Quis, Board Chair
Catherine Graham, Vice Chair
Otis Ritter, Commissioner
Jerry Daeke, Commissioner
Nick Picerno, Commissioner
Debra Ensminger, Planning Director
Misty R. Leland, County Attorney
Nicolas P. Robinson, Attorney at Law
Michael Parker, Attorney at Law

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1 P R O C E E D I N G S

2 CHAIRMAN QUIS: June the 2nd, and the time is
3 5:30 p.m. Glad to have all of you here today for this
4 continuation of a public hearing. We will immediately turn
5 it over to our attorney, Ms. Leland.

6 MS. LELAND: Good evening. We're getting ready
7 to -- I'll ask the chair to go ahead and officially open --
8 reopen the quasi-judicial hearing. We didn't technically
9 close it, but that is the item that is before us tonight.

10 CHAIRMAN QUIS: We will reopen the quasi-judicial
11 hearing at this time.

12 MS. LELAND: To restate it for the record, this is a
13 request by Tri Builders [sic], Inc. for a special use permit
14 for a major conservation subdivision preliminary plat
15 approval for 53 lots located on Union Church Road in
16 Carthage.

17 I'm going to go back through some of the procedures.

18 This is a quasi-judicial hearing. That means this
19 is not a public hearing. This means that not everyone is
20 able to participate legally. You need to have standing or be
21 a witness or be an expert witness as the statute requires.
22 However, everyone is welcome to watch.

23 Again, you can cross-examine the witnesses, and,
24 board, they -- both attorneys have asked to make a closing
25 argument, and I said that that would be appropriate.

1 Previously witnesses have been sworn in. I
2 understand Mr. Parker has a witness list that I have a copy
3 of, and Nick Robinson has a copy of, I believe, and so at
4 this time I will ask that whoever wants to participate based
5 on this witness list who has standing or is a witness or is
6 otherwise qualified by law to participate, to go see the
7 clerk and be sworn in.

8 MR. PARKER: Can I call --

9 MS. LELAND: Yes.

10 MR. PARKER: (Indiscernible.)

11 (Mr. Parker calling names.)

12 MS. LELAND: I'm sorry, I didn't hear you.

13 MR. PARKER: (Indiscernible.)

14 MS. LELAND: You're adding him to your list?

15 MR. ROBINSON: Is that -- okay. There we go.

16 MS. LELAND: Yes.

17 MR. ROBINSON: Great. May I -- I think it's
18 possible that I may call a couple of witnesses after their
19 case. I don't know who they would be, though. Can I have
20 them sworn at that time?

21 MS. LELAND: You can, or do you -- why not just go
22 ahead, if they're here, let's swear them in now.

23 MR. ROBINSON: Yeah. So let's see. If you want to
24 come up, Wes? Yeah, for now that's it.

25 MR. DAEKE: You don't have to hold your finger on

1 it.

2 MR. ROBINSON: Oh, you don't? Thank you. I
3 appreciate the technological advice.

4 MR. PARKER: (Indiscernible.)

5 MS. LELAND: I'm sorry, could you repeat the name?

6 MR. ROBINSON: Mr. Wes Cadell.

7 MS. LELAND: Wes Cadell. Any of your experts?

8 MR. ROBINSON: Yes. I am assuming that they were
9 sworn last time, they're still sworn?

10 MS. LELAND: No, we're going to reswear everyone.

11 MR. ROBINSON: Oh, okay. Then, yeah, let's bring --
12 we have Travis Fluitt, and we have Phil Picerno as well.

13 MS. LELAND: Okay.

14 THE CLERK: If you'll please raise your right hand.

15 (Oath administered by the clerk to prospective
16 witnesses.)

17 MS. LELAND: Okay. I'd like to ask everyone to
18 please be seated.

19 I would like to reask, since there's been some time
20 since the last hearing, if there's any board member who has
21 any information or special knowledge about this case to
22 please let us know now for the record.

23 As far as for conflict, I want to review that again.
24 If any board member would like to withdraw from these
25 proceedings it has to be a legal conflict due, but not

1 limited to, a fixed opinion prior to hearing the matter that
2 is not susceptible to change, undisclosed ex parte
3 communications, a close familial business or other
4 associational relationship with an affected person, or a
5 financial interest in the outcome of this matter.

6 Any conflicts?

7 Okay. Hearing none, I will ask the board if you
8 want to hear a quick summary from the planning director
9 regarding what this matter is about. Again, I know you know
10 what it's about, but just wondering if you wanted to hear a
11 quick summary, or would you like to move on from that?

12 CHAIRMAN QUIS: You guys want to hear a quick
13 summary.

14 MR. PICERNO: I'm good.

15 CHAIRMAN QUIS: No thank you.

16 MS. LELAND: Okay. At this time I will remind the
17 board that there are five findings of fact required for this
18 special use permit that must be satisfied. I have also made
19 you copies so you could have these at your seat and refer to
20 them throughout the remainder of this matter.

21 Number one, the use will not materially endanger the
22 public health or safety.

23 Two, meets -- the use meets all required conditions
24 and specifications.

25 Three, the use will not substantially injure the

1 value of adjoining property unless the use is a public
2 necessity.

3 The use will be in harmony with the surrounding area
4 and compatible with the surrounding neighborhood.

5 The use will be in general conformity with the
6 approved Moore County Land Use Plan.

7 The board must base its decision on competent,
8 relevant and substantial evidence in the record.

9 These are the legal requirements that you have to
10 base your decision on.

11 With that being said, I'm going to turn it over to
12 Mr. Parker. When we concluded the applicant and witnesses
13 and any proponents had already presented their case.
14 Mr. Robinson has reserved his right to recall some of his
15 witnesses, if needed, and that's going to be allowed.

16 MR. PARKER: Thank you, Ms. Leland. I appreciate --
17 that's bad.

18 MS. LELAND: Thank you.

19 MR. PARKER: I'll try that, see if that's better.

20 Ms. Leland, just for a point of order, I did not
21 hear, I may have missed it last time, if Mr. Robinson rested
22 his case. I just wanted to make sure that he did that so
23 that I will proceed now.

24 MR. ROBINSON: No, I mean, I -- I rested my initial
25 case but I'm reserving the right to call additional witnesses

1 depending on what evidence comes into the record in your
2 case.

3 MR. PARKER: I have no problem with that. I just
4 wanted to make sure he was done, for the record.

5 MS. LELAND: And for a procedural matter, let's all
6 review what exhibits are in the record, if any.

7 Mr. Parker, you have no exhibits in the record right
8 now.

9 MR. PARKER: Then Mr. Robinson has 2 and 8, which is
10 the traffic report and the appraiser's report, is what I
11 believe. That's in -- that's in evidence now.

12 MS. LELAND: Do you agree?

13 MR. ROBINSON: Also we submitted the applicant --
14 the entire application form as well.

15 MS. LELAND: I was going -- I was going to mention
16 that, but, yes, the staff report has been submitted as well.

17 MR. PARKER: Okay. All right. That was not --
18 didn't have an exhibit number. That's why I didn't have
19 that --

20 MS. LELAND: Okay. So we have Exhibits 1, 2 and 3.
21 The first was the staff report.

22 Is that correct, Mr. Robinson? That's my
23 recollection.

24 MR. ROBINSON: Yeah, the way --

25 MS. LELAND: The staff report was -- is already a

1 part of the record anyway. I just wanted to state that as a
2 point of law.

3 MR. PARKER: Okay.

4 MS. LELAND: But that he did enter it into the
5 record as an exhibit.

6 MR. PARKER: Okay. Yeah, that's fine. The reason I
7 say that is because I offered -- our question -- one of
8 the -- Mr. Picerno about the application, which I listed as
9 Exhibit 1, so if you're counting the staff report as 1, then
10 we may want to make that exhibit, the application A just to
11 distinguish it for the -- I mean, for clarity.

12 MS. LELAND: That's fine.

13 MR. ROBINSON: Yeah, that's fine.

14 MR. PARKER: Madam Clerk, you may want to make the
15 note. Thank you.

16 MS. LELAND: And those are Mr. Robinson's exhibits.

17 MR. PARKER: That's correct.

18 MS. LELAND: Okay.

19 MR. PARKER: I haven't offered --

20 MS. LELAND: Just clarifying because --

21 MR. PARKER: I've offered -- I haven't offered to
22 introduce anything yet.

23 MS. LELAND: We have a lot of exhibits tonight.

24 MR. PARKER: Yes, we do. We have a lot to do.

25 MS. LELAND: Trying to keep it straight.

1 MR. PARKER: I appreciate that. Yes, ma'am.

2 And Madam Attorney, I just want you to know for the
3 commissioners for the purpose that we have turned over to you
4 our entire exhibit book, which I believe you have copied. It
5 is not available yet because there were like 68 of them, but
6 we -- that's also being provided to Mr. Robinson, and I've
7 also given you a witness list, and also a list of the
8 exhibits so that the clerk can keep track of them.

9 Is that right, Madam Clerk?

10 So hopefully that will help a little bit tonight.

11 MR. ROBINSON: Just also add, and I'll stop
12 interrupting at this time, that the -- Mr. Parker's book of
13 exhibits and evidence was handed to me about two minutes ago,
14 given to me thankfully by the staff of the county who
15 photocopied it for me. I haven't seen any of the exhibits
16 that are in this notebook until just now.

17 MS. LELAND: And I have not either, but we are -- my
18 office has made a copy of 50 plus exhibits, and so I think
19 we're good to go for now.

20 MR. PARKER: Well, and just so for your purposes, we
21 did have a -- another wreck on our highway that cost me
22 internet for two and a half days. I'm lucky to be here at
23 all. I'm very thankful for that because I got all of this
24 stuff put together about 3:30.

25 But with that being said, if Mr. Robinson needs a

1 continuance to be able to review them, I have no objection to
2 that. We will make arrangements to come back.

3 So if I may proceed now? I'm good to go.

4 MS. LELAND: Please. Thank you.

5 MR. PARKER: Members of the board of the county
6 commissioners and Madam Attorney, I appreciate your patience
7 and your willingness to hear this case.

8 We, on behalf of the community, I have several
9 motions that I want to file. The first motion I have, Madam
10 Attorney, I provided you and Mr. Robinson both a copy of it.
11 It is a motion to summarily dismiss the special use permit
12 for Tri-State [sic] Builders on the property designated James
13 and Caroline Ring, due to the fact that the UDO of Moore
14 County is in violation of the United States Constitution and
15 fails to establish due process for the people who are -- must
16 appear before it.

17 If I may approach with a copy of the motion for you
18 and Mr. Robinson?

19 MS. LELAND: Yes.

20 MR. PARKER: Thank you.

21 MS. LELAND: Thank you.

22 MR. PARKER: Yes. Members of the board of
23 commissioners, I am Michael Parker. I'm representing the
24 community on this matter. And my first motion is one that
25 involves the actually concerns with the UDO as is set out

1 right now in the Moore County land -- the Moore County UDO.

2 In preparing for this hearing I went to the UDO and
3 began to work on it to learn the law related to it. I
4 learned that the UDO of Moore County is based on Chapters
5 153A, and 160 -- 160A of the North Carolina General Statutes.

6 153A and 160A, when I went to look them up to
7 reference them to your UDO, were actually repealed in 2019.
8 They were repealed by a Session Law 2019-111. They were
9 replaced by that law as well.

10 And then they -- as part of that it was ordered they
11 combined Chapters 153A and 160D into a single -- 160A into a
12 single general statute, 160D.

13 160D for the -- gives you the authorization to zone
14 and to have a UDO in the county, provides that -- it provides
15 101 to 1405 different sections of that statute. So there's
16 over 1300 statutes that relate to those combined two
17 statutes.

18 Now, that's not the problem.

19 The problem is, is that 130 -- 150 -- 160D, the new
20 law, required that counties update their UDO with the new
21 statute numbers by January the 1st of 2021. That was later
22 changed in General Statute 20 -- Session Law 2020-125, I
23 believe. It is listed in the motion I gave you here. And
24 extended that until July the 1st of 2021. That was nearly a
25 year ago now. That has not been corrected.

1 On your statute, on your general -- on the website
2 you have posted your UDO. The UDO still reference Chapters
3 153A and 160A repeatedly. In fact, there are, as I counted,
4 approximately 43 references to Chapter 153A, and 21
5 references to Chapter 160A throughout, and no references to
6 Chapter 160D.

7 When I began looking at this, there is a provision
8 that says that you are to take similar ones from 160D and
9 make them apply as appropriate to your UDO and -- that you
10 have set out, if you can match them up. The problem is the
11 legislature did not make a one-to-one. They instead took
12 153A and they made substitute changes and combined them into
13 a larger chapter.

14 Now, is there anything wrong with that law? No.
15 The problem with it is, and there is a provision that says it
16 does not change your UDO, it doesn't make it invalid, but
17 what the problem is, it makes it virtually impossible for a
18 citizen who is -- comes up to defend that to be able to find
19 the statute to be able to reference it.

20 I am a lawyer. I spent 40 hours and still cannot
21 find the references between these two to be able to compare
22 what's in your UDO to what is in the new 160D without going
23 down and making a one-to-one comparison.

24 It's extremely cumbersome on the private individuals
25 and the citizens here who wish to defend one of these actions

1 on their own to be able to do that. They would need to hire
2 an attorney who could research it and actually go and find
3 that and be able to compare them. I can -- and these people
4 are lucky because I was in a position to do it. They have
5 that. But every other citizen of Moore County, they may not
6 have that luxury.

7 The due process clause of the United States
8 Constitution, 177 -- 1776 we fought that war. 1791 we put in
9 the constitution and adopted ten bills of -- bill of rights.
10 Well, the fourth of those bill of rights was the Fourth
11 Amendment. The Fourth Amendment provides every citizen the
12 due process to be able to come to court and to face an
13 accuser and to have certain rights.

14 Due process, commissioners, is a fancy lawyer word
15 that means fairness. It basically means fairness. It has
16 been defined by Owens and Lovelady from the school of
17 government related to quasi-judicial hearings as being the
18 right to have notice of the charge and the ability to receive
19 clear guidance to be able to defend those or to replace those
20 actions.

21 Your UDO as it stands right now provides neither of
22 those. It does not give -- it gives them notice of what they
23 may have to, but it does not give them clear guidance on how
24 they can compare and how they can fight one of these actions
25 in their individual communities.

1 Now, I am not asking you, in fact this new statute
2 does not make it -- this new statute specifically says that
3 errors about it will not invalidate your UDO. It also says
4 that such -- such problems with your UDO will not -- it does
5 not invalidate the UDO. It doesn't make it null and void.
6 It doesn't prevent it from being in force. But the problem
7 that I see is it makes it extremely hard to enforce it.

8 I come from a criminal law background, and in a
9 criminal law background whenever you have a bad law that is
10 unconstitutional for whatever reason, due process, it's not
11 fair, we simply do not enforce it.

12 Now, I am not asking you to throw out the entire UDO
13 of Moore County. But what I'm asking you for, out of
14 fairness, because you have been fair so far, and I want to
15 praise Ms. Leland and Mr. Vest, they were kind enough to help
16 Mr. Robinson and I get a place to sit to be able to defend
17 this, they were kind enough to allow us to set up some food
18 outside in the hall for the citizens who have an interest in
19 this.

20 I do not believe that the county commissioners would
21 intentionally trounce the rights of any individual citizen.
22 You have been patient, and you will continue to be patient,
23 despite the fact that I may yell, and Mr. Robinson may yell,
24 and we're going to do that because we represent our clients.

25 But the fact of the matter is, is that you have a

1 higher duty than that. You each took an oath to follow the
2 constitution and follow the laws of North Carolina and the
3 United States. We ask no more of that than you now.

4 The problem is, is that this statute is unclear. It
5 creates a clear disadvantage to people who cannot afford
6 lawyers, who can't research this themselves, not to mention
7 the fact that it also causes it to be a 10-day -- the statute
8 says that to receive notice of a -- of this, it requires
9 notice be sent out to eligible -- to property owners and
10 eligible parties.

11 Ms. Ensminger did that. I have the list of the
12 people she mailed to, and she did it within the statute.
13 She's done nothing wrong in this.

14 But the statute provides that it can be sent out no
15 more than 25 days and no less than 10 days, and it must be
16 done by certified mail.

17 My wife did not receive her notice until like the
18 ninth day. It was mailed out on time, but because the
19 certified mail, it was a little later. That gave us 10 days
20 to prepare for this hearing.

21 Now, we knew about it, and we'd been working on it a
22 little before, but the problem is, when you have that 10 days
23 and you're a citizen who doesn't want to go hire a lawyer to
24 do this for you, there is virtually no way you can take these
25 statutes and be able to find it and interpret it to be able

1 to compare your UDO to the statute of North Carolina to make
2 sure it's legal and authorized.

3 So my position is, is that the only remedy for this
4 is to dismiss this application from Tri-South. Once you get
5 it corrected -- because the statute also -- I don't like the
6 statute. The statute forbids you from declaring a moratorium
7 solely for the purpose of amending or updating your UDO. It
8 puts you in a box. You can't fix it by doing that. You
9 could continue this hearing until it were fixed to allow
10 parties an opportunity. And I'm not saying I don't know the
11 law. I have researched it and found it. That's not the
12 issue.

13 The issue is a larger one that involves due process
14 of the citizens. Do these people have the same ability that
15 I do to be able to find that to come up here and defend their
16 property rights in the face of an application like this? The
17 fact of the matter is, commissioners, they don't.

18 I'm not pointing blame. I don't know -- I'm not
19 pointing blame. I'm not causing blame. The fact of the
20 matter is, it is what it is, and I ask you to do the right
21 thing, uphold the constitution, dismiss this action.
22 Tri-South can bring it back whenever you get it fixed, but
23 until it's fixed, no citizen in Moore County has the ability
24 to properly defend it.

25 I have an extra copy if anybody wants to see it. My

1 argument's set forth --

2 MS. LELAND: You would like to be heard before I
3 speak? Go ahead. Yeah, go ahead.

4 MR. ROBINSON: (Indiscernible.)

5 MS. LELAND: Okay.

6 MR. ROBINSON: Can you hear me? That good?

7 MS. LELAND: Yes.

8 MR. ROBINSON: Thank you. My name is Nick Robinson,
9 and I'm here on behalf of the applicant, as you may recall
10 from last time.

11 And I would just say very, very briefly, with
12 respect to the motion to dismiss on constitutional grounds,
13 the motion itself is entirely moot as is demonstrated by
14 Mr. Parker's remarks.

15 The whole purpose of the -- or the concept of the
16 motion is that there has not been sufficient due process
17 because the UDO has not been timely amended.

18 You heard Ms. Ensminger testify at the last hearing
19 that they're in the process of, and it's almost ready for
20 adoption of the amendments, and in the meantime your staff
21 and the county have been following all of the provisions of
22 160D.

23 But aside from that, the whole purpose of due
24 process is two things: To make sure that people get notice
25 of a hearing, and have the opportunity to be heard.

1 And it's facially obvious that the folks in this
2 room tonight got notice of the hearing. They were here at
3 the last hearing and they are going to have an opportunity to
4 be heard.

5 It's sort of hard to argue that they're not going to
6 have an opportunity to be heard when Mr. Parker shows up
7 tonight with 62 pieces of evidence and approximately 20
8 witnesses.

9 This is a full, fair and ample opportunity for folks
10 to be heard. You continued the hearing for another two
11 weeks, which gave them even more time.

12 So the idea that this application would be dismissed
13 as a result of some alleged or perceived general due process
14 is not appropriate.

15 And the last thing I would say is that even if he
16 were correct, if you assume for a moment that he was correct
17 on his legal argument, which I don't think he is, the proper
18 remedy would not be to dismiss this application. What did we
19 do? The proper remedy would be to declare your own UDO
20 unconstitutional, which would mean you have no subdivision
21 ordinance, you have no zoning ordinance, and my client would
22 be free to do whatever he felt like with the property, which
23 I don't think is what anybody intends.

24 We should put this behind us. Let's get forward and
25 work on the question of whether or not the five findings have

1 been met.

2 Thank you.

3 MS. LELAND: And my advice to you is that there are
4 no due process issues. I've heard nothing that Mr. Parker
5 has stated that raises -- rises to the level of a legal due
6 process issue.

7 Our ordinance is valid. To the extent that the law
8 has changed there was a major overhaul. Wherever the law,
9 the new law conflicts with our ordinance it just simply
10 supersedes it, and, quite frankly, there were basically no
11 changes in the subdivision portion of the statutes. The
12 number changed; the content really did not change.

13 Lastly, there's no authority in the general statutes
14 that allows you to dismiss this case. Although this is a
15 quasi-judicial hearing, this is not a court of law, and
16 there's nothing stated in the statutes that allows you to
17 dismiss this case.

18 What do you have next?

19 MR. PARKER: On this motion?

20 MS. LELAND: Uh-huh. And board, would you like to
21 take action on this motion?

22 MR. PARKER: I do have one thing to say --

23 MS. LELAND: Okay.

24 MR. PARKER: -- if I might? What Mr. Robinson said,
25 160D, there is a statute called 160D-111 that basically does

1 not remove your UDO for violating this. So even if you were
2 to dismiss this action, it would not remove your UDO or
3 declare this action to be unconstitutional.

4 The fact of the matter is, is that that would not
5 keep it -- allow anybody to do anything in the county. It
6 would simply -- and that's why I say we need the limited --
7 you can limit it to this.

8 The bigger problem you have is, is, okay, so we're
9 going to say your law is bad, but it's okay for you -- for it
10 to apply to you? That's not the way the law is supposed to
11 work. It's either fair or it ain't, whether the parties are
12 here or not. Thank you.

13 CHAIRMAN QUIS: Is the question to the board?

14 MS. LELAND: Yes. And so he has presented a motion
15 to dismiss, and my advice to you is to deny this motion.

16 CHAIRMAN QUIS: Thank you, Ms. Leland. Any comments
17 from my fellow commissioners? I believe I can --
18 Mr. Picerno?

19 MR. PICERNO: I make a motion to deny.

20 CHAIRMAN QUIS: You want to make the motion?

21 MR. PICERNO: I just made it, yes, sir.

22 CHAIRMAN QUIS: Is there a second?

23 MS. GRAHAM: Upon recommendation of our attorney
24 I'll second that motion.

25 CHAIRMAN QUIS: Thank you. Would you please state

1 the motion again, just for clarification?

2 MS. LELAND: Motion to deny -- motion to deny
3 Mr. Parker's motion to dismiss.

4 CHAIRMAN QUIS: Thank you. Any discussion? I have
5 a motion and a second. All those in favor, beginning with
6 Mr. Daeke?

7 MR. DAEKE: Aye.

8 CHAIRMAN QUIS: Mr. Ritter?

9 MR. RITTER: Aye.

10 CHAIRMAN QUIS: Ms. Graham?

11 MS. GRAHAM: Aye.

12 CHAIRMAN QUIS: Mr. Picerno?

13 MR. PICERNO: Aye.

14 CHAIRMAN QUIS: Quis is an aye. Thank you.

15 MS. LELAND: Thank you.

16 MR. PARKER: Thank you. Members of the county
17 commission, I appreciate your opportunity to be heard and
18 your consideration of that motion.

19 My next motion is a motion to dismiss this case
20 based upon the fact that there is -- that the applicant has
21 failed to make a prima facie showing. These are motions that
22 lawyers make. I'm just letting you know.

23 This motion is -- the basis of this motion is the
24 fact that the way the law is set out, the applicant must
25 prove five things to you beyond -- or not beyond a reasonable

1 doubt. That's my old law.

2 It's by the preponderance of the evidence, and they
3 must prove to you by competent, substantial and material
4 evidence five things: That the use will not materially
5 endanger the public health or safety; that the use meets all
6 required conditions and specifications; that the use will not
7 substantially injure the value of adjoining property unless
8 it is a public necessity; that the use will be in harmony
9 with the surrounding area and compatible with surrounding
10 neighborhood; and the use will be in the general conformity
11 with the approved Moore County Land Use Plan.

12 The community moves to dismiss this on the basis
13 that it has failed to meet -- to show that this is in harmony
14 with the surrounding area and that it is in general
15 conformity with the UDO and the land use plan.

16 In order -- and to support this motion I have a
17 memorandum, and in this memorandum what we cite is the fact
18 that you heard testimony from the -- from the applicant, from
19 Philip Picerno, that he was an expert in the UDO.

20 He testified -- Mr. Picerno is a -- is the project
21 manager for engineering. He testified that he was
22 responsible for all aspects of the subdivision's design and
23 ensuring adherence with Moore County's UDO. He then was
24 tendered as an expert witness.

25 During cross-examination we asked his opinion --

1 strike that. During direct he was asked his opinion
2 concerning the preliminary plat application, whether it met
3 the standards of the UDO. Mr. Picerno testified that, yes,
4 he believed it did meet that, and that the preliminary plat
5 meets the five criteria set out in Section 12.2(b).

6 On cross-examination, however, Mr. Picerno compared
7 the proposed -- had -- said that he had compared the proposed
8 land use plan, that he did not compare it to the land use
9 plan as required. He said that the land use attorney did.
10 He did not name the attorney. That attorney has not
11 testified. There is no evidence before you that it is in
12 conformity under 5 based upon Mr. Picerno's testimony.

13 Secondly, Mr. Picerno, during the course of the
14 cross-examination, Mr. Robinson sought to withdraw his expert
15 opinion. He stated that Mr. Picerno was not an expert on the
16 legal aspect of the UDO, despite the fact that he had been
17 qualified as an expert in that.

18 The problem is this, is that either Mr. Picerno is
19 an expert or he's not. If he's not an expert then he has no
20 ability to give an opinion as to the -- as to that land use
21 plan.

22 If you find that he was an expert then he could give
23 that opinion and the prima facie case would be met. If he is
24 not an expert based upon the withdrawal of that then he did
25 not have it and there is no evidence that harmony -- that it

1 meets the harmony requirement, or that it meets the
2 conformity requirement in the case.

3 You should not rule in fact -- in favor of the
4 applicant based upon bad evidence because crucial findings of
5 fact which are unsupported by competent, material and
6 substantive -- substantial law in view of the entire record
7 cannot stand.

8 Substantial evidence, members of the commission, is
9 evidence that a reasonable mind might accept as adequate to
10 support a conclusion. You cannot make critical findings of a
11 fact based solely on hearsay evidence.

12 They tendered Mr. Picerno as an expert. He was
13 later declared not to be an expert, and he -- yet he gave an
14 opinion. There has been no evidence here that this is in
15 conformity or it is in harmony. He could not answer any of
16 the questions about other houses on half-acre lots nearby
17 similar houses to this to show it is in harmony with that
18 community.

19 Based upon this, we would move that -- that you
20 dismiss the case for failure to meet the prima facie case at
21 this point in time. And I have the memo here I'll be happy
22 to provide to you.

23 MS. LELAND: I just want to state for the record, we
24 did not receive this motion in advance.

25 MR. PARKER: No, I didn't know he had rested his

1 case.

2 MS. LELAND: Okay.

3 MR. ROBINSON: Yeah. This is the first I've heard
4 of it also.

5 Thank you, Mr. Chairman and board.

6 In response to the motion to dismiss, I've been
7 doing this for 23 years. I've never faced a motion to
8 dismiss in a quasi-judicial proceeding before because
9 quasi-judicial proceedings are not court proceedings. They
10 are quasi-court proceedings.

11 But, nevertheless, it makes no difference. The
12 motion is to dismiss on the grounds that we have not met the
13 prima facie showing of evidence on criteria or findings
14 number 4 and number 5.

15 With regard to number 4, that the use will be in
16 harmony with the surrounding area and compatible with the
17 surrounding neighborhood, it is black letter law in North
18 Carolina land use that when a use is allowed as a special use
19 within a zoning district, as it is here, when a residential
20 use is allowed in RA-40, as it is here, the initial burden of
21 proof is shifted on a harmony standard from the applicant to
22 the opponents. In other words, we start the hearing
23 automatically with sufficient evidence under finding number 4
24 because the use is an allowed special use within the zoning
25 district where it's requested.

1 It's entirely on the opponents of this application
2 to prove with competent, material and substantial evidence
3 that this use, already allowed under the ordinance in this
4 location, is not in harmony with the surrounding area, which
5 we submit they will not be able to do.

6 I have a memorandum of law with respect to that
7 point, which I'll be happy to hand up.

8 With regard to the fifth finding of fact, that the
9 use will be in general conformity with the approved Moore
10 County Land Use Plan, Mr. Parker has failed to take note of
11 the fact that we did introduce the staff report, and the
12 staff report under required findings under number 5 states
13 the ways in which this application complies with the 2013
14 land use plan.

15 And I think it's pretty important to keep in mind,
16 as we get ready to go through everything that Mr. Parker is
17 going to present, that you all be aware that that finding,
18 you need to read it pretty carefully, the use will be in
19 general conformity with the approved Moore County Land Use
20 Plan, that does not mean at all that it has to fulfill every
21 objective goal and policy of the land use plan. It only
22 means what it says, which is that it needs to be in general
23 conformity with the plan.

24 Your planning director, Ms. Ensminger, agrees and
25 has stated that it's in conformity with the plan. So the

1 idea of dismissing this application now for failure to show
2 either of those two things is an apposite, and we need to get
3 moving, as I said before, on the actual order of the day,
4 which is to determine whether or not there -- the five
5 findings are met.

6 Thank you.

7 MS. LELAND: Mr. Robinson, please submit your
8 memorandums for the record if you have them.

9 MR. ROBINSON: I do.

10 MS. LELAND: And also, can you clarify for the
11 record the type of expert that you qualified Mr. Picerno as?

12 MR. ROBINSON: Yes. He was tendered as an expert
13 in -- I've got it right here -- site plan design and public
14 engineering.

15 MS. LELAND: Okay. Thank you.

16 MR. ROBINSON: Uh-huh. And I have several copies of
17 this memorandum, which I'll hand up in just a moment.

18 MS. LELAND: Thank you. So, board, you have another
19 motion before you to dismiss that. Upon my legal advice I
20 recommend that you deny that motion.

21 MS. GRAHAM: Mr. Chair, based on our attorney's
22 recommendation, I make a motion we just deny the motion to
23 dismiss.

24 CHAIRMAN QUIS: Thank you, Commissioner Graham. Is
25 there a second?

1 MR. DAEKE: Second.

2 CHAIRMAN QUIS: Mr. Daeke with the second. Is there
3 any discussion? If not, your vote, Mr. Daeke?

4 MR. DAEKE: Aye.

5 CHAIRMAN QUIS: Mr. Ritter?

6 MR. RITTER: Aye.

7 CHAIRMAN QUIS: Ms. Graham?

8 MS. GRAHAM: Aye.

9 CHAIRMAN QUIS: Mr. Picerno?

10 MR. PICERNO: Aye.

11 CHAIRMAN QUIS: Quis is an aye. All right.

12 MR. PARKER: Thank you very much.

13 MR. ROBINSON: May I take a moment to approach with
14 the --

15 MR. PARKER: Oh, sure. And leave one on my desk
16 while you're there. Thanks.

17 MS. LELAND: And I'd like one, too, please.

18 Mr. Parker --

19 MR. PARKER: Yes, ma'am?

20 MS. LELAND: Are we ready to proceed now?

21 MR. PARKER: Yes, ma'am.

22 MS. LELAND: Or do you have another motion?

23 MR. PARKER: Not yet.

24 MS. LELAND: Oh, okay.

25 MR. PARKER: If I think of it I'll tell you.

1 MS. LELAND: All right. Well --

2 MR. PARKER: I'm ready to go now if you are.

3 MS. LELAND: I'm ready.

4 MR. PARKER: All right. Members of the
5 commissioners, again, I want to thank you for your
6 opportunity and your patience to hear me out on those
7 matters. I appreciate your consideration of them and your
8 ruling. Despite your rulings going against us, we anticipate
9 that at the conclusion of this hearing you will have no
10 problem finding that there is not competent, substantial and
11 material evidence to allow this special use permit.

12 As it has now been defined by Mr. Robinson, the
13 issue of harmony is clearly in your sights. You will hear
14 from witnesses tonight who will talk to you about the
15 neighborhood in which they live, and the fact and how this
16 subdivision, this proposed subdivision, major subdivision in
17 this rural area will not.

18 There are approximately 21 witnesses of whom which
19 you have here tonight. I am entitled at this time to
20 summarize for you and let you know a little bit about where
21 we're going.

22 One of the issues is, we intend to attack nearly
23 every one of these issues that has been presented by the
24 counsel. The user will not -- that the use will not
25 materially endanger the public health or safety. Tonight,

1 members of the commission, you are going to hear from people
2 who are -- contest that. We contend that the traffic report
3 given by the traffic engineer is based on faulty information,
4 faulty evidence, and factors he did not consider, which allow
5 you then to consider, and allow you then to consider the
6 safety of adding another 530 trips on this section of Union
7 Church Road here in Moore County.

8 We're also going to hear from a hydrologist,
9 Professor Emeritus Jim -- Dr. Jim Gregory from NC State
10 University, who is a recognized and noted hydrologist, who
11 has actually done a survey of this land, who is going to talk
12 to you about the problems associated with the drainage, the
13 problems associated with the plat prepared by the applicant,
14 and the fact that it does not account for certain substantial
15 areas that can create a public health problem in this area.

16 You're going to hear from witnesses in there from
17 that community. You're going to hear from witnesses who have
18 had wrecks in their yard that were not accounted for by the
19 engineer. You're going to hear from experts for agriculture
20 who are going to talk to you about the fact that tractors,
21 the use of those on that highway, the dangers sustained by
22 them. You're going to hear from a lady named Lee Rankin, who
23 came all the way here from Banker Elk -- Banker Elk, all the
24 way here who is an expert in agritourism who is going to talk
25 to you about the danger of litter and the danger of growth to

1 agritourism activities which is taking place right here in
2 Moore County on that road.

3 Many of these things you're going to hear about may
4 not relate directly to this, but there's an issue of standing
5 that must be created. It's a lawyer word that means that if
6 there is an appeal in this case, they must be able to show
7 they have a reason or a problem. You're going to hear that
8 testimony. It may seem out of place, but I ask for your
9 patience because it must be established here in order to be
10 argued across the street in the courtroom over there if it
11 gets appealed.

12 You're going to hear from her, and she's going to
13 talk to you about the danger of agritourism, the damage to
14 it, by building subdivisions such as this in rural areas such
15 as Union Church Road.

16 You're going to hear from the hydrologist, again,
17 about the conditions and the specifications, how they failed
18 to meet it.

19 You're going to hear also from neighbors, since now
20 the burden is clear, according to Mr. Robinson, on us to show
21 that it is not in harmony. You're going to hear from a
22 multitude of neighbors who are going to describe for you
23 their community, how their community fits in, and how this
24 subdivision absolutely does not fit in that community, and
25 how it destroys the ambiance and the heritage which happens

1 to be goal one of your land use -- land use plan.

2 You're also going to hear from witnesses here like
3 Nick Lasalla who is going to talk to you about the conformity
4 issues with it.

5 You're going to hear about general conformity.
6 Ms. Ensminger will tell you that she's found three. There
7 are actually 28 areas of nonconformity, and if it were a
8 basketball game or a baseball game it would be called for
9 mercy in this case.

10 You're going to hear from that tonight. That is our
11 intent to present that evidence to you. If we don't finish
12 tonight, we stand prepared to come back any time you want us
13 to and we'll be happy to continue this hearing.

14 With that being said, I'm ready to call my first --
15 or -- actually it's not calling a witness. I'm ready to
16 offer my first piece of evidence.

17 MS. LELAND: Okay.

18 MR. ROBINSON: Madam Attorney, may I interject?
19 I -- it's unclear to me, and I thought it might come out in
20 this statement, who Mr. Parker represents. I don't know.

21 MS. LELAND: Mr. Parker, do you want to clarify that
22 for the record?

23 MR. PARKER: Yes. Let me find my list. No, not the
24 witness list.

25 All right. So I'll tell you, if I am representing

1 you, if you would -- if I'm representing you in this, please
2 stand up. And would you please give your names to the Court.

3 PERSON FROM AUDIENCE: Carol Parker.

4 PERSON FROM AUDIENCE: (Indiscernible.)

5 PERSON FROM AUDIENCE: (Indiscernible.)

6 PERSON FROM AUDIENCE: Scott Smith.

7 PERSON FROM AUDIENCE: (Indiscernible.)

8 PERSON FROM AUDIENCE: Christine Smith.

9 PERSON FROM AUDIENCE: (Indiscernible.)

10 PERSON FROM AUDIENCE: (Indiscernible.)

11 PERSON FROM AUDIENCE: Teresa Hipp.

12 PERSON FROM AUDIENCE: (Indiscernible.)

13 PERSON FROM AUDIENCE: (Indiscernible.)

14 PERSON FROM AUDIENCE: (Indiscernible.)

15 PERSON FROM AUDIENCE: (Indiscernible.)

16 PERSON FROM AUDIENCE: David Johnson.

17 PERSON FROM AUDIENCE: (Indiscernible.)

18 PERSON FROM AUDIENCE: (Indiscernible.)

19 PERSON FROM AUDIENCE: (Indiscernible.)

20 MS. LELAND: Mr. Parker.

21 MR. PARKER: That's most of them.

22 MS. LELAND: Could someone submit a list?

23 MR. PARKER: Yes. I actually have the list, but
24 it's lost somewhere in here.

25 MS. LELAND: Okay.

1 MR. PARKER: I'll find it.

2 MS. LELAND: I feel like we'll be here a long time
3 so maybe somebody will find it before the next four or five
4 hours.

5 MR. PARKER: You know, if we find it we'll get it to
6 you. And if not, we'll get it to you on the first break.

7 MS. LELAND: Okay.

8 MR. PARKER: Okay?

9 MS. LELAND: Mr. Parker, are you also representing
10 yourself today?

11 MR. PARKER: Yeah, because I -- I own Terrace Ridge
12 Farms, so we'll put that, too.

13 MS. LELAND: Okay.

14 (Exhibit No. 11 identified and offered.)

15 MR. PARKER: Thank you. All right. If you would, I
16 need Exhibit Number 11 out of the book, please.

17 Did you find it Mr. Robinson? Okay. All right.

18 Members -- Ms. Leland, the first item that I have to
19 submit as evidence is Exhibit Number 11. I have -- we have
20 reached an agreement through conversations between myself,
21 Mr. Robinson and you, that this will be allowed into
22 evidence.

23 MR. ROBINSON: No.

24 MR. PARKER: Well, wait a minute. Let me finish,
25 okay? There is no objection to it coming in as far as

1 authenticity, but Mr. Robinson wishes to be hear -- heard
2 about relevance; am I correct?

3 MR. ROBINSON: Yes, that's correct. Typically you
4 have to have the person who wrote the letter present in the
5 courtroom to verify it. I'm totally fine acknowledging that
6 the Town of Carthage and Emily Yopp wrote the letter and it's
7 authentic, and I won't object on the grounds of hearsay, but
8 I don't think this letter is relevant to these proceedings.

9 MR. PARKER: Okay. May I -- you want me to start?

10 MR. ROBINSON: Sure.

11 MR. PARKER: Okay. All right. So I actually have
12 two. Let's go ahead and do both of them, if we may, so that
13 we can hear them and might speed this along a little bit.

14 I need Exhibit Number 12, please. Thank you.

15 (Exhibit No. 12 identified and offered.)

16 Exhibit Number 12 is a similar letter from the Town
17 of Vass. I will also need the Moore County school map, which
18 is item 62.

19 (Exhibit No. 62 identified.)

20 Exhibit 12 is under the same conditions I believe
21 that it -- you don't object to the authenticity of it, or the
22 hearsay, you object to the relevance of it?

23 MR. ROBINSON: Correct.

24 MR. PARKER: Okay. Madam Counsel -- Mr. Chairman,
25 Exhibit Number 11 and Exhibit 12 are statements from the Town

1 of Carthage and the Town of Vass. These statements indicate
2 the number of subdivisions which have been approved or are
3 waiting or prepared to go into production.

4 The Town of Carthage and the Town of Vass has quite
5 a number. The Town of Vass' go back to 2007 and 2000 -- and
6 Carthage's goes to 2015. They show approximately 26 in that
7 year. The numbers of these are absolutely staggering. Our
8 contention is this.

9 Could you reach in there and hand me the memo on
10 relevancy that we've got? Thank you.

11 In the testimony the traffic engineer indicated that
12 this was a safe road. He based it on the fact that there
13 were 2400 cars going there. He based it on a two percent
14 growth rate, and he disregarded data from after 2016. He
15 took the 2016, the 2016 data, and then he basically
16 extrapolated at two percent to get a number of 2400 cars to
17 date. We're prepared to show that that number is woefully
18 underestimated and he did not take into consideration the
19 growth of Carthage and the growth of Vass.

20 Why is that relevant? I have a memo prepared on the
21 relevancy of it that I'll submit to the counsel and to
22 Mr. Robinson.

23 MR. ROBINSON: Thank you.

24 MS. LELAND: Okay.

25 MR. PARKER: Did you find 62?

1 MS. LELAND: Mr. Parker, are you ready?

2 MR. PARKER: You what?

3 MS. LELAND: Are you ready?

4 MR. PARKER: Oh, I was letting them read. I'm
5 ready, though.

6 MS. LELAND: Yeah, go ahead and talk about it,
7 please.

8 MR. PARKER: Okay. Thank you. Yes, sir.

9 An expert's testimony, members -- or -- members of
10 the jury -- sorry -- commissioners, an expert's testimony
11 under North Carolina law, you don't have to automatically
12 accept it. It is entitled to be considered in light of all
13 the other evidence and the facts in the case.

14 An expert's testimony may be questioned based upon
15 the basis upon which he formed his opinion. The basis here,
16 the state contends, is faulty. Mr. Fluitt did not consider
17 growth in the area. In fact, he said there was no historical
18 increase in growth in Moore County in the last two years. I
19 have 20 witnesses who are prepared to tell you that that's
20 not true on Union Church Road.

21 We also have, I would submit to you, the community's
22 Exhibit Number 62, which is a map of the Moore County school
23 districts showing Union Church Road highlighted, and showing
24 that it connects Carthage and Vass, and showing where it is.
25 I challenge the county to find another road in Moore County

1 that has four schools within six miles of one another.

2 The houses that are added in Carthage are going to
3 be attending Union Pines High School, Union Church. They are
4 going to be attending, the ones in Vass are going to be going
5 to Crain's Creek and Union Pines High School. The situation
6 is, is that you're dumping tons of traffic onto this road for
7 those four schools.

8 MR. ROBINSON: I'm going to object. Mr. Parker is
9 testifying on facts at this point and not on -- he's not --

10 MR. PARKER: I'm sorry. I was arguing relevance.
11 I'll be happy to show you my -- let me show you community's
12 Exhibit 62, and I'll come back and argue.

13 I tender this.

14 (Exhibit No. 62 offered.)

15 MR. PARKER: So the number of homes that are being
16 added in Carthage and Vass are not -- were not considered.
17 The traffic that has increased on those highways at the high
18 school were not considered by the traffic consult -- by the
19 traffic engineer. Each of those matters are relevant to
20 consider his credit -- credibility, his testimony and the
21 basis for opinion that it is safe to add another 53 homes
22 there.

23 That's my argument.

24 MR. ROBINSON: Okay. Great. May I address?

25 The -- couple of pretty significant problems with

1 this evidence, and, really, all the evidence that he just
2 described.

3 Under North Carolina law, and this is in the
4 memorandum of law which I submitted as well, everybody's
5 familiar with the fact that under 160D-1402(j), evidence that
6 is tendered in a quasi-judicial proceeding, in other words,
7 evidence upon which you are allowed to base your decision,
8 has to be competent, material and substantial.

9 And then the statute goes on to further provide that
10 lay opinion testimony, meaning an opinion of someone who's
11 not an expert, regarding increase in traffic posing a danger
12 to public safety is deemed conclusively incompetent and shall
13 not be relied upon by the board in its decision. That is
14 NCGS 160D-1402(j)(3)(b).

15 And the idea there is that, you know, boards all
16 across the state have been in situations like this where a
17 developer is proposing to develop something and folks in the
18 neighborhood don't want it. Understandably they have
19 sincerely held beliefs that they don't want it, and they get
20 up and testify as a lay person that there's going to be too
21 much traffic.

22 In North Carolina the state legislature stopped
23 that, and they said the only thing in a quasi-judicial
24 proceeding that you're allowed to base any decision on with
25 respect to traffic and traffic safety has to be from an

1 expert witness. And while you could assume for the sake of
2 argument Mr. Parker's argument that this evidence might be
3 relevant, it's not competent, and it's not material, and it
4 is not admissible in this proceeding.

5 Ms. -- the two writers of letters, which I've now
6 turned away from them, are neither -- both of them are town
7 planners. One is the town planner in Vass and the other is
8 the town planner in Carthage. No evidence before you to
9 suggest that they are traffic engineers.

10 And, secondly, even if you look at those letters,
11 those letters tell you how many subdivisions have been
12 approved and how many units or residential units are in them,
13 but you don't have any idea of how many of those have
14 actually been constructed and are occupied or when or if they
15 ever will be.

16 So those letters don't help you. You're not allowed
17 to base your decision on them, and they shouldn't be
18 admitted.

19 MR. PARKER: I would --

20 MS. LELAND: Mr. Parker.

21 MR. PARKER: Yeah, I would argue and contend,
22 Mr. Robinson's argument is that if you have anybody up here
23 qualified as an expert you have to believe them regardless of
24 what they say.

25 MR. ROBINSON: No.

1 MR. PARKER: I argue and contend that that is not
2 the law. It is not the law in a quasi-judicial hearing. I
3 should be able to attack the basis upon which this man came
4 up with his numbers of 2400.

5 His basis does not include the growth that has taken
6 place in Carthage or Vass. It does not include the fact that
7 those people are going to be traveling on that road and that
8 this subject property is directly between those four schools.
9 That is highly relevant, and, if anything, it gives you the
10 ability to use your common sense to know what traffic is out
11 there on that day.

12 The people who testify about it are not testifying
13 about their opinion about traffic. They're testifying to
14 what they actually see. That's a personal opinion. That's
15 what we can argue whenever -- that is their personal
16 observation, not an opinion. And that is what we'll get to
17 whenever we get to that.

18 But I ask you to consider this. It goes to the
19 credibility of the traffic engineer, and it helps you to
20 evaluate his credibility and whether or not to believe his
21 estimates.

22 MS. LELAND: Mr. Parker, do you have your own
23 traffic expert here today?

24 MR. PARKER: I do not have a traffic engineer. I
25 was unable to get one in ten days.

1 MS. LELAND: I want to review for the board what the
2 statute says.

3 160D-1402 subsection (3) states the term competent
4 evidence as you used in this subsection does not preclude
5 reliance by the decision making board on evidence that would
6 not be admissible under the rules of evidence as applied in
7 the trial division of the General Court of Justice if, (i),
8 little (i), except for the items noted in sub -- subdivisions
9 (a), (b), and (c) of this subdivision that are conclusively
10 incompetent, the evidence was admitted without objection, or,
11 two, the evidence appears to be sufficiently trustworthy and
12 was admitted under such circumstances that it was reasonable
13 for the decision making board to rely upon it.

14 The term "competent evidence," as used in this
15 subsection shall, regardless of the lack of timely objection,
16 not be deemed to include the opinion testimony of lay
17 witnesses as to any of the following: (a), the use of
18 property in a particular way affects the value of other
19 property; (b), the increase in vehicular traffic resulting
20 from a proposed development poses a danger to the public
21 safety; and, (c), matters about which only expert testimony
22 would generally be admissible under the rules of evidence.

23 So, the law is very clear, very on point, that for
24 the three matters, (a), (b), and (c) that I just read, and
25 (b), being the increase in vehicular traffic resulting from a

1 proposed development poses a danger to the public safety, you
2 have to have an expert witness for the evidence to be
3 considered competent evidence, and we have to have competent
4 evidence. If not, it is considered, as the statute says,
5 conclusively incompetent.

6 So if we're dealing with property values, vehicular
7 traffic especially you have to have an expert.

8 Mr. Parker, would you like additional time to obtain
9 an expert?

10 MR. PARKER: Yes, I would.

11 MS. LELAND: And how much time would you need?

12 MR. PARKER: About two weeks.

13 MS. LELAND: Okay. Can we proceed with -- with
14 another matter that does not deal with vehicular traffic?

15 MR. PARKER: Yes. Do you want me to -- so are you
16 denying this at this point or do you want me to come back
17 with a traffic engineer?

18 MS. LELAND: I have -- I mean, I've read straight
19 from the statute.

20 MR. PARKER: Right, and this --

21 MS. LELAND: The statute is very, very clear. This
22 is not a criminal case. I know you have quite a criminal
23 law --

24 MR. PARKER: What is the statute number?

25 MS. LELAND: 160D-1402 subsection (3).

1 MR. PARKER: 160D --

2 MS. LELAND: 160D --

3 MR. PARKER: Where is that in your UDO?

4 MS. LELAND: It doesn't have to be in the UDO,

5 Mr. Parker.

6 MR. PARKER: I understand.

7 MS. LELAND: It's the general statutes.

8 MR. PARKER: I understand, but 160D's also not
9 mentioned anywhere in your UDO.

10 MS. LELAND: You can argue that --

11 MR. PARKER: I did.

12 MS. LELAND: -- some other time.

13 MR. PARKER: All right.

14 MS. LELAND: We've already stated -- talked about
15 that.

16 MR. PARKER: All right. So we'll hold in abeyance.
17 I'll call Jamie Viera.

18 I have to figure out how to operate it.

19 JAMIE VIERA,

20 being first duly sworn, testified as follows on DIRECT

21 EXAMINATION BY MR. PARKER:

22 Q Ma'am, would you state your name and occupation for
23 the Court, please? I mean, for the commissioners, please?

24 A Yes, I'm Jamie Viera. I'm the traffic analysis
25 supervisor for the traffic survey group for the North

1 Carolina Department of Transportation.

2 Q And Ms. Viera, can you tell us please what your job
3 entails, what do you do there?

4 A I supervise a group of traffic analysts that analyze
5 the traffic that our field collectors collect. We analyze
6 and publish the data.

7 Q And can you tell me how you collect traffic counts?

8 A Sure. We collect traffic counts in a number of
9 different ways, depending on what type of count you're
10 looking at. I think what we're discussing today is our
11 short-term volume counts.

12 So our field technicians place pneumatic tubes
13 across the road and they're connected to counters. So when
14 you're driving down the road and you run over those tubes,
15 that's our field technicians collecting our data.

16 Once the data's collected it gets uploaded to our
17 traffic count database system where my team of analysts will
18 review the data spatially and will actually look at the data
19 itself, and at that time they will decide whether its
20 acceptable data or whether it's rejected and needs to be
21 collected a second time by our field technicians.

22 Q And Ms. Viera, do you collect data in Moore County?

23 A Yes, we do.

24 Q Have you collected data in Moore County down on
25 Union Church Road?

1 A Yes, we have.

2 Q When was the last time you collected data on Union
3 Church Road?

4 A The latest date I believe was April 11th and 12th of
5 2022.

6 Q So you collected data on April 11th of 2022, and
7 April 12th?

8 A Correct.

9 Q Okay. And do you recall where you collected that
10 data from?

11 A I believe the station in question was between
12 Henderson Road and the road -- and McIntosh Road.

13 Q Between Henderson Road and McIntosh Road?

14 A Yes.

15 Q Would you be able to -- do you have a showing on a
16 map to show where that is? Do you have something?

17 A I believe it is part of the memo that --

18 Q Okay.

19 A -- is --

20 MR. PARKER: Do you have 13 and 14, or do I have --
21 thank you. May I approach the witness?

22 MS. LELAND: Absolutely.

23 (Exhibits No. 13-14 identified.)

24 BY MR. PARKER:

25 Q We have to share. All right. Ms. Viera, I'm going

1 to show you what I've marked here as Exhibit Number 14 and
2 ask you to examine that and tell me if you can identify it?

3 A I can. It is the second page of the memo that was
4 sent.

5 Q And does this -- does Exhibit Number 14 indicate to
6 you where the -- where the data was collected?

7 A It does.

8 Q And where was the data -- is that on this map?

9 A It is.

10 Q Okay. And can you tell me on April the 11th what
11 was the raw data that was collected?

12 A The raw unfactored data count for April 11th, 2022,
13 was 3,366 vehicles.

14 Q Three -- how many?

15 A 3,366 vehicles.

16 Q All right. And did you -- you did it again on
17 April 12th?

18 A Yes. When we collect our traffic counts it's for 48
19 straight hours.

20 Q And what was the traffic that you -- the data that
21 you collected on 3 -- on April the 12th?

22 A The raw unfactored data for Tuesday, April 12th, was
23 3,642 vehicles.

24 Q Now, how -- do you create an average or something,
25 because that's what you got on this sheet over here?

1 A I believe you're speaking about the annual average
2 daily traffic, which is what we publish, our data. We take
3 the 48 hours of traffic data, the raw counts, and we apply
4 seasonal and axle factors to those raw counts.

5 And it's -- it's a little bit more than just
6 averaging the two numbers, because we're actually applying
7 factors to it. And those are the values that in the
8 following year we make official and publish. These volumes
9 at this time are unofficial and unpublished data sets.

10 Q This was just what was collected on that day at that
11 location?

12 A Correct.

13 Q All right. Now, and did you compile that into a
14 summary letter? I'm handing you Exhibit 13.

15 A Yes.

16 Q And can you tell me, describe what Exhibit 13 is?

17 A Exhibit 13 is a memo describing what station we were
18 questioned about, which is the station that Mr. Parker's
19 already mentioned.

20 There is a table that gives historic data from 2012
21 up to the current unofficial 2022 data that we collected. It
22 also explained the data that we collected in 2020 and how,
23 with Covid being a worldwide issue at that point, that data
24 was a little different. And then on the bottom of the first
25 page it discusses how we make our data collection official

1 and when it's published.

2 Q Okay. And what did you report in this letter as the
3 raw data collected for 2022 at that location?

4 A Currently our unofficial AADT preliminary estimate
5 is 3400 vehicles per day.

6 Q All right.

7 MR. PARKER: The community would move to introduce
8 State's Exhibits 13 and 14.

9 (Exhibits No. 13 and 14 offered.)

10 MR. ROBINSON: I have no objection to the
11 introduction of those exhibits. I do object to referring to
12 his client as "the community". He doesn't represent the
13 entire community, and for the record --

14 MR. PARKER: What? I'm done. Mr. Robinson's going
15 to ask you some questions.

16 CROSS-EXAMINATION OF JAMIE VIERA BY MR. ROBINSON:

17 Q Good evening, Ms. Viera. I'm Nick Robinson. I
18 represent the applicant here tonight. I want to express my
19 gratitude anyway to you for coming all the way over here from
20 Raleigh and being willing to participate in this public
21 process.

22 Your testimony was clear, but I just want to make
23 sure as we look at Exhibit 13 on your memorandum, the average
24 daily count of 3400 trips for 2022 that's listed in your
25 memorandum is, as you said, unofficial and preliminary; is

1 that correct?

2 A Correct.

3 Q And can you tell us when the most recent official
4 count was?

5 A The most recent official published count was for
6 2020.

7 Q Okay. And that is shown in your list as 2400 per
8 day?

9 A Correct.

10 Q And it doesn't become an official count until it is
11 published by your entity; is that correct?

12 A Correct.

13 Q Okay. And it's possible that the unofficial count
14 could change one way or the other before you publish it?

15 A There is the possibility of that happening, and
16 that's why we consider it a preliminary estimate until it's
17 officially published.

18 Q Very good. Thank you.

19 MR. ROBINSON: That's all my questions.

20 MR. PARKER: Do you have Exhibit 2 -- yes, Exhibit
21 2. Could you get it? Thank you.

22 May I approach?

23 REDIRECT EXAMINATION OF JAMIE VIERA BY MR. PARKER:

24 Q Ms. Viera, I want to show you what's been marked as
25 Exhibit 2 and introduced as a traffic report from Mr. Fluitt,

1 the engineer.

2 I want you to -- can you read that last sentence for
3 me right there?

4 A Applying this growth rate for an additional three
5 years the potential build-out year of 2025 results in a daily
6 traffic volume of just under 2900 vehicles per day.

7 Q And 3400's more than 2900; right?

8 A Correct.

9 Q Thank you.

10 MR. PARKER: I'm done.

11 MR. ROBINSON: I don't have any further questions.

12 We'll bring Mr. Fluitt back up on redirect.

13 MS. LELAND: Okay.

14 MR. PARKER: You're done?

15 MS. LELAND: Yes, he's done.

16 MR. PARKER: If Your Honor -- Your Honor -- all
17 right. They're the jury, you're the honor. You're -- okay.
18 I'd ask that Ms. Viera, who came here based on a subpoena, be
19 released so that she may return to Raleigh.

20 MS. LELAND: Okay. The chair issued the subpoena,
21 but do you release her? Okay.

22 CHAIRMAN QUIS: Thank you very much, Miss Viera.

23 THE WITNESS: Thank you.

24 MS. LELAND: And this is new for our board, but we
25 had some subpoenas and the chair is authorized to issue those

1 subpoenas.

2 MR. PARKER: All right.

3 MS. LELAND: Go ahead.

4 MR. PARKER: We've been going for better -- for like
5 an hour and 15 minutes. I can keep going, but this is where
6 it sort of transitions to the community witnesses. If you
7 want to take a break it might be a good point, but it's up to
8 you.

9 CHAIRMAN QUIS: We've been going an hour and a
10 half -- hour and a half. We'll just go ahead and take a
11 break, a short one. Five or six minutes. Okay?

12 MR. PARKER: That would be fine. Thank you.

13 (Recess.)

14 CHAIRMAN QUIS: Please. And we'll get started
15 again.

16 Thank you all. Okay. Ms. Leland?

17 MR. PARKER: So it's 10, 17, 17A, and 18.

18 MS. LELAND: Mr. Parker, are you ready?

19 MR. PARKER: Yes, ma'am. Thank you. Community
20 calls Gino -- Gina Whitmore.

21 MS. LELAND: Mr. Parker, are these your witnesses
22 that you allege have standing?

23 MR. PARKER: Yes. This is one of them.

24 MS. LELAND: Okay.

25 MR. PARKER: All right. May I proceed?

1 MS. LELAND: Yes. But I just want to let the board
2 know at any time if you have any questions, just let me know
3 and we'll make sure you get to ask your questions.

4 MR. PARKER: May I proceed?

5 MS. LELAND: Thank you. Yes.

6 MR. PARKER: Okay. All right. Thank you.

7 GINA WHITMORE,
8 being first duly sworn, testified as follows on DIRECT
9 EXAMINATION BY MR. PARKER:

10 Q Ma'am, would you state your name and occupation for
11 the court please -- for the commissioners, please?

12 A My name is Gina Whitmore, and I'm a nurse.

13 Q And ma'am, where do you live?

14 A I live at 3640 Union Church Road.

15 Q And where is that in relation to this proposed
16 subdivision?

17 A It is right in front of it.

18 Q Okay. Could you identify that if you were to --
19 could you identify it on a -- on that map?

20 A Uh-huh, I can.

21 MR. PARKER: May I approach?

22 MS. LELAND: Yes.

23 (Exhibit No. 9 identified.)

24 BY MR. PARKER:

25 Q All right. Ms. Whitmore, I want to show you what I

1 marked as Exhibit Number 9, and this is a plat of the
2 proposed subdivision.

3 Can you use this to identify the location of where
4 you live?

5 A I can.

6 Q Well, you got to say it here.

7 A Sorry. I can.

8 Q And can you point out where you live --

9 A I can.

10 Q -- and do that?

11 A Right here.

12 Q All right. Would you take this purple Sharpie and
13 would you write your name on that space right there where
14 you -- where you are?

15 A I will.

16 Q All right. And what -- can you -- Ms. Whitmore, can
17 you describe for me the home you live in?

18 A I can. It's a one-story modular home set back from
19 the road a little bit. It's blue with blue shutters.

20 Q Okay. Do you know how big acreage -- how much
21 acreage you have, how much big is your lot?

22 A I do not.

23 Q Okay. All right. Can you -- if I show you a
24 photograph would it aid you in illustrating your testimony to
25 the jury about that property?

1 A I can.

2 Q All right. I want to show you what I marked as
3 Exhibit Number 10, ask you to examine that tell me if you can
4 identify it?

5 (Exhibit No. 10 identified.)

6 A I can.

7 Q What is that?

8 A That's my home.

9 Q Could you write your name on there --

10 A I can.

11 Q -- with the marker?

12 MR. PARKER: I move to introduce Exhibit Number 10.

13 MS. LELAND: I'm going to -- I'm going to pass these
14 exhibits down that we've received so far. This is Exhibit 10
15 that he's talking about now.

16 MR. PARKER: Okay.

17 (Exhibit No. 10 offered.)

18 BY MR. PARKER:

19 Q So, Ms. Whitmore, you live at 3640 Union Church
20 Road?

21 A I do.

22 Q How long have you lived there?

23 A Little over seven years, seven years, eight months.

24 Q And do you rent it or do you own it?

25 A I rent.

1 Q All right. And do you -- can you tell me, are you
2 on -- how far is your nearest neighbor?

3 A Probably about 75 to a hundred feet.

4 Q And do you have any agriculture pursuits that you do
5 on that property?

6 A I do have a garden. I have multiple berry bushes,
7 grapes.

8 Q And do you do any hunting on it?

9 A I do.

10 Q And what do you do? What kind -- what do you hunt?

11 A Deer.

12 Q You hunt deer?

13 A Uh-huh.

14 Q Okay. And do you have -- do you -- are you
15 prohibited from any of these agricultural pursuits by any HOA
16 or any restrictive covenants?

17 A I am not.

18 Q All right. And are you familiar with this -- this
19 subdivision that's proposed here?

20 A I am now.

21 Q All right. You've lived in this community for over
22 seven years?

23 A I have.

24 Q Do you have -- and how do you -- how would you
25 characterize this, whether or not it would fit into the --

1 that community?

2 A It does not fit into our community at all.

3 Q Why?

4 A Well, because we're in the country. Subdivided
5 houses like this do -- have no place out there. They
6 don't -- they would stick out like a sore thumb.

7 Q Okay. And -- okay. Now, having lived there, do you
8 live there alone?

9 A I do not.

10 Q Who do you live with?

11 A My mom.

12 Q And how old's your mom?

13 A Eighty.

14 Q Is she here with you tonight?

15 A She is.

16 Q All right. Now, where do you get your mail?

17 A Across the street. It's right in front of our
18 house. It's across the street, but from Carthage.

19 Q The post office?

20 A Uh-huh. No. Well, no, they deliver our mail.

21 Q So you have a mailbox?

22 A I do.

23 Q Okay. And how do you get your mail?

24 A I have to walk across the street to get it.

25 Q Now, do you have any concerns about that?

1 A I do.

2 Q Why?

3 A Because of the high traffic volume and the excess
4 rate of speed I only get it early in the morning or late in
5 the evening when there's less traffic.

6 Q Do you let your mom go?

7 A Absolutely not.

8 Q Why?

9 A Because of the high rate of speed of traffic.

10 Q Okay. And, now, have you ever seen -- we've heard
11 testimony there weren't any accidents at the intersection up
12 the road. Had -- in the past five years. Have you seen any
13 accidents at your --

14 A I have.

15 MR. ROBINSON: I object to that testimony. Again,
16 this testimony is intended to elicit issues relating to
17 traffic safety on the road by a lay witness who is not a
18 traffic engineering.

19 MR. PARKER: This establishes standing. It goes to
20 her standing which is relevant for traffic. It also is not a
21 personal opinion. This is actually what she's seen.

22 MS. LELAND: I would say proceed for now because I
23 haven't heard enough.

24 MR. PARKER: Okay.

25

1 BY MR. PARKER:

2 Q All right. So you've seen crashes there?

3 A I have.

4 Q Wrecks?

5 A I have.

6 Q Can you -- when was -- now, do you recall one --
7 when was the first one you remember seeing?

8 A The first one I saw was in September --
9 September 9th of 2020.

10 Q Okay. Can you describe it?

11 A I can. I was standing on the porch, and from my
12 left, which would be coming from Carthage on Union Church,
13 there was a car coming, my neighbor's car was turning into
14 their driveway. The car was -- it was a truck coming around
15 the corner there, had no way to stop, hit the car and headed
16 right into my pine tree.

17 Q Okay. If -- were there photographs made of that?

18 A There were.

19 Q Did you go out there?

20 A I did.

21 Q All right. Do you remember if anybody was hurt?

22 A They were.

23 Q Okay. Would you recognize those -- those cars if
24 you saw them in a photograph again?

25 A I would.

1 MR. PARKER: May I approach the witness?

2 MS. LELAND: Yes.

3 BY MR. PARKER:

4 Q All right. Now, before I do this, I want to go back
5 to Exhibit Number 9 and ask you to identify where that wreck
6 took place. Can you mark it with the purple marker?

7 A I can.

8 Q And put it, the date that this wreck happened on
9 there.

10 And what have you written?

11 A The date of 9/9/2020.

12 (Exhibits No. 17-17A identified.)

13 Q Okay. I want to show you what I have marked here as
14 Exhibit Number 17 and 17A, and ask you to examine them, tell
15 me if you can identify them.

16 A I can.

17 Q What is that?

18 A These are photos of that accident.

19 Q Okay. And do these photo fairly and accurately
20 illustrate what you saw on that day in September 2020?

21 A They do.

22 Q Okay. Would they aid you in illustrating your
23 testimony to the commissioners about the crash that you saw
24 there?

25 A They will.

1 MR. PARKER: Okay. We move to introduce 17 and 17A.

2 (Exhibit No. 17 and 17A offered.)

3 MR. ROBINSON: Object.

4 MS. LELAND: You've objected for the record.

5 MR. ROBINSON: Pardon me?

6 MS. LELAND: You've objected for the record.

7 MR. ROBINSON: Yes.

8 MS. LELAND: Yes.

9 BY MR. PARKER:

10 Q Now, Ms. Whitmore, is that the only crash that you
11 have seen there?

12 A It is not.

13 Q Where -- have you seen another?

14 A I have.

15 Q When was that?

16 A Tuesday morning.

17 Q Tuesday morning?

18 A Uh-huh.

19 Q Where did that crash take place?

20 A That occurred on the right side of my -- well, on
21 the right side, toward the right side adjacent to my property
22 on the corner of McIntosh and Union Church.

23 Q What happened at that crash?

24 A A vehicle coming from Vass toward Carthage left the
25 road and went right through the junction boxes for Century

1 Link and the internet and lodged between two trees.

2 Q Okay. And do you know if anybody was hurt in that
3 crash?

4 A They were not.

5 Q Okay. Well, that's a blessing. Did you -- would
6 you recognize a photograph of it if you saw it?

7 A I would.

8 Q Okay. All right. Now, going back to Exhibit Number
9 9, I want you to take this purple marker, and can you mark
10 the area that you saw this crash?

11 A I will --

12 Q Well, you got to speak -- if you're going to talk,
13 you got to talk --

14 A It's just off this -- it kind of is going to be in
15 these words right here.

16 Q Well, put --

17 A Okay.

18 Q -- put the mark in the words. And what did you
19 mark?

20 A The date, 5/31/2022.

21 (Exhibits No. 18, 18A, 18B identified.)

22 Q And ma'am, I want to show you what I've marked here
23 as Exhibit Number 18, 18A, and 18B, and ask you to examine
24 those and tell me if you can identify them?

25 A I can.

1 Q What is that?

2 A Those are the junction boxes that were taken out by
3 the vehicle.

4 Q Okay. All right. Would these photographs aid you
5 in illustrating your testimony about the crash you saw on
6 that day?

7 A They would.

8 MR. PARKER: Move -- we'd move to introduce
9 state's -- or our Exhibit 18, 18A, and 18B.

10 (Exhibits No. 18, 18A and 18B offered.)

11 MR. ROBINSON: Similar objection. It's incompetent
12 evidence.

13 MS. LELAND: Mr. Parker, it appears that you're
14 trying to prove standing by introducing lay testimony under
15 160D-1402(3)(b).

16 MR. PARKER: You can -- when you're proving standing
17 you don't have to have an expert come testify about standing.
18 She is -- this lady lives at this residence. She has
19 concerns where her mother walks across it. Standing is
20 required to show special damages, damages that are different
21 from that of other people. Here she and her mother, who's 80
22 years old, have to contend with the traffic. You don't have
23 to have an engineer to express her concerns about it. That
24 would be --

25 MS. LELAND: You do have to have an expert to show

1 that vehicular traffic poses danger to the public safety.

2 MR. PARKER: I would also argue that during
3 Mr. Fluitt's testimony he testified that he only looked at
4 crashes between -- within 100 to 200 yards, because he
5 couldn't remember which, from the intersection that would be
6 into the subdivision.

7 I argued and contended then that he did not look far
8 enough, that he did not consider the traffic in the other
9 areas. He admitted that he did not.

10 I am once again arguing and contending that you do
11 not have to take an expert's testimony at face value. You
12 can evaluate that testimony, consider it, and one of the ways
13 that you attack it or consider it is the basis for his
14 opinion.

15 These are facts that he never considered. That
16 doesn't require an expert to show that he didn't have -- that
17 he did not consider all of the appropriate facts.

18 MS. LELAND: What requires an expert is, again, if
19 you're trying to prove that vehicular traffic poses a public
20 safety risk. That requires an expert.

21 MR. PARKER: I am arguing that traffic poses a
22 safety risk to this woman. That is her standing.

23 MS. LELAND: I think you're legally incorrect, but
24 I'm going to let you proceed.

25 MR. PARKER: Thank you.

1 BY MR. PARKER:

2 Q Now, the -- this subdivision that they have proposed
3 right here, Ms. Whitmore --

4 A Uh-huh.

5 Q -- where -- how close is it to your residence?

6 A According to this plot it runs right through my
7 residence.

8 Q Okay. Well, let me ask you this. Do you know -- is
9 that area back there vacant and unused? Has it ever been
10 farmed?

11 A Not behind me, no.

12 Q Okay. But do you know --

13 A Where they're proposing it, yes.

14 Q Okay. And have you seen it -- how recently have you
15 seen it farmed?

16 A I -- not last year, year before last.

17 Q Okay. All right. And, now, do you know where the
18 church is?

19 A I do.

20 Q Where is the church in relation to you?

21 A The church is about 300 feet from me.

22 Q Okay. And do you ever hear the -- do you attend
23 that church?

24 A I do not on a regular basis.

25 Q Okay. And do you know whether or not that church --

1 do you ever hear that church?

2 A I do.

3 Q Okay. And where -- what do you hear?

4 A Usually on youth night the children are outside
5 playing, sometimes their music, sometimes their preaching
6 outside.

7 Q All right. And when you hear the church can you
8 hear it inside or outside your house?

9 A Outside.

10 Q You hear it outside?

11 A Uh-huh.

12 Q Does it ever bother you?

13 A No.

14 Q Have you ever called to complain?

15 A No.

16 Q Okay. All right. Are they good neighbors?

17 A They are.

18 Q Okay.

19 MR. PARKER: All right. That's all.

20 MR. ROBINSON: I'm just going to take a moment. A
21 I'm going to approach the witness but not to talk to her. I
22 just want to look at the map for a second so I can see what
23 they were talking about.

24

25

1 CROSS-EXAMINATION OF GINA WHITMORE BY MR. ROBINSON:

2 Q Good evening, Ms. Whitmore.

3 A Good evening.

4 Q My name's Nick Robinson and I'm here on behalf of
5 the applicant. Just a couple of quick questions.

6 So, I take it that you are not a traffic engineer?

7 A I'm not.

8 Q Okay. You said at one point that you own the
9 property; is that correct?

10 A No, I did not. I said I rent.

11 Q Oh, you rent?

12 A Uh-huh.

13 Q And when you said that the property -- that this
14 subdivision goes through your property, what did you mean by
15 that?

16 A According to this plot, I have two sheds on the back
17 side of my property --

18 Q Uh-huh.

19 A -- and it goes right through them.

20 Q Oh. And so those sheds are on somebody else's land,
21 or a portion of them; is that correct?

22 A According to that plot, yes.

23 Q Okay.

24 MR. ROBINSON: I don't have any further questions.

25 Thank you.

1 MR. PARKER: That's all.

2 MS. LELAND: Okay.

3 MR. PARKER: All right. We call Eddie Hipp.

4 May I proceed?

5 MS. LELAND: Yes.

6 EDDIE HIPPI,

7 being first duly sworn, testified as follows on DIRECT

8 EXAMINATION BY MR. PARKER:

9 Q All right. Mr. Hipp, would you state your name and
10 address for the commissioners?

11 A Yes. Eddie Hipp, 3346 Union Church Road.

12 Q And Mr. Hipp, do you live near this proposed
13 subdivision?

14 A Beside it.

15 Q Beside it? Could you identify where you live on
16 that -- on Exhibit 9 behind you there?

17 A Yeah.

18 Q All right. All right. Looking at number -- at this
19 subdivision, do you see where Ring Road is?

20 A Yes.

21 Q Okay. Do you see where Edith and Lacey are?

22 A Yeah.

23 Q All right. Where is your house in relation to this?
24 You got to speak into that.

25 A Right on the -- below on the lower end of the

1 property line.

2 Q All right. I'm going -- I'm going to hand you this
3 green-tealish looking marker, and I want you to write your
4 name on it right there where you at.

5 MS. LELAND: I just want to interject that the
6 planning director for everyone's convenience is pointing out
7 the property on GIS so we can see it. We cannot see what
8 you're doing over there, unfortunately.

9 MR. PARKER: Well, it's hard for me to write on the
10 GIS, so I was having him do it over here, and I'll be happy
11 to hand that up. It's not introduced yet. I want to have
12 everybody mark it first.

13 MS. LELAND: It's okay. I was just pointing out for
14 the record that she's pulling it up.

15 MR. PARKER: Thank you. Oh, thank you.

16 MS. LELAND: And for the board.

17 MR. PARKER: Thank you.

18 MS. LELAND: She's trying to help you out.

19 MR. PARKER: I appreciate that.

20 BY MR. PARKER:

21 Q And Mr. -- now, Mr. Hipp, could you describe your
22 residence?

23 A It's a split level back on -- back of what used to
24 be a farm -- farming field.

25 (Exhibit No. 19 identified.)

1 Q Okay. I want to show you what is marked as Exhibit
2 19, ask you to identify it, tell me if you can identify it.

3 A Yes, that's our house.

4 Q And I want to ask you if you would please, using the
5 same pen, would you write your name on it?

6 A Uh-huh.

7 Q All right. Thank you. Now, Mr. Hipp, I want to ask
8 you some questions about your property, so I'm going to go
9 back and sit down.

10 A All right.

11 MR. PARKER: I'm going to move to introduce Exhibit
12 Number 19.

13 (Exhibit No. 19 offered.)

14 BY MR. PARKER:

15 Q Mr. Hipp -- you have a -- you live at 3346 Union
16 Church Road; is that what you told me?

17 A Correct.

18 Q All right. And how long have you lived there?

19 A Twelve years, two months.

20 Q How long have you lived in this community?

21 A I moved there when -- when my wife and I got
22 married.

23 Q All right.

24 A And that was -- we built -- so that would have
25 been -- we moved in the house March 31st of 2010.

1 Q Where did you live before that?

2 A I was in Raleigh.

3 Q Okay.

4 A And then we had lived a short time across the road
5 before the house burnt, was directly across --

6 Q Right.

7 A -- Union Church Road.

8 Q Are you originally from Vass?

9 A Yeah.

10 Q All right. So -- and so you've known Vass your
11 whole life?

12 A Yeah.

13 Q How long did you not live -- how long have you lived
14 in Vass, or that -- that area?

15 A Forty-five years. I mean, I was short time in
16 Raleigh, short time in Georgia. Besides that, I've been in
17 this area --

18 Q All right.

19 A -- my whole life.

20 Q Do you have -- your home is a split level. What
21 type of -- is it on a slab, a foundation, or crawl space, or
22 a basement?

23 A No, it's foundation, stick built.

24 Q Stick built. Does it have a crawl space?

25 A Yes.

1 Q All right. And do you have -- you get your water
2 from a well or the county?

3 A Well.

4 Q You're going to have to talk into that mike.

5 A Well.

6 Q Yeah. How deep is your well, do you know?

7 A About 25 feet.

8 Q You have a 25-foot well? Now, how far -- how close
9 is your nearest neighbor?

10 A About 200 yards.

11 Q All right. And how much -- how big is your lot
12 size?

13 A Eleven acres.

14 Q And what type of agricultural activity do you do on
15 your 11 acres?

16 A We have a garden, and blueberries, blueberry trees.

17 Q Okay. And are you prevented from engaging in any
18 agricultural pursuits by an HOA or other restrictive
19 covenants?

20 A No.

21 Q All right. Do you lease any of your land?

22 A No.

23 Q All right. Why did you choose to live here?

24 A Just the nature of the -- of the area. We -- I
25 mean, I've always -- of course coming out of Vass -- well,

1 when I lived in Vass it was a very small community, not, you
2 know, near built as it is now, but it's just the -- it's the
3 serenity, the family farm land that my wife is grown up and
4 lived there her whole life.

5 Q Uh-huh.

6 A It just, I mean, it's just -- just peaceful.

7 Q All right. Now, who is your wife?

8 A Teresa, Teresa Hipp.

9 Q Okay. Now, you're familiar with this proposed
10 subdivision?

11 A Uh-huh.

12 Q Now, you know that it's proposing 53 houses on
13 half-acre lots?

14 A Yeah.

15 Q All right. And how do you feel that that would fit
16 into your community?

17 A Not at all.

18 Q Why?

19 A Well, along with -- along with subdivisions you
20 figured, you know, I'm not expert on this, but, you know,
21 possible increase in crime, noise, traffic.

22 Q How close -- how close would the nearest lot be to
23 your house?

24 A Let's see. I would say a hundred -- a hundred
25 yards. I'm not sure.

1 Q Okay. All right. And do you -- do you think it
2 would -- can you tell me whether or not this would -- whether
3 this subdivision would be in harmony with that community?

4 A Yeah. No, I don't see how it would be in harmony.
5 I mean, it's -- it's peaceful. As Ms. Whitmore said, you
6 know, you got a church, you know, I mean, we could hear them
7 and it's pleasant. I mean, there's no noise around. There's
8 hunting. There's wildlife.

9 Q Okay. Do you realize -- are you aware that they
10 were proposing 53 septic tanks on those half-acre tracts?

11 A Yeah.

12 Q Does that concern you?

13 A Yeah.

14 Q Why?

15 A Well, the runoff has to go somewhere, so the wetland
16 would run north to south, I think that direction, so, and the
17 low area is off from our property, so for the waste to -- to
18 travel in any direction, it's going to go downstream.

19 MR. ROBINSON: I object. He's not been qualified to
20 testify to something of that nature. That would require an
21 expert.

22 MR. PARKER: Actually, I have that. He's sitting
23 back here right now.

24 MR. ROBINSON: Well, that's fine, but that's not
25 this witness.

1 MR. PARKER: No, but that's offered -- I can --
2 that's offered for future connection.

3 MR. ROBINSON: No.

4 THE WITNESS: Well, I can say where the water
5 runs --

6 MR. PARKER: Don't say anything yet until she says
7 something.

8 MS. LELAND: I agree. I mean, if you're going to
9 offer that -- if you want to get that in, you need to have an
10 expert.

11 MR. PARKER: I got him. He's sitting right there.

12 MS. LELAND: Okay. Well, put him on.

13 MR. PARKER: Okay. Well, I can put him on. I have
14 an order, but if you want, that's fine. I would offer him to
15 have his testimony to establish his standing so that I can
16 use the hydrology expert. That's my purpose for asking those
17 questions.

18 MS. LELAND: So the standing is that your concern --
19 his special damages that the septic tanks are going to leak
20 into his well?

21 MR. PARKER: That. He also told me noise, traffic,
22 and crime, security.

23 MS. LELAND: Again, I think you're legally
24 incorrect, but proceed.

25 MR. PARKER: Thank you.

1 BY MR. PARKER:

2 Q So tell me about your concern about the runoff
3 potentially affecting your 25-foot well?

4 A Yes, I mean, it's --

5 Q Okay.

6 A And most of -- most of the neighbors around, you
7 know, have wells. I mean, it's just, you know, historical to
8 have wells.

9 Q Okay.

10 A So they're long distance from the road for county
11 water access.

12 Q All right. Can you tell me, Mr. Hipp, how -- now,
13 you've said you've lived in Vass all your life?

14 A Yeah.

15 Q Can you describe Vass for the county commissioners,
16 please?

17 A It's just a small community, tight-knit community.
18 There's -- I think there was two places where you could take
19 your family to sit down and eat, two or three others that are
20 just drive through.

21 Q Okay. And when you talk -- when you say that, do
22 you know how many service stations, gas stations there are
23 there?

24 A Three.

25 Q Three?

1 A Uh-huh.

2 Q Do you know how many grocery stores we have?

3 A One.

4 Q Do you know how many -- how many -- I'm sorry?

5 A Closed on Sunday.

6 Q Closed on Sunday. That is true. That is true. The
7 manager's preaching.

8 A Yeah.

9 Q Do you have -- do you know how many -- you said
10 there were two sit-down restaurants?

11 A Uh-huh.

12 Q Do you know if there are any other restaurants like
13 that?

14 A No. The Valenti's and Home Grown are the two
15 sit-downs. You have Little Caesars, Subway. I think that
16 they just closed the Railroad Deli, so.

17 Q Right. I think the audience is trying to help you.

18 A Yeah, help me out.

19 Q No, don't ask them to help you out. You just tell
20 me yourself.

21 Let me ask you this. How about shopping in Vass?
22 Where is there to shop?

23 A Down on Main Street there's a hardware store.
24 Dollar General.

25 Q Is there --

1 A Family Dollar.

2 Q Family Dollar? So that's our big shopping district?

3 A Yeah, that's our shopping district.

4 Q Okay. All right. Okay. And now let me ask you
5 this. You're off the road, right?

6 A Yeah, quarter mile.

7 Q Okay. Has traffic ever affected your -- you or your
8 wife?

9 A We can hear -- there's -- there's cars at, I don't
10 know if they have any exhaust on them, but there's -- there's
11 a lot of loud -- loud traffic.

12 Q Okay.

13 A And a high increase on 18-wheeler traffic.

14 Q Okay. 18-wheelers --

15 A Yeah.

16 Q -- on that road? Okay.

17 A Since they put the four-way stops down Vass-Carthage
18 it's like all of that traffic seems like it has moved --
19 moved over to Union Church.

20 Q Okay. All right. And now we heard the other week
21 that nobody drives a tractor to work. Have you ever seen
22 tractors on that road?

23 A Yeah.

24 Q Okay.

25 A Yesterday.

1 Q All right. Now, your wife has -- your wife, has she
2 ever been in a wreck on that road?

3 A Yes.

4 Q All right. All right.

5 MR. PARKER: That's all. I don't know what's
6 talking back here, but it's hard to hear.

7 MS. LELAND: Any redirect?

8 MR. PARKER: I'm done.

9 MS. LELAND: Any cross?

10 MR. ROBINSON: No, no questions.

11 MS. LELAND: Okay. Thank you.

12 THE WITNESS: Thank you.

13 MR. PARKER: Next witness, Teresa Hipp. All right.

14 TERESA HIPP,

15 being first duly sworn, testified as follows on DIRECT

16 EXAMINATION BY MR. PARKER:

17 Q Ma'am, would you state your name and your address
18 for the commissioners, please?

19 A Teresa Hipp, 3346 Union Church Road, Carthage.

20 Q All right. And Ms. Hipp, do you know Eddie Hipp?

21 A Yes, sir.

22 Q How do you know him?

23 A He's my husband.

24 Q Okay. Now, that house, did you see the picture of
25 that house? That's your house; is that correct?

1 A Where?

2 Q The one that I just showed him?

3 A Yeah, yes, sir.

4 Q Okay. All right. Now, can you tell me where were
5 you raised?

6 A Just a quarter mile from where I live now.

7 Q Okay. And who -- and who were your parents?

8 A Lacey and Edith Frye.

9 Q All right. And where do they -- where are they
10 today?

11 A They live in the house that they have lived in 67
12 years.

13 Q What's their health conditions?

14 A They're 88 and 89. Mama has just broken her hip.
15 Daddy needs two knee replacements and can barely walk, so,
16 their memory's going.

17 Q Okay.

18 A That's --

19 Q All right. And are you familiar with their home?

20 A Yes.

21 Q Okay. And this home that you're familiar with, can
22 you describe -- and where is the house in relation to this
23 subdivision?

24 A It's -- the subdivision is going to be to the right.

25 Q Okay.

1 A Their house is right at off Henderson Road.

2 Q Okay. Would you be able to recognize their home on
3 that plat --

4 A Yes.

5 Q -- Exhibit 9?

6 MR. PARKER: May I approach the witness?

7 MS. LELAND: Yes.

8 BY MR. PARKER:

9 Q All right. I'm going to show you Exhibit Number 9
10 and ask you to examine that, tell me if you can identify
11 Edith and Lacy Frye's residence on that?

12 A Yes.

13 Q You got to speak --

14 A Yes.

15 Q I'm going to hand you what looks like a purple
16 marker and ask you if you would write your mom and dad's name
17 on that section? I think they're showing it to us up here,
18 too, Ms. Ensminger.

19 Now, does your mom and dad own any other property?

20 A Yes. Yes.

21 Q And where is it? Okay.

22 A Here.

23 Q Okay. Could you mark -- could you mark their name
24 on the property they own? Okay.

25 And that property that they -- that they own there,

1 does that take up the whole side of this subdivision?

2 A Pretty much.

3 Q And is that property leased? What do they do with
4 that?

5 A They -- they do lease it.

6 Q Okay. For --

7 A Farming.

8 Q Okay. Now, I want to show you -- do you know who
9 they lease it to?

10 A McLeods.

11 (Exhibit No. 20 identified.)

12 Q All right. I want to show you what I marked Exhibit
13 Number 20 and ask you to examine it and tell me if you can
14 identify it?

15 A That's my parents' house.

16 Q All right. Could you use this to mark their names
17 on Exhibit 20?

18 And would this photograph, Exhibit 20, aid you in
19 illustrating your testimony about the -- about their home and
20 how it appears?

21 A Yes. Yes.

22 Q All right. I want to ask you if you have -- I want
23 to ask you a few questions about your mom and dad's house.

24 Can you describe it for me?

25 A Yes.

1 Q What is it?

2 A It's a one-story with a basement.

3 Q Okay. And are they on county water or city water?

4 A They have had a well for years, but they had to go
5 to county because of roots.

6 Q Roots?

7 A Because the well's in there 60-some years.

8 Q Okay. And how much land do they own?

9 A Oh, 50 -- 57.

10 Q Okay. How much land is their home on?

11 A One acre.

12 Q Okay. And do you know whether or not they engage in
13 any agricultural activity there?

14 A No, they do not.

15 Q Okay. Do you know whether or not they -- but they
16 lease their land for farming?

17 A Yes.

18 Q Okay. And do you know, are they prohibited by any
19 HOA or any restrictive covenants from engaging in any
20 agricultural activity?

21 A No.

22 Q All right. And I'll ask you also -- now, you are
23 familiar -- strike that. You are familiar with this
24 subdivision as it's proposed?

25 A Yes.

1 Q Do you have -- can you tell me do you feel whether
2 or not how it would fit into the community as it's proposed
3 right here?

4 A I do not feel like it would fit at all. It's an
5 eyesore.

6 Q All right.

7 A A huge eyesore.

8 Q Why do you say that?

9 A I just -- cookie cutter houses --

10 Q Okay.

11 A -- side by side.

12 Q All right.

13 A The traffic. The noise.

14 Q Okay. All right. Now, have you ever been in an
15 accident on that road?

16 A I have.

17 Q Where were you in an accident and when was it?

18 A It was January 21st, 2020, and it was at the -- off
19 Henderson Road.

20 Q And -- exit?

21 A Yeah.

22 Q Would you be able to point it out on that map?

23 A Yes.

24 MR. PARKER: All right. May I approach?
25

1 BY MR. PARKER:

2 Q Could you look at Exhibit 9 and find the location of
3 where that accident was?

4 A It was this one.

5 Q Okay. Could you use the same pen that you had and
6 write your -- write the date of your accident about the
7 location of where it was on there?

8 A (Indiscernible.)

9 Q Right there?

10 A I see it.

11 Q All right. And were you injured?

12 A No, I was not.

13 Q All right.

14 MR. ROBINSON: Reiterate my objection to all that
15 testimony about the traffic and the wreck.

16 BY MR. PARKER:

17 Q Do they have any barns or sheds, your mom and dad?

18 A Yes.

19 Q What do they have?

20 A Well, we called it a pack house growing up. It's
21 where they put tobacco right beside their house.

22 Q Okay.

23 A Then they have another shed beside that that has
24 some farming equipment under it.

25 Q Okay. And that's on their one-acre tract?

1 A Yes, sir.

2 (Exhibit No. 20 offered.)

3 MR. PARKER: All right. We'd move to introduce
4 Exhibit Number 20, which is a photograph of her mom and dad's
5 house.

6 All right. That's all the questions I have.

7 MS. LELAND: Thank you. Do you have any questions?

8 MR. ROBINSON: Yes.

9 CROSS-EXAMINATION OF T. HIPPI BY MR. ROBINSON:

10 Q Ms. Hipp, good evening.

11 A Good evening.

12 Q Would you mind pointing out on the map that's
13 Exhibit 9 there behind you where your current residence is?

14 A Okay.

15 Q Okay. So between your residence and the nearest
16 home is the entire open space and conservation area?

17 A My -- my sister lives about 200 yards through the
18 woods.

19 Q Yeah, I'm just talking about you. What's in between
20 your residence and the -- right. In this subdivision there's
21 open space in the conserved area between your residence and
22 the first house; is that correct?

23 A Yes.

24 Q Okay.

25 MR. ROBINSON: That's all my questions. Thank you.

1 MR. PARKER: Okay. Hold on just a minute.

2 REDIRECT EXAMINATION OF TERESA HIPPO BY MR. PARKER:

3 Q So did he -- I missed his last question. Did he ask
4 if the runoff from there would run into your property?

5 A He just asked what was behind us.

6 Q Oh. Okay. All right. Okay. That's -- I'm sorry.
7 I appreciate that. Thank you. All right. Somebody was
8 talking to me. I apologize.

9 MR. PARKER: All right. I have nothing further.

10 MS. LELAND: Thank you.

11 THE WITNESS: Thank you.

12 MR. PARKER: We call Pam Henderson. Okay.

13 PAMELA HENDERSON,

14 being first duly sworn, testified as follows on DIRECT
15 EXAMINATION BY MR. PARKER:

16 Q Ms. Henderson, if you feel comfortable you can take
17 the mask off. If you don't, that's fine, we'll let you talk
18 with it on.

19 Okay. All right. Ma'am, would you state your name
20 and address for the court, please?

21 A I'm Pamela Henderson.

22 Q And where do you live?

23 A 3477 Union Church Road.

24 Q All right. And where is this subdivision in
25 relation to your property?

1 A It is right across the street.

2 Q Right across the street? Now, can you tell me about
3 your family that lives there?

4 A I have a special needs daughter, and I also have a
5 11-year-old granddaughter.

6 Q Okay. And do they live in the home with you?

7 A Yes.

8 Q Okay. Now, your husband -- do you have -- does your
9 husband live with you?

10 A My husband just passed away last Christmas.

11 Q All right. Do your kids go to school?

12 A Yes.

13 Q Where do they go?

14 A Dee goes, the special needs daughter, she goes to
15 Monarch, and the granddaughter goes to Vass-Lakeview.

16 Q All right. Now, the first one you said, your
17 special needs daughter, Dee, she goes to, I couldn't
18 understand that, Monar?

19 A She goes to Monarch.

20 Q How do you spell that?

21 A It's M-O-N-A-R-C-H. It's a day program in Southern
22 Pines.

23 Q Okay. Do either of those kids ride the bus?

24 A Taylor used to.

25 Q Okay. And where did -- and now, let me ask you this

1 about your residence there. Can you describe your home?

2 A Yeah.

3 Q Can you tell me about it?

4 A We got a double wide.

5 Q Can you move up and speak into that microphone a
6 little better, because I have trouble hearing you.

7 A All right. We have a double wide and it's, I guess
8 you call it, a one-family house, and it sits on an acre.

9 Q Okay. Do you know where your nearest neighbor is?

10 A Oh, my God. Roundabout 200, almost 300 yards --

11 Q Okay.

12 A -- feet?

13 Q Okay. Do you have well or county water?

14 A I have well.

15 Q All right. And how deep is your well, if you know?

16 A Fifty-five.

17 Q Fifty-five feet?

18 A Uh-huh.

19 Q And do you do any agricultural activity on your
20 property?

21 A A little garden.

22 Q You have a garden?

23 A Uh-huh.

24 Q Okay. Do you have any agricultural pursuits that
25 are prohibited by an HOA or any restrictive covenants on your

1 property?

2 A No.

3 Q Okay. All right. And where are you from?

4 A I'm from New York.

5 Q Why did you choose to live here?

6 A Well, you know, I was born and raised in the city,
7 so since we was -- since our kids was getting older, my
8 husband retired out of Mount Sinai Hospital in New York, and
9 he's born and raised down here in Carthage. So I wanted a
10 better life since I was getting older, and, you know, more to
11 see where my money was going to go.

12 Q Okay.

13 A Because it wasn't going like that in New York.

14 Q Okay. So you -- so you moved here with your husband
15 and you've stayed?

16 A I did.

17 Q Okay. Now, are you familiar with this subdivision
18 we've been discussing here?

19 A Yes.

20 Q They're describing putting 53 houses across the road
21 from your house?

22 A Yes.

23 Q With septic tanks on half-acre lots?

24 A Yes.

25 Q How do you -- do you feel that that would -- you've

1 lived in this community for how long?

2 A We've lived here for 18 years.

3 Q Yeah.

4 A My husband was here all his life.

5 Q All right. Now, based on what you've seen of this
6 community from 18 years, do you feel this subdivision would
7 fit into that community?

8 A Not one that's across the street from my house.

9 Q Okay. Why?

10 A Well, you know, I got, since the granddaughter's
11 getting older, the special needs daughter, she goes, you
12 know, she takes a walk over to the mailbox, and when the
13 traffic and everything is coming, you know, she gets nervous
14 or whatever, and I watches over her.

15 We already had two accidents in front of my house.
16 So it's -- it's, from 18 years until now, it literally like
17 exploded. I mean, I'm -- I'm all for progress to a point,
18 but we talking about across the street from the house.
19 That's my only problem. That's my only problem.

20 Q All right. So let me ask you this. Do you believe
21 that subdivision would be in harmony with the neighborhood
22 around you?

23 A To be honest, I don't think so --

24 Q Why?

25 A -- but -- to me it wouldn't -- it wouldn't too much

1 look right, you know, the way -- from what I seen on the map
2 or the drawings, whatever you want to call it and everything,
3 so you got the opening of it either is directly across the
4 street from me, or, a couple of, you know, like less than a
5 half a block down, which is the corner of Henderson Road, and
6 you got it, you know, right there. So I don't think so.

7 Q All right. Let me ask you this. Do you know the
8 person who lives -- do you know Charles Henderson?

9 A Yes.

10 Q Where does Charles Henderson live?

11 A He's right on the corner of Henderson Road and Union
12 Church.

13 Q Are you kin to Charles?

14 A I'm his sister-in-law.

15 Q All right. And are you familiar with how long
16 Charles has lived there?

17 A Oh, he been there like 75 years.

18 Q All right. And do you know what kind of home he
19 has?

20 A He has a modular, double wide, I think.

21 Q All right. And do you know if he has a well or --

22 A He has a well.

23 Q All right. And do you know, where is his nearest
24 neighbor?

25 A I guess across the street.

1 Q Okay. Do you have an idea how far?

2 A No.

3 Q Okay. All right. Let me ask you this. All right.
4 So would you be able to find your home on the diagram up
5 here?

6 A Yeah. I'm right here.

7 Q All right. Wait a minute. I want to show you here
8 what is Exhibit 9. I want to show you -- to take this green
9 marker, and I'd like for you to write your name on your
10 property up there if you can find it.

11 Okay. All right. Now, you've described your home
12 as a, basically a double wide. Do you -- would you be able
13 to recognize it if you saw it?

14 A Yes.

15 Q All right. I want to show you -- well, you're going
16 to have to say yes or no.

17 A Oh, yes.

18 (Exhibit No. 22 identified.)

19 Q I want to show you Exhibit Number 22, and ask you to
20 examine it and tell me if you can identify it?

21 A Okay. Oh, yeah, that's mine.

22 Q Okay. Is that a photo of your home?

23 A Yes, it is.

24 Q All right. Would you write your name on the back of
25 it?

1 A Sure.

2 Q Is this photo a fair and accurate representation of
3 your home as it appears today?

4 A Yes, sir. Yes, sir.

5 Q Okay. All right. You'll need that in just a
6 minute.

7 A All right.

8 MR. PARKER: I'll move to introduce Exhibit 22.

9 (Exhibit No. 22 offered.)

10 BY MR. PARKER:

11 Q Now, Ms. Henderson, you said, you alluded to it a
12 while ago, about two wrecks in front of your house?

13 A Yes.

14 Q Do you recall when they were?

15 A We've got --

16 MR. ROBINSON: Object.

17 MR. PARKER: Once again I reiterate this is for
18 standing for her. It also -- that statute may prohibit it
19 for traffic safety. It does not prohibit it for harmony.
20 And I continue to offer it for the purpose of standing and
21 for harmony issues.

22 MS. LELAND: And again I disagree with you legally,
23 but proceed.

24 MR. PARKER: Thank you.

25

1 BY MR. PARKER:

2 Q So, yes, ma'am, can you tell me about the crashes in
3 front of your home?

4 A On 20 -- 2020, the granddaughter was getting ready
5 to get off the bus when a truck came down, a little pickup
6 truck, hit the side of the bus, tried to avoid the stop sign,
7 and this is literally across the street where they, you know,
8 the school bus put up the signs and the flags and all of
9 that.

10 And it was another bad wreck on 2018, if I'm right,
11 and I was going to pick up my grand, my granddaughter, or the
12 special needs daughter, one of them, and the car was coming
13 around the bend. Another car tried to go around on the
14 double lane, because it's just double lanes there, tried to
15 go around, around, and next thing you know hit the car, the
16 car flipped over in the ditch, and we talking about just
17 missed my mailbox, and luckily the man came out walking out
18 of that wreck, and that was a bad one.

19 Q Okay.

20 A So he was blessed on that one.

21 Q All right. Could you identify or locate those two,
22 the location of those two crash -- wrecks on that Exhibit 9?

23 A I don't know, can I? Where is -- (indiscernible).

24 Q The school bus accident, do you know -- where --
25 about where was it on this exhibit?

1 A If this is my house, right --

2 Q Yeah.

3 A -- my house --

4 Q You got to talk into this.

5 A Oh. Well, if this is the house, then the school bus
6 was literally right there, right -- right across the street.

7 Q You said that was 2020?

8 A Yes.

9 Q All right. Would you mark 2020 on there, please?

10 A Right here?

11 Q Yeah. And where was the 2018 wreck?

12 A That was (indiscernible).

13 Q All right. Thank you, Pam.

14 A Oh, I'm sorry. I'm from -- since I'm from the city
15 I say street, but it's a road, so y'all know what I mean.

16 CHAIRMAN QUIS: We understand. Thank you very much.

17 MR. PARKER: All right. That's all.

18 THE WITNESS: Oh.

19 MR. PARKER: He's got to ask you questions.

20 MR. ROBINSON: No, I don't have any questions for

21 Ms. Henderson. Thank you.

22 THE WITNESS: Thank you.

23 MR. PARKER: Thank you.

24 CHAIRMAN QUIS: Thank you. We'll pause for just a
25 minute until Ms. Leland returns.

1 (Pause in proceedings.)

2 CHAIRMAN QUIS: Mr. Parker, if you would advise your
3 next witness to be ready.

4 Here we go. Please proceed.

5 MR. PARKER: Ready?

6 MS. LELAND: Proceed.

7 MR. PARKER: Okay. Thank you.

8 KAREN FRYE,
9 being first duly sworn, testified as follows on DIRECT
10 EXAMINATION BY MR. PARKER:

11 Q Ma'am, would you state your name and address for the
12 court, please?

13 A My name is Karen Frye. I live at 3336 Union Church
14 Road, Carthage.

15 Q And Karen, do you have a brother?

16 A Yep, Scott.

17 Q Where does he live?

18 A He lives across Union Church Road in my
19 grandparents' house.

20 Q Okay.

21 A That he renovated.

22 Q Okay. Now, you live at, Karen, you live at 3336
23 Union Church Road. How close -- where are you in relation to
24 this subdivision?

25 A So I'm about 200 yards from Teresa and Eddie's, so I

1 guess like --

2 Q Okay.

3 A -- like 400 yards.

4 Q Okay. How -- and is Teresa and Eddie your nearest
5 neighbors?

6 A Yes.

7 Q So you are how far from your nearest neighbor?

8 A 200 yards.

9 Q All right. And how big is your lot size there?

10 A I think my house is on maybe six acres, but I have
11 60 acres total.

12 Q Okay.

13 A My house is off Union Church Road about a thousand
14 feet.

15 Q Okay. And how long have you lived there?

16 A Thirty-two years.

17 Q Okay. And do you have -- your home, can you
18 describe it for us?

19 A Yeah. It's a ranch style.

20 Q Okay. And is it -- have -- what type of foundation
21 does it have? Does it --

22 A Crawl space.

23 Q Crawl space?

24 A Yes.

25 Q And do you have water, you get water on the well or

1 do you get it from a --

2 A I have a well.

3 Q A well?

4 A Uh-huh.

5 Q And how deep is your well?

6 A About 30 feet.

7 Q 30 feet. Now, do you do any agricultural activity
8 on your property?

9 A Not personally, but I have a field in front of me
10 that's probably -- it's a big field, so let's say 40 to
11 50 acres.

12 Q Yeah.

13 A Uh-huh.

14 Q Do you --

15 A That I do lease.

16 Q You lease that?

17 A Uh-huh.

18 Q Do you have a garden or anything?

19 A A little garden.

20 Q You do -- so you do have agricultural there?

21 A Yeah.

22 Q All right. Do you -- what do you grow in your
23 garden?

24 A Okra, tomatoes, peppers, squash.

25 Q Okay. And are you prohibited from pursuing those

1 agricultural pursuits by any HOA or any restrictive
2 covenants?

3 A No, sir.

4 Q All right. And let me ask you this. Why do you
5 choose to live there?

6 A Well, I grew up in that area.

7 Q Okay.

8 A So it's home.

9 Q Uh-huh.

10 A And it's just nice because I work in Southern Pines,
11 and, you know, you're in this city, just to go home and be in
12 the country, and it's very peaceful, very quiet, birds
13 chirping, you know. We've got wildlife we see around there,
14 they live in the woods around where we live, fox, squirrel,
15 lots of squirrels, rabbits that we go feed. I go feed them
16 all the time not too far from I live.

17 Q Okay.

18 A Deer. I could go on. I mean, it's -- we've got
19 beautiful redheaded woodpeckers that live around us, so the
20 wildlife -- the wildlife is very important to me. I like
21 sitting outside and enjoying that. Just the quiet. It's
22 very quiet, very peaceful.

23 Q Okay. And tell me, are you familiar with this
24 subdivision that they're proposing?

25 A Yes.

1 Q You've lived there for your whole life?

2 A Pretty much, I mean, I -- yeah.

3 Q How do you --

4 A There's a few years that I didn't live in that area,
5 but not too many.

6 Q How do you -- what do you -- do you -- how do you
7 believe that would fit into that community?

8 A I don't really see it fitting in at all. I mean, I,
9 you know, you've got Vass and you've got a subdivision, then
10 you've got a little community, and then you've got this
11 stretch of Union Church Road where it's people who have had
12 homes there, you know, like in the second generations live
13 nearby like we do, third generations maybe even, so you have
14 this subdivision out in the middle of this stretch of Union
15 Church Road, maybe, what is it, like five or six miles before
16 the next one, and then it's -- or maybe farther than that.
17 It's like Union Church high school on Union Church Road,
18 there's a subdivision around that area.

19 So to me it just does not fit in at all. I don't
20 see it making any more, my property any more valuable. In
21 fact, I see it deteriorating because people who live out
22 there want to live in the country. We don't want to have a
23 subdivision next to us.

24 Q Do you think this -- you've seen these half-acre
25 subdivisions with the houses 20-foot apart?

1 A Yes, I have.

2 Q How do you -- do you consider those -- do you think
3 that would be attractive in this area?

4 A I do not.

5 Q What -- how do you think it would appear?

6 A What?

7 Q How do you think it would appear?

8 A I think it would appear out of place, actually.

9 Q Yeah.

10 A Like it did not fit in.

11 Q Okay. All right. And do you -- what special
12 concerns do you have about living there now?

13 A Well, I spoke about the wildlife. I'm concerned
14 about that because I do feel very fond of the wildlife we
15 have around.

16 Q Right.

17 A I don't think I want that many neighbors next door.

18 Q Uh-huh. How about the traffic?

19 A Definitely the traffic. I mean, I could sit on my
20 parents' screen porch, they live right on Union Church Road,
21 and it's like a freeway. I can sit there and you can't
22 really -- sometimes you can't even hear each other talk
23 because the -- the loud -- some of these cars have really
24 loud exhaust systems, but -- and the 18-wheelers like someone
25 else spoke about. It's just like (making swish swish swish

1 swish noise), you know, it's ridiculous.

2 Q Do you --

3 A But, you know, fortunately I live off the road so
4 it's not affecting me that much, but it affects the rest of
5 my family and everybody else in that area.

6 Q Do you get litter on your place from the --

7 A Oh, it's horrible. So I think it's really horrible
8 because people find these open stretches of land where there
9 are no houses, maybe, and they just -- it's really bad.

10 Q Okay.

11 A It's one thing I really dislike about Union Church
12 Road and living in the country is the litter.

13 Q The one thing you don't like is --

14 A It's one thing I don't like about it.

15 Q Okay. All right. And -- all right. Thank you.

16 Now, you're familiar with your brother's house over there?

17 A Uh-huh.

18 Q Okay. That was your grandmother's home?

19 A Uh-huh.

20 Q All right. I want to ask you a few questions about
21 that, if you know.

22 A Okay.

23 Q Can you describe that home for the commissioners?

24 A Sure. It's -- well, my grandfather built it, him
25 and my grandmother, and it's a brick home, one floor and a

1 basement.

2 Q Okay. And does it have -- so it's a single story?

3 A Yes.

4 Q With a basement?

5 A Yes.

6 Q Is it on county water or well, do you know?

7 A I think --

8 Q No, you can't get help from the audience. This
9 ain't that --

10 A I'm not sure.

11 Q Okay.

12 A I'm not sure.

13 Q No, you're good.

14 A I know we did have a well, but some of the folks got
15 town water like my mom and dad did, so Scott may have.

16 Q Do you know how big a lot it is?

17 A Let's see. Thirteen acres.

18 Q All right. Do you know if he does any -- does he
19 have a garden or any other agricultural stuff?

20 A He does grow some plants, yeah, like tomato plants
21 and things like that in his back yard.

22 Q Does he have anything preventing him from having
23 agricultural pursuits like animals or livestock or anything?

24 A No.

25 Q All right. And -- okay. We covered that.

1 All right. Okay. So would you be able to recognize
2 or identify your home on the plat behind you, and Scott's?

3 A Let's see. This is Teresa (indiscernible).

4 Q All right.

5 MR. PARKER: May I approach?

6 MS. LELAND: Yes.

7 THE WITNESS: Yes. (Indiscernible.)

8 BY MR. PARKER:

9 Q Is this Union Church Road?

10 A Yeah.

11 Q Okay. And is this -- this is where Teresa wrote
12 your mother?

13 A (Indiscernible.)

14 Q All right. You're turned around.

15 A I guess where she had an accident.

16 Q Yeah.

17 A Okay. I'm over here, right over here.

18 Q All right. You got to say that in here.

19 A So I am a little bit to the right of Teresa and
20 Eddie Hipp.

21 Q Okay. All right. I'm going to give you this blue
22 pen and ask you to write your name on your property.

23 A Okay.

24 Q And, now, have -- and do you see where Scott's home
25 is?

1 A Yeah, right here.

2 Q Okay. Would you write -- has it got his name on it?

3 A Yeah.

4 Q Circle it for me, circle his name.

5 A All right.

6 Q All right. Okay. All right. Thank you. Hold on
7 just a minute.

8 MR. PARKER: You got the list? Can I have the
9 sheet?

10 That's all I have for Karen.

11 THE WITNESS: Okay. Thank you.

12 MR. PARKER: Well, whoa, whoa, he's got -- he gets
13 to ask questions.

14 MR. ROBINSON: I have no questions for Ms. Frye.
15 Thank you.

16 THE WITNESS: Okay.

17 MR. PARKER: All right. My next witness may be a
18 little longer. You've been going for an hour. I don't know
19 if you want to keep going. I'm good, but I'm just giving you
20 fair warning.

21 CHAIRMAN QUIS: Continue? We'll continue. If we
22 have to take a break in the middle of --

23 MR. PARKER: That's fine. I just wanted to give you
24 fair warning --

25 CHAIRMAN QUIS: Thank you.

1 MR. PARKER: -- Mr. Chairman. Thank you. We call
2 John Stinnett to the stand.

3 JOHN STINNETT,
4 being first duly sworn, testified as follows on DIRECT
5 EXAMINATION BY MR. PARKER:

6 Q Sir, would you state your name and occupation for
7 the commissioners?

8 A John Stinnett, pastor of Halls Memorial Church, 3612
9 Union Church Road.

10 Q Okay. And Mr. Stinnett, how long have you been
11 employed as the pastor at Halls Memorial Church?

12 A Thirty-six years.

13 Q Okay. And Mr. Stinnett, how old is Halls Memorial
14 Church?

15 A Probably around 60 years old.

16 Q Sixty?

17 A Sixty.

18 Q Okay. And can you describe this church for the
19 commissioners?

20 A Yes, sir. It's a little country church. We just an
21 old stick built building, you know, nothing elaborate about
22 it. It's just an old building that started with a house and
23 we built onto it, made it bigger. Tried to make it look
24 presentable in the community.

25 Q Okay. And the church that you have there, do you

1 have any other buildings on that property?

2 A Yes. We have a metal building that we use during
3 vacation Bible school for the kids to do their crafts and
4 stuff in, and then we use it for storage most of the time of
5 the year.

6 Q Okay. And the building that you have, that you have
7 out there, did you go to -- no, strike that.

8 So you've got a building. Do you have areas for the
9 kids to play?

10 A Yes, we have a play -- a basketball court and a
11 swing set, slides for the kids --

12 Q Okay.

13 A -- to -- playground activity.

14 Q Okay. Is the church fenced off? Is it fenced in?

15 A No. We just have a fence behind the basketball
16 court so the ball won't go toward the road.

17 Q Okay. And, now, you're -- how many will your church
18 hold?

19 A Ninety-nine.

20 Q Ninety-nine?

21 A Uh-huh.

22 Q And, now, your church, how often -- how often do you
23 have services at your church?

24 A We have them four times a week.

25 Q All right. When are those services?

1 A Sunday morning.

2 Q Okay. And when you have that service about how many
3 people attend?

4 A We run around a hundred people on a steady basis.

5 Q Okay. And, now, do you have -- what is your
6 denomination? Did I ask you --

7 A We're an independent Pentecostal church.

8 Q Okay. Do you have a choir?

9 A No, we have individuals and quartets and different
10 groups in the church that sing.

11 Q Okay. Do you have a pianist or an organist?

12 A We have a pianist. We have two keyboards. We have
13 a base guitar. We have two regular guitars, and we have a
14 set of drums.

15 Q Oh. And you have very enjoyable services?

16 A Oh, yeah.

17 Q Okay. Do you ever get complaints about the noise?

18 A Oh, yeah.

19 Q All right. And do they -- do they call you?

20 A Yeah, they call the church and ask us could we sing
21 a little bit quieter, and I ask them how can you quiet a
22 hundred people off.

23 Q Right. Okay. Let me ask you this. When they
24 talk -- when -- have you ever had the sheriff's department
25 come out there and complain about your noise?

1 A No.

2 Q No? All right. But is there call -- do you know
3 who calls?

4 A They'll never tell me who called. I've always told
5 them if you'll tell me I'm come sit down with you and maybe
6 we can resolve the issue.

7 Q Okay.

8 A But they won't tell me who it is.

9 Q They don't tell you. So let me ask this. Do you
10 ever notice that -- I mean, now, Ms. Whitmore, you know her,
11 the lady who testified first lives in that house right down
12 from you?

13 A Yeah.

14 Q Okay. She doesn't mind it. Do you notice, does it
15 happen -- is it -- is it the same voice or do you notice a
16 pattern of when they complain?

17 A I think it's probably two different voices.

18 Q Two different voices --

19 A To be honest, yeah.

20 Q -- that complain?

21 A Yeah.

22 Q Does the complaint increase when new families move
23 into that area?

24 A Yes.

25 Q Yeah. Okay. All right. So let me ask you this.

1 So despite the complaints you've never changed your service?

2 A No, sir.

3 Q Okay. All right. So -- all right. So let's talk a
4 little bit about Sunday services there. The Sunday services
5 you have, can you tell me about what time it starts?

6 A We start Sunday school at 10:00, and then we have a
7 regular worship service at 11:00 o'clock.

8 Q Okay. And can you tell me about what time do you
9 end?

10 A Between 12:30 and 1:00.

11 Q Okay. And how many people normally attend your
12 Sunday service?

13 A Around a hundred people.

14 Q All right. And when they attend your hundred --
15 your service, you have -- can you tell me what happens in
16 your typical service? I mean, how does it progress?

17 A In a typical service we -- before Sunday school
18 we'll have -- we'll have a prayer, and then we'll sing maybe
19 two songs, and then we'll have prayer requests and take up
20 the offering, and then we'll go to Sunday school classes.

21 Q Okay.

22 A And then when we come back out after Sunday school
23 classes we sing a song, I give the announcements, and then we
24 go into our worship service of singing and praise and worship
25 the Lord. And then they turn the service to me, and I preach

1 sometimes 30 minutes, sometimes 45, and sometimes an hour.

2 Q Okay.

3 A That may be why you --

4 Q Depend on the spirit?

5 A Yeah.

6 Q Okay. All right. So that's Sunday. And, now, do
7 you have any other services on Sunday?

8 A Yes. We have Sunday night at 6:30.

9 Q Okay. And tell me about that service. How long
10 does it last?

11 A It usually lasts to 8:30 or 9:00 o'clock.

12 Q Okay. And how many people sing -- I mean, how many
13 people attend that service usually?

14 A We usually have anywhere from 60 to 75 people
15 probably.

16 Q Now, how big a parking lot you got?

17 A We can probably get 60 cars in maybe if we press --
18 we put a lot of cars out beside the road.

19 Q So you're parking cars along the side of Union
20 Church Road?

21 A Yeah, yeah, uh-huh.

22 Q Okay. Up there in that curve? You're headed --

23 A Just around the curve --

24 Q Okay.

25 A -- down beside the shoulder.

1 Q All right. So you do that service. Do you do
2 singing at the Sunday evening service?

3 A Oh, yeah, yeah.

4 Q And what happens after the service? Does everybody
5 come out and go straight home?

6 A No, the kids like to run to the ball court, turn the
7 lights on on the ball court and play ball and run around,
8 holler, swing.

9 Q Okay.

10 A Some of the parents have to about beat their kids to
11 put them in the car.

12 Q So but tell me -- now, you got lights on that ball
13 court?

14 A Yes, sir.

15 Q So they can play after dark?

16 A Yes, sir.

17 Q Describe those lights to the commissioners.

18 A They're like street lights. They come on, you know,
19 at dusk and go off at dawn.

20 Q Are they on --

21 A We have two of them on poles out there.

22 Q They're on poles?

23 A Uh-huh.

24 Q Now, are they focused towards the -- the basketball
25 court or --

1 A They're right down over the goal.

2 Q Okay.

3 A So you can see the goals.

4 Q Does it light up that area pretty good?

5 A Yeah, it lights it up pretty good.

6 Q All right. Now, so that's Sunday. How about the
7 rest of the week? Do you also get together then?

8 A Yes, sir. On Tuesday we have a youth meeting.

9 Q All right. And tell me about that meeting.

10 A On Tuesday night the kids get together because it's
11 basically a meeting for our youth, and they get together.
12 They -- they usually pray and have a song, or sing some
13 songs, and then they take prayer requests, and after prayer
14 requests our youth pastor preaches, and when he's finished
15 they usually, the kids come together and they give their
16 requests for the moms, their dads, their -- people they're
17 concerned about, you know, and they're asking the church to
18 pray for people in their family that used to go to church
19 that don't go to church no more.

20 Q Okay.

21 A And then after that they -- they pray, and after
22 they pray they usually go in the back and have snacks, and
23 then the kids, you know, disperse, play on the playground,
24 shoot basketball, and we've had complaints about them being
25 out there shooting basketball at 9:30, 9:00 o'clock at night.

1 Q Okay. Now, do they have super -- they have
2 supervision?

3 A Yeah, oh, yeah.

4 Q So there's an adult there with them?

5 A Yeah, there's more than one adult there.

6 Q All right. So the singing, ball court on Tuesday
7 nights, and they can be there how late until Tuesday -- on
8 Tuesday night?

9 A They stay, some of them will be there until
10 10:00 o'clock, probably.

11 Q Okay. All right. And how about -- is that the only
12 service you have during the week?

13 A No, we have Wednesday night service.

14 Q Tell me about that service.

15 A Wednesday night service we -- we get together. We
16 usually open with prayer and singing, and then we take prayer
17 requests on a personal basis. If you have a prayer request,
18 like if Mr. Picerno would have a prayer request, we take his
19 and we pray over that, and then if Ms. Graham have one we
20 take hers and pray over that, make it an individual thing.
21 It's not just one mass prayer. Everybody that has an
22 individual prayer request we try to include them.

23 Q Okay.

24 A And then after that when we get through with that,
25 they -- we'll usually sing a song and they turn the church

1 service to me, and when I'm finished preaching I give an
2 alter call and we close.

3 Q Okay. How many -- how many people usually attend
4 that Wednesday service?

5 A Probably anywhere from 50 to maybe 65.

6 Q All right. And how many attend that Sunday -- I
7 mean, the Tuesday -- yeah, I may have asked you that. How
8 many Tuesday?

9 A Probably around 35 maybe, maybe 40 sometimes.

10 Q Okay. Do y'all have any special events during the
11 year?

12 A Yeah, we have vacation Bible school. That's a big
13 event for us.

14 Q When is it?

15 A We usually around the last of July, first of August.

16 Q Yeah. Now, how many people do you normally have
17 attend your vacation Bible school?

18 A We -- before the pandemic we were up to almost 300
19 people.

20 Q Okay. Now, I saw the fire marshal here earlier. If
21 your church only has a hundred, so can you explain that to
22 me, before he comes and asks you questions about it?

23 A Yes, sir, I can. We -- we don't put that many
24 people in the church because as you know it won't hold that
25 many people, be like sardines, have to grease them to get

1 them back out.

2 Q Right.

3 A But we have stuff going on outside. We split up in
4 Sunday school rooms. Some of them go to fellowship hall. We
5 have classes outside for the kids, and we just disperse in
6 different places so we can have all the people there.

7 Q Okay. Okay. So that's -- all right. That's good.
8 So that's your services there at the church, right?

9 A Yes, sir.

10 Q All right. Now, have you ever had any problems with
11 security at your church?

12 A Yes, we've been broke into a few times.

13 Q Okay. And can you tell me a little bit about that?

14 A Some boys came in and -- came in, kicked the office
15 door in. They stole the base guitar and they took -- the
16 youth meeting on Tuesday -- it was on a Wednesday. The youth
17 meeting had took up \$250 to send to Israel. We -- we helped
18 bring Jews back from the Soviet Union to come back to Israel
19 that want to come. We help pay for that. And the kids were
20 giving offering for that, and they stole that \$250, kicked
21 the office door in and stole it.

22 And then we've had -- we had another occasion where
23 they busted the window and they didn't get in, and then we
24 had another occasion where they busted in the lawn mower shed
25 and stole a backpack blower.

1 Q Okay.

2 A One of the backpack blowers. And then we had
3 another occasion where some kids busted a window out to reach
4 in and get them a drink.

5 Q Okay.

6 A And --

7 Q Let me ask you this. How -- has that been recently,
8 or in the past, or --

9 A It's been in the past.

10 Q In the past. So you haven't had any trouble like,
11 how long ago?

12 A Maybe three years.

13 Q Three or four -- okay. Three years?

14 A That case about the window and the drink, it went on
15 through court for about two years, and --

16 Q Okay.

17 A -- and I don't know what will happen in the end
18 or -- I never heard.

19 Q Okay. Now, this -- do you know about this
20 subdivision; is that right?

21 A Yes, sir.

22 Q All right. And how close is it to the back of your
23 church would those houses come, do you know?

24 A Probably 80 foot.

25 Q Okay.

1 A Right behind the graveyard, from our back door to
2 our line's probably 80 foot.

3 Q Okay.

4 A And then however far they'd be off the line which
5 I'm guessing 30 foot. I don't know, you know --

6 Q Okay.

7 A -- how far away the house will be off of that.

8 Q Okay. All right. Now, what concerns do you have
9 about the church if this subdivision goes in?

10 A My major concern is that if it comes in, the
11 complaints we're going to get from the noise.

12 Q Okay.

13 A I'm positive we'll get complaints for the noise.

14 Q Uh-huh.

15 A Possibly probably have to put a fence up, go through
16 the expense of putting a fence up.

17 Q Right.

18 A There would be the great liability of people coming
19 into our yard on the swing set. They get hurt on the swing
20 set or on ball court, we're liable for that. Our insurance
21 would be liable for that. So these are major concerns that
22 we have.

23 Q Now, are y'all a wealthy church, Mr. Stinnett?

24 A No.

25 Q Okay. So if you -- these come in, this is going --

1 you're going to have to find the money to deal with that
2 somewhere?

3 A Yeah, we going -- yeah.

4 Q Okay. All right. So --

5 A We've -- let me explain. We've -- we have a little
6 money saved up because that's how we, you know, to --

7 Q Right.

8 A We're not broke, but we're not filthy rich.

9 Q Right. Well, let me ask you, do you have an alarm
10 system?

11 A No.

12 Q Okay. All right. And you worry about -- have you
13 ever had any trouble with vandalism at your place?

14 A Yes.

15 Q Okay. What type of vandalism?

16 A They kicked the boards off the -- they teared the
17 swing sets down and they'll kick the boards off -- we have a
18 little play area where the slides goes go down. They kicked
19 the board out of them.

20 Q Okay.

21 A Throw junk down all around out there.

22 Q All right.

23 A And then when some of the high school kids come to
24 play basketball they spin circles in the gravel parking lot.

25 Q Okay. All right. Now, let me ask you, is it hard

1 to get out of your driveway there?

2 A At certain times of the day, yes. When school time
3 comes you got to be very careful because they come flying
4 down through there.

5 Q Okay.

6 A So school kids come flying through there so you have
7 to be very careful. And then in the mornings you have to be
8 very careful when you pulling out of there.

9 Q Okay.

10 A Because the school traffic.

11 Q All right. And so -- all right. So now had you
12 ever considered another driveway to your church?

13 A Yes, we did.

14 Q Where did you consider putting it?

15 A We were considering right at the top of the hill at
16 our line where, would be where the emergency road's going in
17 for the subdivision, of putting one there so we could turn in
18 there right off -- but it would have been right off that
19 curve, and we were scared people get rear ended, so we
20 just --

21 Q Didn't do that?

22 A -- didn't do it.

23 Q Okay. All right. Now, would you be able to
24 recognize your church on that diagram up there?

25 A Maybe so.

1 Q All right.

2 MR. PARKER: May I approach?

3 MS. LELAND: Yes.

4 BY MR. PARKER:

5 Q All right. So have you located your church on the
6 diagram?

7 A Yes.

8 Q All right. Would you write your name on that --
9 where your church is?

10 A Seems like (indiscernible).

11 Q And you have written John Stinnett in red ink; is
12 that right?

13 A Yes, sir.

14 Q All right. You have to say yes there.

15 A Yes, sir.

16 Q All right. Would you be able -- let me have my --
17 would you be able to identify a photograph of your church if
18 you saw it?

19 A Yes, sir.

20 Q Would it aid you in illustrating your testimony to
21 the commissioners about your church and your facility?

22 A Yes, sir.

23 (Exhibit No. 49 identified.)

24 Q I want to show you what I marked as Exhibit 49 and
25 ask you to examine that and tell me if you can identify it?

1 A Yes. That's the front of the church and the church
2 sign.

3 Q All right. Could you take this and mark -- and
4 write your name on it, please? Or name of the church. Put
5 the name of the church.

6 And does this aid you in illustrating your testimony
7 about the church and where y'all hold worship services?

8 A Yes, sir.

9 Q Is it a fair and accurate representation of
10 church -- your church?

11 A Yes, sir.

12 (Exhibit No. 49F identified.)

13 Q All right. I want to show you what's marked here as
14 41 -- I think that's -- no, 49F, and ask you to examine that
15 and tell me if you can identify it?

16 A Yes, sir. That's the inside of the church in the
17 sanctuary.

18 Q Is that a fair and accurate representation of how
19 your church looks on the inside?

20 A Yes, sir.

21 Q Would that aid you in illustrating your testimony to
22 the commissioners about how your church appears?

23 A Yes, sir.

24 Q All right.

25 A Yes, sir.

1 (Exhibit No. 49A identified.)

2 Q All right. And I'm going -- I want to show you now
3 Exhibit 49A and ask you to examine that, tell me if you can
4 identify it?

5 A Yes, sir. That's the musical instruments up front.

6 Q Okay. Is that where your band plays?

7 A Yes, sir.

8 Q Aid you in illustrating your testimony to the
9 commissioners about the band and how you hold services there?

10 A Yes, sir.

11 (Exhibit No. 49C identified.)

12 Q Okay. All right. Now I want to show you what I
13 marked here as Exhibit Number 49C, and ask you to examine
14 that and tell me if you can identify it.

15 A Yes, sir. That's -- that's a picture of the
16 graveyard.

17 Q Okay. All right. And what is -- and what is
18 behind -- is this how the graveyard appears now?

19 A Yes, sir.

20 Q All right. And what is behind it?

21 A To the back closer to the church there's a storage
22 building where we keep chairs and tables and stuff, and
23 cleaning supplies and stuff.

24 Q What is on the other side of the graveyard?

25 A The other side is an open field back there.

1 Q All right. Is that were this subdivision's
2 proposed?

3 A Yes, sir.

4 Q You got to --

5 A Yes, sir.

6 Q And is this a fair and accurate photograph of your
7 graveyard and how it appears today?

8 A Yes, sir.

9 Q Aid you in illustrating your testimony about the
10 graveyard and the proximity of the subdivision?

11 A Yes, sir.

12 (Exhibit No. 49E identified.)

13 Q All right. I want to show you what I've marked as
14 Exhibit Number, should be 49E, and ask you to examine that.

15 A Yes, sir. That's a picture of our play -- of our
16 playground.

17 Q Okay. And would this -- is this a fair and accurate
18 representation of the playground you have there?

19 A Yes, sir.

20 Q Aid you in illustrating your testimony to the
21 commissioners about how your property appears there?

22 A Yes, sir.

23 Q All right. And -- and it's fair and accurate,
24 represents what it looks like?

25 A Yes, sir.

1 (Exhibit No. 49B identified.)

2 Q All right. I want to show you here what's marked as
3 49B and ask you to examine that.

4 A That's a picture of the basketball court.

5 Q All right. And what is -- is this a fair and
6 accurate representation of the basketball court?

7 A Yes, sir.

8 Q Would it aid you in illustrating your testimony to
9 the commissioners about the basketball court that you have
10 and its proximity to the subdivision?

11 A Yes, sir.

12 Q All right. Where is the subdivision in relation to
13 the basketball court?

14 A The subdivision would be -- it -- directly behind
15 the basketball court.

16 Q All right. And -- all right. So that this one will
17 aid you in illustrating your testimony about that?

18 A Yes, sir.

19 (Exhibit No. 49D identified.)

20 Q I want to show you Exhibit 49D and ask you to
21 examine that.

22 A That looks like turning into the bottom parking lot.

23 Q All right. And would this aid you in illustrating
24 your testimony of the view of your -- from your driveway
25 towards Henderson Road?

1 A Yes.

2 Q Fair and accurate representation of how it appears?

3 A Yes, sir.

4 Q All right. All right.

5 MR. PARKER: I would move to introduce Exhibit
6 Number 49, 49A, 49B, 49C, 49D, E and F, and ask they be
7 published.

8 (Exhibits No. 49-49F offered.)

9 MS. LELAND: Did you object? I didn't hear.

10 MR. ROBINSON: Yeah, I just -- it's fine, but I
11 object to the relevance of those.

12 MS. LELAND: Okay.

13 BY MR. PARKER:

14 Q Now, Reverend Stinnett, where do you live?

15 A I live at 2385 Kelly Plantation Road, Carthage.

16 Q Is that Carthage?

17 A Uh-huh.

18 Q How often do you travel there?

19 A I travel to the church, I'll be there -- I travel
20 almost every day, and then I'll go back for lunch and then
21 I'll travel back to the church again. I'm usually there at
22 least two times a day.

23 Q Okay. And when you travel there do you ever see
24 tractors on that road?

25 A Yes.

1 Q How often?

2 A Quite often. I left church two Wednesday nights ago
3 about 10:00 o'clock there was a tractor going up the road
4 that had half the road blocked off with big ol' disc behind
5 it.

6 Q And how far did he -- how far did he travel?

7 A I followed him probably about three-quarter, half a
8 mile before he turned off.

9 Q All right. And you're familiar with this
10 subdivision that's been displayed back here?

11 A Yes, sir.

12 Q Do you have -- tell me about how you feel it would
13 fit into that community.

14 A My view is just -- it's just out of place.

15 Q Why?

16 A We're a community of basic housing that's, you know,
17 really nothing elaborate in our area, and these houses look
18 quite different from what's in our area. And then you have
19 also behind the fence, you know, they going to have -- most
20 of them going to have fences around them, and it just bothers
21 me.

22 Q Okay. All right.

23 MR. PARKER: That's all the questions I have for him
24 at this time.

25 MR. ROBINSON: I don't have any questions of

1 Reverend Stinnett.

2 MS. LELAND: Thank you.

3 MR. PARKER: Ready?

4 MS. LELAND: Uh-huh.

5 MR. PARKER: We call Ernie Legg to the stand.

6 ERNEST LEGG,

7 being first duly sworn, testified as follows on DIRECT

8 EXAMINATION BY MR. PARKER:

9 Q All right. Sir, would you state your name and
10 address for the commissioners?

11 A Earnest Legg. It's 245 Craven Lane, Carthage.

12 Q And where do you -- and Mr. Legg, where do you --
13 where do you work?

14 A I'm self-employed.

15 Q And what do you do?

16 A Move heavy equipment, and dig footings, and clear
17 lots, and stuff like that.

18 Q Okay. All right. Now, do you live on -- now, where
19 do you live in relation to Halls Memorial Church?

20 A I actually live right across the street. It's right
21 at the corner of the Henderson exit, right -- it would be
22 right across the street from the emergency exit of the
23 subdivision.

24 Q Okay. All right. Now, Mr. Legg, I want to ask you
25 a couple questions here, if I can find my notes.

1 All right. You live -- now, tell me about your
2 property, Mr. Legg. How long have you lived there?

3 A I've lived there since 2002.

4 Q Okay. And your kids, do they -- do you have kids?

5 A Yeah, I have four kids.

6 Q And where do they go to school?

7 A They're homeschooled.

8 Q All right. Where do you go to church?

9 A At Halls Memorial.

10 Q All right. Now, describe your home for me.

11 A Well, we live on approximately seven acres. It's a
12 double wide, added onto it. I got two garages. I got a
13 pond.

14 Q Okay. And how many acres do you have?

15 A Approximately seven. It's like six point, I think
16 6.86, or something like that.

17 Q All right.

18 A Close to seven.

19 Q You say yours is a double wide. Is it on a -- does
20 it have a crawl space or a foundation?

21 A It has a foundation, yeah.

22 Q All right. Now, do you have a -- do you have well
23 water or county water?

24 A I have a well.

25 Q And how deep is your well, if you know?

1 A One of them's -- actually I have two. So one's a
2 shallow well, it's an 80 feet, and the other one's into the
3 rocks, it's about 286 feet.

4 Q Okay. And, now, where is your nearest neighbor?

5 A My nearest neighbor would be Mr. Eddie across the
6 street, probably, I think he's right at probably 300 feet, I
7 would say, three, 400 feet.

8 Q Now, do you have other houses near you there?

9 A Well, I have my other house beside me that my son
10 lives in.

11 Q Okay. And can you tell me how far his house is from
12 you?

13 A I would say probably 75, maybe 80 feet.

14 Q Okay. And what kind of house is it?

15 A It's a single wide.

16 Q Okay. Now, do you have any agricultural activities
17 there that you do on your property?

18 A Yeah, we have some ducks that I wish we'd get rid
19 of, but -- but I got some ducks and geese, and we have
20 chickens when the foxes don't kill them.

21 Q Okay. And do you have -- how about rabbits? Do you
22 do any rabbits -- do you have any rabbits?

23 A Yeah, we have rabbits occasionally when they don't
24 get loose.

25 Q All right. How about -- and do you have a garden?

1 A Yeah, we have a -- we don't have one this year. We
2 didn't get a chance to do it but most of the time we have a
3 normal sized garden. It's -- we just got busy this year.

4 Q That's all right. Do you have any other crops on
5 your place?

6 A We have fruit trees and just random trees that we've
7 planted.

8 Q Okay. And now, do you remember -- are you
9 prohibited there -- are you -- do you have an HOA or anything
10 there that prohibits you from doing any of those activities?

11 A No, sir. No, sir.

12 Q All right. And do you lease your land?

13 A No, I own it.

14 Q Okay. All right. Now, why did you choose to live
15 there?

16 A Well, for one, I didn't want -- I didn't want to
17 live in a city. I'm not a city guy.

18 Q Okay.

19 A And I like the country. I like to be where, you
20 know, I can go out in the yard and do what I want to do.

21 Q Okay.

22 A I don't want to be seen. I don't want, you know,
23 everybody to see me every -- you know.

24 Q Right. Now, let me ask you this. Are you familiar
25 with the subdivision?

1 A Oh, yeah.

2 Q All right. Now, can you tell me how you feel this
3 subdivision would fit in with that community?

4 A Well, I mean, I just don't think -- I just don't
5 believe it's going to fit in our community where we're at. I
6 mean, it's -- you come out and it's going to be open field
7 with houses, 53 houses that's trying to put on, you know,
8 what, 28 acres or something all together. It's -- but I just
9 don't think it's going -- it's going to be an eyesore to the
10 community. I mean, it's -- personally if I wanted to live in
11 a city I would move to Fayetteville or I'd have moved to
12 Raleigh.

13 Q All right.

14 A I just -- I don't want to live in a city, and I
15 don't want to feel like I'm living in a city.

16 Q Okay. Now, let me ask you this. When -- would --
17 when you are -- would you be able to find your home on
18 that -- on that exhibit up there?

19 A Yeah.

20 Q Okay.

21 MR. PARKER: May I approach?

22 THE WITNESS: (Indiscernible.) So they ain't got my
23 little house on here, so -- but it would be -- this is the
24 neighbors across the street right here, but mine would be
25 right up in these lines.

1 BY MR. PARKER:

2 Q Okay. Write your -- would you write your name with
3 that brown pen up there?

4 All right. Would you recognize a photograph of your
5 home?

6 A Oh, yeah.

7 (Exhibit No. 16 identified.)

8 Q I want to show you what I marked here as Exhibit 16,
9 ask you to examine it, tell me if you can identify it.

10 A Yeah, that's my house.

11 Q Okay. And I'd ask if that's your house, could you
12 write your name on it with that brown pen?

13 A Yes, sir. Sorry about the chicken scratch.

14 Q No, that's fine. All right. Now, do you -- in your
15 landscaping business do you have heavy equipment?

16 A I do.

17 Q What kind of equipment do you have?

18 A I have a about 19,000 -- little over 19,000-pound
19 excavator, and a 11,000-pound skid steer, and another
20 7,000-pound, about 7600 little excavator.

21 Q Okay. Now, when you -- do you keep -- do you -- do
22 you keep that property, that excavator and that property at
23 your house?

24 A Yes, when it ain't in use.

25 Q How do you move it?

1 A With a '06 Kenworth dump truck.

2 Q Okay. Now, when you come out can you tell me how
3 you get out on Union Church Road?

4 A Well, I come out of my driveway with my dump truck
5 and my trailer and hang a right and go all the way back
6 around to the other entrance of Henderson, and then let out
7 right there, where -- right across the street from where
8 they're trying to put in the main -- the main entrance to the
9 subdivision.

10 Q How long does it take you to get out of that road
11 right there with your excavator?

12 A Oh, man, if I hit it -- if I hit the school --
13 school traffic, and just the normal traffic of the day, it
14 usually takes, I would say anywhere from seven to -- seven,
15 eight minutes. That's if I'm kicking it, like --

16 Q All right. Okay.

17 MR. PARKER: I'm going to move to introduce exhibit
18 16, which is a photo of his house.

19 (Exhibit No. 16 offered.)

20 Q Why don't you just turn left when you come out of
21 your driveway?

22 A It's dangerous right there, the curve right there,
23 and you can't see neither way. You come -- you go out that
24 road and you look to your left, and you can't see that way,
25 and here you got a sharp curve that you -- you just can't see

1 around it.

2 Q Okay.

3 A I mean, it's already dangerous enough coming down
4 the other side because when you pull out, before you even get
5 pulled out you better be looking in your mirror if you need
6 to run off the road to -- for somebody don't hit you in the
7 back.

8 Q Okay. All right. So let me -- all right. So let
9 me ask you this. You go to Halls Memorial Church?

10 A I do.

11 Q You attend there regularly?

12 A Yes, sir.

13 Q Okay. How's the music?

14 A Well, it's pretty loud.

15 Q All right. Okay. Did you have an occasion to go
16 outside and -- with a decibel meeter and listen to the music?

17 A Yeah, I did, actually I did.

18 Q Okay. And did you make note about that?

19 A I did.

20 Q Okay. Did you bring them with you?

21 A I do. Mr. Johns has -- John has them in his book.

22 Q Would you get them?

23 All right. So did you -- did you do a -- did you
24 use a decibel meter --

25 A I did.

1 Q -- on Sunday morning?

2 A I did.

3 Q Can you tell me what you recorded?

4 A Sunday morning inside the church was 112.4.

5 MR. ROBINSON: I am going to lodge an objection both
6 to the relevance of this to any one of the five findings, and
7 then I don't have any idea whether he's qualified.

8 MS. LELAND: Mr. Parker, what are you trying to
9 prove?

10 MR. PARKER: Well, I have to establish standing that
11 the church has an opportunity to oppose it. The standing for
12 the church is, is that they have sound issues. They have had
13 complaints from the community.

14 These people are talking about putting 53 houses in
15 behind them. Right now there's a voluntary ag district that
16 allows farms to put people on notice. There is no such thing
17 for a church. This church is going to have to contend with
18 people literally at their back door.

19 He has recorded the sound. The church is concerned,
20 they listed about six different areas that they're concerned
21 with, and he's actually tested to see what the sound is
22 whenever he's outside the church, and there, which would give
23 them standing to attest this because that is a definitely a
24 special damage they're going to have to contend with.
25 They'll either have to invest in soundproofing or they're

1 going to have to invest in a -- they'll either have to move
2 their services or change their worship services if it goes
3 in.

4 MS. LELAND: Again, legally I disagree. I don't
5 think that's standing at all. But proceed.

6 MR. PARKER: Thank you.

7 BY MR. PARKER:

8 Q So it was 112 inside?

9 A Point four.

10 Q Did you go outside?

11 A I did.

12 Q And what did you find outside?

13 A Right out at the graveyard it was 82.2.

14 Q All right.

15 A And then outside at the property line right behind
16 the graveyard right at the edge of the field it was 61.5.

17 Q Okay.

18 A And I went up to the outside a little bit farther up
19 the field it was 59.6.

20 Q Okay.

21 A And then I went up and stood up on our basketball
22 court and it was 50.3.

23 Q Okay. Now, did you do the Sunday night service?

24 A I also -- I did also.

25 Q All right. And what about outside there? Did you

1 actually test it based on these lots?

2 A I did. I -- actually I walked where I would think
3 that lots 24, 23 and 22 and 19 and 18 would be. I had
4 walked, and the lot 24 would have been, the reading was 60.1
5 with one song, and 56.9 with a different song. Some songs
6 are louder than others, and they get --

7 Q Okay.

8 A But, so, and lot 23 it was 51.2, and the other song
9 was 55.7. Then lot 22 is 49.9 and then 51.3. And I skipped
10 21 and 20 because it was woods right there. There's a little
11 piece of a woods you couldn't, you know, couldn't get in to
12 get any reading.

13 So I went up by the -- on the back side of the
14 basketball court of lot 19 and it was 51.2, and 52.7. And
15 then lot 18 beside it was 49.5, and 50.3.

16 Q Okay. Now, Mr. Legg, when you were there making
17 these -- these measurements, could you actually hear the
18 music?

19 A Oh, yeah.

20 Q All right. Could you understand the words?

21 A Every word.

22 Q I mean, so it was loud enough you could actually
23 have heard it outside where you were?

24 A Yeah, you could praise the Lord out there.

25 Q Okay. Now, did you also -- did you also do it on --

1 was that the only time you --

2 A No, sir, I didn't -- I didn't get a chance to do it
3 Tuesday night because I wasn't feeling too swell.

4 Q Uh-huh.

5 A But I did get back Wednesday night and I wrote the
6 date, the time. It was June 1st, 2022. It was at 7:35. And
7 I just done one song this night because I didn't want to miss
8 too much, you know. And so 24, lot 24 was 61.2; 23 was 55.1;
9 22 was 49.1; 19 was 55.7; 18 was 53.7. And inside that --
10 inside at that time it was 106.

11 Q Okay. All right. Now, would you be able to use
12 this pen to write those numbers on the lots that you've
13 tested on that night?

14 A Did you want me to tell you what I got that night?

15 Q Yeah, I do.

16 A 9:09, this was at 9:09 after -- after service, we
17 was having alter call. I don't do the prayer but I slipped
18 out. It was lot 24 was 60.2; 23 was 55.5; 22 was 50.5; 19
19 was 54.9; 18 was 53.8.

20 Q Okay. All right.

21 MR. PARKER: May I approach?

22 BY MR. PARKER:

23 Q Could you use the pen to write down what you got --
24 let's just go that night at 9:09 p.m. on June 1st.

25 A Uh-huh.

1 Q Write down on there what your decibel levels were,
2 where you were when you got them, if you could.

3 A On each lot?

4 Q Yeah, I mean, right here's your church?

5 A Yeah. (Indiscernible) Sunday night?

6 Q Yeah.

7 A All right.

8 Q The nine oh nine on Sunday night.

9 A Okay. (Indiscernible.) I skipped 20 and 21, so,
10 (indiscernible).

11 Q All right. So, and repeat what you just said. You
12 skipped what?

13 A I skipped the 20 and 21 because the trees was in the
14 way.

15 Q All right.

16 A Call them trees, bushes, whatever you want to call
17 them.

18 Q Now, you said you lived here your whole life?

19 A Yeah, I've lived here -- well, I'm 39. I moved here
20 when I was four and I missed probably two years. I've lived
21 on that road for rest of my life.

22 Q Okay. And can you -- what can you tell me a little
23 bit about Vass? Was Mr. Hipp's description of it accurate?

24 A Oh, yeah.

25 Q Okay.

1 A Yeah.

2 Q Do you know of any good shopping places there?

3 A Good shopping places? Now, no, I mean, Dollar
4 General is about the best you get.

5 Q Okay.

6 A Family Dollar sometime got better deals, but --

7 Q Okay. All right. All right. That's all.

8 MR. ROBINSON: Just real quickly.

9 CROSS-EXAMINATION OF ERNEST LEGG BY MR. ROBINSON:

10 Q I play the electric base at my church so I know what
11 you're talking about. You get going sometimes. I can
12 relate.

13 Mr. Legg, do you have any training or education in
14 the field of sound engineering?

15 A No, me.

16 Q Okay.

17 A I mean, it's just not hard to push a button and
18 figure out what -- how loud something is.

19 Q Okay.

20 MR. ROBINSON: That's all my questions. And I renew
21 my objection about the relevance and the competence of that
22 testimony. Thanks.

23 MR. DAEKE: It's nice that you asked that. I've
24 been thinking about this the whole time. Is there some way
25 maybe you could hum those numbers so we'll know how loud they

1 are?

2 THE WITNESS: No.

3 MR. DAEKE: Those numbers don't really mean anything
4 unless we know the volumes.

5 THE WITNESS: No.

6 MR. DAEKE: Okay. Thank you.

7 REDIRECT EXAMINATION OF ERNEST LEGG BY MR. PARKER:

8 Q Can you make a vocal sound as to how loud the
9 noise -- the music was out there in the --

10 MR. ROBINSON: I'm going to object to that. He's
11 already testified that he has no training or experience in
12 sound engineer. He's not competent --

13 THE WITNESS: Well, I mean, I mean -- you mean as a
14 vocal sound, this is a little bit louder, I mean, this would
15 be inside, you know, Jesus saved the world, you know, but --
16 and Jesus is alive.

17 BY MR. PARKER:

18 Q I think he's asking about what it would sound like
19 where you were outside, how loud was it?

20 A It would almost sound like a -- okay. I understand
21 what you're saying now.

22 So you ever heard a car come by playing the music
23 real loud in their car? That's what it sounds like outside
24 where I was standing. I'm sorry. I didn't understand your
25 question. So somebody comes by playing loud music, that's

1 what it --

2 MS. LELAND: Mr. Parker, are you about done with
3 this witness? I think we're ready for a break.

4 MR. PARKER: I am. I'm finished.

5 THE WITNESS: Thank you.

6 MR. PARKER: I will tell you that our next witness
7 has audiovisual stuff to play, so if you got an IT guy who
8 could help set up that, that might speed us up when we come
9 back from break.

10 MS. LELAND: Okay.

11 MR. PARKER: Okay?

12 CHAIRMAN QUIS: Please talk to Ms. Ensminger about
13 that. And we will a take seven or eight-minute break.

14 (Recess taken.)

15 CHAIRMAN QUIS: I want to be thoughtful of everyone,
16 so if you'd take your seats.

17 Mr. Parker, I'm not sure if you heard me, but we're
18 going to continue for about 45 minutes. You may have
19 witnesses that have traveled.

20 MR. PARKER: (Indiscernible). Sorry. Can I have
21 just a minute to speak to them to see if I need to have one
22 immediately put on to --

23 CHAIRMAN QUIS: Yes, sir.

24 MR. PARKER: -- take him out of order? I apologize
25 for that, but thank you for the advanced notice.

1 Can you -- thank you, Mr. Chairman. Nick's here.
2 If we can -- can we identify a date so that I can see if
3 they're available, and then that tells me who I need to go
4 with. And I -- well, Mr. Vest is gone. Do you want him
5 back?

6 CHAIRMAN QUIS: Yes. We can (indiscernible).

7 MR. PARKER: And doing a fine job. He got me right
8 in and out.

9 CHAIRMAN QUIS: Mr. Vest does many things well.
10 That's one of them. That's one of them.

11 Okay. We will -- I'm going to ask Ms. Leland if you
12 would look at the dates, or Ms. Williams, also, for
13 continuance.

14 MS. LELAND: Mr. Parker, how long do you anticipate
15 you need?

16 MR. PARKER: I said two weeks, but I've talked to
17 two traffic engineers, and the first one was interested and
18 could not be here, and he referenced the other one. I talked
19 to the other one, and then he called me like four days before
20 the event and said he could not come.

21 So it's apparently harder to schedule them than I
22 anticipated, so I would ask for, if it's possible, at least
23 three weeks. I probably prefer four, but I'll take three, if
24 I can find that, because I don't have them on speed dial, so
25 I can't call and ask them if they can be here.

1 MS. LELAND: How much longer do you think you're
2 going to take, three hours, four more hours?

3 MR. PARKER: Yeah, probably three to four. We're --
4 we're -- actually you're halfway through what I planned to do
5 right now.

6 MS. LELAND: Uh-huh.

7 MR. PARKER: And now that was without the first two
8 witnesses. Yeah, but these are the longer witnesses.
9 They're the experts and stuff. But I don't think it will
10 be -- I think we're moving along pretty well.

11 MS. LELAND: Okay. Do we meet the last week of
12 June?

13 (Indiscernible conversation regarding dates.)

14 MS. LELAND: All right. We have June 23rd that
15 you're meeting on for the budget adoption, which will be
16 short. That's three weeks. It's up to y'all.

17 CHAIRMAN QUIS: What about the meeting, the
18 budget -- 23rd of June. Is that a Thursday night or
19 Wednesday?

20 MR. DAEKE: That's a Thursday.

21 MS. LELAND: Thursday.

22 MS. GRAHAM: Is that going to give him three weeks?

23 CHAIRMAN QUIS: Yeah, that's exactly three weeks.
24 22nd --

25 MS. LELAND: 23rd of June, that's three weeks,

1 twenty-one days. What time frame, 5:00?

2 CHAIRMAN QUIS: Yeah, 5:00.

3 MS. LELAND: We're going to have the budget
4 adoption. We can do that early.

5 CHAIRMAN QUIS: 5:30?

6 MS. LELAND: 5:30 to start the whole thing or 5:00
7 o'clock for the budget adoption.

8 CHAIRMAN QUIS: To start this. We'll do the budget
9 adoption earlier.

10 MS. LELAND: At 5:00 -- 4:30?

11 CHAIRMAN QUIS: 4:30.

12 MS. LELAND: Well, we need -- we'll have to continue
13 the meeting to that date certain and time, so --

14 CHAIRMAN QUIS: I'm asking Mr. Parker if he --

15 MS. LELAND: Okay.

16 CHAIRMAN QUIS: -- 23rd of June gives you adequate
17 time?

18 MR. PARKER: (Indiscernible). I honestly do not see
19 how y'all stand these things. This would drive me crazy. I
20 have new admiration for your ability to operate the IT
21 equipment.

22 But, no, the 23rd is okay. Both of my experts, who
23 did drive a long way, are willing to be back then, so we --
24 you know, I'm good with that, and I appreciate the
25 opportunity to get a traffic engineer. So, and I appreciate

1 that opportunity and your indulgence.

2 CHAIRMAN QUIS: So we will not hear from these
3 witnesses tonight who traveled some distance?

4 MS. LELAND: He's going to do, what, 45 more
5 minutes?

6 CHAIRMAN QUIS: Yeah.

7 MR. PARKER: Okay.

8 CHAIRMAN QUIS: Forty-five, 50 minutes. We won't --
9 reasonable, but we did also want to have a time limit.

10 MS. GRAHAM: So are we going to continue to the
11 23rd? Again, in full transparency, I think the developer
12 Mr. Cadell and I have been invited to the same graduation
13 party. I'll be glad to stay home, Mr. Cadell, and you can
14 go, if that's going to be a problem. It's a -- it's his
15 nephew.

16 MR. PARKER: Will you promise not to dance with him?

17 MS. GRAHAM: I won't dance with him. I won't even
18 speak to him.

19 MR. PARKER: I don't care -- I don't care if you --
20 no, do not be rude to him. I don't care if you go to the
21 graduation party. I trust that you will, as we used to say,
22 hear the evidence, follow the law, and let the chips fall
23 where they may.

24 MS. GRAHAM: Yes, sir. Absolutely. Just want full
25 transparency.

1 MR. PARKER: Thank you. I appreciate that. What's
2 the date?

3 CHAIRMAN QUIS: 23rd of June. All right. We're
4 ready. Let's go.

5 MS. LELAND: And the meeting time will be at 4:30.

6 CHAIRMAN QUIS: For the --

7 MS. LELAND: Yeah.

8 CHAIRMAN QUIS: -- continuation of this, not the
9 budget approval. Budget approval will be earlier and we can
10 set that time at a later date.

11 MS. LELAND: Oh, okay. I didn't know if it was
12 going to be one whole special meeting. Okay.

13 MS. GRAHAM: So --

14 CHAIRMAN QUIS: We'll set that time at a later -- we
15 have plenty of time to set the --

16 MS. LELAND: I understand.

17 CHAIRMAN QUIS: -- hearing of the budget.

18 MS. LELAND: I understand. But my point is we have
19 to continue it to a date and time certain. Are you going to
20 have two meetings that day, or are you going to have one
21 meeting and just put them both on the agenda?

22 MS. GRAHAM: So tonight we will just continue this
23 one.

24 MS. LELAND: Yeah, but you got to do it to a date
25 and time certain.

1 MS. GRAHAM: Right.

2 MS. LELAND: And you already have a meeting on the
3 23rd. My question is, do you want to hear them both at the
4 same meeting, or are you going to have two meetings on the
5 23rd?

6 CHAIRMAN QUIS: Let's have one meeting, and this
7 continuance will begin at 5:00 p.m.

8 MS. LELAND: Okay. But we -- it -- I understand
9 that's what we'll earmark, but because the special meeting
10 has to start at a certain time, if you're going to hear the
11 budget, do the budget first, if that starts, for example, at
12 4:30, then the meeting will be at 4:30. It doesn't matter.

13 CHAIRMAN QUIS: Is that enough time? 4:30? Are you
14 sure? 4:00?

15 MR. PICERNO: Make it 4:00.

16 CHAIRMAN QUIS: Let's make it 4:00.

17 MS. LELAND: Okay. So the meeting technically will
18 begin at 4:00, however you're not going to hear this matter
19 until a lit bit later.

20 CHAIRMAN QUIS: Correct. 5:00.

21 MS. LELAND: Yeah. But for purposes of continuance
22 we have to say 4:00. That's the legality of it. Either that
23 or have two meetings.

24 MR. RITTER: Beginning to sounder like an auction
25 class to me.

1 CHAIRMAN QUIS: This microphone might drive you
2 crazy, but this drives me crazy.

3 MR. PARKER: Scheduling?

4 MS. LELAND: I hope he wasn't referring to me
5 personally.

6 MR. ROBINSON: No.

7 MS. LELAND: Kind of sounded like it.

8 MS. GRAHAM: So what time do these people need to
9 know to be here, 5:00 o'clock?

10 MS. LELAND: Just trying to keep you legally
11 straight.

12 MS. GRAHAM: 5:00 o'clock.

13 MS. LELAND: I might need it.

14 CHAIRMAN QUIS: Okay. The special meeting will
15 begin at 4:00 p.m. However, for you folks that are coming,
16 we hope, that portion of the meeting will begin at 5:00.

17 MR. ROBINSON: Okay.

18 CHAIRMAN QUIS: The 23rd of June. That's a
19 Thursday. And if you want to come early and hear about our
20 budget approval you're welcome to come. It affects all of
21 you, so we encourage all of you to come at 4:00.

22 Thank you. Okay. Let's proceed.

23 MR. PARKER: Yeah. I just wanted to make sure it
24 was in my phone. All right.

25 We call Carol Parker to the stand.

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CAROL PARKER,

being first duly sworn, testified as follows on DIRECT
EXAMINATION BY MR. PARKER:

Q Ma'am, would you state your name and occupation for
the commissioners, please?

A My name is Carol Parker, and I'm a farm owner.

Q Can you move back just a bit from the microphone?

A Sorry.

Q That --

A I'm used to yelling at him, so.

Q Yeah. All right. How are you kin to me?

A I'm your wife.

Q All right. I'm sorry. Okay. Now, ma'am, you --
can you tell me what type of -- where we -- where do you
live?

A I live at 272 Ring Road. I have a farm in that
corner. It's approximately 60 acres.

Q Okay. Can you describe that farm and that property
for the commissioners, please?

A Yes. It -- there's about 2,000 feet of road
frontage of Union Church Road that is hay fields. I have
60 acres. We have livestock. We've got fruit trees. We've
got blackberry bushes, herbs. We have a garden. So we have
the full -- we are a full operational farm. And then we also
lease adjoining land.

1 Q Okay. And what do you farm?

2 A We raise coastal Bermuda hay, and we also raise
3 livestock for farm to freezer beef.

4 Q Okay. And how long have you lived there?

5 A Thirty years.

6 Q Do you know how long that farm has been in the
7 Parker family?

8 A Ninety-six years.

9 Q And do you -- do you -- can you describe your home?

10 A Yes. I have a two-story over a full basement with a
11 nice screen porch overlooking my pond and my hay fields.

12 Q Do you have a well or a septic -- well or county
13 water?

14 A I have a well.

15 Q And do you know how deep your well is?

16 A Yes, it's 286 feet.

17 Q Okay. And do you know what type of -- you mentioned
18 this, agricultural activities. What do you engage in at the
19 farm?

20 A Well, we -- we do farm to freezer beef, which we
21 raise the cows and then we take and slaughter NCDA, USDA
22 inspected.

23 But we also offer educational classes in --
24 especially for homeschoolers and new farmers, because we -- I
25 have an undergraduate degree in biology. I taught at NC

1 State, and I taught quite a few homeschool courses through
2 the years. My son is sitting there. He's a triple
3 valedictorian. And I have -- so I have a strong background
4 in agriculture, and I have a good understanding of soil
5 science and basically environmental science.

6 Q I will state for the record my son takes after his
7 mother.

8 All right. So, now, ma'am, you said you also have
9 graduate -- graduate work.

10 A I do. I have a master's degree from NC State in the
11 public administration department. I have a background in
12 historic preservation and townscape and landscape design.

13 Q Okay. And now, ma'am, you have -- when you were
14 in -- doing public administration work, where did you work?

15 A I worked for the DOT.

16 Q What did you do?

17 A I worked for David King, who was over public
18 transportation division in the highway building downtown in
19 Raleigh.

20 Q And when you got the Kimley-Horn research, the
21 report, you reviewed it; is that right?

22 A I did.

23 Q Did you also research the daily traffic numbers?

24 A I did.

25 Q Can you state whether or not you were the one who

1 found Jamie Viera?

2 A I did.

3 Q How long did it take you to find her?

4 A About five minutes.

5 Q Okay. To get that data?

6 A Yes.

7 Q Okay. All right. Now, tell me something about the
8 farm there. You said that you do beef?

9 A Yes.

10 Q You do hay?

11 A Yes.

12 Q All right. And you said -- I'm interested in the --
13 the classes, the teaching, the visiting. They call that
14 agritourism. Can you talk about the effect of that on our
15 farm?

16 A Well, we are members of the Agritourism Networking
17 Association, which is a state-wide association. We're also
18 members of the Got To Be NC Goodness Grows in North Carolina.
19 So we are strong in advertising, bringing people into the
20 community, bringing people in for the purpose of enjoying
21 agricultural pursuits.

22 So for us we do the teaching, but we also do farm
23 tours. So both Michael, Matthew, myself, we all do farm
24 tours on a regular basis.

25 We also have a lot of clients that come in just for

1 the purpose of -- they'll first come in and actually want to
2 see the farm. But after they come in and they see how we
3 raise our cows, how we work those cows and work with them,
4 they want our beef because our beef is naturally raised. We
5 don't claim to be organic, but we are naturally raised. They
6 know that they're grown on hay fields and green grass, and
7 they're cared for. And so people want to know the
8 sustainability of a food supply, so they want that, that
9 guarantee.

10 Q Okay. All right. And did you -- did -- now,
11 your -- the hay fields you're talking about, how far is -- is
12 our farm from this subdivision?

13 A It's, from the corner it's about three quarters of a
14 mile.

15 Q Okay. Now, can you tell me when we -- where do we
16 go for farm supplies?

17 A We go -- well, we have several places we go to. We
18 go to Carthage to Carthage Farm Supply. We go to Tractor
19 Supply. We go to Lowes. We go to Garner to Agrisupply. We
20 go to Lumberton to Agrisupply.

21 Q When you go to the farm supply here in Carthage, how
22 do we go to get there?

23 A We go up Union Church Road.

24 Q And what do you pass on the way?

25 A We pass three schools.

1 Q What are those schools?

2 A There's Union Pines on the right, then you pass New
3 Covenant on the left, and then you pass New Century on the
4 right.

5 Q Okay. And if you go to Tractor Supply, which way do
6 you go?

7 A Tractor Supply we go Union Church Road to Vass.

8 Q And do you pass any schools there?

9 A We do. We pass Crain's Creek on the left.

10 Q Okay. Now, do you -- how far is the -- the hay
11 fields that we have, what is the -- do you know how much road
12 frontage you have of those?

13 A On Union Church Road we have about 2,000 feet of it.

14 Q Okay. And on Ring Road, if you know?

15 A And down -- yes, and Ring Road, probably about the
16 same amount.

17 Q Okay. All right. Now, do we -- what do we do on
18 those hay fields near the road?

19 A Well, you mean as far as tending them?

20 Q Yes.

21 A Well, we're -- we have a lot of problems with it
22 right now that we never had before. Everybody knows what it
23 is to have trash down the side of the roads, people pitch a
24 styrofoam cup or a can, but it's gotten to where it's really
25 a problem.

1 And we just baled hay this last weekend, and we will
2 typically get four cuttings in on multiple fields, and we
3 spent -- I spent, I spent hours riding on a John Deere gator
4 with a bucket and gloves picking up trash out of my hay
5 fields, because when the grass is growing up, it's -- it's
6 knee deep, and so you can't drive into the field because you
7 damage the hay, and we can't find the trash, so we can only
8 pick up on the side of the road.

9 Once the hay is cut we have to go into that field
10 and pick up all the debris because the horses and the cows
11 can consume it, and it will kill them, and then we're liable
12 for somebody's horse dying.

13 Q So does the trash have a -- does it have a -- cause
14 a pecuniary loss at your -- on the farm?

15 A Well, if I lost an animal to it, it's probably about
16 a four to \$6,000 loss.

17 If it's a matter of being out there working, I have
18 to -- I had to pay one worker and me, and we rode the fields.
19 I rode the fields for two hours, and he rode the fields for
20 another two hours up and down the rows to pick out trash.

21 Q Did you -- did -- how far back from the road did you
22 find the trash?

23 A I found trash about 800 feet back because it was in
24 my second hay field. It had actually blown to the back side
25 of my second hay field, so it was scattered across about six

1 acres.

2 Q Okay. Now, do you also -- now, did you -- when you
3 picked it up, did you take any -- did you bring it with you?

4 A I did.

5 Q You have it with you today?

6 A I do.

7 Q Okay. May I approach the witness?

8 MR. PARKER: (Indiscernible.)

9 BY MR. PARKER:

10 Q All right. So let me ask you this. You collected
11 the trash out of the field?

12 A Right.

13 Q Did you take any photographs of it?

14 A Yes.

15 Q Do you have that?

16 A He's got them on visuals. Zoom it in. Okay. Go to
17 the next -- yes. Is that the right one? Oh. One more.
18 (Indiscernible.) Okay.

19 Q I was about to thank the county because that was
20 really cool, and then I realized that's my other son doing
21 it. So that -- you're doing good.

22 MR. ROBINSON: I don't know what that is. Oh, maybe
23 25.

24 (Exhibits No. 25A-25D identified.)

25

1 BY MR. PARKER:

2 Q I want to show you what I've marked as Exhibit 25A,
3 B, C and D, and ask you to examine that and tell me if you
4 can identify it.

5 A Yes. They're assorted pieces of plastic debris.
6 There's one here, two pieces that are actually paper trash,
7 but these are plastic debris, and it's the plastic debris
8 that's so dangerous because it will clog their wind pipes and
9 also cause intestinal damage.

10 (Exhibit No. 25 identified.)

11 Q Okay. I want to show you here, and I'm going to
12 mark as state's Exhibit Number 25 and ask you to examine that
13 and tell me if you can identify it.

14 A It's the debris I picked up out of the field.

15 Q Is it -- and have you added to it or altered it or
16 changed it in anyway?

17 A No. No.

18 Q Okay. I would -- and is it in the same condition
19 now as it was when you picked it up and put it in the trash
20 can?

21 A Yes, it is.

22 Q You haven't altered it or changed it in any way?

23 A No.

24 Q All right.

25 MR. PARKER: I'd move to introduce state's Exhibit

1 Number 25, a bag of trash.

2 (Exhibit No. 25 offered.)

3 MR. ROBINSON: I object as absolutely irrelevant.

4 MR. PARKER: Actually it's not, because if you're
5 trying to establish standing when you're three quarters of a
6 mile away, litter is a proper one to do it, particularly when
7 it costs you pecuniary gain.

8 MR. ROBINSON: You have not established the
9 provenance of that garbage. We have no idea where it came
10 from, who it came from, what kind of house they live in, how
11 far they lived from this property. I'm intrigued, but this
12 is completely irrelevant evidence. It's of no utility to the
13 board.

14 MS. LELAND: I agree, but proceed.

15 CHAIRMAN QUIS: In the interest of time.

16 MS. LELAND: Preserve the record.

17 CHAIRMAN QUIS: We've heard -- pardon?

18 MS. LELAND: Oh, I'm sorry, I was just finishing my
19 statement.

20 CHAIRMAN QUIS: Okay. Thank you. We have heard
21 from you, Mr. Parker and Mrs. Parker. We've heard your
22 objection. You have the trash in the bag. That will be the
23 evidence. It's not necessary to dump it here for people to
24 see and take more time. So, please, introduce the bag with
25 the trash as evidence. Thank you.

1 MR. PARKER: I will. Thank you. And I'll also move
2 to introduce state's 25A, B, C, and D.

3 (Exhibits No. 25A-25D offered.)

4 MR. DAEKE: Can you prove -- can you prove you got
5 that trash from the area you're talking about?

6 MR. PARKER: Can I prove I got it from the area I'm
7 talking about?

8 MR. DAEKE: Yes.

9 MR. PARKER: Yes, sir, I can.

10 MR. DAEKE: All right. Please do so.

11 MR. PARKER: Okay.

12 (Exhibit No. 68 identified.)

13 BY MR. PARKER:

14 Q All right. Ma'am, I'm going to show you what has
15 been marked as Exhibit Number 68 and ask you to examine that
16 and tell me if you can identify it.

17 A Yes, it's a voluntary ag district map.

18 Q And can you use this map to find Union Church Road?

19 A Yes.

20 Q Okay. And is that mark -- what color is that marked
21 in?

22 A It's in red.

23 Q And can you show us, please, can you use this map to
24 identify Terrace Ridge Farm?

25 A Yes.

1 Q You're marking here? Okay.

2 A Yes. This area and across the road from Ring Road,
3 this is my voluntary ag district, my farm.

4 Q Okay. All right. And using this pen, could you
5 mark for -- now, we also have it up on the -- here on
6 television. Can you --

7 A Do you want me to just walk over and show it?

8 Q Well, I do, yeah, but can you blow that up a little
9 bit?

10 Okay. Using the diagram up here on the screen --
11 now, you're probably going to have to stand up here because
12 they can't see this. Can you point to us where the farm is?
13 Okay.

14 A That is part (indiscernible) here, here, and that
15 corner over there.

16 Q Okay. All right. Now, where are the hay fields you
17 referred to?

18 A Hay field, hay field, all this, all of this, this,
19 and we actually lease this.

20 Q Okay. All right. Now, who owns that that you just
21 pointed to?

22 A (Indiscernible.) My son Matthew Parker.

23 Q Okay. Now, where did we bale hay this week?

24 A We baled this whole area, 12 acres. We did this
25 field all the way here (indiscernible) to right here, all the

1 way down and we did this field.

2 Q Okay.

3 A We did all of this (indiscernible).

4 Q Okay. Now, where did you find -- where you did
5 find -- where did you look for trash at?

6 A We rode this field, this field, and this field.

7 Q Where did you find the trash in the bag?

8 A The trash was located all in here. Found a little
9 bit back here. I found quite a bit back here. I found a lot
10 along the road here. Here, some, but here is the -- this was
11 horrible all in here.

12 Q Okay. And it was -- how close was it to Union
13 Church Road?

14 A The fields just start maybe 15 feet back.

15 Q He scares you.

16 A About 15 feet, I mean, there's a right-of-way there
17 that we don't do anything with, but then we -- we
18 (indiscernible).

19 Q Okay. All right. You can come back.

20 MR. PARKER: Does she need to repeat that on the --
21 this?

22 MR. DAEKE: No, she doesn't. That's not proof to
23 me. But continue.

24 MR. PARKER: The fact that she picked it up herself
25 and put it in a bag is not proof?

1 MR. DAEKE: Picked it up herself, put it in a bag,
2 but she can't prove it from what you've got there, okay? I'm
3 not -- I don't disbelieve what you're saying, but that's not
4 proof. I don't see how it could be used.

5 MR. PARKER: Other than having a witness who
6 actually did it, picked it up, removed it from the fields
7 along the side of the road, I can't prove that it came from
8 my farm, other than the fact that it came from my farm by a
9 witness. I have moved to introduce it. I -- I request that
10 it be accepted, and I would con -- argue and contend that it
11 is sufficient proof to show that it is a pecuniary problem to
12 her -- us.

13 MS. LELAND: I think Chair Quis had previously said
14 that you could submit it to -- into evidence, so I don't
15 think anybody's agreeing that it's a special damage, but --
16 at least I'm not -- but that's for maybe an argument another
17 day in another court.

18 MR. PARKER: Thank you. All right. If I could have
19 just a moment? Okay.

20 BY MR. PARKER:

21 Q All right. Now, Ms. Parker, going back here, when
22 we travel to Carthage through the Union Pines and the high
23 school area, can you state -- well, let me ask you this.
24 Have you seen tractors on the highway there?

25 A Yes.

1 Q Particularly have we -- have you seen our tractors?

2 A Yes.

3 Q All right. Where do we take them?

4 A Well, we take -- on Union Church Road we manage hay
5 fields that have been along Union Church Road at Mama's
6 Kitchen, the old Mama's Kitchen. We had to quit using that
7 route into there as much because it was dangerous getting out
8 because of the schools, so we dropped that field because we
9 could not get out at Crain's Creek.

10 We still go over to Lake Bay Road and bale hay
11 there.

12 Q Okay. Now, did you also have -- you have identified
13 where our farm is on this map, on Number 68. Have you --
14 now, you would -- would you recognize some photos of the farm
15 to illustrate your testimony about agritourism and such
16 there?

17 A Yes.

18 Q Okay.

19 MR. PARKER: May I approach the witness?

20 BY MR. PARKER:

21 Q I don't want to show -- I want to show you here what
22 I marked as Exhibit Number 3 previously shown to the traffic
23 engineer, ask you to examine that and tell me if you can
24 identify it.

25 A Yes. It's a diesel three-quarter ton truck with

1 the, what we call the cotton ginny hook behind. It's
2 actually a trailer that we haul cotton seed on.

3 Q Okay. And is this one of the vehicles that we use
4 when we travel to and from Carthage in Vass past those
5 schools?

6 A Yes, it is.

7 Q Okay. And is it a fair and accurate representation
8 of how it appears?

9 A Yes.

10 Q All right. Showing you now what is marked as
11 Exhibit 4, ask you to examine that.

12 A It's the same pickup truck, three-quarter ton diesel
13 with a 20-foot cattle trailer attached to it with a -- oh, I
14 can't think. I'm sorry. I'm going brain dead. With --
15 hitched to the bed. Sorry.

16 Q All right. And is this one of the vehicles we --
17 what do we use this vehicle for?

18 A We haul our cows when we bring them in, and we haul
19 them when we're taking them to the butcher.

20 Q Okay. All right. And I want to show you Exhibit
21 Number 5, ask you to examine that.

22 A It's a hay sprigger.

23 Q Okay. And do you know how many -- and how is that
24 moved from field -- what do you -- what do you do with a hay
25 sprigger?

1 A You pull it by tractor, and then it actually plants
2 the hay in fields that have -- the hay's been pulled up out
3 of the field and so it would be in strips, so it literally
4 pulls up plugs of grass and then it's planted by the
5 sprigger.

6 Q Okay. And does this have brakes or lights?

7 A No, it does not.

8 Q And how is it moved from field to field?

9 A It's pulled.

10 Q Okay.

11 A By tractor.

12 Q All right. I want to show you Exhibit 6 and 7, ask
13 you to examine that.

14 A It's same -- same pickup truck with a fertilizer
15 hopper on the back of it, and that looks like Southern States
16 building.

17 Q Okay. All right. And is that this -- do we use
18 this on our farm?

19 A We use it a lot.

20 Q How do -- where do we get it from?

21 A We get it from Carthage Farm Supply.

22 Q And does it travel -- which way -- how does it go
23 back to the farm?

24 A It comes from Carthage down Union Church Road, our
25 farm.

1 Q All right. Exhibit Number 7, ask you to examine
2 that, tell me if you can tell me what it is.

3 A It's the same fertilizer spreader or hopper.

4 Q Okay. And does this have any lights on it?

5 A No.

6 Q Okay. All right. And this is the one we use to go
7 back and forth through the high schools?

8 A Yes.

9 (Exhibits No. 47 and 48 identified.)

10 Q Okay. All right. And showing you now Exhibit
11 Number 47. What is -- what is 47 and 48?

12 A Forty-seven is a lot of cars in my barn yard where
13 we were doing a class, we were doing a farm tour, and then 48
14 is actually the family we were doing the farm tour with at
15 the time, one part of it.

16 Q Okay. And is this a fair and accurate
17 representation of some of the agritourism we do on the farm?

18 A Yes, it is.

19 Q Okay. Aid you in illustrating your testimony about
20 what we do and how people come to the farm?

21 A I'm sorry repeat that.

22 Q Aid you in illustrating your testimony about what we
23 do and how people come to the farm?

24 A Yes.

25 Q Okay. All right.

1 MR. PARKER: State moves to introduce -- state. We
2 move to introduce Exhibits 3, 4, 5, 6, and 7 and 47 and 48.

3 (Exhibits No. 3-7, and 47 and 48 offered.)

4 MR. ROBINSON: Again I object to relevance.

5 MR. RITTER: Excuse me. Do you folks have a chicken
6 manure spreader?

7 MR. PARKER: No, sir.

8 MR. RITTER: Well, you need one 'cuz you got a lot
9 of stuff, all that land, you need something to pull that
10 around.

11 MR. PARKER: Well, we -- we do not use chicken
12 manure. We use commercial fertilizer because most of our
13 people won't --

14 MR. RITTER: Oh, I see.

15 MR. PARKER: -- do not want the feathers and the
16 bones in their horse hay. It's high quality hay. That's why
17 the trash kills us whenever it goes in there. But it's a
18 great idea.

19 MR. RITTER: Everybody loves pork chops and all that
20 stuff but don't want no feathers with it.

21 MR. PARKER: Yeah, they don't want feathers.

22 MR. RITTER: Oh, okay.

23 MR. PARKER: So you know your hay. I appreciate
24 that. Thank you.

25 MR. RITTER: Sorry to waste any of your time, but

1 you've used a bunch of ours.

2 CHAIRMAN QUIS: Okay. Mr. Picerno --

3 MR. PICERNO: Yeah, I have a question for you. You
4 say you have these -- you bring people in and show them your
5 farm?

6 THE WITNESS: Right.

7 MR. PICERNO: And how many people show up for these
8 events?

9 THE WITNESS: Typically -- well, it depends on what
10 type of event it is. If we're doing it family by family,
11 usually it's, I don't know, it depends on the number of
12 children, but typically it's about four children and the
13 parents.

14 MR. PICERNO: So it's not like you bring in hundreds
15 of people at a time?

16 THE WITNESS: Sometimes we bring in 20 or 30 at a
17 time. We don't do more than that, no.

18 MR. PICERNO: So I'm just trying to figure out,
19 having a problem with trash, but you're bringing crowds of
20 people in, I -- I'm having a hard time understanding why
21 you're assuming that these people that are coming in are
22 not -- they don't -- you don't think any of the trash may be
23 coming from these events?

24 THE WITNESS: The people that come to our farm care
25 about agriculture. It's a different kind of people. They

1 want to come in and they want to be part of the land and they
2 want to learn about it, and part of what we do is teach them
3 sustainable agriculture. So we're trying to teach them
4 proper techniques in agriculture.

5 And so we don't have people throw down trash on our
6 farm. It's not that way. What we're getting is wind blown
7 trash that is bits and pieces and cans and tire debris and
8 all kinds of assorted things that are blowing off the road.

9 MR. PICERNO: Okay. So you just assume there's no
10 trash coming from these people whatsoever?

11 THE WITNESS: I can't claim that, no.

12 MR. PICERNO: Okay. Thanks.

13 BY MR. PARKER:

14 Q All right. Did you have occasion to -- to do aerial
15 drawn footage of our farm to show the location of it --

16 A I did.

17 Q -- and how it appears and the community?

18 A I did.

19 Q All right. Did you bring that with you tonight?

20 A I did.

21 Q And is it set up over here?

22 A Yes.

23 (Exhibit No. 26 identified.)

24 Q Okay. Or set up over there? All right. And I want
25 to ask, this would be labeled as -- it's a flash drive. It

1 would be labeled as Item Number 26, a video of the drawing.

2 Can you tell us what this is, please?

3 A Okay. It started out in my front hay field. It's
4 actually panning across to a 242-acre farm across from us
5 that we manage. That's a truffle farm. And you can see the
6 lakes. You can see Ring Road. The road to the left is the
7 road into my barns. Those are all my barns, or at least part
8 of my barns right there.

9 That's a front hay field that was sprigged a couple
10 of years ago, and we're managing it to bring in the best hay.
11 But you can see the established hay fields in the background.
12 And that's Union Church Road in the background. And you can
13 see another farm in the far background. And all of that
14 is -- all of it is actually farmed land.

15 And see you can see across the hay fields that we
16 actually cut. We did not cut the one that you see the
17 stripes out of. That one is coming up this coming week.
18 That's where a hay sprigger would run through the field.
19 We've actually taken plugs out of that field.

20 The field in the background is also farmed. They
21 just plowed it up, and somebody told me they were putting
22 sweet potatoes. I don't know.

23 And then you're back to the same location we
24 started.

25 Q All right. Thank you. The other aerial photos that

1 I have, aerial videos are of the school showing the traffic
2 situation since we have fought over traffic.

3 MR. PARKER: I'm going to ask if I may suspend her
4 at this time until I get the traffic engineer to make those
5 relevant, and I can call another witness if we can just,
6 like, pause her and let me get to the next one?

7 MS. LELAND: Okay.

8 MR. PARKER: All right? Thank you. That way I'll
9 move the time along a little bit. Thank you.

10 State -- state -- would call Lee Rankin to the
11 stand.

12 THE WITNESS: Hello.

13 LEE RANKIN,

14 being first duly sworn, testified as follows on DIRECT

15 EXAMINATION BY MR. PARKER:

16 Q Ma'am, would you state your name and occupation for
17 the commissioners, please?

18 A Yes. Lee Rankin, and I am a farmer.

19 Q Okay. And how long have you been a farmer, Lee?

20 A I've been raising and farming since 2003.

21 Q And where do you -- where is your farm located?

22 A I'm up in Watauga County, Banner Elk area, up in the
23 mountains.

24 Q Okay. And what -- tell me about your farm. What do
25 you do?

1 A So we raise alpacas. We also have llamas. We have
2 angora goats. So we're considered a fiber farm.

3 We also have a couple of pigs, some cows, some
4 horses, some chickens. We sell eggs, and we have a very
5 established farm store where we sell alpaca yarn, yarn made
6 out of mohair from our animals and from other sources. We
7 sell beef and pork from a local farm. And we also do
8 agritourism. So we're in the agritourism business.

9 Q Okay. Now, tell me about your training. Have you
10 had special training to be a farmer?

11 A Yeah. I've been farming. That's my training.

12 Q All right.

13 A The learning curve is long.

14 Q Okay. So tell me about -- so tell me about your --
15 what you -- you've been a farmer you said for, I forgot how
16 many years?

17 A Almost 20 years.

18 Q Twenty years. All right. Now, are you also
19 involved in the agritourism business?

20 A Yes. I'm the president of the North Carolina
21 Agritourism Networking Association.

22 Q How long have you been president there?

23 A I'm in my third year.

24 Q Okay. And now, based upon that, can you describe
25 the benefit of agritourism to the economy of a community?

1 A Oh, yes. So agritourism is, first of all let me
2 just say what it is, the definition of it is.

3 So agritourism is the act of a bona fide farm
4 bringing people into the farm and doing agritourism
5 activities. So you have to be a bona fide farm first in
6 order to offer agritourism and have it be considered
7 agritourism.

8 And if I can just digress a little bit to
9 distinguish it from me buying a piece of land and maybe
10 putting a wedding barn on it, not farming the land, and then
11 using the agritourism laws to protect the farm. So it has to
12 be a bona fide farm first engaged in agritourism activities.

13 Q Okay. And is Terrace Ridge Farm a member of the
14 network?

15 A Yes.

16 Q Okay.

17 A Yes.

18 Q And do you -- now, you do -- how much business do
19 you do in agritourism in your farm?

20 A So last year -- well, let me just qualify it a
21 little bit.

22 So we are in the mountains. We are at the top of
23 the mountain and we're at the end of a gravel road. It's one
24 way. Last year we did 1670 individual guided walking tours
25 of our farm, and we figure that's around 14,000 people.

1 Q And do you charge for that?

2 A We do.

3 Q Okay. And how much do you charge?

4 A We charge \$15 for adults and \$7 for kids.

5 Q Now, do you have -- going to your farm, the people
6 who come there, what are they looking for when they come?

7 A They're looking for an experience. They're looking
8 to learn about farming. Often they're alpaca and llama
9 crazed, honestly, you know, they love alpacas and llamas.
10 They're very in right now.

11 So they're coming, it's often families, and it's
12 similar to this area in that it's a very touristy area.

13 So we're a small rural committee -- community, but
14 we also have lots of tourists, and so it becomes something
15 that they come to ski, and they have -- you can't ski six
16 days in a row, right, because it's so expensive, with a
17 family of five, so they're looking for other things to do, so
18 they come and tour the farm.

19 Q Okay. Now, do you have -- do you know what the
20 impact of agritourism is in -- in -- to agriculture?

21 A It's a very big impact, and it's actually been
22 really hard to quantify because they don't always -- I've
23 actually got some numbers on it, but they don't always split
24 out the numbers for agritourism well.

25 It's considered that in 2017, \$950 million came in

1 with agritourism. And I'm -- you guys probably know this
2 because this is a big farming community, agribusiness is a
3 \$95.9 billion Industry in North Carolina. It is the largest
4 industry in North Carolina. Second largest industry is
5 military, and third is tourism.

6 Q Okay.

7 A So you put agriculture and tourism together, so we
8 kind of cross a couple lines.

9 Q Now, do you have a problem with trash in your
10 community?

11 A You know what? I just leaned over to the girl next
12 to me, the woman next to me. So we had 14,000 people there
13 last year, and I can say since I have been doing agritourism
14 since 2006, I've picked up two pieces of trash on our road.

15 Q Okay.

16 A So.

17 Q So you picked that up in Watauga County, and you've
18 had how many people visit you?

19 A In -- probably 80,000.

20 Q And so is -- do you have -- why is trash a problem
21 to you in your --

22 A Oh, because horses, colic is one of the hardest
23 thing to get them through, and it usually is deadly. A horse
24 does not have the ability to regurgitate anything, so if it
25 goes in it's got to go all the way through. So a piece of

1 plastic, a piece of hay twine -- I mean, one of the things
2 that we work with the people that work with us who work on
3 the farm is you cannot leave hay twine anywhere because it
4 looks like hay. It's brown. It looks just like hay and hay
5 twine can kill a horse.

6 Q Okay. All right. So if -- so if you were to have
7 this type of problem on your farm, how big a concern -- a --
8 trash --

9 A It would be a huge concern. It would be a huge
10 concern. In fact, we -- so we do -- we're open year round
11 and we do lots of events, and one of the events that we do is
12 Christmas, and everybody's like, oh, let's do candy canes,
13 and I'm like, no, let's not do candy canes because candy
14 canes come in those little wrappers, right? So that's enough
15 to kill a horse.

16 Q Okay. All right. So, now, let me ask you this.
17 Based on your training, education, your experience for 20
18 years as a farmer --

19 A Uh-huh.

20 Q -- you've talked to your guests about their visits
21 to the farm?

22 A Uh-huh.

23 Q How -- what is the impact of a subdivision like
24 we've been describing here on your agritourism?

25 A It would have a huge impact. The people that come

1 to see us, part of the journey is the drive to our farm,
2 right? It's the beautiful views, the driving down the road,
3 the rural -- we have lots of people from Raleigh, lots of
4 people from Charlotte, from the bigger cities. And they
5 really like to get out, and though we live in that community,
6 I mean, you all live in that community, too, it's an anomaly
7 for people who are not from here.

8 And the statistics for the people in North Carolina is
9 that 97 to 98 percent of people in North Carolina do not have
10 a connection to farm, and so what we're providing is
11 education about a connection. And if somebody were to put
12 something like that on our road coming into our farm, it
13 would be a huge impact to us.

14 Q Okay. The subdivision --

15 MR. ROBINSON: I move -- I object to all of the --
16 all of this testimony. I object to --

17 MR. PARKER: Well --

18 MR. ROBINSON: -- completely immaterial.

19 MR. PARKER: I want to -- well, let me just do this.

20 BY MR. PARKER:

21 Q You've been a farmer for 20 years?

22 A Uh-huh.

23 Q You run a successful farm?

24 A Yes.

25 Q You also -- what type of -- have you engaged in

1 education for this?

2 A Education along the way, yes, absolutely.

3 Q You're the president for three years of --

4 A President for three years. I'm on the board of our
5 farm bureau locally. I'm involved at the state level with
6 their agritourism advisory committee.

7 Q All right.

8 MR. PARKER: And I would contend, I'd argue and
9 contend she is an expert in the field of agritourism. I'd
10 tender her to you for that purpose in order to establish the
11 concern about the traffic, I mean, about the trash and the --
12 and the impact of a subdivision on it.

13 So I tender her as an expert in the field of
14 agritourism.

15 MR. ROBINSON: I object to her being tendered as an
16 expert, not because she doesn't know about her field, but
17 because the field is completely irrelevant to the five
18 findings that are supposed to be the subject of this
19 proceeding.

20 MR. PARKER: The findings -- the issue of
21 agritourism goes to standing for Terrace Ridge Farm. Terrace
22 Ridge Farms, one of its income streams is agritourism.
23 Subdivisions detract from that. The subdivisions also create
24 the trash that we have to pick up on the road, and it -- and
25 it impacts our farm and our finances. It is special damages,

1 and we argue and contend it is highly relevant.

2 MR. ROBINSON: Actually, my -- my understanding of
3 the testimony is that Ms. Rankin testified that a subdivision
4 like this would have an impact on her farm located at the top
5 of a mountain on a one-way road. It has zero relevance to
6 this farm located in Chatham County -- I mean, in Moore
7 County, which itself is located in a different zoning
8 district all together from the property that is before the
9 board this evening.

10 This is -- it's not germane in any way.

11 MR. PARKER: I would like to ask her opinion once
12 she's qualified as an expert.

13 MS. LELAND: Mr. Parker, what are you trying to
14 qualify her as an expert as? We -- we agree that she
15 understands her -- the farming of, at least of what she
16 farms.

17 MR. PARKER: Yes. As an expert in the field of
18 agritourism and what attracts people, what people are able to
19 be attracted to, what affects it, the impact of it, for
20 example the trash and the other things.

21 She's the head -- the three-year president of the
22 North Carolina Agritourism Network. She -- she is versed in
23 it. She has her farm that does it. That is a major impact
24 in industry across the state that we participate in, and her
25 opinion as to the effect of subdivisions on that -- on the

1 lead up, she's already said the journey there is half the
2 bat -- is half the experience. And --

3 MS. LELAND: Are you trying to say -- establish
4 special damages on your own farm with this lady?

5 MR. PARKER: Yes, yes.

6 MS. LELAND: I mean, I agree that it's totally
7 irrelevant, but, again, I feel like we're going to be across
8 the street, so we'll preserve the record and you can proceed.

9 MR. PARKER: Thank you.

10 MR. ROBINSON: Well, I would then, to preserve the
11 record, I would move to strike the entirety of her testimony
12 as irrelevant.

13 MS. LELAND: Okay.

14 MR. PARKER: Okay.

15 BY MR. PARKER:

16 Q So, ma'am, with that being said, do you -- do you
17 teach any on agritourism?

18 A I do. I teach a one-day class called Agritourism
19 Works, and I also go out and speak about agritourism.

20 Q Do you consult with other farms?

21 A And I consult with other farms as well, yes.

22 Q Okay. And ma'am, do you -- now, you've seen this --
23 this area here?

24 A Uh-huh. And I've driven it. I drove it this
25 afternoon.

1 Q Yeah. Do you have an opinion as the effect of
2 subdivisions leading up to Terrace Ridge Farm? Do you know
3 where it is?

4 A Yes, and I have an opinion, and this is an opinion,
5 that it does not fit with the area around it. I can't
6 imagine seeing -- looks to me on the road that every house is
7 on about an acre at the least, and that there's lots of
8 agricultural land. The traffic is also an issue. I was like
9 passed going 55 by somebody going about 70 on that road this
10 afternoon.

11 MR. ROBINSON: Object.

12 THE WITNESS: So --

13 MS. LELAND: And I agree with that objection.

14 THE WITNESS: Okay. I'm sorry. He asked my
15 opinion.

16 So the -- but the other thing that I think is a
17 bigger piece of this is that we have a unique opportunity to
18 preserve agriculture. And North Carolina, it is our
19 largest -- our largest industry. And this, if I read you
20 all's website correctly, is something that you want to
21 preserve as a county.

22 So now I'm speaking now to the board. It's
23 something that's special about this county is the agriculture
24 that's here, and I think we -- it's easy to forget that if we
25 took the agriculture away that it would not look the same or

1 feel the same.

2 What I've seen here tonight is an incredible
3 community and people feel that when they come here. It's one
4 of the reasons that people come to this area is the
5 community.

6 And so the question I think is, does what you're
7 looking at preserve that, or does it change that? And my
8 contention as an outsider would be that half-acre tracts of
9 homes for people here would be people that aren't involved in
10 the community. They would be people that it's a bedroom
11 community, they're here for the night and then they're gone
12 to work or to shop or to someplace else, and is that what
13 this county wants?

14 I mean, agritourism is a way to preserve farm land.
15 We need to preserve farm land. We're losing farms. We're
16 facing food shortages right now in the world and going
17 forward, and how do we as individuals and humans want to go
18 forward? Because it could be super, super important coming
19 up soon.

20 We also, like you do, you're inspiring the next
21 generation to farm. We need farmers. Without farmers we
22 don't have food.

23 BY MR. PARKER:

24 Q I have one last question for you.

25 A Yeah.

1 Q What percentage of your agritourism customers are
2 local?

3 A Oh, I would say of the people that come to our farm
4 it's less than one percent.

5 Q Okay.

6 Q Yeah.

7 MR. PARKER: That's all.

8 THE WITNESS: Thank you.

9 MS. LELAND: Nothing?

10 MR. ROBINSON: No, no questions for me.

11 CHAIRMAN QUIS: It's 9:45. In keeping with what I
12 said earlier, 45 minutes more, we -- we're going to wrap this
13 up.

14 We've stated the dates for the continuation of
15 this -- this matter, and if there's nothing else from fellow
16 commissioners to be said or questions to be asked?

17 We will adjourn this --

18 MS. LELAND: We will need a motion to continue this
19 hearing.

20 MS. GRAHAM: I'll make a motion --

21 MS. LELAND: June 23rd at 4:00 p.m.

22 MS. GRAHAM: I move that we continue this matter
23 until June the 23rd at 4:00 p.m.

24 MR. DAEKE: Second.

25 MS. GRAHAM: Thank you.

1 MS. LELAND: Did everybody hear that?

2 MS. GRAHAM: June 23rd at 4:00 p.m.

3 CHAIRMAN QUIS: Thank you for the motion,
4 Ms. Graham. We have a second from Mr. Daeke. All in favor?

5 (Commissioners respond aye.)

6 CHAIRMAN QUIS: Any opposed?

7 MS. GRAHAM: So do you need a motion to adjourn?
8 Mr. Chair, I move we adjourn.

9 MR. PICERNO: Second.

10 CHAIRMAN QUIS: Thank you. Mr. Picerno with a
11 second. All in favor?

12 (Commissioners respond aye.)

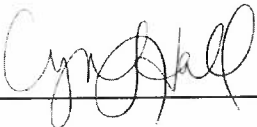
13 CHAIRMAN QUIS: Adjourned.
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1 CERTIFICATE OF TRANSCRIPT OF AUDIO RECORDING
2

3 This is to certify that the foregoing transcript of
4 proceedings taken at the June 2nd, 2022, meeting of the Moore
5 County Board of Commissioners is a true and accurate
6 transcript of the proceedings recorded by the Clerk of the
7 Moore County Board of Commissioners and transcribed by me to
8 the best of my ability.

9 I further certify that I was not personally present
10 during said proceedings, I am not related to any party or
11 attorney, nor do I have any interest whatsoever in the
12 outcome of this action.

13 This the 15th day of July, 2022.

14 
15 _____

16 Cynthia L. Hall, RPR
17 Official Court Reporter
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