



Cabarrus County Government

Cabarrus County Planning and Zoning Commission
Tuesday, September 13, 2022 @ 6:30 p.m.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Oath of Office to Re-Appointed Members
2. Roll Call
3. Approval of July 12, 2022, meeting minutes.
4. Approval of the Granting Order with Finding of Facts for VARN2022-0002, Request for variance from the separation distance of tower from property lines or residential structures and the landscaping requirements for a Wireless Telecommunications Towers facility. Applicant is Cabarrus County. Address is 4300 Gold Hill Road East (PIN: 6603-12-8036).
5. New Business Board of Adjustment Function:

APPL2020-00001 - Appeal of a Notice of Violation - Operation of auto repair shop in the AO district without proper permits. The address associated with the subject property is 10195 Archer Road, Davidson, NC 28036 (PIN:4674-82-7212) **Request to Table**
6. New Business Planning Board Function:

Harrisburg Area Land Use Plan Review 2022
7. Selection of Chair and Vice-Chair, also appoint a member to be Chair of the Board in the absence of the Chair and Vice-Chair
8. Legal Update
9. Director's Report – Proposed Planning and Zoning Commission Realignment
10. Adjourn



Cabarrus County Government – Planning and Zoning Commission

Planning and Zoning Commission Minutes

September 13, 2022

Mr. Adam Dagenhart, Chair, called the meeting to order at 6:32 p.m. Members present, in addition to the Chair, were Mr. Jeff Corley, Ms. Holly Grimsley, Mr. David Hudspeth, Ms. Ingrid Nurse, Mr. Charles Paxton, Mr. Chris Pinto, Mr. Brett Rockett and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Board, Mr. David Goldberg, Deputy County Attorney and Mr. Rich Koch, County Attorney.

The Oath of Office was administered to reappointed members, Mr. Jeffrey Corley, and Mr. Charles Paxton.

Roll Call

Approval of Minutes and Granting Order

Approval of July 12, 2022, Planning and Zoning Commission Meeting Minutes.

There being no corrections or additions to the minutes, Ms. Ingrid Nurse **MOTIONED, SECONDED** by Ms. Holly Grimsley to **APPROVE** the July 12, 2022, meeting minutes. The vote was unanimous.

Approval of the Granting Order with Finding of Facts for VARN2022-0002, request for variance from the separation distance of tower from property lines or residential structures and the landscaping requirements for a Wireless Telecommunications Tower facility. Applicant is Cabarrus County. Address is 4300 Gold Hill Road East (PIN: 6603-12-8036)

There being no corrections or additions to the Granting Order or Findings of Fact, Mr. Steve Wise **MOTIONED, SECONDED** by Mr. David Hudspeth to **APPROVE** the Granting Order with Finding of Facts for VARN2022-0002. The vote was unanimous.

New Business Board of Adjustment Function:

APPL2020-00001 – Appeal of a Notice of Violation – Operation of auto repair in the AO district without proper permits. The address associated with the subject property is 10195 Archer Road Davidson, NC 28036 (PIN:4674-82-7212) **Request to Table.**

Ms. Susie Morris, Planning and Zoning Board addressed the Board stating that the applicant's attorney has asked that this be tabled. We are unsure exactly of the date that it will come back to the Board. Apparently, his client has some trips schedule out of town. When it does come back to the Board, we will resend the letters. Typically, we table to a specific date and time once it has been advertised. Unfortunately, we are not able to do that at this time. We will send letters back out to the adjacent neighbors.

We have had calls about this, the sign is up, and it will stay up, and we will continue to answer questions as they come up about the sign. The applicant's attorney is here.

Mr. Dutch Entwistle, Attorney, Hartsell and Williams, PA., addressed the Board stating that he did not have anything to add, he is here for the respondent. He said Ms. Morris has done a great job walking us through the basics of our effort of continuous. He looks forward to working with the Board.

The Chair asked how do we table if we do not have an end date, do we rescind it?

Ms. Morris said table it indefinitely.

There being no further questions or comments, Mr. Jeffrey Corley **MOTIONED, SECONDED** by Mr. Charles Paxton to table APPL2020-00001 – Appeal of a Notice of Violation until it is brought back to the Board. The vote was unanimous.

New Business Planning Board Function:

The Chair introduced the Harrisburg Area Land Use Plan (HALUP) Review 2022.

Ms. Susie Morris addressed the Board presenting the Harrisburg Area Land Use Plan Review 2022.

As part of the Land Use Plans and the new legislation, land use plans periodically are supposed to be reviewed. In talking to the School of Government, there really is no procedure on how to do this. There really is no procedure on how to adopt land use plans either. Everybody pretty much follows the same standards that we do for rezonings. We have the public hearings, and we hold the public meetings to gather the input, but there is no defined process. What you will be seeing is that periodically we will bring the land use plans to the Board, doing reviews of them to see if anything needs to be updated.

We started with the easy one, which is the Harrisburg Land Use Plan (HALUP). We co-adopted that plan in July 2018. As the Board may recall, we amended that plan at the Town's request in anticipation of their UDO rewrite in April 2022. Since that time, we have had three rezoning requests in that particular area (since 2016), and of those, two were consistent with the plan and one was not consistent.

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The reason that this is important is because if the Board approves a rezoning that is not consistent with the plan, that plan is essentially automatically amended.

What this will do is allow people to be able to see where those automatic amendments have taken place and then when the land use plan is updated the next time, all of those changes will be incorporated into the plan at that time. We are going to add it in as a supplement to the plan so that people can see what status those cases are, and because if they look at a map, it is not going to exactly show up on that map.

For example, if the Board remembers, the one back off of Mulberry and Homestead, all of the neighbors got together, and they filed that petition for 100 plus acres. That was not consistent with the land use plan, but all those residential houses were there, they all were nonconforming, they could not do anything, they could not get financing.

So, that made sense, and that is okay. But if somebody comes in and is looking at industrial for that area, that is what it says now, but that now, is residential versus light industrial. So, it is just a way to put that information out there, and then, again, it would be updated once the plan is updated to reflect whatever those changes are.

In discussions with legal, it does not sound like it needs to go to the Board of Commissioners. She thinks it may stop here with this Board. But the requested action would be for a motion to add this information as a supplemental document available with that plan. There are no substantive changes or anything like that proposed at this time to the text, everything with that is good. It is just adding that list and those three maps in, because these are the land use maps. This one is the one we were just talking about, and that one instead of being shown as OI, she thinks is what it was. It would be shown as residential.

The Chair said AO.

Ms. Morris thinks the original zoning and land use on it was OI and that was all done as part of the land use plan as well. But that chunk, the next time it is updated would be reflected as residential, because that area never really turned over like everybody thought it would in that close proximity to all of the industrial and to the rail line; it just did not happen, Sometimes we anticipate that things are going to happen and then they do not. That is fine, but based on the current statutes, if there is something that is not consistent, it is an automatic amendment to the land use plan.

There being no further questions or comments, Mr. Brent Rockett **MOTIONED, SECONDED** by Ms. Holly Grimsley to approve the supplemental documents to the land use plan. The vote was unanimous.

The Planning and Zoning Manager, said the next item is the selection of the Chair, Vice-Chair and second Vice-Chair. Ms. Morris opened up nominations for the Chair for the 2022- 2023 year.

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Mr. Charles Paxton **nominated** Mr. Adam Dagenhart, as Chair of the Planning and Zoning Commission. There being no other nominations, Ms. Holly Grimsley **SECONDED** the nomination. The vote was unanimous.

Ms. Morris turned the meeting over to the Chair, Mr. Adam Dagenhart.

The Chair asked if there were any nominations for Vice Chair.

Mr. Brent Rockett, **nominated** Mr. Charles Paxton as Vice-Chair of the Planning and Zoning Commission. There being no other nominations, Ms. Holly Grimsley, **SECONDED** the nomination. The vote was unanimous.

Mr. Steve Wise **nominated** Mr. Jeffrey Corley as second Vice Chair of the Planning and Zoning Commission.

Mr. Corley said for full disclosure to the Board, he is being sworn back in tonight but as soon as a replacement is found he is going to be leaving. He is happy to serve on that position for as long as he is here.

There being no other nominations, Ms. Holly Grimsley **SECONDED** the nomination. The vote was unanimous.

No Legal Update

Mr. David Goldberg, Deputy County Attorney, addressed the Board stating that right now he has two outstanding pieces of litigation. Ms. Arstark has filed an appeal as expected. Nothing that calls upon this Board at this point, other than there were allegations of conflict of interest that we will be dealing with and a couple of other procedural matters. It will be a while before this really gets moving, he thinks.

The other is Mr. Radford (sawmill case) that was here a couple of months ago and withdrew his appeal. We are now in enforcement proceedings in Superior Court. After he withdrew, we tried citations and that did not really take. We are waiting on a preliminary injunction. We had a hearing against his attorney to get a preliminary injunction to halt the operation of the sawmill while the case moves forward. It has actually been a couple of weeks since the hearing and the Judge said he was going to get back to us, but we have not heard anything.

He said that is the problem with the Superior Court Judge, they travel the circuit, and once they leave the county, it is pretty hard to get them to come back. Especially, when they have to write a tough order, so we are waiting to hear back on that. We will keep you updated along the way, there should be some interesting days ahead.

Mr. Richard Koch, County Attorney, addressed the Board stating that we have ten more days

until the appeal period expires on the Shelly case. If he lets it go, which Mr. Koch is hoping he will, that will finally be the end of that case.

No Directors Report

Ms. Susie Morris, Planning and Zoning Manager addressed the Board stating that she has two things for this evening. One was actually included in the Board packet, that is the proposed Planning and Zoning Commission realignment.

What Staff is proposing is to use a different map from what is currently being used. There have been so many annexations that our northwest area, a lot of it is now Kannapolis. So, it is pretty difficult to find people there. In the Central Area, there have been a lot of annexations down toward that area. The land and parcels that we had are dwindling.

What we are going to propose to the Board of Commissioners, would be that the proposed member assignments better align with the annexation agreements that are in place, and also the proposed utility service areas.

What that would mean for this Board, would be that the Central Area Plan representative would be removed and that would not be replaced because it is part of the Concord area. The Mount Pleasant area that you see would be a new area. We happen to have a current member that could fill that slot, and that would be Mr. Dagenhart. He would represent Mount Pleasant. The Northwest area position is currently vacant and that would not be replaced, that would become part of the Kannapolis area.

We currently have two at-large members, the new at-large members would be at three. We would remove the two positions (Central Area and Northwest Area). There would be an at-large member position, a new one. That brings the actual area representatives to a total of nine, which is what we currently have and then there would be three at-large alternate positions.

Hopefully, this will open up some additional opportunities for us to solicit members and then would also allow for better representation in those planning areas.

We have been talking about this for a couple of years. Mount Pleasant has adopted their own land use plan. We would like to co-adopt that plan and this would correspond to that area. The yellow is the Eastern Area. Kannapolis has their own plan, and she thinks it was a 2015 plan and she does not know if they are updating that.

Concord's plan she thinks was a 2035 plan. We have the co-adopted one with Harrisburg. The Town of Midland, we have a plan there, but they also co-adopted their own plan which is a 2030 plan. These boundaries would better reflect the land use plan areas, because essentially, with Concord, Kannapolis and Harrisburg, anything that is in their utility service boundary eventually will be in their municipal limits.

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The same thing with Mount Pleasant, eventually Mount Pleasant's utility service area will probably expand, once it actually reaches the area that they are focusing on now. As you all know, once you get into the eastern portion of the County, you are going to need utilities to do anything there besides just single family unless you come in from Rowan County.

There were some adjustments with Concord and Midland and those were reflected in this map. Hopefully now, this covers not only land use planning areas but also annexation areas and service areas. There is a little bit more consistency and again, this proposal also opens up additional opportunities versus those areas that were just becoming so small because of the annexations.

Again, the only changes would be that Mr. Corley would move to an at-large member position. Mr. Dagenhart would move to the Mount Pleasant position and so we would have one vacancy there. We currently have one vacancy anyway, but it is in that northwest corner. So, hopefully with that being an at-large member position, we can talk with our alternates to see if any of them would like to move up and then we would be looking for an alternate.

Mr. Crutchfield had said that he was not sure whether he would be able to stay on the Board after November, so we might be looking for a Midland person.

But, if we have alternate positions, that is where we want to try to move people to for the succession planning and then also so that they can learn and then move up. She asked if there were any questions. We still end up with the same number of regular members, and the same number of alternate members. This really is just for information. It will be based on the Board of Commissioners decision because they are the ones who appoint the members. She just wanted this Board to see it before it went to the Board of Commissioners.

Ms. Morris said the School of Government is gearing back up for their Planning and Zoning Commission member trainings. They are having one Planning and Zoning Board basics, which essentially is the legislative side of the house. If anyone is interested in that one, there is a session on Thursday, September 29, 2022, from 1:00 to 3:30 p.m. and another session on Thursday, October 6, 2022, from 5:30 to 8:00 p.m.

If you would like to attend, the training is virtual, and you would login from home. We can handle getting you signed up. If you would let me or Lynn know, we can get you registered, the cost is \$85.00 per person so if you would like to attend, please make sure it is a time that you can attend.

The other training will be on Board of Adjustment Basics, which essentially covers the quasi-judicial matters. The daytime session is Thursday, October 20, 2022, from 1:00 to 3:30 pm. The evening session is October 27, 2022, from 5:30 to 8:00 p.m.

The third session is on Preservation Commission which is essentially quasi-judicial but since

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you do not deal with that side of the house just yet, that one would be something you would pay for yourself if you were interested. I can give you the information.

If you are interested, please let me or Lynn know by the end of this week for the session on September 29th. They have changed over to a different registration system, and we would want to make sure we have you registered, and everything is good and that we have enough time to fix anything if we need to with the School of Government.

She asked if there was anyone was that interested at this time.

Mr. Brent Rockett asked Ms. Morris to email the information.

Ms. Morris said she would. She said it will be the live version of the presentations that we went through.

She said with the registration and their new system, she could not renew our subscription. Hopefully, they have that worked out now, and she will be renewing the subscription and then we will start doing some additional training and have that available for any new members that come on the Board like we did before. That way they will understand what your role is and how to participate appropriately with the cases and the legalities of the different types of cases.

There being no further discussion, Ms. Holly Grimsley **MOTIONED, SECONDED** by Ms. Ingrid Nurse to adjourn the meeting at 7:04 p.m. The vote was unanimous.

APPROVED BY:



Mr. Adam Dagenhart

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:



Susie Morris, Planning and Zoning Manager

Memo

To: Cabarrus County Board of Commissioners, acting as Board of Adjustment

From: Susie Morris, Planning and Zoning Manager

cc: File

Date: 8/31/2022

Re: Request to Table Case APPL2020-00001 – Midget’s Diesel

Mr. Austin “Dutch” Entwistle III, the attorney working on this case, is requesting that the case be tabled. His client will be out of town.

The Board of Adjustment will need to consider tabling the request and vote accordingly.

Memo

To: Planning and Zoning Commission Members

From: Susie A. Morris, AICP, Planning and Zoning Manager

cc: File

Date: August 31, 2022

Re: Harrisburg Area Land Use Plan Review 2022

Cabarrus County and the Town of Harrisburg co-adopted the current version of the Harrisburg Area Land Use Plan on July 17, 2018.

Amendments to the Plan:

The Harrisburg Land Use Plan has been amended one time since it was adopted in 2018 to address land use plan district densities in anticipation of the Town of Harrisburg adopting a new Unified Development Ordinance with additional zoning districts and updated densities for residential districts. The amendments to the Plan were considered and adopted by the Cabarrus County Board of Commissioners on April 20, 2020.

Planning and Zoning Commission Actions and Consistency with the Plan:

The Cabarrus County Planning and Zoning Commission has considered three rezoning requests in the Harrisburg Planning Area since 2016. Of those, two requests were consistent with the plan and one request was not consistent with the plan. Approval of a rezoning that is not consistent with the land use plan is considered an automatic amendment to the Plan.

A list of rezoning cases and maps is being incorporated into the Harrisburg Land Use Plan as a supplemental document so that this information is available to the public. Land use classifications will be amended accordingly on the overall mapping for the Plan when the Plan is updated.

The Land Use Plan Review Committee has reviewed the proposed amendment to the Plan. No additional changes are suggested at this time for the Harrisburg Area Land Use Plan.

**HARRISBURG LAND USE PLAN REZONING SUMMARY
JANUARY 2016-JUNE 2022**

Number	Status	Current Zoning District	Proposed Zoning District	Previous Use	Current Area Plan Classification	Consistent with Area Plan	Application Name	Str #	Street Name	Type	City	Parcel #	Notes
RZON2016-00005	Approved Expedited	OI	AO	Residential	Light Industrial	No	Mulberry-Homestead Rezoning	6000	HOMESTEAD	DR	CONCORD	5527-09-7725 (Multiple Parcels)	Conventional rezoning request from OI to AO. Seventeen property owners along Mulberry Road and Homestead Drive filed a petition to rezone the properties from OI to AO. The total acreage in the request was 127.97 acres. This area was designated as light industrial in the HALUP. This designation was in anticipation of the area turning over due to its proximity to industrial development. Homes have been on many of the properties since the 50s, 60s and 70s. OI does not allow single family residential. The rezoning to AO allows by right use of the properties as single family residential.
RZON2016-00008	Approved Expedited	CR	AO	Vacant	Very Low Density Residential	Yes	Carriker Property	9223	HICKORY RIDGE	RD	HARRISBURG	5516-53-5633	Conventional rezoning from CR to AO, vacant property to landscaping business
RZON2017-00001	Denied Expedited	OI	LI	Single Family Residential and Forestry Program	Light Industrial	Yes	Mulberry Industrial Park, LLC	2173	MULBERRY	RD	CONCORD	5517-98-5443	Conventional rezoning request from OI to LI to build industrial park

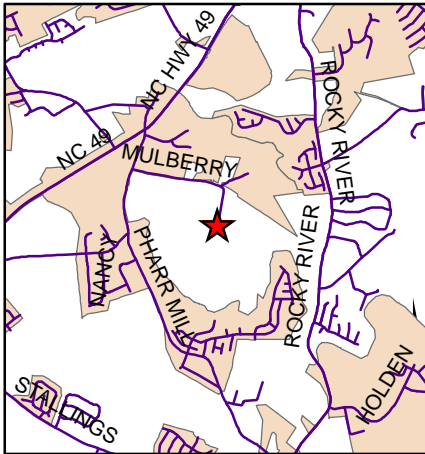
Zoning Map

Harrisburg Zoning

Exhibit E(2)

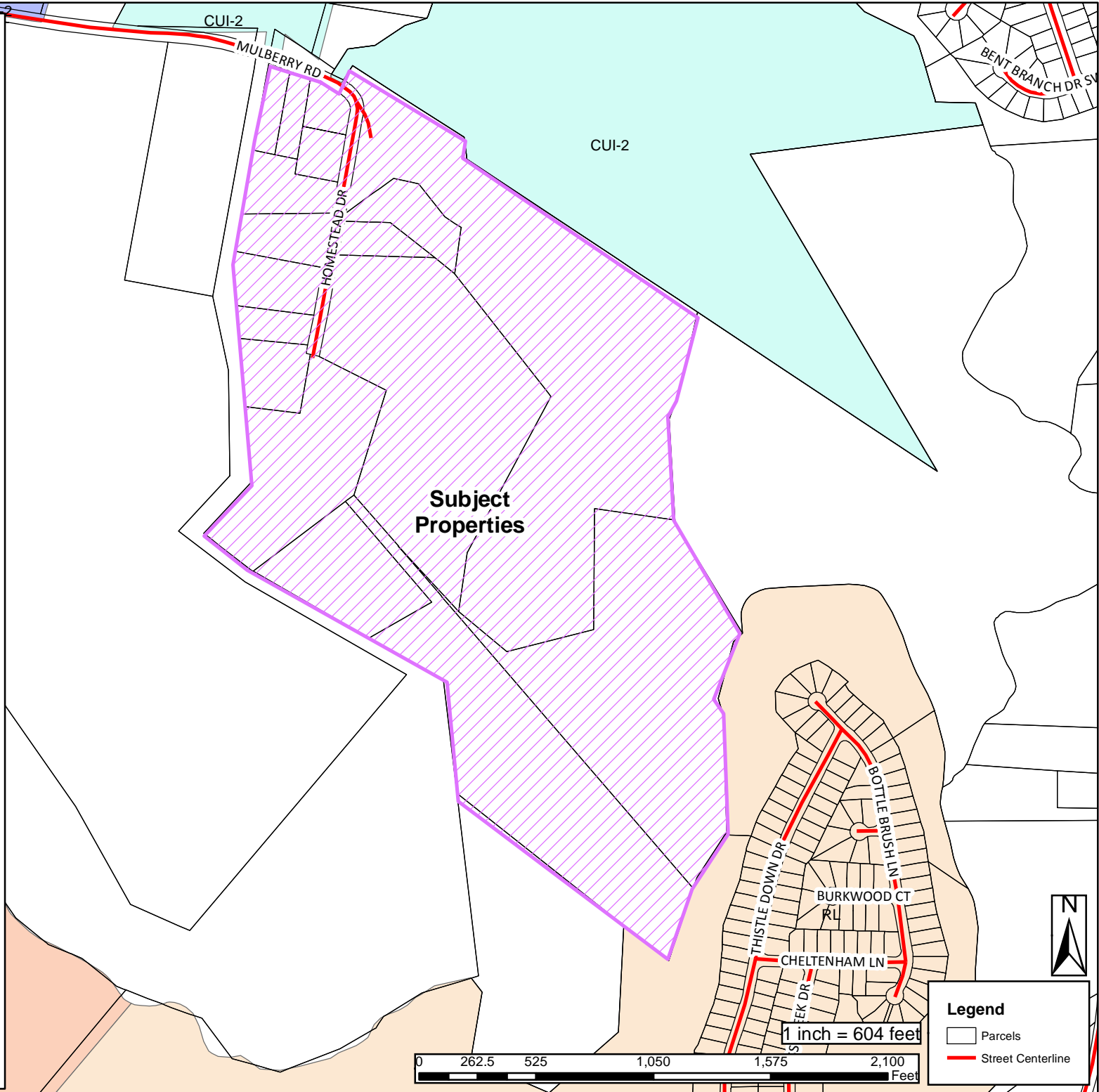


Applicant: Jennifer M. Hill, et al.
 Owner: Jennifer M. Hill, et al.
 Case: RZON2016-00005
 Address: Multiple parcels along Mulberry Road and Homestead Drive
 Purpose: Rezoning from OI to AO
 PIN: 5527094992, 5527095970,
 5527097958, 5527097725, 5527095620,
 5527095348, 5527095117, 5527085907,
 5527084796, 5527086338, 5527078920,
 5527166928, 5527271461, 5527182604,
 5527099317, 5527191483, 5527190894



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Map Prepared by Cabarrus County Planning & Development
 May 13, 2016

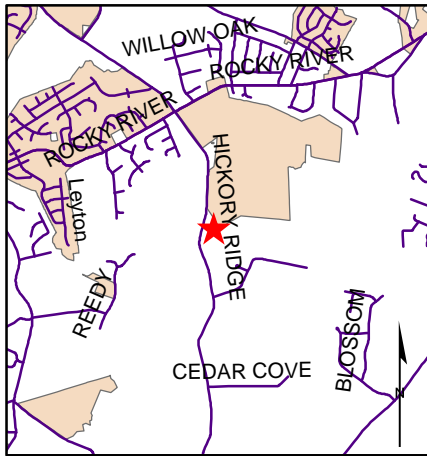


Future Land Use Map

Exhibit E

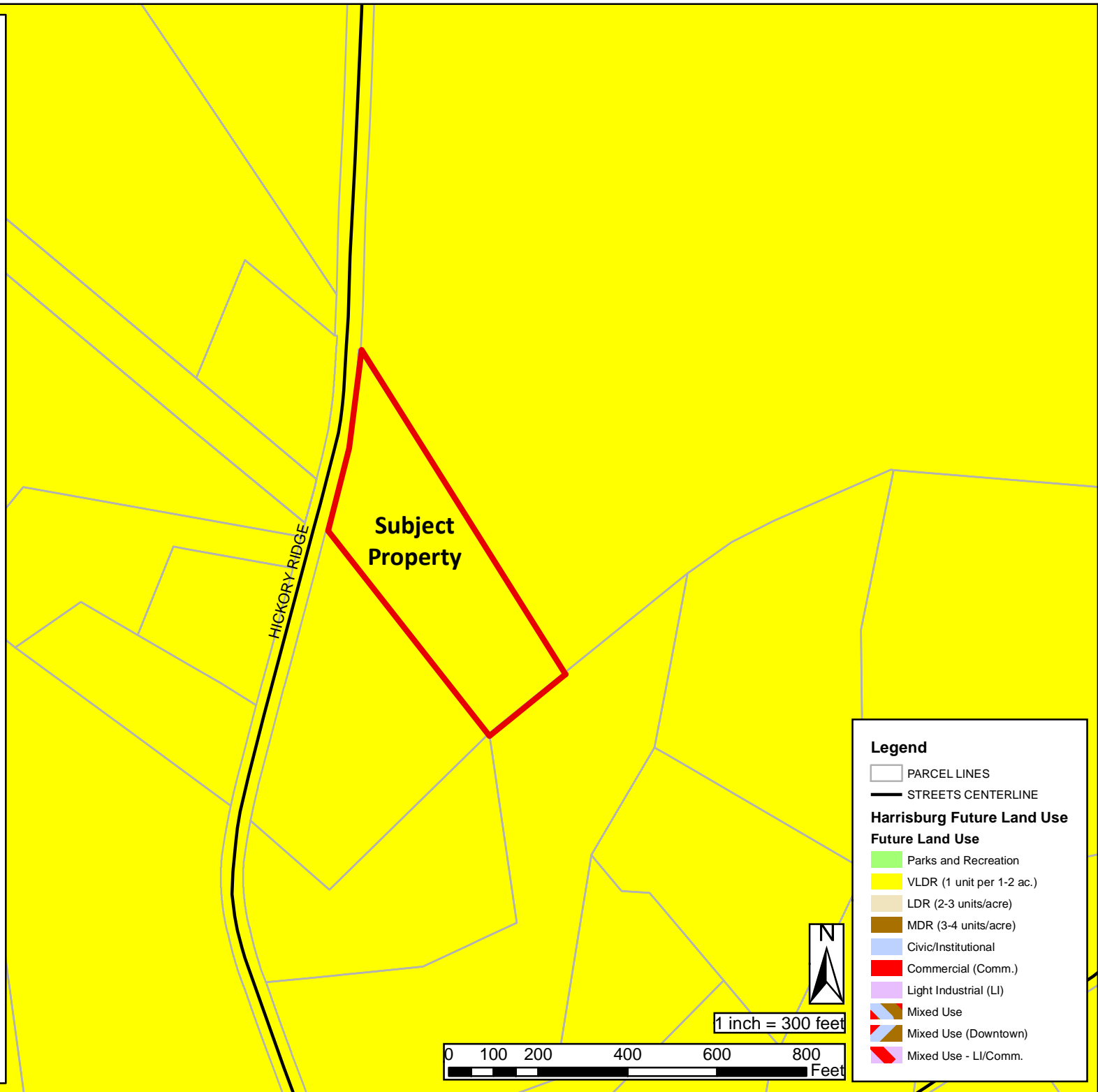


Applicant: William W Carriker III
Owner: Elizabeth C Carriker
Case: RZON2016-00008
Address: 9223 Hickory Ridge Rd
Purpose: Rezoning from CR to AO
PIN: 5516-53-5633



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Map Prepared by Cabarrus County Planning & Development
November 07, 2016



Legend

- PARCEL LINES
- STREETS CENTERLINE

Harrisburg Future Land Use

Future Land Use

- Parks and Recreation
- VLDR (1 unit per 1-2 ac.)
- LDR (2-3 units/acre)
- MDR (3-4 units/acre)
- Civic/Institutional
- Commercial (Comm.)
- Light Industrial (LI)
- Mixed Use
- Mixed Use (Downtown)
- Mixed Use - LI/Comm.



1 inch = 300 feet

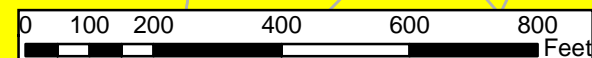
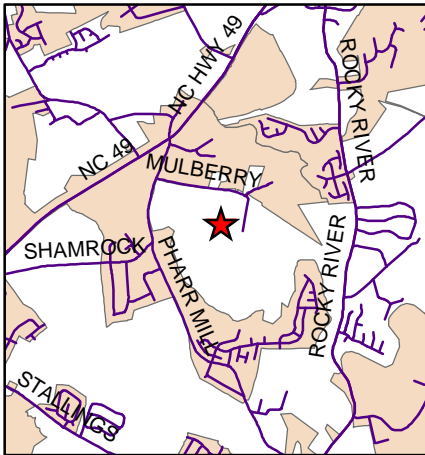


EXHIBIT E
Future Land Use Map

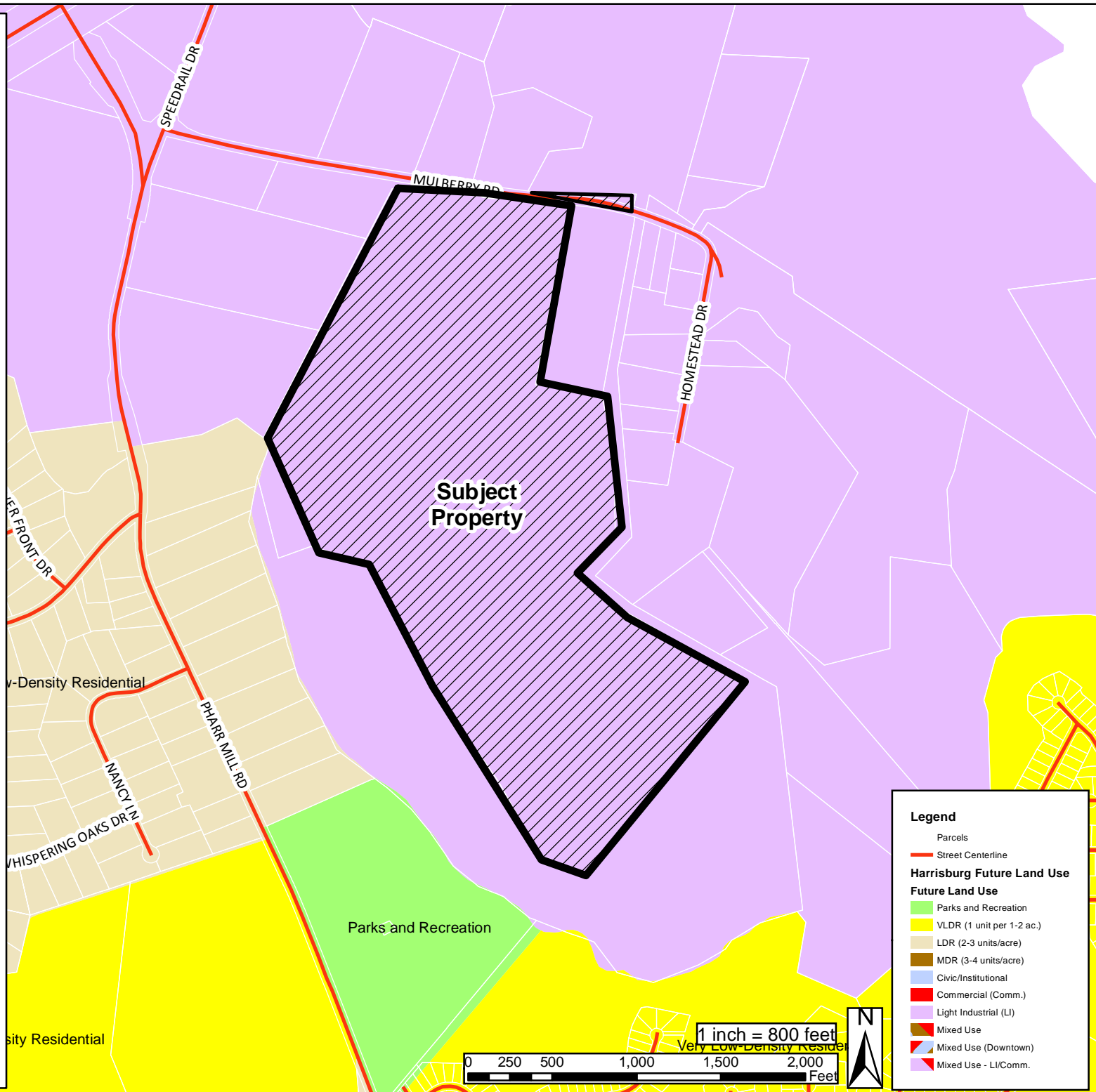


Applicant: Mulberry Industrial Park, LLC
 Case: RZON2017-00001
 Address: 2173 Mulberry Road
 Purpose: Rezoning from OI to LI
 PIN: 5517-98-5443



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Map Prepared by Cabarrus County Planning & Development
 July 28, 2017



Legend

- Parcels
- Street Centerline
- Harrisburg Future Land Use**
- Future Land Use**
- Parks and Recreation
- VLDR (1 unit per 1-2 ac.)
- LDR (2-3 units/acre)
- MDR (3-4 units/acre)
- Civic/Institutional
- Commercial (Comm.)
- Light Industrial (LI)
- Mixed Use
- Mixed Use (Downtown)
- Mixed Use - LI/Comm.

Memo

To: Cabarrus County Board of Commissioners
From: Susie Morris, Planning and Zoning Manager
cc: File
Date: 8/31/2022
Re: Proposed Planning and Zoning Commission Realignment

Planning and Zoning Commission membership is currently based on small planning areas. Several of these areas overlap with land use plans that have been adopted by the cities and towns for service and future annexation areas.

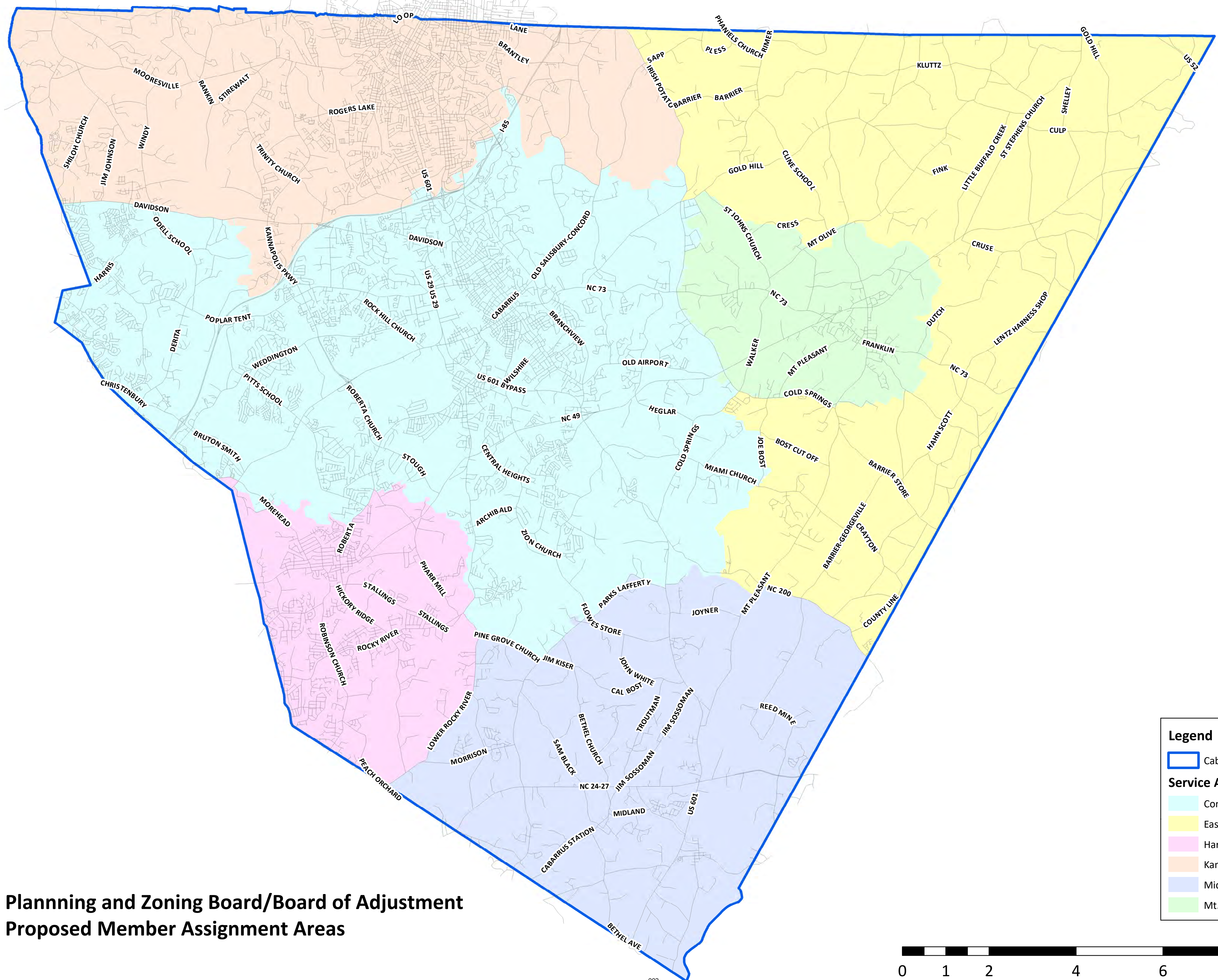
Planning Staff is requesting that the Board of Commissioners consider realigning membership areas based on annexation and service area mapping instead of the small area mapping.

Using the annexation and service area mapping better aligns with the boundaries that have been adopted and that are used by the cities and towns. It will also allow additional flexibility for finding members.

The only change for the official roster would be the proposed changes for the area represented. Current terms for service would remain the same.

Should the Board of Commissioners approve the request, the composition of the Planning and Zoning Commission would continue to be 12 members, with general area assignment as follows:

Area	Current Area Representative	New Area Representative
Kannapolis	Brent Rockett	Brent Rockett
Concord Area	Holly Grimsley	Holly Grimsley
Midland Area	Kevin Crutchfield	Kevin Crutchfield
Harrisburg Area	Chuck Paxton	Chuck Paxton
Eastern Area	Chris Pinto	Chris Pinto
Central Area (Removed)	Jeff Corley	Will not be replaced, Part of Concord Area
Mount Pleasant Area (New Area)	NEW	Adam Dagenhart
Northwest Area (Removed)	Vacant	Will not be replaced, Part of Kannapolis Area
At-Large Member Positions (3)	Andrew Nance, Adam Dagenhart	Jeff Corley, Andrew Nance, NEW (Vacant)
At-Large Alternate Positions (3)	Steve Wise, David Hudspeth, Ingrid Nurse	Steve Wise, David Hudspeth, Ingrid Nurse
Total Number of Members	12	12



Legend

- Cabarrus County
- Service Areas**
- Concord
- Eastern Area
- Harrisburg
- Kannapolis
- Midland
- Mt. Pleasant

**Plannning and Zoning Board/Board of Adjustment
Proposed Member Assignment Areas**

