



Cabarrus County Government

Revised - Cabarrus County Planning and Zoning Commission Meeting
September 11, 2018 @ 7:00 P.M.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Oath of Office to Newly Appointed Members
2. 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
3. Roll Call
4. Approval of May 16, 2018, HALUP Cabarrus Planning and Zoning Commission and Harrisburg Planning and Zoning Advisory Board Joint Meeting Minutes
5. Approval of July 10, 2018, Planning and Zoning Commission Meeting Minutes
6. **New Business – Planning Board Function:**

TEXT2018-00002 - Proposed Text Amendment to Zoning Ordinance, Model Floodplain Ordinance (Chapter 16 of the CCDO)

TEXT2018-00003 - Proposed Text Amendment to Zoning Ordinance, Chapter 10, Parking and Loading and Chapter 14, Nonconformities

TEXT2018-00004 – Proposed Text Amendment to Zoning Ordinance, Chapter 2, Accessory Structure and Accessory Dwelling Unit definition and Chapter 7, Accessory Structure Standards

7. Directors Report
8. Legal Update

HALUP
Cabarrus Planning and Zoning Commission
and the Harrisburg Planning and Zoning
Advisory Board
Joint Meeting Minutes
May 16, 2108
6:00 P.M.

The joint Harrisburg Area Land Use Plan joint meeting was held on May 16, 2018 at 6:00 p.m. Mr. Chris Pinto, Chair, called the meeting to order at 6:22 p.m. Members present in addition to the Chair, were Mr. Jeffrey Corley, Mr. Adam Dagenhart, Ms. Holly Grimsley, Mr. James Litaker, Mr. Charles Paxton, Mr. Richard Price, Mr. Brent Rockett, Mr. Stephen Wise and Mr. Jerry Wood. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning, Manager, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Members present from Harrisburg were Mr. Andy Rathke, Chair, Mr. Lloyd Quay, Vice-Chair, Mr. Scott Noel, Mr. Steve Bedwell and Mr. Rodney Garner.

Consultants attending were Ms. Meg Nealon of Nealon Planning and Jake Petrosky, from Stewart.

Ms. Nealon addressed the Board stating that they are two members of a larger project team that have been working with the County and the Town, probably for the last 10 months or so. They really got in full swing starting in the fall last year.

She said hopefully you all got a chance to view the document that has be circulated to you.

The purpose of tonight's meeting obviously, is to go through a fairly brief presentation that really hits the highlights and then hopefully, have some discussion about some of the things that you are seeing and the recommendations specifically. This presentation is focused primarily on those recommendations.

She is hitting the highlights but there are some goals and objectives that flowed from this. The future land use and conservation plan map is part of this and we are going to talk about focus areas. But again, key recommendations are the main piece. The discussion will follow and there is a handout that will be passed out at that time.

She said we were in full swing last fall and we had three community meetings, one in November and two more this year in February and April. Altogether, we had about 150 attendees. The first one was a presentation, followed by a drop-in style. The other two were drop- in style which actually lends itself to really good discussion. At each of those meetings, people were able to talk with her and Mr. Petrosky and other members of our team about the different aspects of the plan, ask questions and give comments in a variety of different ways.

So, we got a lot of input not just from those conversations and opinions that people volunteered

verbally but, through information they put down on different types of sheets that were available for them to comment on in different forms.

We also had corresponding surveys (for two of those meetings). The first one ran a month in November and the second one ran from February to March, yet another month. So, what we did with each of those was had questions at each that were similar so that if somebody was not attending a meeting, they had an opportunity to look at materials online and respond to a set of questions that gave us similar information and input.

Through that we got another 459 people responding. Some of that was from the meeting attendees but it was really good information, not statistically valid, but good information that helped explain some of those things. Those surveys had open-ended questions in them too, so people were really able to volunteer some very specific opinions and ideas and thoughts about the details. Those summaries are all compiled so, if you have the chance to go through and peruse those, you can see what people were saying.

The Stakeholder interviews were very informative. We had those in October. More than 50 people signed in and we got a lot of information out of those from people who are dealing with the information we needed to understand better in one short setting.

She said from all of that, this is just a glimpse into the major theme or the major messages we were hearing and seeing in the written material from people as they reacted to, and gave us their thoughts about, what should and should not be part of the future of the Harrisburg planning area.

In looking at these top few, Harrisburg Town Center was a big topic of discussion. The quality of development was another big one. People are very focused on, and they are open to, the fact that things are changing, but the quality is extremely important. Traffic and transportation was another big one.

But, it was this kind of input that helped us look back at the goals of the old plan and decided what need updating, what needed dusting off and rethinking. We also asked at the meeting and through the survey, what they thought about the old goals and had them give us opinions about them, specifically, what was important about them and that led to the objectives.

What you are seeing in the plan is a series of goals that are similar to the old plan goals but tweaked a little bit, recognizing really where the Harrisburg planning area is today and what lies in the future and complemented by these objectives statements that capture what people were telling us about what mattered to them. This is just half the set here and a continuation of the list which is what you have in your handouts and is also in the draft plan.

She said it really helped us as we were thinking through what should this future land use plan, adjusted from the old plan look like, what should it entail, what should be the priorities that are in that and what would be the recommendations that flowed from that. This objective gave them more important information to not only help formulate the plan but to give the Boards a really good set of goals and objectives as tools to guide your decision making later.

Even as things change and adjust over time, if you can refer back to these goals and objectives and understand where people were coming from at this point in time, it gives you another way to make really informed decisions with circumstances that may not be foreseen today.

But, this led to the future land use ideas that came forward. Again, we are updating the old plan, so a lot of these land use categories are the same as before. We dug in a little bit more on the mixed use categories and we also brought forward some things that came through in the Morehead West Area Plan. The private recreation in particular, is one of those that got more detail.

She said she mentioned the mixed use, there are areas for the proposed future land use that show mixed use areas, but we also have mixed use nodes. There is a slight difference there and those are characterized in these descriptions as well as the focused areas that are illustrated.

In short, the mixed use nodes are a little bit more of that concentration; there are those activity centers where you see the greatest mix of uses and different scales. You are more likely to see a vertical mix of uses in the nodes than you are in the areas that are just designated as mixed use, where you see what we call horizontal mixture of uses, where the uses change from building to building but not necessarily floor to floor.

She said the future land use map in its draft form looks like this right now (showed the map). Some of the biggest changes you will see is the incorporation in the upper west corner. The incorporation of what was decided during the Morehead West Area Plan; so that is carried over.

We are also looking primarily in this area (showed area on map) to see changes since the last time the land use plan was adopted. She said things like 485 closing, and that connection out to 485 from various points, Rocky River Road and Highway 49 and Highway 29. But, we are also looking at the water and sewer that has been put in place since this last plan.

The access to utilities sort of changes things and so some of the discussion here was how do we take best advantage of utilities that we have available and utilize that capacity that exist. Protect the existing neighborhoods that are out there and also still be mindful of natural resources that exist in the Reedy Creek Watershed.

A lot of the adjustments that you are seeing are through these lines to do exactly that. Utilize the infrastructure where the investment has been made, but also is still mindful of what is really important, the natural resources through here.

You still have in the light green a very low density residential district in this part of the planning area and then it transitions to the low density residential which is up to three units per acre and then it slides into the medium yellow which is more typical of what you are seeing in most of your subdivisions in the Harrisburg area.

The 49 corridor, a lot of that is acknowledging what should stay the same but also you still have industrial zoning out there. Being able to take advantage of the industrial areas that are already zoned. We will talk about that in recommendations a little bit, but being able to accommodate

some employment uses. So, it is not just in the northwest corner, but it is also along 49, where you have existing industrial and keeping some of those areas intact.

The only other thing she wants to mention about that is that also carries forward the ideas that are on your Parks and Rec Master Plan and things that were emphasized as important to the community such as the greenway trails, that kind of network, existing parks and potential proposed parks. Because, how this development pattern shapes up, it is not just about protecting the natural resources but the other open space types that are actually useable open space that are a part of your development pattern.

Mr. Jake Petrosky said note that those park locations and future park locations are not necessarily identified or set in stone in some of those locations.

Ms. Nealon said they did take the step of describing each of these nodes that you see:

- A. Town Center
- B. Caldwell Road Extension (area off of Highway 49)
- C. Farmington Area (Rocky River Road)
- D. Blume

She said they got a lot of feedback from people saying they really want neighborhoods serving retail uses around that Blume intersection. Those are described in a little more detailed in that text to help folks understand that when we say mixed use node there, what we really mean.

The focused areas are put together for one primary reason and that is to help people get a sense of what development might look like should the future land use plan be adopted as shown on the future land use map. What those policies suggest for development pattern on the ground.

We actually looked at four areas. We are counting the Morehead West area, it is actually being carried over from the area plan. So our attention was really on #2, #3, and #4.

#2 is Blackwelder, #3 is what we call Harrisburg East, but it is that area between Stallings and Shamrock and Pharr Mill and #4 is around the new elementary school, Hickory Ridge Road, south of Blume and adjacent to Blume.

She said the Morehead West Area Plan really looked at the area where a corridor extension road could go north and connect up to Highway 29. It also presents an opportunity with that kind of extension, to really make a statement on the west side, as a gateway into the Town. Right now, when you cross over you have the sign, but it is not really making a statement that you have arrived.

That, in combination with the types of uses that may want to be out there, because of the opportunity for employment and because of the opportunity of locating housing on the west side of Town, that mix of uses is intended to have retail and office that together sort of create that architectural sense of presence there at that intersection. But, then quickly transitions to different types of housing products, letting people live close to, and within a walkable distance to, some of these very local serving retail and office uses. It is not intended to compete with the Town Center, it is a smaller scale and local serving. But certainly intended to be both that gateway and serving the residential nodes within that subarea of the Town.

Ms. Nealon said, the second area out on Blackwelder is an interesting spot, where there is still some land in present use value, being used for agricultural purposes. But, as we thought about the proximity to Town Center and people wanting to live close to that, close to Highway 49 and maybe even the future extension of George Lyles coming down this way. That orientation as well, would suggest that development can and perhaps should occur there. But, some of that open space that is currently agriculture could also be that future open space that is set aside for something to happen sensitively around that.

This is just one of a number of different scenarios that, with the land use categories we are showing the future land use map, how development might shape up there and one of the big things that you should take away from this illustration is the fact that it is a mix of housing products that become less dense as you get further away and get towards Rocky River. It is also a chance to have some of this area out with Highway 49 frontage, some commercial out there that has more of that compact, walkable format there. So, it is an extension coming right off that ramp that exists right now onto Blackwelder.

The connections with trails out to the Rocky River Greenway is also an opportunity there and could connect through to the Town Center. Those are the main highlights of that. Just focusing in on this little area right here, we looked at what does that look like if something nonresidential comes out there on 49. It is just the idea that again it is local serving, it is intended for the folks that live right off of Blackwelder and perhaps some of that passerby traffic there. But we heard some comments through the process about why wouldn't you support live work unit somewhere in the Harrisburg planning area? This may be one of those areas where live work units might actually make sense. She said that it just an artist rendering of what that green within that nonresidential area might look like.

She said area number 3, this is the area that is between Stallings Road and Shamrock and you can see Highway 49. A couple of things, in the southern portion of this you are getting closer to more of your sensitive natural resources. You have formerly agricultural land with a lot of stands of trees, fence rows, things like that that are still in place.

What this concept does is try to work around those natural features, trying to be sensitive to what lies south of this area, so the density is lower in this portion of the plan and becomes more compact as you approach Highway 49 and the rail corridor and the industrial uses there. It is also mindful of the adjacent residential development, both here and on the west side (shown on diagram), trying to match or exceed the lot sizes that they are near. So, you are seeing those lots woven in with existing stands of trees.

One of the things that came up as idea with this northern portion, as you get closer to Highway 49 and the rail, is that a compact neighborhood and smaller and different housing products may make sense, but it could also lend itself to something that is more age targeted and for seniors (showed a picture of The Cedars at Meadowmont in Chapel Hill).

She said that is a hugely successful senior living community where they saved the Debose Family House, much like how the Teeter House could be renovated to be the focal point or something like that. But, whether it is all seniors living there or a variety of age groups, that lends itself to this whole area to rally supporting that multigenerational idea for the community which got a lot of support during the process.

(She showed an artist rendering) We have trail connections showing up but we wanted to give you a sense of what it might look like coming up that spine road connecting you from Stallings up to Shamrock, a lot of green space preserved and again, a lot of stands of trees that exist out there today would be maintained. The lots sizes are fairly comparable through this area to the existing development that is out there until you get into those compact neighborhoods.

Ms. Nealon said the fourth one is the area down Hickory Ridge Road by the school. And again, we are just sort of suggesting that that clustering of development around the school, treating the future school as that community amenity. What is showing here, is that you are transitioning from low density residential to the very low density residential. If you look closely, you will see that both of them are exhibiting a conservation design concept with a preservation of open space. The lots are larger as you get into very low density area compared to the low density land use category.

This too adjoins the proposed greenway network. One of the things that we are showing here is Hickory Ridge Road and that two lane sort of going to market feel out there; that road. There is a really great feel to that and being able to introduce development without losing the feel of that road. Open space may be part of what is preserved along that edge. You are seeing green space on either side to help to maintain the feel of that road.

Similarly, the traffic volumes; some of this circulation around here can be helped by some parallel roads, so we are just suggesting with illustration that there is a connected road network through this, but actually through all of them, but here in particular. The parallel roads networks would help with some of those local trips staying on those parallel streets as opposed to everything dumping out on one or two points on the Hickory Ridge Road.

She showed another artist rendering to show what it might look like from the north looking south toward the school. Clustering smaller products up here, and looking south, that would be continuation generally of what you are seeing in the Blume development. As you approach the school, planked by a lot of green space, you are getting into much larger lots and more open space preservation as you go to the south. She showed where the greenway would be running.

Ms. Nealon said we have a lengthy list of recommendations and supporting strategies, but here we just wanted to bring out the things that we thought are most important and related to priority action steps that we have identified in the plan so far.

Facilitating the completion of the Town Center:

That was something that we felt folks across the entire planning area had agreement on. They are seeing the lack of completion of the Harrisburg Town Center and really want to have that true downtown for the Town. She said the bones are there and being able to find the right mechanisms to move it forward and make sure that place is completed is where the people want the primary attention to be.

The blue boxes are the recommendations as these come up, but some of this other text is just explaining through the rationale why the recommendation is important.

She said having the Town Hall in the Town Center is an important anchor. So, other anchors like that will continue to make that location a strong destination within the Town. Continuing to implement it, but there may be some things from a regulatory standpoint or some other things that the Town could do to help move that forward. It definitely would require working with the current owner or manager of a lot of the property in the Town Center. But a strategy around a development agreement and some things that would help move that forward is probably where that attention needs to be early on.

Creating Value in Key Areas to Attract Investment:

The major gist of this is that when you look across the whole region where people are investing and why they are investing, it is not just true for the Charlotte region, it is true across the United States, people are picking those places where the quality of life is really high and they are picking places where the investments, especially, from the public side, is complementing what is happening on the private or even catalyzing the private investment. And so, to the extent that the Town and the County could be making investments that actually add value to the property, but also create opportunities for that quality of life aspect, so that they are more competitive, so you have more competitive housing and you have more competitive employment locations, more competitive retail, so it is introducing the kinds of things that help with that.

She said there are some things that could probably be adjusted from a quality standpoint in the UDO, but also when it comes to the quality of place, that focus on place making, the public realm in particular; the parks, the trails, public streets, those kinds of things could be a joint effort between public and private to realize basically, amenitized areas.

She said design guidelines go a long way to informing the private sector what the expectations are, but when the public sector actually takes the lead and leads by example, that actually demonstrates a commitment that is instilled in private investors.

Protect Current Employment and Industrial Locations:

One of things that they are seeing with employment is you have these industrial areas already zoned, but your range of uses in them are pretty lengthy. So, being able to protect those, by limiting what can happen in those, makes those areas more attractive for investors but, also controls your ability to have available land when site locators come knocking and try to find

those sites for both large and small businesses. She said that is a big piece of that, protecting those areas.

Expanding Housing Choices:

We see it here across the region, and we see it everywhere else but, home ownership has been dropping off and just the demand for different types of housing products. It is not just a Charlotte Region thing, it is not just a Harrisburg thing; it is all across the United States because our demographics are demanding housing products that go along with their different lifestyles.

We heard a lot through the process of people who would not only like to be able to have their children come back and live in Harrisburg but they themselves would like to stay and retire and live out their years in Harrisburg. She said that does not always mean a single family home on a very large lot. The possibility of downsizing and going to a townhouse or a condo, that lock and go lifestyle appeals to both baby boomers and to millennials.

We continue to have that as housing choices, it goes hand in hand with the employment recommendations, about being able to attract some quality employers here that are looking for communities that can offer that range of housing to appeal to the talent they were trying to recruit.

Encourage the Use of Conservation Subdivision in Future Development:

We have talked since day one of making this type of development an easy choice. You have a conservation district in the Harrisburg UDO and the County has that option as well. But, one of the things we have talked about during this process is don't make the process so hard that people choose conventional. Make sure that the rewards for doing it are good; both on the public side and that open space is necessary and useable and valuable and set aside. But on the investor side, they are actually ending up with a product that is actually marketable.

She said there are definitely some tweaks that can be made to the conservation district standards, utilizing the natural resource base is important. It is not just any open space, it is what open space is actually going to happen benefiting environmentally and so on. Then working on the standards to make it more appealing or incentivize that choice within the Ordinance.

Jake Petrosky, Stewart, addressed the Board. He said design is really important. The survey respondents, two to one, supported conservation design. Clustering homes and preserving large pieces of open space as amenities for the development or to protect natural resources. They preferred that over conventional subdivisions.

Another thing we heard was small town feel. They wanted to preserve this small town feel that brought them to Harrisburg, maybe five years ago, maybe ten years ago, maybe last year; because it is all relative. That is something they heard.

He said part of being a small town is having a defined edge. Right now, you can go south or you can go east, and at a certain point you transition from what is a more developed area of

Harrisburg and suburban areas of Harrisburg to something else. One thing we want to do is say conservation design is good, here are some ways to achieve that but also where is it really important.

That is why we came up with these conservation design target areas. These are the green areas that still have an intact landscape. Maybe it is a farm right now, maybe it is forestry, and maybe there is not a lot on it. But, these are the areas that are really important because that can be your edge.

He said it does not mean we are taking away development rights. That is another thing they heard is preserving property rights of landowners; this is kind of a win win. You preserve the ability to develop your land and have better design that is better for your neighbors and better for that small town feel as well.

He showed the Reedy Creek Watershed and said once you cross over Lower Rocky River you are into another watershed. This area has about 5,000 acres of available land. If you run the numbers like we did and our economic development consultant did, there is probably demand for over 6,000 homes. How we put those homes on the landscape will define what different areas of your Town look like and areas of the County look like in five or ten years.

This is an area that is really important because if you do traditional conventional designs you will have potentially very little open space left. But if you do conservation design, some of the kind of design ideas that we are recommending, you could have 2,000 acres of that land that could be open space amenity for the Town moving forward and not necessarily all developed. He said that is why it is important.

Ms. Nealon said when it comes to conservation design, most of the time, with private development, they are not concerned about how much open space is being required of them. It has less to do with that and more to do with resulting products that can be marketable. Something that is responding to the demands of current and future residents; something that is in keeping with where the market is going.

But, also we are seeing an opportunity to build in some flexibility with changes to the standards, so that those lot sizes can be achieved and you will still get the open space. The other concern that is associated with that is not just being responsive to demand, but also, what about the adjacent property owners? You want to be able to say yes, to development in some of these areas that are described as low density and very low density. You also want to set aside these natural resources like Mr. Petrosky was talking about for the long term, and you also want to do it in such a way that the entire design of a whole development is good internally and it is good externally. We heard from some of the neighbors, well if that develops what does that do to my lot, it backs right up to this area that is not developed.

She said those standards not only need to address how do you make this something that is appealing and has that flexibility in lot sizes, but how do you hold the folks who are doing these things to a set of easy performance standards. Easy in that it is a design solution, but you are also mindful of

what are those potential impacts to adjacent neighbors. So, through project buffers or consistency across that property line, you have lots of equal or greater size in place as part of that scenario too.

We have ideas about those recommendations to:

- a. Make it a usable district
- b. Where they are actually used, be mindful of what the existing development impact might be

We took one scenario to try to just play that out and see what that actually means. (It is in the hand out).

She said if you took 100 acres in the very low density (green area on the map), you are in very low density and you are at the rural estate zoning district. Today, if you wanted to do conventional, eight acres (8%) would have to go into open space. We assume about 15 acres or 15% for infrastructure, leaving 66 acres developable land. If the minimum lot size is an acre you would get about 72 lots out of that 100 acre development.

If you are in the conservation option, with 30 % open space, you can probably capture your infrastructure in about 10 acres. She said dropping that lot size with the 30% reduction, you get 93 lots out of that. So, automatically, you have a density bonus built into the Town's UDO district; that is a good thing.

If you take it a step further and say what if, with that range right now, with the standards the way they are written, you can incremental increase up to 50 % open space; one percent for each additional one percent of open space. She said the roads in green suggest an increase over that, so you actually drop a little bit more, 3% for every 1% of additional open space. If you are able to do that, the 50% takes you down to an 8,000 square foot lot, which is less than a typical 70 x 130 single family home lot. Which in this market is fairly sizeable and in high demand.

The question is can it be massaged to really get down to some Lot levels and then introduce quality standards along with that to make sure that what the resulting product is, is good and that also is that a minimum lot size or is it an average lot size.

Ms. Nealon said one of the things that we are seeing across all development, conventional and conservation, is that desire for a mix of housing products within those; three or more lot types or lot sizes are common. We have a plenty of examples, this is just one across the region. These actually have lower open space and higher lot standards, but all across the region we are seeing it happening. What happens in the Harrisburg planning area needs to fit the Harrisburg planning area and be right for Harrisburg. But we are seeing it is very doable, we are seeing it built in a lot of different places

The things that you should notice about this and a step with Harrisburg is what is actually valuable to Harrisburg? What is that open space that is set aside? Is it these three corridors, is it other types of open space that are accessible to the community itself to use as amenities, and of

course, counting the project edge that you are using to separate from existing development and so on.

We just wanted to show that, just to underscore the importance of looking at that so that as Jake Petrosky pointed out, being able to set aside these natural resources and make conservation land an easy choice is a big piece of that recommendation. It needs to get sorted out in updates to the UDO.

Another big recommendation is to work on the Town's UDO to accommodate a lot of things that we are hearing through the process that are actually a Harrisburg issue, not so much the County issues. There are things that are related to mixed use development to make sure that variety, and types of open space, and those relationships are accommodated, that employment areas are protected and then the conservation design.

She said it follows a thorough assessment of the entire document, streamlining of the document so, that it is easier for staff to use or anybody who is using it; to become an easier tool. There are more details, stay tuned about the Town's UDO

Mr. Jake Petrosky said this was not meant to replace the County Parks and Recreation plan or the Towns Park and Recreation Plan. But, we are to look at these big picture opportunities and really take what we are hearing during this comprehensive planning process and really kind of target the Town's efforts and the County's effort and private development efforts as well, related to a few key things.

He said one of the things was Parks and Recreation; loud and clear we heard greenways, greenways, greenways. Developing the greenway system was a clear priority for a lot of different people and it was voted two one in the survey and number one recreation priority at the first public meeting and all ages wanted it. He thinks that is part of the universal appeal, it does not matter how old you are, how many kids you have or how many dogs you have; you like to go to the greenway.

People want to have something locally that they can go to that is a little bit larger scale than what is available at Pharr Mill Park and that sort of thing. Your thinking about greenways was a really big thing. Regionally connected greenways; you have the Cross Charlotte Trail, which is being constructed by Mecklenburg County and Charlotte, up to the County line. It can pick up at Mallard Creek and provide a great amenity to the Morehead West area. He said that is very critical, connecting it into Town Center and that sort of thing as new development comes or as funds become available that is going to be very important to this system.

He said right now Harrisburg requires new development to reserve land and construct greenways that are on the bike-ped greenway plan. Which is a good thing; getting blanket easements might help in the future and also encouraging good design on the edges of those greenways to really maximize that as a resource of an amenity for new development.

Another thing that we looked at was the big picture for transportation. We heard a lot of recommendations from very specific recommendation or very specific needs or priorities to kind

of big picture stuff. But, really one of the big things that they are recommending is developing a strategic mobility plan. There are a lot of people who do transportation planning. He said Harrisburg and the County are members of the MPO, but they are really focused on regionally significant routes and not really paying a lot of care and attention to local mobility. He said that is why this needed. This is really looking at a frame work for roadway design and planning that looks to identify what is going to be the right way needed for this road in the future. So, you can start working with new development and getting those reservations, getting those incremental improvements as new development happens and also kind of fitting into that regional plan. It is really a local transportation plan that is meant to target traffic congestion and mobility of all types.

He said another thing we heard a lot was sidewalks. This is something, that no matter where you are in the study area, people wanted us to be considering sidewalks. He said, investing in complete streets that don't just move cars, but also accommodates pedestrians, bicyclists and eventually transit. That was something that people really wanted us to kind of take into account.

He said developing a complete street policy, a process to determine components, because not every street has to have all those things, not every street has to be an eight lane freeway with a monorail and bike lanes, sidewalks and everything like that. He said thinking about it strategically; in terms of your network, how do you get from point A to point B in multiple ways. That's what is really important.

He showed a typical section that was drawn as a potential future streetscape improvement on Highway 49. Highway 49 right now, is Harrisburg's main streets and it does not necessarily fit the bill and provide that main street feel, like eventually, we might want it too. Working with NCDOT and partnering on that, might be part of that strategic mobility plan. Really looking at a few corridors and identifying not only functional improvements, safety improvements and congestion level improvements, but bicycle/pedestrian improvements and aesthetic improvements that really achieve what you want from your transportation system.

Study long term water needs and educate citizens about how to maximize water resources. Water is a finite resource in Harrisburg. We do not have the water issues on the east coast that they do on the west, but our reservoir that we all get water from is not as big as we would like it to be and that was very evident during the droughts in 2007. We were within days as a region of being in very dire straits with water.

He said thinking about long term, water supply is going to be really important. Right now, we have to start talking about our future water supply and renewing the agreement with Concord. Talk about renegotiating it for increases in allocation that meets the allocation that was in the IBT (Interbasin Transfer Permit).

It is going to be a give and take, it is going to be conversation, because they have a limited water budget. They are going to want to really see what kind of water conservation policy the Town has in order to allow that agreement. So, that could be a throttle potentially for growth and for jobs and economic development in the future if we do not tackle that now. It is not necessarily a guarantee that if we ask we shall receive. We might actually have to work with

Concord, ensure them of some water conservation measures in order to get the water; that we would like to see the type of growth we would like.

There are some other things we can do like education on irrigation. He said irrigation is a big issue. That is part of what makes water use in Harrisburg different, is that irrigation is treated the same as potable water. There is not necessarily, a sliding scale, in terms of rates. These are all things that Concord might put on the table as being addressed if they are going to increase the allocation or renegotiate that agreement.

He said there is also some native plants and zero-scaping and water reuse that we can start encouraging as well. That could have some significant impact to water use in the long term. He showed a graph of projected water demand and where we are and where we are potentially going.

Ms. Nealon said again, those are the highlights of the key recommendations and the process we have been through to get to this draft future land use map and the supporting recommendations. We wanted to spend some time in discussion. (She has handouts and will bring it up on the screen as well)

As our project team and Staff went back through and looked at the draft, there are some things we wanted to refine a little further. (She passed out a handout with some suggested refinements) She said as with any draft, there are some things we want to tweak that are just typos or references and things like that and formatting issues that need to change.

She said the list is separated in to two parts. One is replacement text (content related types of changes). Then there is a list in there that is just those typos and formatting issues that we just wanted you to know that we are acknowledging them. We know we need to change them and they are on the list. We want your focus on the actual content and substance of the document.

She said there were some things that jumped out at them at the first read through, second read through and sometimes even a third, fourth and fifth read through, that you do not catch until something like this is staged.

Proposed Changes to Content:

High quality is referenced in the notes about the existing conditions of the Harrisburg planning area. When we think about that, does high quality really mean anything? We thought that was worth flagging and restating what we actually mean there.

She said high quality jobs mean different things to different people. What we are really talking about there, is the idea that because Harrisburg's growth in employment has been modest at best and if we are going to attract more jobs here, we can actually accomplish some things that are on peoples list of concerns; that being tax base revenue generation, traffic and retail leakage. The people living in the Harrisburg area are generally commuting to other jobs elsewhere in the region that are not present in the Harrisburg planning area.

This change does a better job of explaining what was intended by that whole paragraph and it removes the term high quality. She said that is number one; we want to replace those few sentences in the existing conditions section to deal with that.

Another item is in the very low density district, the explanation in the land use category talks about rural business. This is naturally, the area where you would still have operating agricultural uses and as you would see in any rural area, you have some things that are truly supportive of agricultural areas, certainly home based businesses, but it is not uncommon to have small engine repair and things like that out in the rural areas.

She said there is just a note of that because it is not saying very low density, it is purely residential across that span of green. There are still agricultural uses and will be and there still are some other types of businesses that are compatible in that range. If there are any concerns about what those uses are stepping up those performance standards to mitigate the impacts of those. We will leave that in there but want to clarify that is what that last sentence intends.

In the Low Density Residential we have always said two to three units per acre and it doesn't really make up that gap between very low density and low density. There is nothing wrong with in a low density area, on that land use map, if you want to do less than two units per acre. She said that is okay. We are just changing that text to say up to three dwellings units per acre.

She said the mixed use verses mixed use nodes. She described the mixed use nodes before and you have the written descriptions. Again, these are the concentrations of activity where you tend to see more vertical mix. These are the areas where it is that horizontal mix where you can see a change from retail to office to town houses and so on. She said that text has also been adjusted to help explain that a little more thoroughly.

The mixed use node is the same text you saw on the previous slide carried over. That needs to go into the plan to help folks understand what A, B, C and D means on that map, so that there is no assumption that all mixed use units are treated equal, that it can be different places and serving different geographic areas.

Ms. Nealon said on page 41, when we looked back at the survey responses, there is a statement that we wanted to clarify. A better way of stating that is; the survey respondents preferred conservation design over large lot conventional subdivisions more than 2 to 1. She said that is just for clarification.

She said the main thing she wanted to show about the conservation district compared to what is in the draft of the document, is they backed off some of things of putting specific standards in for a couple of reasons:

You really need to through the process and that is the other recommendation, is rewriting the UDO, but when you go through that process you really need to test those different scenarios in the different land use categories with different zoning districts and really see how those play out. We did not want to lose the overall message that one, it is important and two, allowing it by right helps make it that easy choice. If it is just easier from a review process and doing the math, if it

is just easier to do conventional, people will do it all day long. If you can make it just as easy to choose conservation and have it as by right, administrative approval; you will see more people trying to make the effort to do it and set aside that valuable open space.

She said the two things that you really want to deal with that opened the door for that discussion during the UDO rewrite process, is you really want to see what it is that makes the difference between people choosing it or not choosing it because of the resulting product. She said that is number one and the second thing is being sensitive to those adjacent property owners.

(Show the map) Here it is about what is marketable, it is giving people some value to the property they control and down here it is really being sensitive to the folks that are actually adjacent to where this is and might be concerned about potential impacts of that.

We wanted to underscore that and we wanted to make sure that it opens the door for that assessment that should be appropriately within a UDO rewrite and not leave that out. She said think of it as direction to code writing in the future. She said that is what they are volunteering as replacement text for the last bullet on Page 41, under that recommendation.

On Page 45, we had a couple of county districts in the Table that assigns potential zoning districts, saying they may be appropriate for the land use categories; to try to make that connection. But there were two that were county districts that really should not have been in the low density residential list. We are suggesting that those are moved.

On Page 55, we are adding a bullet to recognize the role that the County Soil and Water Conservation District can play in helping to get easements where they are needed.

She said another clarification to the text, we said before, make connections that are sensitive to all ages to enable residents to remain in this community. We know people are going to age in place here, if they have the opportunity with the housing products, but it also suggest that the transportation network also needs to be mindful of that.

She said it is not just seniors, children who are not driving or people who do not have cars or have access to cars are getting around in different ways. This is a rewording of that to recognize that people have very different circumstances and the network really needs to be accommodating to all of those differences.

There are some language that can just be removed because it is actually unnecessary and redundant.

On Page 59, we edited the utilities recommendations a little bit. They were a little too strong with thou shalt to this, and so we are backing off of that a little bit to suggest that this is something that just needs to be considered; water conservation policies and a related conservation initiative. That conservation initiative can entail a number of different details and so think of this as more of a menu in helping to define what an initiative looks like. There are some educational components to it. She said helping people make better choices as individuals, but there are also some things that can be done from a jurisdictional level. To say, you know what,

we actually really need to reward folks that are making the effort and let that be reflected in the fee structure.

She said that is just a handful of ideas without saying you should do this, but instead, make that an option with that; that was the biggest change. Our understanding with the agreement with Concord, we understand that a little bit better now, with when it expires, what the opportunities are for increase and more importantly the rate structure that goes along with that.

The agreement you have right now, needs to be renewed this summer; just to keep going what you have going. She said future amendments to that agreement, not only need to be for the amount of water allocated, but the rate structure and so on. It is something that is going to be challenging as Mr. Petrosky said. The amount of water that you have now, which you will have available in the future and with the growth that is coming, generally, to this region and how people are using water is something that all of us need to be paying more attention too. This recommendation starts to bring that to the fore front, but does it in a much more substantive way she thinks.

Ms. Nealon said everything else is really typos that we picked up on and formatting issues. We said a lot during this presentation and if you have had a chance to read the draft, these are some things you would have been reading about and we wanted to bring these to your attention to say you know what, there is a little bit better way to say those words, as it is to present this and to go on and make an important point from a policy perspective.

She asked if there were any burning questions. She said the rest of the time is for discussion. We are open to any questions, suggestions or reactions to these proposed changes we have put forth on these couple of sheets.

Mr. Chris Pinto asked why the Town Center has not been finished. There seems to be some sticking point there somewhere. He is not from Harrisburg, he is out in the hinterlands of County. He is just curious if she knew.

Ms. Nealon will give her take on it, but there are people in the room that understand it a lot better than she does. When that came about over decades ago now, subject to specific zoning districts, planned development and the conditions that went along with that, are still what is guiding that today. The control of that property is a big piece of it; so it is that, in combination with the conditions that were set in place back then or not set in place back then that has not allowed it to play out the way a lot of other planned developments that we see around the country would. There are some glitches, in her opinion in that are a part of the hold up. It is not a lack of market here, it is a lack of being able to have things move forward and not have those conditions or lack thereof, stand in the way of getting to a completed place.

She said that is a very general answer without digging into all of the details; you certainly have the market here for it to be completed.

Mr. Andy Rathke, Harrisburg Planning and Zoning Board, said it is concerning to us, no

question about it. It is a focal point of Harrisburg, it is a real estate transaction; there are people who have locked up some land in there.

Ms. Nealon said it is not an easy solution but it is something that would need that attention to get over some of those hurdles that are standing in the way.

Mr. Charles Paxton thinks it may be a number two issue on this but among the rest of Harrisburg it is an issue but it should not be the concentration of this issue here today. He said the Town Center is going to be what it is going to be. There are other issues and stuff like that we can concentrate on just as well as that; in his opinion.

Ms. Holly Grimsley asked if the Harrisburg or Cabarrus County Parks and Recreation boards provided any feedback or been a part of any of these discussions.

Ms. Nealon said yes and Mr. Petrosky can speak to it more specifically. Those were inputs into our process and we will be bringing forward those ideas that are expressed in those plans.

Mr. Petrosky said there are few minor adjustments that we made, just because we are looking at it with fresh eyes. There are a few minor adjustments that we made to the planned greenways that account for Farmington's design that were not in the greenway master plan. Another thing we are trying to do is shed light on priorities because the existing plan has a great network of greenways and trails but it did not say priority. In this plan you will notice that there are some identified priorities as to where to start. Obviously, all our recommendations should be revisited whenever the greenway master plan is updated or whether a greenway is actually designed or a feasibility study done or something like that.

Ms. Nealon said, we did hear a lot of support, not just for trails but we asked specifically the people's desire for that regional connection. There was a lot of support for that, so some of the priorities that are here, are acknowledging what people said about wanting to be regionally connected, so that would inform where your early attention should be.

Mr. Pinto said down in the watershed (the green area), does anyone in the room know how much pressure there has been for new development or development that has already been approved or development that are on the drawing board that would affect water. How many homes that are already either approved or the pressure.

Ms. Nealon said you are talking about the water demand.

Mr. Pinto is curious; how many developments are planned or are already approved down in the watershed.

Ms. Nealon said when we started the process, one of the things that we do is try to get a sense of how much land is actually available and not spoken for; what is available for future development. Some of the early mapping that we did, that Mr. Petrosky did, acknowledged what we call pending development and approved development. When we took into consideration everything that was developed, we added to that what was approved and pending approval, so

that we could then subtract that out and really see what we would put in what we call land supply. We knew that in the fall; what is happening presently, today, she cannot respond to that.

Mr. Petrosky said the only approved developments in that area, right now, at least south of Rocky River Road, is the second phase of Blume. He does not know how many units that is (somewhere about 100). There are some approved subdivisions that are not built out, but mainly those are very large lots, very small scale things like 10 units, 15 units and they have a couple of acres for every house and they have not sold tracts in the last 20 years. He said those are the really approved developments down there.

Through our conversation with landowners and members of the public, there is a lot of talk about development around there. Especially, since the school is going down there. That is certainly a hot button issue, whether it is from neighbors that are concerned that their neighbors are going to sell, or land owners that are getting requests by developers to come talk to them and see what they can do here and people who are interested in retiring and not farming or maybe there land is just in present use value and is growing trees or hay for right now to get a tax deferral. They are thinking about their long term plans and what they are going to do with the property.

He said it is definitely an interesting dynamic and something that is going to have a lot of development pressure in the near term. During the last plan, the reason why there wasn't as much development pressure down there, is because there was no sewer along Reedy Creek. Now, there is sewer there at the top of that watershed because it flows south to north.

Josh Watkins, Town of Harrisburg said there is actually a pending request off of Lower Rocky River Road. We expect to get that application approved within the next month for a rezoning. It is 190 acres and they are proposing 224 units. There is one pending project that we are expecting to start to go through that process with in Harrisburg within the next month.

Mr. Steve Wise said you mentioned jobs in Harrisburg. He asked if there is any hard recruiting going on in Harrisburg for large corporations in that area. Is there property or infrastructure there for it?

Ms. Nealon said infrastructure is one of the hold ups. She said more responsive to folks who are looking in the area and what they are interested in; so smaller spaces and smaller sites than other places in the region. But, when you look across the entire area especially around the whole 485 ring, you have a lot of opportunities for other sites that already have infrastructure and they are already prepared sites and so on. That is the reason why it hasn't been the lengthy list of phone calls that maybe some other jurisdictions have gotten. That is the reactive side of it. The proactive side of it, there certainly can be more that Harrisburg as a town or Harrisburg in working with the surrounding area and the larger region can be doing.

Ms. Nealon said what did come up through this process and came up even earlier with the Morehead West Area Plan is that focus on the combination of let's make sure that we are delivering a community that attracts the talent so that the employers can see that they can market their job. When they are putting that job description out to folks and getting resumes in, they are showing those candidates a community that has a high quality of life and meets their criteria.

You are getting into that millennial group that has different expectations than a lot of us. Then there is the utility issue. First in the Morehead West Area Plan, and more so through this plan, thoughts about those extensions and how that can be accomplished so that the sites where the employment would naturally go are getting those utilities first.

Todd Noell is our Marketing Analyst on this team. He said when you look at a radius from the interchanges of 485 and looking at distance from 85, that western area is really is your sweet spot. So, you have the sites out there, you have a lot of that zoning in place and you need the utilities and you need the housing. If you can protect the zoning that is there, so it does not turn into schools or houses or something like that when it really wants to be employment, you get utilities there to the sites that people are actually picking out that meet other criteria of those site locaters; that is a big tool.

She thinks in short, that there is a recognition that the Town or anybody working on the Town's behalf could do more, but those things are the obvious gaps that need to be addressed. That is your best recruitment strategy, is to work on the things that people are naturally going to have on their check list of requirements for sites.

Ms. Susie Morris said those who remember when we adopted the Morehead West Plan, that plan was put into place, not only as a land use plan, but also an economic development marketing tool for the Town, to try to get some of that happening.

All of the distribution centers that Concord is seeing, with FedEx and Amazon, they are going where they are going based on locations. Harrisburg is not going to offer up the same type of access that they have where they are going. But there are other opportunities there, especially in that Morehead Road area near the Speedway. We talked about the topography challenges, but there are some of those larger tracts that could support much larger buildings than what Harrisburg has right now. She thinks Pepsi is the largest building right now.

Ms. Nealon said if things keep going the way they are going, yes, there is competition in the region, but we are talking 20 years out when we do these plans. Within that 20 year window, Mr. Noell felt comfortable that if you put the right ingredients in place, you should be able to attract that.

Mr. Jeff Corley, Cabarrus County Planning and Zoning Board, said there was a lot of discussion early on about the work here, live here kind of idea and that there is sort of maybe a misalignment between the price point and the housing product and the types of jobs that are being created in the Town. There are not a lot of jobs, and jobs kept coming up and thinking about what types of jobs, aligning that job with the people that are buying the houses that are being developed, is a pretty big disconnect. He thinks that brings that Morehead West Plan, that is where it could be and he thinks it could be a huge solution.

Mr. Scott Noel, Town of Harrisburg Planning and Zoning Board, said you also have a growing contingency of people that work remotely, that may live in this area, but in Harrisburg especially. He knows there are many residents that work from their homes very often. What do we develop from an office standpoint? There are memberships all over the country that has open flex space

that you may go in and rent a space; so things like that as we consider, especially millennials, who do that more often than not in other cities. He said how do you grow that opportunity to have different out working office spaces; work from home opportunities.

While it still may be a bedroom community which we probably won't ever fully get away from, but we try to be more deliverance contingent about it; to create those opportunities.

Ms. Nealon said the demand is for a smaller office space with an open floor plan, so that you can make those adjustments depending on the demand and co-working spaces, like you are saying for the groups that you are talking about.

Mr. Noel said and small companies.

He thinks it is a very smart, deliberate plan that has been put together. He is curious if anyone has any major concerns, but he will hold that and go back to the water. One of his main things is knowing our water and that we are landlocked in many ways here in Harrisburg; that has been a critical component. He really appreciates how we have addressed this overall and is curious if there is any other feedback for this because if you look at these numbers in the back we are already hitting our cap essentially or coming close to it in many ways here; not the cap but the contract number.

He said all of these developments that you pointed out, there are things still in the books that are growing. Addressing this especially with developers, in this conservation approach, he thinks is critical, down to even putting in Bermuda grass versus fescue, other the things like this from an irrigation stand point. We need to come at this holistically, changing behaviors, creating awareness education, low flow aerate; opportunities and programs are going to be absolutely critical to raise awareness as people are moving in and having developers to help address that as well.

He is curious of the group's thoughts on that in general, knowing that we are getting closer on time here. If there are any kind of red flags for anyone that may come out in this as well.

Mr. Corley said sooner rather than later too. Even though you are up against the contract limit and you have the eventual IBT limit and all of those numbers are obviously subject to increase. However, those processes are not short, they are not easy, and they are not inexpensive. There are certain thresholds that require new intakes. In the Yadkin River there are permitting issues through the State that take five, ten, fifteen years to accomplish; then you have to build it. So, sooner rather than later. The longer you can keep those numbers down, the longer we can keep growing without a big mess.

Ms. Nealon said that is true and that is why the conservation really comes into play. It is, as you are pointing out, a multi-pronged approach; you don't do this and then do that; however they all need to start marching forward simultaneously.

Mr. Richard Price, Cabarrus County Planning and Zoning Commission, said with Harrisburg being located somewhat unique, compared to the other jurisdictions in the County. They are

very close obviously to 485, that whole loop, all 63 miles of it is in Mecklenburg County. They have ownership of that so to speak. The elephant in the room is them. In a sense, Harrisburg can somewhat control its own destiny, but if that elephant comes toward you, then it is an elephant coming toward you. How do you plan for that and how much input have you had from those folks as to what there eastside planning looks like?

Ms. Nealon said that is such a good question. We have looked at the surrounding jurisdictions, but as you pointed out that is a big one. That is where all of the growth is coming from and with 485 close it invites a lot more.

She is actually doing some work for Charlotte Mecklenburg right now. We talked with them first during the Morehead West Area Plan; trying to get a sense of where their heads were. They were just launching into or had started their place type definitions. If you are paying attention to that process at all, it is flowing from the regional effort that defined the Connect Our Future. So, they decided to take those place types and see how those might lay out or a subset of those across Charlotte.

She said long story short, Charlotte Mecklenburg has a stack of plans that they call their plan. It is the center corridors and wedges plan, the GDP, urban street design guidelines and then underneath of that they have 18 area plans, plus they have district plans. They started to dive into that in creating this place types and in that effort they have decided to sort of put a lot of things planning wise on hold. What is on the books right now for their plans, is what they would say are their plans for the future especially where it abuts Cabarrus County. It is predominately residential; there is a lot of R3 zoning out there with a few exceptions. If you ask them what does your plan say or what is it going say, the answer is probably, we do not really know because we are in the middle of this process; so what is adopted is what you have to go off of. Some of the area plans and the district plans are 12 to 17 years old.

Mr. Price asked if Charlotte Mecklenburg foresees being able to roll all of that up into some sort of comprehensive plan that other people can look at.

Ms. Nealon said that is a good question. They have a new Planning Director and a fairly new Manager, so they are sorting through some of that right now. It is a big daunting task ahead of them. She said that is their short answer and it is what was adopted back then and it is still true today; they will not tell you anything differently. Their focus is on the business corridors, the northern crescent of the city. It is where a lot of the public investment is going, the University being nearby is a driver of a lot of the desired growth.

Mr. Price said they just ran the blue line out there.

Ms. Nealon said the transit is really taking up a lot of their attention, to make sure that what gets built around the transit lines is what it needed to be. It is all sort of like pointing in this direction. What you are seeing in that whole combination of plans, is still what you should be paying attention too; but that would be their answer.

Mr. Price said as far as their transportation which obviously they invested numbers that he

cannot comprehend into that and more to go. He asked if their transportation plans stop at the County line or are they looking for buy in from other counties. Harrisburg could literally throw a rock and hit them; the rail line.

Ms. Nealon said Charlotte Mecklenburg is a member of CRTPO, the planning organization that covers that larger area. She said yes, the extent that Charlotte CDOT is responsible for their transportation to the county line.

She said take CATS for instance, there is some real physical constraints to getting transit passed the county line; frankly the 485 bridge coming out 29. There are real physical constraints to that but, like Mr. Petrosky was talking about, the mobility in Charlotte is important there and it is import to Harrisburg. To the extent that they are recognizing connections to other parts of the region, they would very much like to see what they are investing in Carolina Thread Trail, for example. It is the Cross Charlotte Trail which is part of the overall Carolina Thread Trail network. While they are stopping on their side of the county line, they very much expect that it will be picked up on this side and similarly the other side of that 26 mile trail picked up in Pineville and go south from there.

Mr. Price thinks most of the neighboring counties have embraced that. He knows we have here in Cabarrus County. He is wondering how that translates over to the overall metropolitan transit plan. Because once again, Charlotte is the elephant that drives everything here.

Ms. Nealon said so much of your commuting is into Charlotte.

Mr. Price said if Charlotte was gone, Harrisburg would not have a transportation problem. It would not have a busy 49 corridor through there. So obviously, that is where people are going and then coming back on the p.m. commute.

Ms. Nealon said some of the details that we have in the lengthier existing conditions report details out what is happening with CK Rider and with Cats for their bus system as well as a mention of the transit system. You do have a lot of things in play, all things transportation, not just the road network but it is a challenge for all of these jurisdictions to:

- a. keep up with the growth we are seeing everywhere and
- b. coordinated enough to make sure that where those jurisdictional lines pop up we are helping people connect as much as possible.

Mr. Price said whatever Charlotte does it will never be as bad as Atlanta.

Ms. Nealon said one of the reasons the mobility plan popped up as a major recommendation was to try to get as much out in front of those issues as possible. It is really easy to go east/west in Harrisburg, it is not so easy to go north/south. It is about all of those connections but not just catering to the road network to see how you rally can take advantage of what is here for transportation infrastructure and find those short term solutions that build on that network to start. She said to keep alleviating the pain but also try to be creative.

Mr. Price said look at 485, those of us that were here during the planning for that. There was no money and kudos to the Mecklenburg delegation for squeezing the money out of the federal government and Raleigh for that. But, it is woefully too small already and it is a race track. Harrisburg is right there, so when that thing goes from four lanes to eight lanes or whatever that is through at Atlanta. He knows we cannot plan for that with this but probably is going to happen at some point.

Mr. Rathke asked if there was an update on the 49 corridor. The last time he drove up that way he noticed that some of the roads are turning into the super highway and they are expanding all the way up to Asheboro. Is that going to be coming towards Harrisburg that way too?

Mr. Josh Watkins said they have not heard anything about it coming into Harrisburg. It has been coming further down 49; that super street design. The last thing he has saw was it stopping at Stough Road. There could be future plans but he has not been made aware of those.

Ms. Holly Grimsley asked if Concord has indicated any type of renegotiation problems. Have you heard any feedback from them?

Ms. Nealon said they have been talking to Christy Putnam more recently and she gave us so more detail that helps clarify. That is why the whole notion of the rate structure is important. It is her understanding that in the current agreement there is that cap at 1.6. So, with current peak times you are right up against it and probably even crossing over. The rate structure allows for that crossover but it kicks in a higher rate once you cross those thresholds.

The agreement that would get renewed this summer may hold everything in place and just be a renewal. The notion that some of those provisions would change, both in terms of the allocation and the rate structure and when a higher rate would kick in, she thinks all that is open for discussion.

Being able to just get the renewal is step number one, to make sure you do not have a gap. The second or third recommendation about the long term water solution, to sit down and talk about what is that magic number in the future. She showed the IBT permit limit and said that is a whole different ball of wax there, just being able to come up closer to that number. It is not just about negotiating with Concord specifically, about getting the right numbers, but shouldn't the two jurisdictions be working together to kind of really have a real hard look at what does this mean 2040 and beyond and what do we need to be doing more regionally, to have more access to water period and then make good decisions about how it is allocated and what is being done on an individual and jurisdictional level to make the best use of the water that we have.

Ms. Nealon thinks that Ms. Putnam fully expects that once this one is renewed that that conversation about what is the next renewal look like and what are all the different provisions that need to be addressed, would have to be a part of that.

She thinks it would have to be a much more productive conversation if it coincides with conversations about what is our reality in the future as a unit; Concord and Harrisburg together. How do we look realistically about all the full range of solutions, so that we have more than what

our current allocation is. There is a lot of detail to it and Concord is open to that and recognized that Harrisburg is not going to knock on the door just for a single number change.

Mr. Scott Noel said outside of this context, is that he thinks that Harrisburg residents and not just unique to Harrisburg, but residents are not mindful of their water consumption; even water waste. Our cost are relatively low for what we pay as residents in Harrisburg. Many Harrisburg residents would be in for a rude awakening if something were to happen and the cost went up. They have the power to control if they were doing more. They can control some of these things by using less water, low flow and all these things we are talking about here, to help educate them and would be a huge step in the right direction; just from behavioral change and consumption practices.

Ms. Nealon said a lot of jurisdictions are doing it. It is pretty common, this combination.

Mr. Lloyd Quay, Harrisburg Planning and Zoning Board said, at the very end of it, it says water reuse. What does that entail, is that possible reuse of gray water? Back many, many years ago gray water was a separate entity that was not treated the same way that black water sewage would be. The engineering design factors that would be employed as to capture gray water for possible irrigation or uses of that nature he would think that engineering would be cheaper than people drilling individual wells in subdivisions simply for the water to irrigate yards. He said gray water is something that is also addressed on the state level as to whether it can be actually utilized or not. He said that water reuse term there, what is Ms. Nealon referring too?

Ms. Nealon said just that it could be a part of an overall strategy.

Mr. Jake Petrosky said a lot of jurisdictions elsewhere, they are in the same boat. They have or are reaching an upper limit of what they are allocated in terms of water. In some cases, you can stay below that through conservation measures, but the question comes up when there is something new presented. If there is a new subdivision or a development, that is a couple hundred users. Or it could be a large user and that could be part of the encouragement that the town has with that. To say look, we have to stay under our threshold, can you come with a water reuse solution that lay some purple pipe that is designated for reuse for irrigation or something like that. There are a lot of incentives that could be provided from the utility or something like that, in order to encourage those new users to provide the necessary infrastructure that allows that in the future.

He thinks that is part of it. Limiting the impact of new users on the system where it make sense. There a number of precedents and that sort of thing going back to golf courses many many years ago that did something similar.

Mr. Lloyd Quay thinks it would certainly be hard to redo existing homes to fit into that sort of scenario; getting away from the whole concept or notion in peoples mind, of the nice green yard all summer long, they do not realize how much water goes to that and if they were not using that what else could be done and how they could save money and how the town otherwise could say money.

Ms. Nealon thinks some of this works well with the conservation design idea when you do not see the demand for very large lots anymore and people's willingness to maintain them and the preface

for that open space to actually be maintained by a HOA or public open space. You may see some of that drop off. A lot of the demand is coming from folks who are her age or older, who want the single family detached with the large yards and really enjoy their lawns. Some of them get those bills and they are perfectly fine with paying those bills. She thinks you will see a transition over time just because of people's preferences and younger generations.

Mr. Andy Rathke, Harrisburg Planning and Zoning Board, thinks a big factor in this would be the industrial coming to Harrisburg one day that may use a lot of water. Mt. Holly has a big issue with one of their biggest consumers a chemical company and they absorb over two thirds of all the water in the whole city. He said size wise Mt. Holley is very similar to Harrisburg. He would be really concerned about bringing big businesses into Harrisburg; could we manage that with the water?

Mr. Steve Bedwell, Harrisburg Planning and Zoning Board, thinks that is where you would put in the water reuse requirements for new industries coming in. High-water command industries need to have a solution for their consumption of water and waste water. That is something we need to consider going forward.

Mr. Scott Noel said are we are looking for a recommendation, collectively, to go forward.

Mr. Josh Watkins said we talked about this a little bit last night at our regular meeting. It is totally up to you as the Planning and Zoning Board, if you feel comfortable doing so, we certainly welcome that this evening, but it is up to you how you want to handle it.

Ms. Morris said the County is not necessarily on the same time schedule that the Town is at this point. If the Board would like more time to consider it, you can consider it at the June meeting. If you are comfortable with making a recommendation to the Board of Commissioners tonight you may do so as well.

Mr. Andy Rathke said wouldn't it make sense to have it uniform, not as week later or month later for them or for us maybe today; should we do it all the same?

Mr. Chris Pinto said we got the materials two days ago to look at and then we had this that came today. He does not know if they will be ready for a recommendation right now at this time. That is his personal opinion, the Board might think differently. We might be able to get with you after our meeting in June.

Ms. Morris said from here it will start taking separate tracks to the different Boards. So, we would not be on the same time schedule anyway.

Mr. Price agrees with Mr. Pinto that he would feel a little more comfortable if we could get it on our agenda for June and have a discussion of the full Board then. If it goes that way, we can vote then.

It was the consensus of the Cabarrus Planning and Zoning Commission to not make a

recommendation on the Harrisburg Area Land Use Plan to the Board of Commissioners tonight and to table it until the June 12, 2018 Planning Zoning Commission meeting.

Mr. Andy Rathke thinks they should make a recommendation to the Harrisburg Town Council. That is his personal opinion. We have had this only for a few days but it is a part of our obligation for us to review this prior to it and most of us were pretty adamantly involved in the process.

Mr. Scott Noel asked Ms. Nealon when she expect to have the changes into the final presentation.

Ms. Nealon said if those look reasonable, those are the edits that would go forward; probably next week.

Mr. Noel asked Mr. Koch if there is any specific language that we should use.

Mr. Koch said not really. There is one change in the typo's that has Lloyd Quay as the Chair and Andy Rathke as the Vice-Chair. He said Andy Rathke is the Chair of the Planning and Zoning Board and Lloyd Quay is the Vice-Chair. That is the only thing that he saw.

Mr. Rathke thinks that can be addressed in the final draft before it goes to Town Council.

Mr. Scott Noel, Motioned, Seconded by Mr. Steve Bedwell to recommend Approval upon the final draft of the Harrisburg Area Land Use Plan to the Harrisburg Town Council. The vote was unanimous.

Ms. Nealon thanked the committee members who were also part of the Planning and Zoning Boards for their participation throughout the process. It was very, very, very helpful.

Mr. Rathke appreciated everything that Ms. Nealon has done too.

It was the consensus of each Board to adjourn the meeting.

The meeting ended at 8:00 p.m.

APPROVED BY:

Chris Pinto, Chairman

SUBMITTED BY:

Arlena B. Roberts

Planning and Zoning Clerk

ATTEST BY:

Susie Morris
Planning and Zoning Manager

DRAFT

Planning and Zoning Commission Minutes
July 10, 2018

Mr. Chris Pinto, Chair, called the meeting to order at 7:05 p.m. Members present in addition to the Chair, were Ms. Mary Blakeney, Mr. Jeffrey Corley, Mr. Adam Dagenhart, Mr. James Litaker, Mr. Andrew Nance, Mr. Charles Paxton, Mr. Richard Price, Mr. Brent Rockett, Mr. Stephen Wise and Mr. Jerry Wood. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Phillip Collins, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board and Ms. Catherine Barr, Acting County Attorney.

Roll Call

Mr. James Litaker **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the June 12, 2018, meeting minutes. The Vote was unanimous.

The Chair asked those persons who will be speaking on the Board of Adjustment case, or testifying during the public hearing, to stand to be sworn in. The Chair administered the oath.

The Chair read the following:

SUGGESTED RULES OF PROCEDURE FOR CABARRUS COUNTY PLANNING AND ZONING COMMISSION

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. After the staff report and questions, the proponents (those speaking generally in favor of the case) will have a total of 15 minutes to speak and/or present documents in support of their position. The 15 minute time limit does not include questions directed to the proponents by the Commission.
3. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak and/or present documents in support of their position. The 15 minute time limit does not include questions directed to the opponents by the Commission.
4. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.
5. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.

6. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
7. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
8. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Jeffrey Corley, **MOTIONED, SECONDED** by Mr. Brent Rockett to **APPROVE** the Rules of Procedure. The vote was unanimous.

New Business Board of Adjustment Function:

Petition VARN2018-00001 – Request for relief from landscape buffers and reduction of the required driveway width for a public use facility. Applicant is Cabarrus County. Property is 12900 Bethel School Road (PIN 5544-72-3955).

The Chair asked if there were any Board members that have any conflicts of interest or any information related to the case that needs to be disclosed at this time. There being none, he called on Mr. Collins to present the staff report.

Mr. Phillip Collins, Senior Planner, addressed the Board presenting the staff report for VARN2018-00001.

The applicant is in the process of developing the subject property as a Public Use Facility (Rob Wallace Park), which is permitted by right within the Office Institutional (OI) zoning district. The Applicant is seeking relief from the perimeter landscape buffering requirement of Chapter 9 and the driveway width requirement of Chapter 10.

The landscaping and buffering standards of the Cabarrus County Development Ordinance are located in Chapter 9. Section 9-6.1.D requires that development taking place on an existing site must meet the required perimeter buffer yard standards. Per Table 5 and Table 4 in Chapter 9, developing institutional uses are required to provide a buffer yard Level 2, when adjacent to residential properties. Based on the size of the parcel the required buffer yard is 75 feet.

The proposed location of the access road encroaches into the required 75 foot buffer area for a depth of approximately 47 feet, along the area that is common to PIN 5544-83-3637. Perimeter Landscape Buffers are required to be vegetated and undisturbed.

Driveway width requirements are found in Chapter 10. Section 10-5.D requires that Aisle Widths (and driveways) be 24 feet wide. The applicant is requesting that the 24 foot requirement

be reduced to 20 feet for the entire length of the access road, the part of the project that is located within the unincorporated area of the County.

The subject property is approximately 181.15 acres and is currently being developed as a Public Use Facility (County Park). The first phase which is primarily located in the Town of Midland is open to the public. The property has a network of bike and walking trails throughout, a large quarry pond is located in the southeast corner of the property. There is a 3700 square foot utility storage building located on the southern end of the property.

The subject parcel contains several water features that are subject to compliance with the Waterbody Buffer Zone.

The subject property is surrounded by residential, industrial and vacant properties and general industrial zoning and Midland zoning district, single family residential and industrial.

The subject property was originally zoned General Industrial (GI). Cabarrus County submitted a rezoning request for the zoning of the property to be changed to Office/Institutional (OI) and it was approved by the Planning and Zoning Commission on August 9, 2016.

The subject property is required to contain a #2 level Perimeter Landscape Buffer on the western, northern, and part of the eastern borders of the property, each of which abut residential uses.

The applicant contends that the proposed access road will follow existing dirt paths historically used on the park property (aerial photos are included).

The Board of Adjustment approved a variance at its September 2016 meeting for the subject property. The request was for multiple variances and included relief to allow for walking and biking trails to encroach in to the required 75 foot perimeter buffer.

The applicant is proposing to install landscape as shown in the typical submitted within the application with future road construction to mitigate the variance request if approved.

Should the Board of Adjustment grant approval of these variances, the following conditions should be considered as part of the approval and case record:

- Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of the project.

- Applicant shall install landscape as shown in the typical submitted with the application with future road construction to mitigate variance request.

Mr. Jonathan Marshall, Deputy County Manager, Cabarrus County, 65 Church Street S. Concord, NC, addressed the Board. He has been employed by Cabarrus County for 30 years as Land Use Planner, Planning Director, Development Services Director and now Deputy County Manager. He still deals with land use and development projects for Cabarrus County.

The variance they are requesting this evening is much like the one they requested in 2016. It is an attempt to use this land as wisely as we can and continue to use it in the way that it has been historically and to take advantage of some of those roads that were built dating back to when this was a farm in the 1940's and 1950's.

He said there are some numbers on this Master Plan (1 through 5), which are some pictures he will go through. He showed the Master Plan along Bethel School Road. He said where the first pond is, is the area that was developed primarily as Phase I and is the most active part of the park. There is a perimeter trail that has been developed all along the property lines, down around the rock quarry, and much of that was the subject of the variance that they requested in 2016. We built that trail to the standards that we promised at that time.

We did not feel like, when we were coming back to develop Phase II, which is going to be an extension of the access road, down towards the quarry and then a parking lot for people that were using the quarry and the trails in that area, that we would need a variance for the access road. But, as we began to look at it and the future development of the primary building in the center of the park, as well as the additional development of the primary open space in the park, it makes the most sense to the keep road in its historic location.

What we proposed is that the trail is already in place along that property line where they are requesting the variance. We would landscape between the trail and the road, but the road would be just interior from that, allowing the maximum use again of that rise in the park, so that you have the building constructed on the most prominent point and the maximum amount of open space in the park for future amenities.

Mr. Marshall said that Londa Strong, Active Living and Parks Director, as well as Byron Haigler, Assistant Active Living and Parks Director, are here tonight if the Board has any questions about the master plan and how that relates to what we are requesting to do here.

(He showed a series of pictures).

Picture #1, is showing that access road. We have improved it, but this is the historic location of the access road. From the master plan, this road is actually the correct distance from the property line; actually a little further. There is coming out of the woods, the trail that follows along the property line. It is about the point where the trail comes out of the woods that we begin getting next to the property line and following that variance that the Board granted previously.

Picture #2, is also looking south along the access road. But, in this case, you see the area in between the trail and the developed path that we would install landscaping as we built the access road. We are following the property line here. That land that is to the east (since we are looking south here), all this land that is wooded, is a parcel that fronts on Bethel School Road, but it is divided from the main parcel by Muddy Creek itself. This part is all heavily wooded and mature forest.

Picture #3, is really the path itself that has been developed. He is looking south, you can see the access road and the strip in between where there is some landscaping that we preserved and that is the landscaping we would accentuate.

Looking north you are seeing the same thing. The trees that are actually on the right side of this Picture #4 that is the highest point. That was the homestead sight on this property, so you see the path as well as the existing access road which we would improve and pave.

Finally, this is getting back to the northern most point where the trail emerges from the woods and where we begin to get next to the property line. Our purpose in this is to show how heavily wooded that is when we come out and that wooded area remains all along the trail. It follows along that wooded line.

Mr. Marshall said the second part of their variance request is to have the access road itself be 20 feet wide. He knows that has been a debate as the Board has gone through different development proposals. The fire code allows a 20 foot wide road, but the enforcement from our ordinance has been 24 feet. The reason they want a 20 foot access road is because we do not allow parking on either side and is enforced by the ranger staff as well as Sheriff Deputies if necessary.

In addition to that, the 20 foot wide access road slows speeds. If you look at Frank Liske Park you find that the majority of our access roads throughout Frank Liske Park is 20 feet or less in width. Even with that in place we have had to put in speed bumps and other traffic calming measures. The smaller width road slows traffic and people naturally want to go slower because it is less width and in this case where we have a trail there, where we have an active park throughout the open space, we want to slow speeds in any way that we can.

He said going back to the master plan, ultimately this access road does lead to a larger parking area; this is just a generalized design. We understand that the floodplain maps are being revised and we are going to need to do some revision to this parking area to comply with the floodplain maps. It will be adjusted as necessary and meet the standards of the ordinance once that is done.

Mr. Adam Dagenhart asked if the only reason they want to keep the road where it is, is for historic purposes; i.e. it could move. Obviously, you would have to tweak the site a little bit as far as the items inside.

Mr. Marshall said it is both for its historic location. It was below the rise, so when you get to the site where the homestead was located, it was below that, because that is the prominent piece of

land. By keeping the road in this location, that leaves that open to develop what will be the focal point to the park eventually, which is a nature science center, multipurpose building to be built in the center of the park. We will build that at that highest point. That allows us to put that on that high point, so that you have the vistas that we purchased this land to preserve and still have the access road over to the other side.

Mr. Dagenhart said the bullet point four on your drawing, does any of that parking lot encroach into the 75 foot buffer?

Mr. Marshall said this is just a generalized path. Ms. Morris felt like there may be a portion of it that does. So, we have already asked Benesch, who is doing our master planning, to adjust the final plans for that so that it would not. Jeff Ashbaugh is the landscape architect who is drawing this and he has indicated he has made those revisions.

The Chair opened the public hearing.

Ms. Londa Strong, Director, Active Living and Parks, 331 Corban Avenue, Concord, NC, addressed the Board, stating she is here to answer any questions the Board may have. We felt like this would be a better opportunity to utilize the pasturable vistas that are there already that use to be farm land. It is a beautiful site if you have not been down there and those trails have been used every day. The first two months we had over 10,000 people in there and that was in January and February. It is a heavily used park to be in that location and we would like to make it even better.

She has been working for Cabarrus County for 36 years. She said Frank Liske was being built when she came, so she had a little bit of input on that, but the rest of the parks she has been involved with.

Mr. Byron Haigler, Assistant Director, Active Living and Parks, 331 Corban Avenue, Concord, NC, addressed the Board stating that he is in favor of the variance and is happy to answer any questions the Board may have. We are definitely in favor of protecting those natural areas as much as possible and providing as much access as we can without having to provide the infrastructure in the middle of the property.

There being no further questions or discussion for staff or the applicant the Chair reminded the Board of the Variance Power:

1. Unnecessary hardship would result from the strict application of the ordinance.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
3. The hardship did not result from actions taken by the applicant or the property owner.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance.

Mr. Charles Paxton said this request seems to be reasonable and some of the request are peculiar to this property. He recommends that the Board moves forward.

Mr. Dagenhart reminded the Board that not too long ago they denied a request for a road for a substation within the buffer and that was not even a hard surface; it was just a gravel access.

Mr. Jeffrey Corley understands the applicant's desire to be able to minimize the impact and maximize the open space. Those are all goals that we share he believes as a Board. We have shown that over time however, given the sheer size of this property and going through these four items (variance power) he struggles with most of them. If we had a real skinny spot in this property where we there wasn't a really another alternative to develop the site, he would feel a lot different. But as a Board, we have these four item here and if you read what they say, they are hard to accomplish for a reason. In his personal opinion in this case we are pushing a little too far on a large piece of land, but at the same time he certainly recognize the applicant's desire. He thinks we are little to close.

Mr. Richard Price disagrees with that. Looking at each one of the items, he thinks the applicant has clearly demonstrated that they meet each one. There is some leeway for us as Board in each one of those.

He said unnecessary hardship, certainly it is unnecessary with the strict application. The road is already there, so a strict application of the parameters that we have here is going to make them build a road somewhere else. He said that is an unnecessary hardship. He said in all four of those he can see where the applicant meets the criteria that we have in front of us.

Mr. Dagenhart would argue that they are not going to use that road, they are going to use the location. They are going to dig that road and undercut it and put all new sub-base and asphalt. They are not going to use anything existing there.

Mr. Price said that has not been presented to us in the application. We have only talked about location, not construction of the road.

Mr. Dagenhart will remind Mr. Price that few months ago we denied a variance request.

Mr. Price said we did and he was not in favor of that.

The Chair said as far a public safety goes, narrowing the road slows the traffic down. He has been to Frank Liske Park for soccer games and people go through the parking lot where there is no speed bumps to get around the 20 foot wide road. He does feel that it meets number four; consistent with the spirit, purpose, and intent of the ordinance.

Mr. Dagenhart said personally, with the width he has no qualm with the reduction from 24 to 20 feet; that is fine if fire is okay with it. We have roads out there that are less than 20 feet that the public travels; he does not have an issue with that. He has an issue with encroaching 27 feet into

a 75 foot buffer with a hard surface. It is not a pinch point, there is not topography, there is not stream buffers and there is not a body of water that is restricting them from being outside that buffer.

He said the adjacent property, he does not know if the County has looked at it. It is basically, landlocked by Muddy Creek and it is probably not developable. The County could potentially buy it or they could get a landscape easement, because the County does not control that property. There is nothing to stop that property owner from clearing every piece of landscaping that is there and that buffer is gone and then essentially, all you have is an eight foot landscape buffer.

Mr. Marshall said they have been negotiating for two plus years on that property. Primarily, the difficulty in acquiring it has been that they want to sell the entire piece out to Bethel School Road. This is undevelopable for them, but allows them possibly some additional density on the front portion. He won't say it is inaccessible, with enough engineering and enough money you are going to be able to access it, but the floodplain width is greater there, you are at the tow of the slope there so the soils are of a different type and with the shrink swell they are going to have a really difficult time accessing that.

He said they are very interested in selling it to us, but it has been a difficult process. We are also proposing to them to use a parks and recreation trust fund grant, where we will pay fifty percent of value and the trust fund would pay fifty percent of value, or in lieu of that, they would donate fifty percent and the trust fund would provide that. They really need the entire sale for that to make sense for them.

He does not disagree with Mr. Dagenhart that that could be in back, clear cut whether they access it or not and then we would lose that. We would be willing to expand the eight feet; the trail is already there.

He said the Board granted that variance to us and we have constructed it. We put it against that tree line for a reason, because it makes sense and it does shade the trail for much of the day. But, we could expand the eight foot between the road. He thinks that was just a minimum that their landscape architect had shown. If additional landscaping next to the trail between it and the access road would make a difference, we would be willing to except that as a condition.

Mr. Dagenhart is fine with where the trail is, it's just that hard surface. He asked if anyone had considered doing a landscape easement from the property owner, if the purchase cannot be worked out.

Mr. Marshall said they have not talked to them about an easement because we really would like to purchase the property. We just don't feel like it is going to be developed. We acquired another three acre piece, that again, allows us to have this access road and meet that buffer that minimized where we to needed to ask for this variance. They have acquired some additional property over time and it is really just a matter of working out the timing to acquire that piece.

Planning and Zoning Commission
Minutes
July 10, 2018

The Chair asked how often the Muddy Creek runs. Is it a half an inch, a quarter inch, one inch of rain? Is it running all the time?

Mr. Marshall said it is a constant flow. There are beaver colonies on Muddy Creek, but Muddy Creek in this case, is not a first order stream, but it is getting close to some of the head waters. He is sure that when they had those rains last week this went up very rapidly and does flow into the flood plain and the people who live near there experienced that.

Mr. Marshall showed the yellow area on the map. He said that is the area where they would prefer not to adhere to the 75 feet of distance, because they feel it affects the rest of the property. There is a parking lot shown with that main building. Where you have the property line where we are requesting the variance, it's moving to the northwest and it goes almost due north from there. He said that is the three acre parcel that they acquired to get some greater distance there and also to acquire some of that hardwood forest. As you go down the trail there what appears to have been the original spring head for the house is down that trail going back toward the creek.

Mr. Dagenhart has a problem granting a variance on a master plan. He said what is the percentage on your master plan?

Mr. Marshall showed the area on the map and said this the last phase and is another piece of property that they acquired. We granted lifetime rights to the owner, Mrs. Thompson, who is in her upper 90's. Mrs. Thompson very fortunately, is still living and exercising her lifetime rights.

He said that is the last phase they would develop. This is really Phase II and unfortunately without a lot of amenities when you are first building a park, you are building spine roads and parking lots and bathrooms. We will be building as much of this spine road as possible, down toward the rock quarry, as well as the parking lot down towards the rock quarry, because the fishing amenity has been one of the most popular. He said if the money allows, we will also need to build a bathroom down that way, which then allows us to begin on another phase which is amenities surrounding the rock quarry itself.

He does not think they are much more than 10 to 15 percent into what ultimately is the development of this park. That said, this spine road is extremely important because it allows them to begin putting in shelters, additional playgrounds, other parking areas; allows us to maximize the amenities that they have.

It doesn't seem like a huge thing that the road has always been there, but one of the things that they have found with this land and the rock that you find when you are getting into this part of the slate belt, is that farmers put roads in a location for a reason.

When they accessed this, the original plan off of Bethel School Road did not show the road where it was, but ultimately we went back to aerial photographs and back to the property itself and found the original driveways and found that where we constructed the road followed that route pretty precisely. He said it is the same way with this road. It follows below this upper ridge

Planning and Zoning Commission
Minutes
July 10, 2018

line for a reason. Because of the topography and because that is naturally where it stayed the most stable over the years.

Mr. Dagenhart said 99 percent of the time a farmer is going to put his road on the outside edge of his property to maximize a field.

Mr. Marshall said historic aerials show that what was in cultivation on this property actually extended into these adjacent properties. It is a little difficult to tell in some cases, but he thinks it was also there because some of those trees were the homestead and the road was put there to access the homestead.

Mr. Dagenhart assumes it is a correct assumption, that there will be no access off Wallace Road for the park, except for maintenance; no public access?

Mr. Marshall said that is correct. There was an access point on the other side of the quarry that came off of Highway 601 and because of trespassing they removed that access also. We have a maintenance access that comes off of Bill McGee Road, which is off of Wallace Road. But, there will be no public access there unless it is pedestrian. We are still working with the business parks, with IPG which was recently developed, as well as Corning, to allow trails along Bill McGee Road and then ultimately pedestrian access there.

Mr. Dagenhart assumes emergency access vehicles can use it too.

Mr. Marshall said yes they can. It is gated, but the road that was built there has remained. Mr. Collins noted there was a storage shed; that is our maintenance shed that we use for this property.

Mr. Corley said he would personally love to hear some more discussion from the Board. He is stuck in his head.

The Chair was thinking about the easement on the outside for a buffer. He said did we run into that problem?

Mr. Dagenhart said we ran into that down at the WSACC Muddy Creek Treatment Plant, the same situation.

The Chair said their hardship is they do not have the land to make the proper buffer on land that is going to be taken if it gets cleared and grow back in pine or something.

Mr. Dagenhart said they have the land to make the buffer if they bring it in.

The Chair said if they bring it down the hill so all the water runs to it. He said in his opinion that is like an unnecessary hardship from the strict application of the ordinance. It is a park road and they are probably not going to do stuff where they are going to have wash outs; he would hope. That is why he asked the question about Muddy Creek.

Mr. Brent Rockett understands the reasoning behind why they want to apply and leave that road where it is. Obviously, it adds to the features of that property, he will admit. In his own mind he is held up a little bit on the unnecessary hardship portion of this, while he thinks logically, there is a plan here that makes a great deal of sense in my mind, he struggles with as to whether or not it is truly an unnecessary hardship to not build that road differently. That is not him stating a stance necessarily, just in his own mind where he is stuck. Agreeing with Mr. Corley, he would like to hear if others have thoughts on that.

Mr. Price's opinion is that the road is already there. He has been a resident of that area for forty years. He has used that park many times, that road is exactly where it needs to be. It is very scenic going out through there. There is no need to go up the hill and bust another road in just to bust another road in. So he does think there is an unnecessary hardship when you already have the road there that is always been there. Why move the road just to move the road. It just does not make sense to him.

Mr. Dagenhart said because when you develop a piece of property, regardless of what was there before you are required to meet current ordinances.

Mr. Price understands that.

Mr. Dagenhart said just because it is a park and it is a county project does not mean it should.

Mr. Price would feel the same if it were Martians making the application for that piece of property. He said if you go down there and walk that road, it is where it should be. It is very pastoral back through there and he does not see the need to go cutting that hill down.

Mr. Stephen Wise said his biggest thing is the cost. Moving a road and spending maybe a couple hundred thousand dollars where they could get another amenity to this park. He said that is just common sense. Leave the road where it is and save the money on creating a new road. He has been there before, it is a very nice place and it could have great potential for that part of the county.

Mr. Litaker agrees and he is torn. We have rules that we have to abide by, no matter who, what, when, how, my brother, my mother, my best friend or somebody I don't even know. But, then he agrees, do we want to spend the extra money in the County, our tax dollars just to reposition it. He is cut in the middle too.

He has seen many times that we make a variance and the next thing you know it bites us in the butt; very quickly. Then all of a sudden they go strip the whole property on the other side. If you have to think, what would it be like if there were residents living there? That would be a whole different mentality.

Mr. Price said if they move the road to satisfy the ordinance, and then the neighboring landowner strips that, the movement of that road is not going to save the view.

Mr. Dagenhart asked staff if the applicant is required to landscape that buffer.

Ms. Susie Morris, Planning Manager, said what is being proposed is that as the road comes in (she showed the three acres that they were talking on the map), they have moved the road; relocated it. Where the yellow is currently, as best as we can tell as staff, is where the encroachment would be. It currently does not have much landscape at all. It is pretty much crossed the property line. What they were proposing, was if the Board allowed the encroachment, they would come back and put that eight foot buffer in, which they talked about briefly at the last meeting when they were here. That was also put in as a condition, but it did not state any type of width or anything like that. It was just hey, when we come back, we are going to put a buffer in. She believes, like Mr. Marshall said, that they would be willing to try to accommodate some of that buffer.

Ms. Morris showed the actual trail that is there now. This pictometry is from January and you can see where the existing trail is. Where they are proposing the road, would be this dirt road that you see here. You have a couple of screen shots that show how that happens along there. You see the road kind of meanders and she believes that was the path that they wanted to take. There is some additional room in there besides the eight feet, which is what she thinks Mr. Marshall was trying to offer up. Where, if the Board did allow the road, they could put in additional landscaping. But, you can see this red line is the property line, there really is no landscape there.

Previously, when the Board considered the variance, there wasn't any talk of having to place any landscape back in that buffer, when the trails were allowed.

Mr. Dagenhart said at the time it was a passive park; this is not a passive park. This is probably the most intense use park that the county will have. He said not necessarily the volume of people, but the amenities that are offered. There is not one single park that has all this stuff.

Mr. Price said how is moving that road going to change that.

Mr. Dagenhart is sitting here reading these four items, and not one item in here says financial hardship.

Mr. Price disagrees, he thinks all four of them are addressed.

Mr. Dagenhart said where does it say that financial is a hardship?

Mr. Price has not contended yet, that it is a financial hardship.

Mr. Dagenhart said the discussion through the Board was why we should make the county spend the money, as if that was a financial reason that we shouldn't.

The Chair read the summary of the variance request.

Request #1, the applicant is requesting that they be allowed to install an access road in the required 75 foot perimeter landscape buffer.

Mr. Price does not have a problem with it in this particular case.

Request #2, the applicant is requesting that the width of the proposed access road be reduced from 24 to 20 foot.

The Chair likes the idea of 20 feet. It is a little bit safer, put some humps. It meet meets the fire code. The Sheriff's department says they can get in there.

Ms. Morris reminded the Chair that the applicant would like the Board to vote separately on those two items.

Mr. Dagenhart said in the application you have variance 1 and 2, but under each item it says paving in the landscape buffer. The buffer and the driveway width. You want us to break it into 1A and 1B, 2A and 2B?

Ms. Morris said correct. She said there are two overall things, one is the landscape buffer and the second is the driveway width.

When the last variance was granted, they were not required to go back in and plant and entire 75 foot buffer. They offered up some type of buffering in between the trails and the proposed road when it was developed, but there were no specifics to that; so that is number 1. Number 2, is whether or not they should be allowed to go down to the 20 foot that the fire code permits.

There being no further discussion, Mr. Richard Price **MOTIONED, SECONDED** by Mr. Charles Paxton, to **APPROVE** the variance request to install an access road in the required 75 foot perimeter landscape buffer, with the condition, that the buffer be established to its maximum, practical ability. The vote was 6 to 3 with Mr. Dagenhart, Mr. Corley and Mr. Litaker voting against. **MOTION DENIED.**

There being no further discussion, Mr. Adam Dagenhart **MOTIONED, SECONDED** by Mr. Brent Rockett to **APPROVE** the variance request to reduce the width of the proposed access road from 24 to 20 feet. The vote was unanimous. **APPROVED.**

Directors Report

Ms. Susie Morris introduced a new staff member, Mr. Josh Jurius, Planner. He comes to us from the City of Wilson, NC, where he worked for about six years.

The Harrisburg Land Use Plan went to the Board of Commissioners work session this past Monday and it is on the agenda for their regular meeting. The meeting will be the third Tuesday this month, not the third Monday, if anyone would like to attend.

We will still have to go through that (HALUP) with a fine tooth comb, since things were kind of being presented at the last minute. We will have to work on that and then hopefully, have it posted for the general public. There weren't a lot of questions at the work session and she feels like it will be approved.

We will take a look at the land use plan that Mt. Pleasant has adopted. It is part of our overall Eastern Area Plan. We will take a look at that and see if we feel like it is worth us adopting that as well. There are some areas that it calls for outside of the Town limits, but it is mostly inside the Town limits and where their utilities are located or will be located.

Based on the School of Government session that we went to, she asked them what they thought would be the best way for us to proceed, with kind of pulling the plans off the shelf and then also in light of the new legislation that was passed, where essentially if you adopt a rezoning that is not consistent with the plan, that essentially you are amending the land use plan at that time.

She talked with Adam Lovelady (School of Government) and his suggestion was pretty much that right now, the statutes do not particularly say how you have to do that. She thinks what we will do is end up adding an appendices to the back of the document that says this is the rezoning, this is the date, have the Board approved it, have it incorporated and then when we go to update that plan that list will already be there.

The Board members whose terms are set to expire in August, should have received an email from Ms. Morris. Mr. Price, Ms. Blakeney, Mr. Wise and Mr. Nance, some of you have maxed out your time and some of you have not, so if you would like to hang around with us on Tuesday evenings, we would love to have you stay.

Legal Update

Ms. Catherine Barr, introduced herself stating that she has been working with Richard Koch, County Attorney for six years. She is filling in for him.

Phillip Little update: he has failed to pay the fines associated with the sign violations. She has filed a Motion for Contempt of Court. It was originally scheduled in June. Mr. Little did not appear, but he did get served with the Motion. Therefore, we have rescheduled that hearing for that Motion she believes it is July 22nd.

Canadian Solar NOV update: it is her understanding that they submitted a new application today. That will go through the process of being looked at. It is Canadian Solar's plan, as she understands it, to be in front of the Board at the August meeting. To try to get the Board's approval on the amended/new plan, so that we can get them back on track and get those NOV's secured and hopefully satisfy the neighbors in the process.

Planning and Zoning Commission
Minutes
July 10, 2018

There being no further business, Mr. Richard Price, **MOTIONED, SECONDED** by Mr. Brent Rockett to Adjourn the meeting. The vote was unanimous. Meeting adjourn at 7:58 p.m.

APPROVED BY:

Mr. Chris Pinto, Chair

SUBMITTED BY:

Arlena B. Roberts

ATTEST BY:

Susie Morris, Planning and Zoning Manager

DRAFT

Memo

To: Cabarrus County Planning and Zoning Commission
From: Susie Morris, AICP, CFM, CZO, Planning and Zoning Manager
CC: File
Date: 8/31/2018
Re: Proposed Text Amendments (TEXT2018-00002 and TEXT2018-00003)

Attached you will find proposed text amendments to the Cabarrus County Development Ordinance. The proposed changes relate to the following:

TEXT2018-00002

- This is a proposed amendment to replace the current Model Floodplain Ordinance (Chapter 16 of the CCDO) with the updated version provided by the North Carolina Department of Public Safety, Emergency Management Division.
- The amendment adds the new date for the National Flood Insurance Rate Maps into the text as the maps will transition from Preliminary to Effective November 16, 2018. The new Ordinance and Maps must be adopted prior to the new effective date.
- The proposed changes have been reviewed and approved by the NCDPS Western Branch NFIP Planner and the County Engineer.
- This proposed changes have also been reviewed by the Text Amendment Committee.

TEXT2018-00003

- This proposed amendment includes two different chapters of the Cabarrus County Development Ordinance.
 1. Proposed amendment to Chapter 10, Parking and Loading, to include language related to interior access roads and the NC Fire Code Requirements.
 - a. This text has been reviewed and approved by the Fire Marshal's Office, and Emergency Management.
 - b. The text has also been reviewed by the Text Amendment Committee.
 2. Proposed amendment to Chapter 14, Nonconformities, to allow additional time for structures destroyed by natural causes to be rebuilt.

Deletions are in strikethrough text. Additions and corrections are in red text.

Please be prepared to discuss the proposed changes and to make a recommendation to the Board of Commissioners.

Proposed Cabarrus County Development Ordinance Chapter 16

PART 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of Cabarrus County, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT

- (1) The flood prone areas within the jurisdiction of Cabarrus County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

PART 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

Accessory Structure (Appurtenant Structure) means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

Area of Shallow Flooding means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard see Special Flood Hazard Area (SFHA).

Area of Future-Conditions Flood Hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Base Flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Regulatory Flood Protection Elevation.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Building see Structure.

Chemical Storage Facility means a building, portion of a building, or exterior area adjacent to a building used for the storage

of any chemical or chemically reactive products.

Design Flood: See Regulatory Flood Protection Elevation.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development Activity means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

Digital Flood Insurance Rate Map (DFIRM) means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Disposal means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Elevated Building means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

Existing building and existing structure means any building and/or structure for which the start of construction commenced before November 2, 1994.

Existing Manufactured Home Park or Manufactured Home Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM) means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

Flood Insurance means the insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM) means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (See also DFIRM)

Flood Insurance Study (FIS) means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area see Floodplain

Flood Zone means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Floodplain means any land area susceptible to being inundated by water from any source.

Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Flood-resistant material means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodway means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway encroachment analysis means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

Freeboard means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the Regulatory Flood Protection Elevation. **The freeboard for Cabarrus County is 2 feet.**

Functionally Dependent Facility means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hazardous Waste Management Facility means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic Structure means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of Map Change (LOMC) means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

Lowest Adjacent Grade (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation

of the applicable non-elevation design requirements of this ordinance.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

New Construction means structures for which the start of construction commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Non-Conversion Agreement means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

Non-Encroachment Area (NEA) means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

Post-FIRM means construction or other development for which the start of construction occurred on or after November 2, 1994, the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM means construction or other development for which the start of construction occurred before November 2, 1994, the effective date of the initial Flood Insurance Rate Map.

Principally Above Ground means that at least 51% of the actual cash value of the structure is above ground.

Public Safety and/or Nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational Vehicle (RV) means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

For the purpose of this ordinance, Tiny Homes/Houses and Park Models that do not meet the items listed above are not considered Recreational Vehicles and are required to meet the standards of, and be permitted as, Residential Structures.

Reference Level is the top of the lowest floor for structures within Special Flood Hazard Areas.

Regulatory Flood Protection Elevation means the Base Flood Elevation plus the Freeboard. In Special Flood Hazard Areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus 2 feet of freeboard. In

Special Flood Hazard Areas where no BFE has been established, this elevation shall be at least **2 feet** above the highest adjacent grade.

Remedy a Violation means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage Yard means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid Waste Disposal Facility means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a) (35).

Solid Waste Disposal Site means, as defined in NCGS 130A-290(a) (36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA) means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Part 3, Section B of this ordinance.

Start of Construction includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

Substantial Damage means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of substantial improvement. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Part 4 Section

E of this ordinance.

Technical Bulletin and Technical Fact Sheet means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

Temperature Controlled means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance is a grant of relief from the requirements of this ordinance.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Parts 4 and 5 is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation (WSE) means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

PART 3. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Special Flood Hazard Areas within the unincorporated areas of Cabarrus County.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated November 5, 2008 for Cabarrus County and associated DFIRM panels dated November 5, 2008, March 2, 2009, June 16, 2009, February 19, 2014 and November 16, 2018, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Cabarrus County are also adopted by reference and declared a part of this ordinance.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Part 3, Section B of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the Board of Commissioners; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Cabarrus County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Cabarrus County from taking such other lawful action as is necessary to prevent or remedy any violation.

PART 4. ADMINISTRATION

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Zoning Administrator or his/her designee, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Part 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Part 3, Section B;
 - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Part 3, Section B;
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Part 3, Section B; Part 4, Section C; or Part 5, Section D;
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) The certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Part 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit

issuance have been received.

- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Part 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Part 3, Section B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Part 5, Section F have been met.
- (g) The flood openings requirements, if in Zone AE.
- (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- (i) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) **Certification Requirements**

(a) Elevation Certificates

- (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

- (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3 × 3. Digital photographs are acceptable.
- (b) Floodproofing Certificate
- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zone AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Part 5, Section B(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- (e) Certification Exemptions. The following structures, if located within Zone AE, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Part 5, Section B (6) (a);
 - (ii) Temporary Structures meeting requirements of Part 5, Section B (7); and
 - (iii) Accessory Structures that are 150 square feet or less meeting requirements of Part 5, Section B(8).

(4) **Determinations for existing buildings and structures**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building and Tax Officials, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Part 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities

of all new and substantially improved structures, in accordance with the provisions of Part 4, Section B(3).

- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Part 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Part 4, Section B (3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Part 4, Section B(3) and Part 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in in Part 4, Section D.
- (11) When BFE data has not been provided in accordance with the provisions of Part 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Part 5, Section D (2) (c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Part 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The

Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

- (19) Follow through with corrective procedures of Part 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Part 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than ninety (90) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator and the Planning and Zoning Commission Clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the Board of Adjustment following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES

- (1) The Board of Adjustment as established by Cabarrus County, hereinafter referred to as the “appeal board,” shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Part 2 of this ordinance, provided provisions of Part 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under Part 2 of this ordinance as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such

conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

PART 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the Regulatory Flood Protection Elevation (RFPE) or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes,

utility/cable boxes, hot water heaters, and electric outlets/switches.

- (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
 - (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
 - (9) A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Part 4, Section B (3).
 - (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
 - (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 - (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
 - (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

SECTION B. SPECIFIC STANDARDS

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Part 3, Section B, or Part 5, Section D, the following provisions, in addition to the provisions of Part 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including

manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Part 2 of this ordinance.

- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Part 2 of this ordinance. Structures located in Zone AE, may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Part 4, Section B (3), along with the operational plan and the inspection and maintenance plan.
- (3) Manufactured Homes
 - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Part 2 of this ordinance.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Part 5, Section B (4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
 - (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall not be temperature-controlled or conditioned;
 - (c) Shall be constructed entirely of flood resistant materials
 - (d) Shall include, in Zone, AE flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

- (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (f) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space ; Cabarrus County will have the right to inspect the enclosed area . Cabarrus County will conduct annual inspections. This agreement shall be recorded with the Cabarrus County Register of Deeds and shall transfer with the property in perpetuity.

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the 2 year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of

the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
- (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Temporary Placement

- (i) Be on site for fewer than 180 consecutive days; or
- (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

(b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

(7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance

to the flow of floodwaters;

- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Part 5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Part 5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Part 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Part 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Part 4, Section B(3).

- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
 - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) Other Development. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
 - (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Part 5, Section F of this ordinance.
 - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Part 5, Section F of this ordinance.

- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Part 5, Section F of this ordinance.

SECTION C. RESERVED

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Part 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Part 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Part 5, Sections A and B.
 - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Part 5, Sections B and F.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Part 3, Section B and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Part 2. All other applicable provisions of Part 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Part 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Part 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Part 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
 - (c) In addition to subsection (a) and (b), the following standards apply to all fill activities in special flood hazard areas:
 - a. Fill material must be graded to drain, provide such is protected against erosion. When expected velocities during the occurrence of the base flood are greater than five feet per second armoring with stone or rock protection shall be provided. When expected velocities during the base flood are five feet per second or less protection shall be provided by covering them with vegetative cover.
 - b. Any fill material on which is structure is to be located shall be extended at grade 10 feet beyond the limits if the structure foundation and shall have a side slope no steeper than one foot vertical to two feet horizontal.
 - c. Fill shall be composed of clean granular or earthen material.
- (2) If Part 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided following provisions are met:
 - (a) The anchoring and the elevation standards of Part 5, Section B(3); and
 - (b) The encroachment standards of Part 5, Section F(1).

SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOWING (ZONE AO)

Located within the Special Flood Hazard Areas established in Part 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Part 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of 2 feet, above the highest adjacent grade; or at least 4 feet where a depth is not provided above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Part 5, Section I(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight

with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Part 4, Section B(3) and Part 5, Section B(2).

- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

PART 6. LEGAL STATUS PROVISIONS

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted November 2, 1994 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Cabarrus County enacted on November 2, 1994, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within Cabarrus County is as follows:

Mount Pleasant: November 2, 1994
Town of Harrisburg: October 13, 2008
Town of Midland: November 10, 2008

City of Locust: September 3, 2008
City of Kannapolis: December 17, 1990
City of Concord: February 14, 1983

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. SEVERABILITY

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION D. EFFECTIVE DATE

This ordinance shall become effective upon the adoption by the Cabarrus County Board of Commissioners.

SECTION E. ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Commissioners of Cabarrus County, North Carolina, on the _____day of _____, 2018.

WITNESS my hand and the official seal of _____this the _____day of _____, 2018.

(Signature)

Section 10-1 Purpose

The intent of these regulations is twofold:

- to assure the adequacy and safety of parking and loading in all land use situations,
- to assure that parking for multiple vehicles is accomplished on lots that are both aesthetically pleasing and conducive to proper erosion and run-off control practices

Section 10-2 Compliance

The regulations for parking and loading as set forth in this Chapter shall apply when any structure or building is hereafter erected, structurally altered or placed on a lot or if there is a change of use on a lot.

Failure to comply will result in a denial of a zoning compliance permit.

Section 10-3 How to use this Chapter

PART I. OFF-STREET PARKING REQUIREMENTS: General and specific design standards, Table of Parking Space Requirements, Satellite Parking, Miscellaneous Parking Requirements.	Sections 10-4 to 10-11
PART II. OFF-STREET LOADING REQUIREMENTS: Access, Minimum Requirements.	Sections 10-12 to 10-16

PART I OFF-STREET PARKING REQUIREMENTS

Section 10-4 General design standards

Off-street parking shall be developed and arranged so that:

1. Vehicles may exit such areas without backing onto a public street;
2. Sanitation, emergency and other public service vehicles can use them without backing unreasonable distances or making other hazardous turning moves;
3. Vehicles can be moved without the necessity of moving other vehicles (attendant parking situations and single-family dwellings exempt);
4. Vehicles cannot extend beyond the perimeter of a parking area onto adjacent properties or public rights-of-way, nor shall they extend over sidewalks or tend to bump against or damage walls, vegetation, or other structures;
5. Adjacent parking lots connect with each other to eliminate the need to use abutting streets for cross movement; and

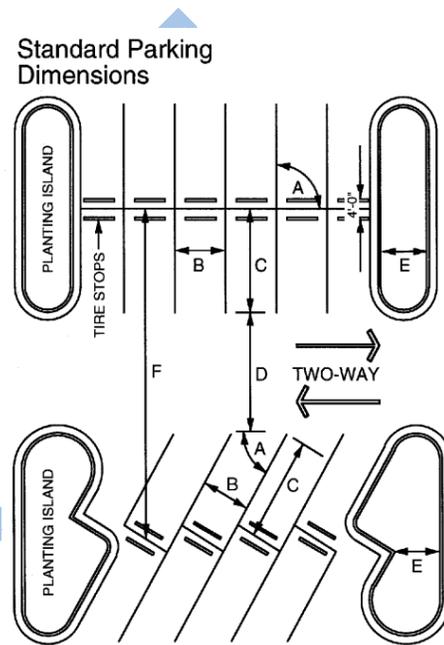
CABARRUS COUNTY DEVELOPMENT ORDINANCE
 CHAPTER 10 PARKING AND LOADING

- 6. Lighting sources are shielded or arranged as to not produce glare on rights-of-way nor be a nuisance to neighboring residential properties.

Section 10-5 Specific design standards for off-street parking

Automobile parking spaces shall adhere to the following design standards. The graphic below and corresponding key illustrate how the dimensional tables should be used for parking area design.

- A. Parking Angle
- B. Stall Width
- C. Stall Depth
- D. Aisle Width
- E. Planting Island Width (minimum)
- F. Parking Bay Width
- G. Bumper Overhang



Standard spaces

A	B	C	D	E	F*	G
45	9.0'	18'	12.0' One Way	9.0	51	2.0'/4.0'
60	9.0'	18'	18.0' One Way	9.0	58	2.0'/4.0'
90	9.0'	18'	24.0' Two Way	9.0'	60	2.0'/4.0'

* Additional width may be required where the aisle serves as a principal vehicular access to on-site uses or structures or serves two-way traffic. All travel ways must meet emergency access standards.

Compact spaces

Automobile parking spaces for compact cars shall adhere to the following:

A	B	C	D*	E	F	G
45	8.0'	16.0'	12' One Way	9.0'	-	1.5/3.0'
60	8.0'	16.0'	18' One Way	9.0'	-	1.5/3.0'
90	8.0'	16.0'	24' Two Way	9.0'	-	1.5/3.0'

* Additional width may be required where the aisle serves as a principal vehicular access to on-site uses or structures or serves two-way traffic. All travel ways must meet emergency access standards.

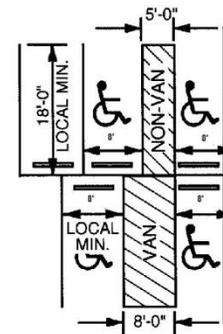
1. Handicapped accessible spaces

All parking lots or facilities must provide handicap spaces as a part of the required number of spaces. See the table below for the number of handicap spaces required for the number of regular parking spaces.

Handicapped parking spaces shall be a minimum of 13 feet by 18 feet for a single non-van space (8 feet in width in addition to a 5 foot access aisle); a minimum of 16 feet by 18 feet for a single van space (8 feet in width in addition to an 8 foot access aisle); or 24 feet by 18 feet for a double van space, or a non-van and van double space (8 feet in width for each space with an 8 foot access aisle between spaces).

Handicapped Parking Dimensions

See North Carolina Accessibility Code



Parking spaces for handicapped or disabled persons shall comply with Section 1106 of the North Carolina State Building Code, Parking and Passenger Loading Facilities.

Location

Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances.

CABARRUS COUNTY DEVELOPMENT ORDINANCE
CHAPTER 10 PARKING AND LOADING

<u>Number of Spaces</u>	<u>Accessible Required</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 or over	2% of total

Interior Access Roads

Where access roads are proposed interior to the site and are not associated with parking areas, a reduction may be allowed or an increase may be required to the 24 feet requirement for two-way traffic by the Fire Marshal. The burden shall be on the applicant to show the Fire Marshal that the Fire Code requirements for life safety and access are being met. The minimum reduction allowed is to 20 feet wide.

Required Setbacks for Off-Street Parking and Loading Areas

No parking shall be located within the required landscape buffer yards. No parking shall be located within ten (10) feet of property line.

Required parking lot landscaping shall be installed in accordance with Chapter 9.

2. Off-street parking surfaces

Parking lots of four spaces or more must be paved with concrete, asphalt, permeable pavers, permeable pavement or permeable asphalt.

Exceptions to paving may be granted by the Administrator for the following site conditions:

Overflow Parking

Overflow parking areas shall be defined as off-street parking areas in excess of the maximum number of spaces permitted by this Ordinance. Overflow parking areas shall not be used more than ten (10) times per calendar year. Overflow parking areas shall use turf or gravel. Applicants seeking to use this exception for site design shall provide information in the form of a signed, notarized letter stating the number of times per year that the overflow parking areas will be used. Number of uses per year shall be noted as part of the zoning permit.

Low Traffic Storage Yards

established for the Medium Density Residential Open Space subdivision option in Chapter 5.

2. To the greatest extent possible, the new lot lines shall be established such that the setbacks for the existing structure meets the setbacks for the Medium Density Residential Open Space subdivision. In no case shall a setback of less than 5 feet be established for existing structures.
3. Each resultant lot and primary structure must be served by utilities in the form of an approved individual well and septic system or a combination of existing governmental utilities and an approved individual private well or septic system.
4. A note shall be placed on the plat to be recorded stating that the lots were created using this section of the Zoning Ordinance.

Section 14-6 Nonconforming use of premises (land with or without structures)

A. Limitations

There shall be no enlargement, increase in intensity or changes to the use unless a Certificate of Nonconformity Adjustment is obtained. See Section 14-10.

B. Cessation of use

If the use ceases for more than six (6) months, subsequent use of the land must conform to district regulations.

C. Changing from one nonconforming use to another

The owner/operator of a nonconforming use may change to another nonconforming use of the same or lesser intensity, however, approval must be obtained from the Planning & Zoning Commission acting as a Board of Adjustment. The burden of proof of showing that the new nonconforming use is the same or lesser intensity than the existing nonconforming use will rest completely with the applicant. A process similar to that used in conditional use permitting will be used when changing from one nonconforming use to another. Accordingly, the Planning & Zoning Commission acting as a Board of Adjustment may impose conditions upon the proposed use.

D. Maintenance and repair

Before a building permit may be issued, the owner/user of the nonconformity must apply for and receive a Certificate of Nonconformity Adjustment.

E. Reconstruction of damaged structures

1. ~~When a nonconforming structure (excluding signs) or structure that contains a nonconforming use is damaged by fire, wind, flood, or any other natural cause, such structure may be reconstructed and used as it was before the event, provided such reconstruction takes place within one year of the date of the~~

~~event.~~ When a nonconforming structure (excluding signs) or structure that contains a nonconforming use is damaged by fire, wind, flood, or any other natural cause, such structure may be reconstructed and used as it was before the event, provided that a building permit is issued for reconstruction within one year of the date of the event.

2. If the cause of damage is not of natural origin and the repair costs will equal or exceed 75 percent or more of the tax assessed value it must, if reconstructed, conform in all ways to this Ordinance.

a. Calculation of the cost of damage will be that determined by the owner/operator's insurance carrier. If uninsured or no insurance claim is filed, the amount of damage will be estimated by a County Tax Assessor appraiser.

F. Unsafe nonconforming structures

When a nonconforming structure becomes unsafe due to lack of maintenance or damage from either a natural or manmade event, it will be cited by the Zoning Administrator. After having reached this extreme state of disrepair, a structure may only be restored or repaired in such a way as to make it a conforming structure. The Zoning Administrator will notify the owner by written notice. The owner shall then have a period of ninety days in which to either repair the structure to make it conforming or have it demolished.

G. Expansion

See "Limitations" above.

H. Additions to nonconforming single family detached structures in Limited or General Industrial Zones

Single family detached structures that exist in either the limited or general industrial zones may be enlarged provided the dimensional standards of the zone are met.

Section 14-7 Nonconforming characteristics of uses

Nonconforming characteristics of use, for example, inadequate parking and loading facilities, inappropriate landscaping, lighting, emissions, etc., may continue to exist, but shall not be expanded, altered, changed or relocated in such a manner as to increase the degree of nonconformity without either a Certificate of Nonconformity Adjustment or approval by the Board of Adjustment.

Section 14-8 Nonconforming manufactured homes

Memo

To: Cabarrus County Planning and Zoning Commission
From: Susie Morris, AICP, CFM, CZO, Planning and Zoning Manager
CC: File
Date: 9/7/2018
Re: Proposed Text Amendments (TEXT2018-00004)

Attached you will find proposed text amendments to the Cabarrus County Development Ordinance. The proposed changes relate to the following:

TEXT2018-00004

- Chapter 2, proposed amendments to the definition of accessory structure and accessory dwelling unit.
- Chapter 7- proposed amendment to the accessory structure standards to allow additional flexibility.
 - Remove the 1,100 SF cap on accessory dwelling units.
 - Remove language requiring an accessory structure to be subordinate to the primary structure.

Deletions are in strikethrough text. Additions and corrections are in red text.

Please be prepared to discuss the proposed changes and to make a recommendation to the Board of Commissioners.

Definitions in Chapter 2

ACCESSORY BUILDING, **ACCESSORY STRUCTURE** - A building or structure located on the same lot parcel as a properly permitted principal building or structure. ~~is customarily incidental and subordinate to the principal building.~~

ACCESSORY DWELLING UNIT, ~~A structure used as~~ **A secondary** residence located on the same lot parcel as a properly permitted principal residence. ~~customarily incidental and subordinate to the principal building.~~

Standards from Chapter 7

Accessory Building, Accessory Dwelling Unit and Swimming Pools Accessory to Single Family Residential

Accessory Dwelling Unit

Agricultural/Open, Countryside Residential, Low Density Residential, Medium Density Residential, High Density Residential/Mixed Use, Office/Limited Commercial, General Commercial and Limited Industrial districts

- a. Residential accessory dwelling units in the AO, CR, LDR, MDR and HDR districts shall not exceed fifty (50) percent of the square footage of the base floor area **as listed on the Cabarrus County Tax Card.** ~~or 1,100 square feet, whichever is less. Accessory dwelling units located as part of a commercial or industrial building shall not exceed 800 square feet.~~
- b. In residential districts, the accessory dwelling unit shall be sited to the rear of the primary structure or to the side as a secondary option.
- c. If sited as part of a commercial or industrial building, the accessory dwelling unit shall be incorporated into the overall building design **and shall not exceed twenty five (25) percent of the structure in which it is located.**
- d. Accessory dwelling units shall meet the principal building setbacks listed in Chapter 5 for the zoning district.
- e. The accessory dwelling unit height shall not exceed the height of the principal structure.
- f. Manufactured homes may not be used as an accessory dwelling unit.
- g. Adequate off-street parking must be provided for any vehicles owned by occupants of the accessory unit. All parking shall be screened from public rights-of-way either by buffer yard or by the mass created by the house/accessory dwelling unit.
- h. Only one accessory dwelling unit per parcel is permitted.

Accessory Building, **Accessory Structure**

Agricultural/Open, Countryside Residential, Low Density Residential, Medium Density Residential, High Density Residential/Mixed Use, Office/Institutional, Office/Limited Commercial, General Commercial, Limited Industrial, General Industrial districts

~~Accessory building on lots less than 2 acres~~

- a. ~~Accessory buildings shall not be located closer to an adjacent road than the principal structure. Exception — Double frontage lots may place an accessory building to the rear of the principal structure so long as the principal building setback is met along the property lines adjacent to the street.~~
- b. Accessory buildings up to 15 feet in height shall meet the front and side setback requirements of the principal structure. The rear setback shall be no less than five (5) feet.
- c. Buildings greater than 15 feet in height shall meet the principal building setbacks listed in Chapter 5.
- d. Accessory buildings shall be subject to all other dimensional, impermeable and structural coverage requirements listed in Chapter 5.

~~Accessory buildings on lots 2 acres or greater~~

- a. ~~Accessory buildings shall not be located closer to an adjacent road than the principal structure or shall be located at least 100 feet from the road right of way, whichever is less. Exception — double frontage lots may place an accessory building to the rear of the principal structure so long as the principal building setback is met along the property lines adjacent to the street.~~
- b. ~~Accessory buildings up to 15 feet in height shall meet the front and side setback requirements of the principal structure. The rear setbacks shall be no less than five (5) feet. Accessory structures greater than fifteen (15) feet in height shall meet the setback requirements of the principal structure.~~
- c. ~~Accessory buildings shall be subject to all other dimensional, impermeable and structural coverage requirements listed in Chapter 5.~~