

Commerce Department
Planning Division

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
November 15, 2007
7:00 P.M.
County Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval/Correction of October 18, 2007 Minutes
3. New Business - Planning Board Function:
 - A. **Petition C2007-05 (R)** - Zoning Atlas Amendment –
Low Density Residential (LDR) to Office Institutional (OI)
To rezone the property to a zoning designation with institutional uses
where parks are permitted by right.
4. Directors Report
5. Adjournment

Planning Staff Report
Cabarrus County Planning and Zoning Board
November 15, 2007

Petition: **C2007-05(R) Zoning Atlas Amendment**

Property Owner: Cabarrus County
P.O. Box 707
Concord, NC 28026-0707

Existing Zoning: LDR-Low Density Residential

Proposed Zoning: O/I – Office Institutional

Purpose: To rezone the property to a zoning designation with institutional uses where parks are permitted by right.

Township: Number 1 - Harrisburg

Property Location: The property is located at 6775 Pharr Mill Road.

PIN#: 5517-86-9018

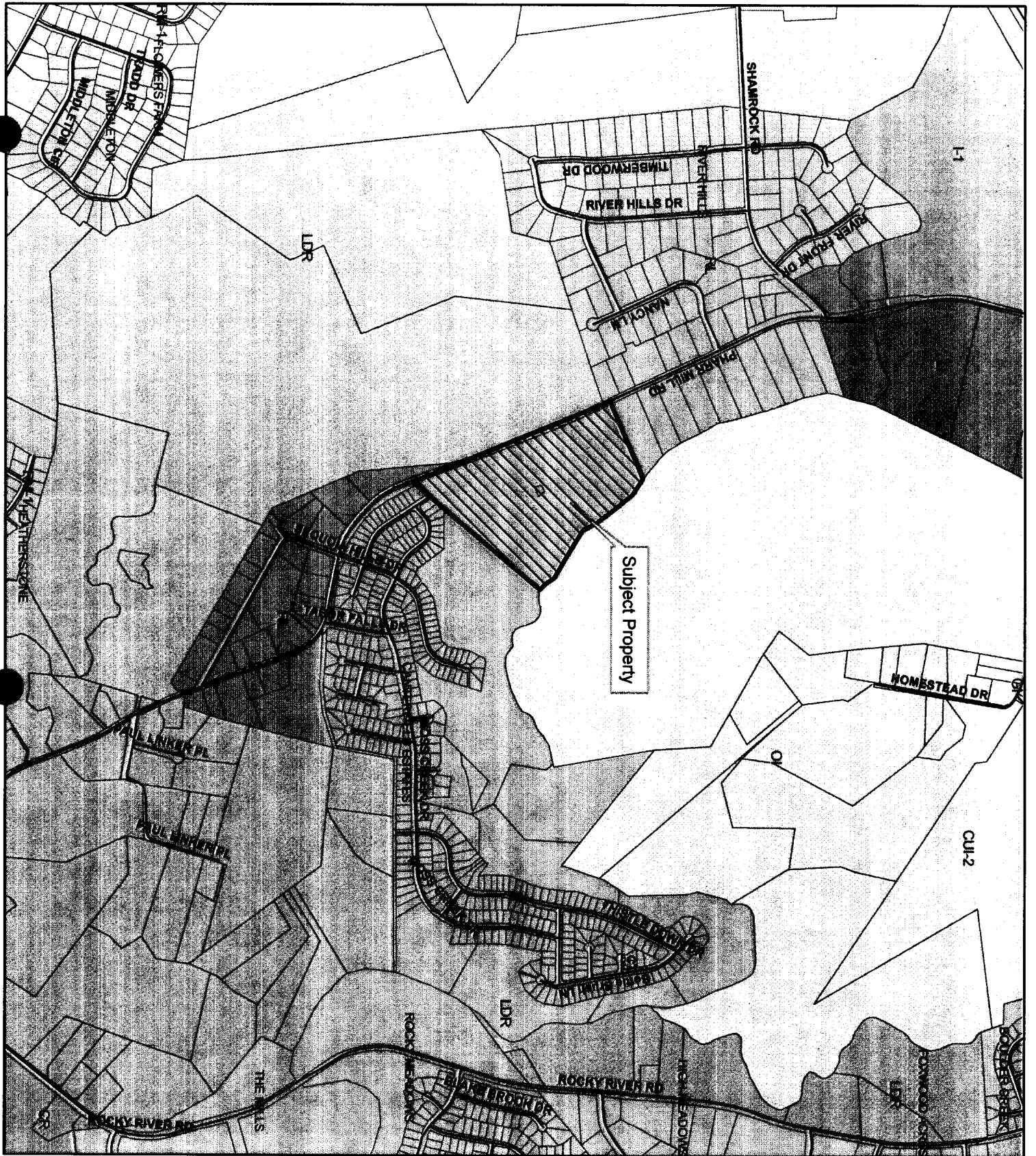
Area: +/- 37.4 acres

Site Description: The Pharr Mill Park was recently constructed on the property and opened in October 2007.

Zoning History: The property was rezoned during the June 2005 Countywide rezoning from MDR-Medium Density Residential to LDR-Low Density Residential.

Area Relationship: North: Town of Harrisburg RL- Residential Low Density & Cabarrus County O/I – Office Institutional
South: Cabarrus County LDR-Low Density Residential & Town of Harrisburg RL – Residential Low Density
East: Cabarrus County O/I – Office Institutional & Cabarrus County LDR – Low Density Residential
West: Cabarrus County LDR- Low Density Residential

Exhibits: 1. Vicinity Map – submitted by staff
2. Adjacent Property Owners – submitted by staff
3. List of Permitted Uses in O/I – submitted by staff
4. Harrisburg Area Plan – Future Land Use Map – 2001



Subject Property



Cabarrus County
 The Center of American Modernism
 NORTH CAROLINA

C2007-05(R) Applicant
 Cabarrus County
 Existing Zoning LDR
 Proposed Zoning O/I
 PIN# 5517-86-9018



Addresses Adjacent Landowners to Pharr Mill Community Park:

James M. Shinn
2173 Mulberry Rd.
Concord, NC 28025
Parcel ID: 5517-97-1859

C. Lindsay and Terry Abee
6665 Pharr Mill Road
Concord NC 28025
Parcel ID: 5517-86-4850

Joseph Lee & Sharon Lynn Piper
6700 Pharr Mill Road
Concord NC 28025
Parcel ID: 5517-86-0521

David R. Anderson
7100 Pharr Mill Road
Concord NC 28025
Parcel ID: 5517-84-8583

Bradley C & Kristen E. Rapp
7002 Winding Cedar Trail
Concord NC 28075
Parcel ID: 5517-94-0847

John H. & Ashley Carlson
2126 Moss Creek Drive
Harrisburg NC 28075
Lot 406. MB 43 Pgs. 64 & 65
DB. 6045 Pg. 20

Owen & Jennifer Presutti
2132 Moss Creek Drive
Harrisburg NC 28075
Lot 407. MB 43 Pgs. 62 & 63
DB. 6378 Pg. 1

Christopher & Elizabeth Adams
2138 Moss Creek Drive.
Harrisburg NC 28075
Lot 408. MB 43 Pgs. 62 & 63
DB. 6948 Pg. 127

List of Uses in the Office/ Institutional Zone

Permitted Uses

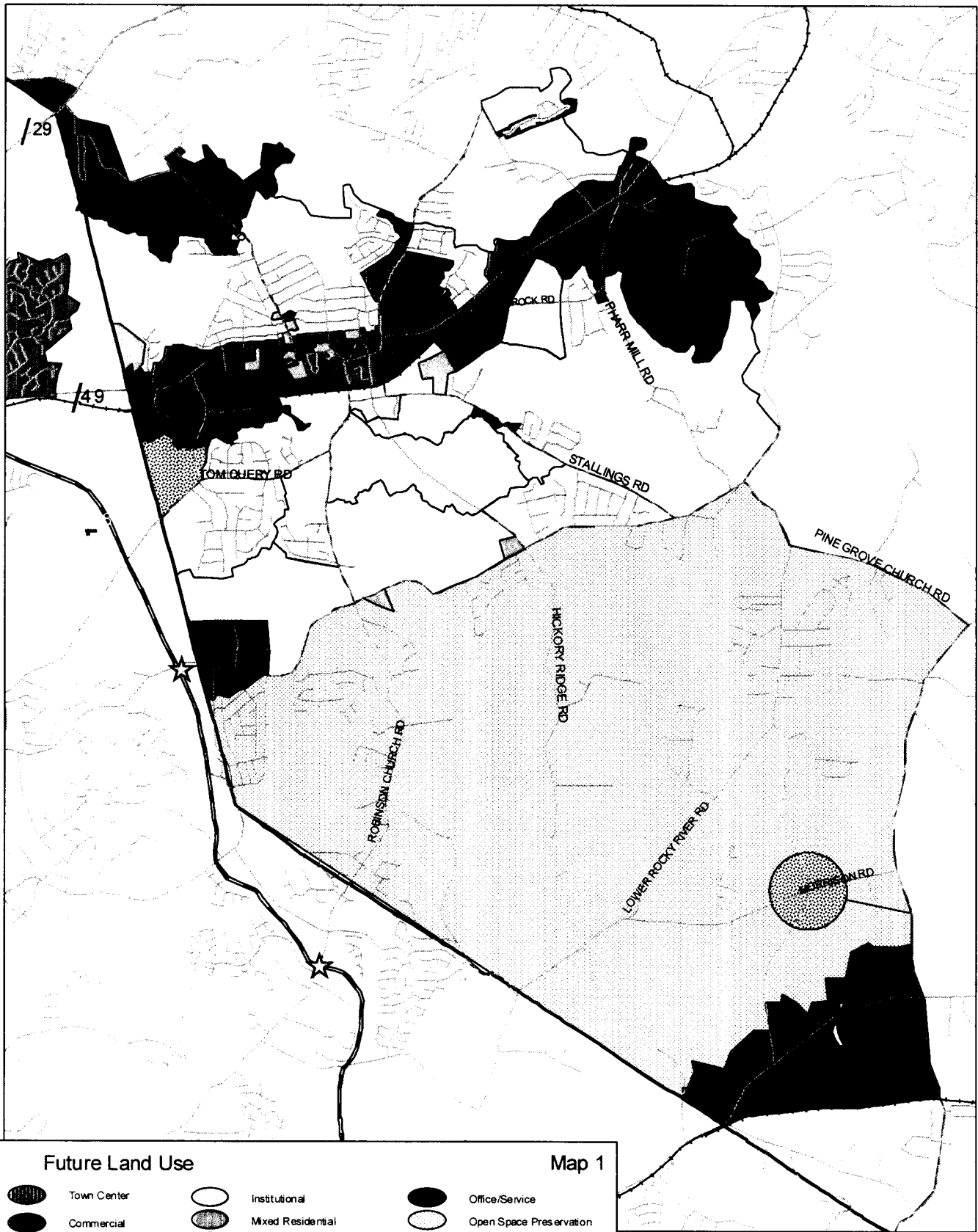
Bank/financial institution/ATM
Civic organization facility
Colleges & universities
Funeral home
Group care facility
Hospitals/medical facilities
Office, professional less than 30,000 square feet
Office, professional greater than 30,000 square feet or more
Parking lot, commercial or private
Printing & reprographic facility
Public cultural facility
Public use facility

Permitted based on Standards (PBS)













Catering service
Home occupation
Mobile office, temporary
Nursery/daycare center
Recreational facility, indoor
Recyclable materials drop-off
Religious institution (with a total seating capacity of 350 or less)
Rest/convalescent home (10 beds or less)

Conditional Uses

Communications tower
Elementary and secondary schools
Public service facility
Recreational facility, outdoor
Religious institution (with a total seating capacity of 351 or more)
Religious institution with school
Rest/convalescent home (more than 10 beds)
Trade & vocational schools
Wireless telecommunication services (WTS)



Future Land Use

 Town Center	 Institutional	 Office/Service
 Commercial	 Mixed Residential	 Open Space Preservation
 Future Employment	 Mixed Use District	 Recreation/Open Space
 Industrial	 Neighborhood Commercial	 Suburban Residential

Map 1

Proposed Land Use



Memo

To: Cabarrus County Planning and Zoning Commission
From: Kassie G. Watts, Planner
Date: 11/15/2007
Re: Zoning Atlas Amendment C2007-06(R-SU)

An application for Conditional Use Rezoning has been filed in our office by GMST Holdings, LLC for property located at 6300 NC Highway 49.

Due to the Petitioners efforts to satisfy comments Staff and other agencies have identified, Staff is requesting that Petition C2007-06(R-SU) be tabled until the regularly scheduled December Planning and Zoning meeting.

STATE OF NORTH CAROLINA

AMENDED AGREEMENT

COUNTY OF CABARRUS

THIS AGREEMENT is entered into this the 24th day of October, 2007, by and between the City of Concord, a municipal corporation (hereinafter Concord or the City), and Cabarrus County, a body politic and subdivision of the State of North Carolina (hereinafter the County), and the Water and Sewer District of Cabarrus County, a county water and sewer district formed pursuant to Chapter 162A of the General Statutes of North Carolina (hereinafter the District); and

WHEREAS, the City, the County and the District have been involved in litigation that is more particularly identified as the cases of Craft Development, LLC et al. v. the City of Concord, et al., Cabarrus County Court File Number 03 CvS 2400, and Morrison et al. v. The City of Concord, Cabarrus County Court File Number 03 CvS 2462 (hereinafter the Litigation or the Lawsuits); and

WHEREAS, all of the claims in the Litigation have been settled, dismissed or otherwise resolved, with the exception of the claims by the City against the County and the District, and the claims of the County and the District against the City; and

WHEREAS, on or about December 6, 2004, the City and the County entered into a Memorandum of Understanding (hereinafter the 2004 MOU) wherein the City and County set out a framework by which they hoped to resolve the remaining claims in the Lawsuits and to settle any remaining differences between them pertaining to the claims therein; and

WHEREAS, the City, the County and the District resolved their differences and reached an accommodation by which they resolved all of the differences and disputes between them that were the subject of the Lawsuits on January 21, 2006 ; and

WHEREAS, the City, the County and the District now wish to amend their agreement of January 21, 2006 as written below.

NOW THEREFORE, in consideration of the mutual promise set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intention of binding themselves, their heirs, legal representatives and assigns, the parties hereby agree as follows:

1. The terms of this Amended Agreement shall be placed into effect by the entry of a Consent Judgment in a form substantially as set forth in Exhibit A attached hereto, which Consent Judgment shall be enforceable as a Judgment or Order of the Court. The parties agree to take all necessary steps either separately or in concert with one another to obtain the entry of such Consent Judgment.

2. An issue in the Litigation has been whether the City could impose conditions upon the provision of utility services to properties that are outside of the municipal boundary of

the City, and what conditions may be permissible. It is acknowledged by all that parties that this is an issue on which there is a legitimate dispute as to the state of the law and the relative authority of the governmental entities involved, but the parties agree that it is in the best interests of the City, the County and the District and the citizens thereof that this issue be resolved by a negotiated agreement rather than by obtaining an adjudication from the Court by means other than agreement.

(A) Within the City's Utility Service Area, as that term is defined herein below, the City shall have the exclusive right to provide water and sewer collection utility services, except to the extent that the City has agreed to assign some portion thereof to the Water & Sewer Authority of Cabarrus County (hereinafter WSACC) pursuant to Paragraph 8, below.

(B) The City's Utility Service Area, as that term is used in this Agreement shall mean that area that was adopted by the City as its Utility Service Area on or about March 11, 2003, in the City's agreements with other municipalities of Cabarrus County, as that area is shown on that map that is attached hereto as Exhibit B.

(C) The City's Utility Service Area is divided into two areas, as shown on the attached Exhibit B. These areas are called Sub-Area 1 and Sub-Area 2. Sub-Area 1 is the area east of a line beginning at the intersection of Flowes Store Road and Parks Lafferty Road, then continuing north on Flowes Store Road to Miami Church Road to Cold Water Creek, then north along the creek to Atando Road, then north along Atando Road to NC. Highway 49, then north along Heglar Road to Highway 73 west to the City limits then north along the line shown on Exhibits B and C skirting the City limits to Old Salisbury Road, thence west to Cold Water Creek thence north to the northern edge of the Utility Service Area as shown on Exhibit B and C. Sub-Area 2 is all other parts of the Utility Service Area. Within Utility Service Sub-Area 2 the City may provide water and sewer service to all property owners who apply for such service until the Anniversary Date, provided that the conditions (C) (i) through (v) and (d) are met. After the Anniversary Date the City shall have the duty to provide water and sewer service to all property owners who apply therefore, provided that the conditions (c) (i) through (v) and (d) are met.

(i) The applicant for such service has complied with all City utility ordinances and regulations that relate to the provision of such utility service.

(ii) All technical requirements of the City's utility system are met by the proposed connection.

(iii) Sufficient transmission and treatment capacities are available to provide such service to the property of the applicant for the proposed use to which the applicant intends to put the property at that time.

(iv) The applicant complies with such policies as the City may have in effect at the time of the application concerning the applicant's responsibility for the costs of extending such service and connecting thereto.

(v) If the property for which the application for utility service is being made is located within the Five Year Annexation Area, as that term is defined below, that the applicant comply with the requirements set forth in Paragraph 2(d), below.

(C1) Within Utility Service Sub-Area 1 the City shall have the duty to provide water and sewer service to all property owners who apply therefore after the Anniversary Date, under the same terms and conditions as set forth for Sub-Area 2. With regard to Utility Service Sub-Area 1 from the date of filing this Agreement with the Court until the Anniversary Date, the City shall:

(a) Adopt no ordinance annexing any property zoned residential by Cabarrus County in Sub-Area 1 having an effective date before the Anniversary Date; and

(b) Adopt no ordinance annexing any property designated residential on the adopted City Land Use Plan, Comprehensive Plan, or any Small Area Plan in Sub-Area 1 having an effective date before the Anniversary Date; and

(c) Adopt no ordinance annexing any property zoned mixed use or designated mixed use on any adopted City Plan (as listed in (b) above) where a majority of the proposed building square footage is residential; and

(d) Extend no sanitary sewer service outfall, interceptor or lateral into or through Sub-Area 1 except for those for which the City has already entered into a construction contract or for extensions required by an emergency, including but not limited to failing on site waste water treatment systems; and

(e) Extend no potable water line or service into or through Sub-Area 1 except for those for which the City has already entered into a construction contract or for extensions required by an emergency, including but not limited to failing on site waste water wells; and

(C2) In Utility Service Sub-Area 1 from the date of filing this Agreement with the Court until the Anniversary Date, Cabarrus County shall:

(a) Modify its zoning and/or subdivision ordinance(s) and/or zoning map to limit or restrict the development of "Major Subdivisions" in all zoning districts and properties located in City Utility Sub-Area 1. The County Commissioner's (or County Planning & Zoning Commission's) final consideration of and vote on this issue will be taken no later than the Anniversary Date; and

- (b) Approve no community or on-site sanitary sewer waste disposal system other than a system designed for and connected to one single family residence or a single commercial or industrial user; and
- (c) Approve no community or on-site potable water system or well other than a system designed for and connected to one single family residence or a single commercial or industrial user.

(D) Within the City's Five Year Annexation Sub-Area 2, as that term is defined below, the City may, in addition to the conditions set forth in Paragraph 2(c), above, impose upon any applicant for water or sewer utility service for a residential subdivision or business the following conditions:

- (i) That the applicant submit to the City a petition for voluntary annexation in a form satisfactory to the City for the property to which the applicant seeks to have such utility services extended.

- (ii) That the applicant agree, if the petition for voluntary annexation is approved by the City, that any development of the property to which such utility services are sought to be extended be in compliance with the City's then existing development standards.

(E) Nothing in Paragraph 2(d), above, shall be construed to mean that the City shall be obligated or required to accept any such petition for voluntary annexation or to act upon the same for the purposes of annexing the property in question into the City. If, however, the City declines to accept such petition for voluntary annexation and declines to annex the property of the applicant, then the City shall notify the County Commerce Department of the City's decision not to annex so that the County may undertake to regulate the development of such property pursuant to the County's development standards.

(F) With regard to any properties outside of the City's Five Year Annexation Area for which the owner thereof has requested the extension of water or sewer utility service, and with regard to any properties within the City's Five Year Annexation Area for which the City has declined the petition for voluntary annexation pursuant to Paragraph 2(f), above, for which the owner thereof has requested the extension of water or sewer utility service, the City may not impose any condition upon the extension of such water or sewer utility service to such property which condition pertains to the land use or development standards to which the property shall be built, unless the County has amended its zoning and development ordinances from the form in which they exist as of the date of this Agreement in such a manner that the amendment thereof materially impacts the standards to which the project is constructed in such a way as to lower the quality of the development of the property for which such utility extension has been requested.

(G) Definitions applying to this Amended Agreement:

Anniversary Date: The date that is eight months from the date of filing this modified Agreement with the Court.

City of Concord Utility Service Area (Utility Service Area): As defined in section (b) of this agreement shall remain unchanged.

City of Concord Five Year Annexation Area (5-Year Annexation Area): The term shall mean that area that is included in the area that the City is considering for municipal annexation as defined in the City's Five Year Annexation Plan that was adopted by the City on or about March 14, 2005, and amended on October 24, 2007 into Sub-Areas 1 and 2, corresponding to and contained within the Utility Service Sub Areas and which area is shown on that map that is attached hereto as Exhibits B and C.

Major Subdivision: A division of land involving six (6) or more buildable lots which may or may not front on an existing street.

3. The City may not charge any sewer utility customer located outside of the municipal boundary of the City any more than the rate the City charges any sewer customers who are located inside the municipal boundary. The City may not charge any water utility customer located outside of the municipal boundary of the City any more than one hundred twenty percent (120%) of the rate the City charges any water customers who are located inside the municipal boundary.

4. Outside of the City's Utility Service Area, the County and/or the District may construct and/or maintain a water and/or sewer collection utility system, and may connect the same to the system of the City provided that the County and/or the District meets the following conditions:

(a) That all such trunk and transmission water lines and sewer mains, outfalls and interceptors are owned by the County and/or the District. Neither the County nor the District may assign such lines to any entity other than to each other. Maintenance of all such lines shall be the responsibility of the County and/or the District or their contractors or agents.

(b) The City's system, as of the time of the County's or District's request for such connection to the City's system, has sufficient transmission and treatment capacities to be able to accommodate the specific capacity requested by the County and or the District for that connection.

(c) All engineering, hydraulic and capacity plans pertaining to the proposed connection of the County and/or District have been submitted to the City for review and to the State for approval.

(d) The connection to the City's system shall be designed and constructed in accord with the City's technical requirements as the same have been adopted for all such

connections to the City's system as of the time of the request of the County and/or the District.

(e) Nothing in this Paragraph shall be construed to mean that the City is obligated to work with any entity other than the County and/or the District with regard to issues of operation or maintenance relative to the connection of the City's system to such system of the County and/or the District.

5. In the event that the County and/or the District connects to the City's utility system in accord with Paragraph 4, above, then the parties agree that the County and/or the District shall be charged a rate that consists of the following two components, as described in 5 (a) and 5 (b):

(a) Treatment

- i. Treated Water. The County and/or the District shall pay for such services in the same manner as any such municipalities as contract with the City for such utilities.
- ii. Sewer Treatment. The County and/or the District shall pay for such services at the same rate charged by the City to the Water and Sewer Authority of Cabarrus County for sewer treatment.

(b) Capital. The County and/or the District shall pay the proportional share of the cost of transmission and/or treatment capacities, including costs to reserve capacities in other utility providers' systems charged to the City, as determined by an analysis of capital investments conducted by the City or a third-party consultant and consistent with the City's utility agreements with other local governments.

(c) For any such connection to the City's system, the County and/or the District shall install a sufficient meter at the point of such connection for the City to be able to charge the County and/or the District for such usage.

(d) The customers who connect to such system shall be customers of the County and/or the District.

(e) Such system of the County and/or the District that is connected to the City's system shall be permitted in the name of the County and/or the District, and not in the name of the City.

(f) Any such system of the County and/or the District that is connected to the system of the City pursuant to Paragraph 4, above, shall be subject to the same drought management plan as all other wholesale customers of the City.

6. The right of the County and the District to connect to the City's system pursuant to Paragraph 4, above, may not be assigned by the County or the District to any other entity without first obtaining the written consent of the City.

7. The Water and Sewer Impact Fees that the County has collected and continues to collect in the western portion of the County shall be spent for public utility purposes in the geographic area of the properties for which such fees were collected, and such expenditure shall be made within three years of the date on which such fees were collected. If the County fails to adopt and implement a policy for the expenditure of these impact fees, then the County shall discontinue the collection of such impact fees.

8. The City and County have previously entered into an agreement entitled "Settlement Agreement dated December 19, 1991, between the City of Concord and Cabarrus County," which agreement resolved that civil action between the City and County bearing Cabarrus County Court File Number 90 CvS 2291 (hereinafter the 1991 Settlement Agreement), and an agreement entitled "Asset Purchase Agreement Dated June 26, 1995, by and between the City and Cabarrus County and the Water & Sewer Authority of Cabarrus County" (hereinafter the 1995 Agreement), which agreements call for the City and County to transfer certain assets to WSACC, but which assets have not yet been transferred. The City and the County shall forthwith transfer such interceptors and assets to WSACC as called for in said agreements.

9. It is acknowledged that the County owns the Coddle Creek Reservoir which is also known as Lake Howell, as well as the properties surrounding Lake Howell. It is agreed that public utility providers with water intake structures on Lake Howell may withdraw water in capacities consistent with approved withdrawal permits for water treatment plants and pump stations issued by the State of North Carolina Department of Environmental and Natural Resources. Payment for the operation and maintenance of the reservoir by such permitted utility providers will be consistent with permitted amounts as a proportion of the whole.

10. The County has heretofore assigned to the City, and the City has accepted, the obligation to perform certain functions and duties as are set out in contracts that are entitled "Reciprocal Agreement for Water & Sewer Connections and Related Matters dated May 8, 1995 between the Town of Harrisburg, NC and the County", "Agreement to Supply Treated Water dated May 8, 2005 between Harrisburg and the County", "Reciprocal Agreement for Water and Sewer Connections and Related Matters dated Jan. 6, 1992 between Kannapolis and the County", "Agreement to Supply Treated Water dated Nov. 20, 1989 between Kannapolis and the County" (hereinafter the Harrisburg and Kannapolis Reciprocal Agreements). The City shall continue to perform all obligations under the Harrisburg and Kannapolis Reciprocal Agreements that have been assigned to it. Only to the extent set forth in this Paragraph, the Town of Harrisburg and the City of Kannapolis are intended third party beneficiaries of this Agreement.

11. In addition to this Agreement, the contracts and agreements listed below shall remain in full force and effect through March 30, 2006. If in any case the agreements and contracts listed below conflict with this Agreement, then the terms of this Agreement shall take precedence. The City and County shall also endeavor to enter into a new Master Agreement replacing the contracts and agreements listed below and incorporating this Agreement by March 31, 2006. The agreements that are the subject of this Paragraph are as follows: (1) "Agreement for Construction of the 'Harrisburg Loop' Water Line and Related Matters dated Jan. 22 1993 among the City of Concord, Harrisburg and the Water and Sewer District of Cabarrus County," (2) the 1991 Settlement Agreement, (3) "Reciprocal Agreement for Water and Sewer

Connections and Related Matters dated Aug. 15, 1988 between City of Concord and Cabarrus County," as amended by the 1991 Settlement Agreement, (4) "Agreement to Construct and Maintain Water and Sewer Lines to that Area of Cabarrus County Commonly Known as 'King's Grant' dated Nov. 30, 1990 between Cabarrus County and the City of Concord," (5) "Ground Lease Agreement between City of Concord and Cabarrus County dated Feb. 1, 1993," as amended by the "Modification to and Release from Ground Lease Agreement dated December 16, 1993," and consideration will be given to extending the term thereof by forty years to the year 2083, (6) "Agreement Relative to the Construction, Operation and Maintenance of a Water Supply Reservoir ('Coddle Creek') dated April 19, 1989 between the City of Concord and Cabarrus County," as amended by the 1991 Settlement Agreement, (7) "Agreement Relative to the Construction, Operation and Maintenance of an Airport, Nov. 30, 1990," (8) the 1995 Agreement, (9) the amendments to the 1991 Settlement Agreement dated December 19, 1991 and January 21, 1992.

12. All of the claims of the City, the County and the District that have been pleaded in the Lawsuits against one another that are not otherwise resolved by provisions of this Agreement shall be dismissed with prejudice at the time of and as a part of the entry of the Consent Judgment called for pursuant to Paragraph 1, above.

13. Each party to this Agreement shall bear its own costs, expenses and attorneys fees incurred in its prosecution and defense of the Lawsuits.

14. The parties understand and acknowledge that this Agreement represents a compromise of disputed claims and that neither this Agreement nor any provision contained herein shall be deemed to be an admission of liability or non-liability on the part of any party hereto.

15. The signatories hereto warrant and represent that they have been duly authorized by their respective boards and councils to execute this document in the name of and on behalf of the entities that are parties to this Agreement.

IN WITNESS WHEREOF the parties execute this Agreement on this the 24th day of October, 2007.

City of Concord

By: _____
Mayor

City Clerk

Cabarrus County

By: _____
Commission Chairman

County Clerk

Water and Sewer District of Cabarrus County

By: _____
Chairman

Clerk to the Board

EXHIBIT A

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF CABARRUS

CRAFT DEVELOPMENT, LLC, and)
CRAFT HOMES USA, LLC,)

03 CVS 2400

Plaintiffs,)

-vs-)

THE CITY OF CONCORD, a municipal corporation;)
J. SCOTT PADGETT, in his capacity as Mayor;)
DAVID W. PHILLIPS, in his capacity as Concord)
City Council Member; JIM RAMSEUR, in his)
capacity as Concord City Council Member; ALLEN)
T. SMALL, in his capacity as Concord City Council)
Member; ALFRED M. BROWN, JR., in his capacity)
as Concord City Council Member; W. LAMAR)
BARRIER, in his capacity as Concord City Council)
Member; HECTOR H. HENRY II, in his capacity as)
Concord City Council Member; RANDY GRIMES,)
in his capacity as Concord City Council Member;)
THE COUNTY OF CABARRUS, a political)
subdivision of the State of North Carolina; and)
WATER AND SEWER DISTRICT OF)
CABARRUS COUNTY, a municipal corporation,)

Defendants)

J. ROBERT MORRISON and wife, MARY WHITE)
MORRISON; JAMES ROBERT MORRISON and)
MARY WHITE MORRISON, CO-TRUSTEES OF)
THE J.R. MORRISON LIVING TRUST; and)
MORRISON CREEK, LLC,)

03 CVS 2462

Plaintiffs,)

-vs-)

THE CITY OF CONCORD, a municipal corporation;)
THE COUNTY OF CABARRUS, a political)
subdivision of the State of North Carolina; and)

CABARRUS WATER AND SEWER DISTRICT, a)
municipal corporation,)
)
)
Defendants.)

AMENDED CONSENT JUDGMENT

THIS MATTER came before the Honorable Clarence E. Horton, Superior Court Judge, on January 23, 2006 for settlement and disposition of all matters then before the Court. At that time, Judge Horton found that the remaining claims before the Court in these cases were those claims between the Defendants City of Concord (the City), Cabarrus County (the County) and the Water and Sewer District of Cabarrus County (the District), and it further appeared to the Court that the City, the County and the District had resolved their differences and had entered into an agreement that resolved the disputes between them that were subjects of this action and that as a portion of that agreement the parties agreed and jointly sought that the Court enter into a Consent Judgment, and that based on the settlement agreement of the parties and the evidence that has been presented to the Court as a part of the motions for summary judgment, the Court entered into a Consent Judgment on January 23, 2006.

The City, County and District now respectfully petition the Court to modify the Settlement Agreement, as attached hereto and incorporated into this Judgment, and the Court further concludes as a matter of law that the Amended Settlement Agreement that is attached hereto and incorporated into this Judgment is a valid contract that the parties are authorized to execute under G.S. 160A-312(a); that the provisions of the contract are within reasonable limitations under G.S. 160A-312(a); that the provisions of the contract constitute adequate and reasonable rules under G.S. 160A-312(b) and are rationally related to legitimate governmental objectives, both utility-related and nonutility-related; that the provisions of the contract do not unlawfully infringe upon the territorial zoning or police powers of any party to the contract; and that the contract creates no contractual, statutory or common law duties for any of the parties to provide water or sewer services to nonresidents of the City, except for those duties expressly set forth in the contract.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED as follows:

1. The Amended Settlement Agreement entered into by the parties is a lawful and enforceable contract.
2. Each party shall faithfully execute its obligations as set forth in the contract.
3. All remaining claims of the remaining parties to this action are dismissed with prejudice.
4. Each party shall bear its own costs and fees in this matter.

5. The Court retains jurisdiction over this matter for the entry of such further orders as may be necessary to effectuate this Amended Settlement Agreement between the parties and to effectuate this Amended Consent Judgment.

This the _____ day of _____ 2007.

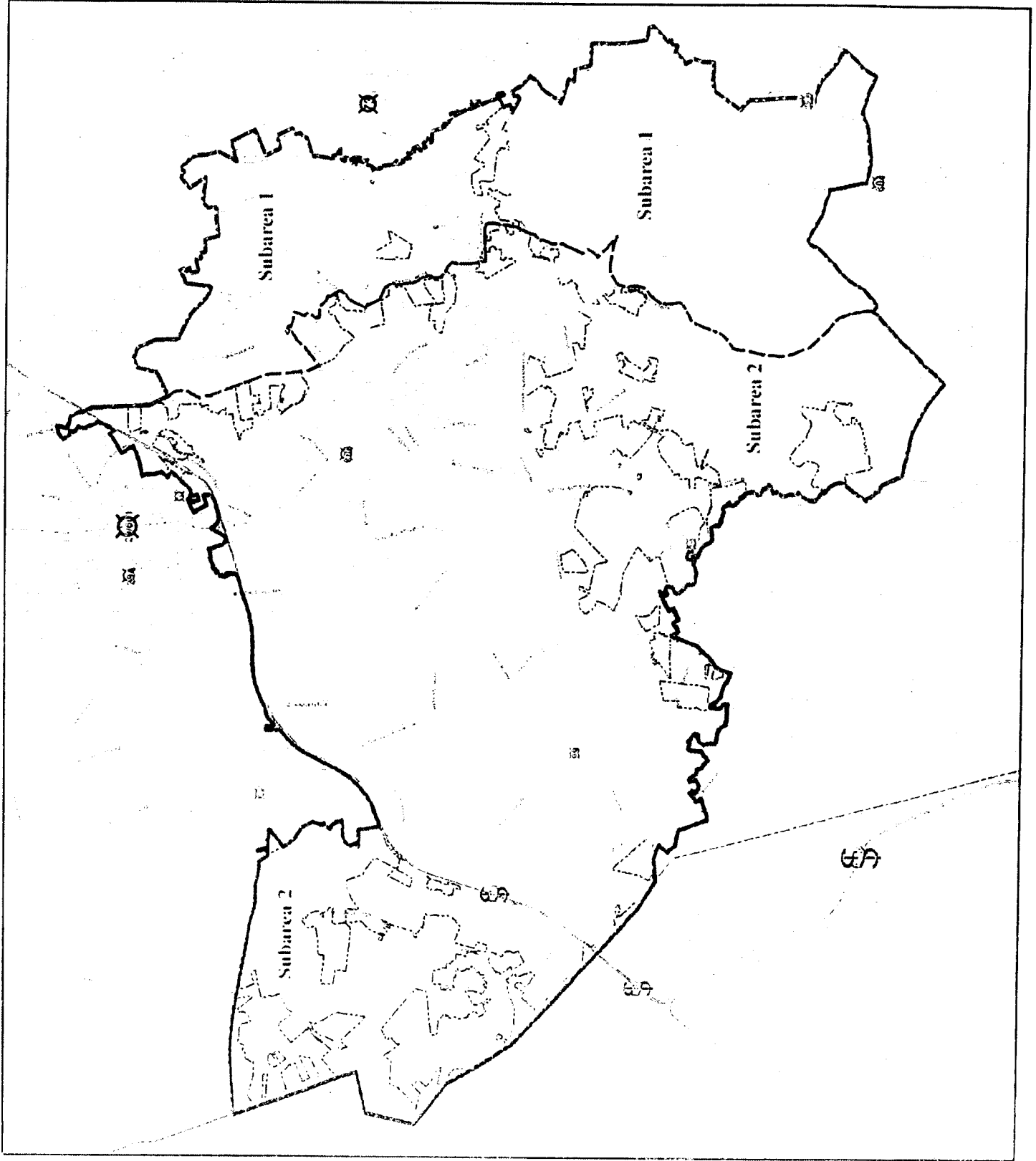
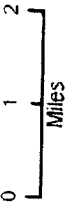
Superior Court Judge Presiding

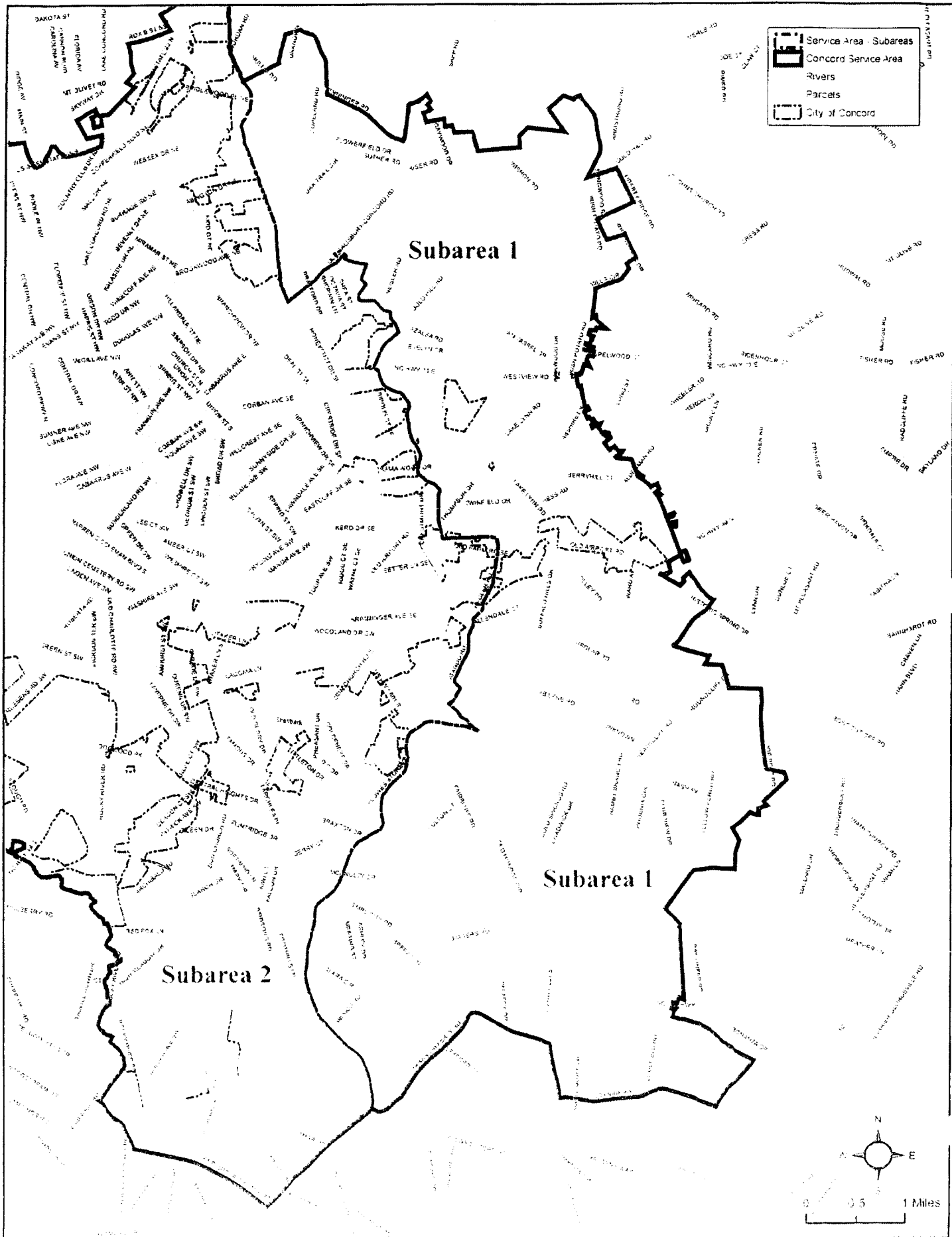
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
City of Concord
5 Year
Annexation Plan

- 5-Year Annexation Area
- Concord Service Area
- Service Area - Subareas
- City of Concord
- Other city limits
- County Boundary
- Interstates
- NC Hwy
- US Hwy
- Streets
- Lakes & Ponds

2



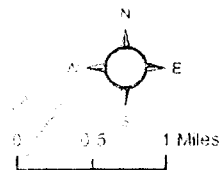


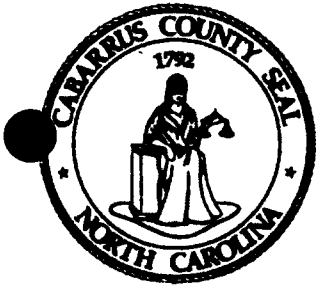
 Service Area - Subareas
 Concord Service Area
 Rivers
 Parcels
 City of Concord

Subarea 1

Subarea 1

Subarea 2





Planning and Zoning Commission Minutes
November 15, 2007
7:00 P.M.

Mr. Todd Berg, Vice-Chairman, called the meeting to order at 7:03 p.m. Members present, in addition to the Vice-Chair, were Ms. Brenda Cook, Mr. Eugene Divine, Mr. Larry Ensley, Mr. Danny Fesperman, Mr. Larry Griffin, Mr. Thomas Porter, Jr., Mr. Barry Shoemaker and Mr. Dennis Yates. Attending from the Planning and Zoning Division were Ms. Susie Morris, Planning and Zoning Manager, Ms. Kassie Watts, Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Roll Call

Approval of Minutes

Mr. Danny Fesperman, **MOTIONED, SECONDED** by Mr. Dennis Yates, to **APPROVE** the October 15, 2007, meeting minutes. The vote was unanimous.

New Business - Planning Board Function:

The Chair introduced Petition C2007-05(R) – Zoning Atlas Amendment.

Ms. Kassie Watts, Planner addressed the Board, stating that the property owner is Cabarrus County, Pharr Mill Park, located at 6775 Pharr Mill Road in the Harrisburg Township. She said the purpose of this rezoning is to change to a zoning designation with institutional uses which would be Office Institutional (OI), where parks would be permitted by right. The existing zoning is Low Density Residential (LDR) and the proposed zoning is Office Institutional (OI). The area is approximately 37.4 acres and the park recently opened in October 2007. The property was rezoned during the June 2005, County wide rezoning from Medium Density Residential (MDR) to Low Density Residential (LDR). She said the area relationship was basically Low Density Residential (LDR) all around the property and some Office Institutional (OI) to the North and East of the property. She said a copy of the Harrisburg Future Land Use Map was in the Board packet and included this property and designated it as Suburban Residential (SR).

She said there were not many comments received due to the nature of the rezoning. She said, NCDOT has requested that their staff be provided the opportunity to review the location of any proposed signs. She believes that was the only significant comment that was received and all of the other comments were included in the staff report.

She said per the Cabarrus County Zoning Ordinance, lands in the Office Institutional (OI) district are intended to accommodate relatively low intensity office and institutional uses at intensities complementary to residential land use. Where appropriate, this district can serve as a transition between residential land use and high intensity land use.

She said this district is used to provide for low intensity office and institutional uses that can be complementary to adjacent residential land use. This district features employment options and essential services which require a moderate number of average daily trips. These uses will have a minimum impact on the surrounding area because these trips will generally occur during regular business hours, thus, not competing with residential traffic at peak hours and weekends. This district should be located adjacent to residential zones or in areas where its use would serve as a transition between residential land use and higher intensity non-residential land use. Higher intensity non-residential land use may include commercial zones, light industrial or mixed use zones. When bordering residential zones, care should be taken to assure natural or manmade buffering and/or architectural compatibility so that the non-residential activities are not a nuisance to residential uses.

She said some other considerations are:

The petitioner has filed rezoning request C2007-05 (R) due to the size limitation of the permitted ground sign allowed in the existing zoning district, Low Density Residential (LDR). She said the overall reason is to bring the sight into compliance because it is an institutional use and should be zoned that way. She said the Sign Standards listed in Table 6 of the Cabarrus County Zoning Ordinance, allows for 1 ground sign to be placed outside of the street right-of-way and the site triangles with a maximum 16 square feet of sign area. The sign must not exceed 4 ft. in height and this standard is applicable for uses such as churches, schools, community centers, public buildings and similar uses.

The petitioner has already ordered and paid for a ground sign that exceeds that square footage of maximum sign area allowed under the Low Density Residential (LDR) zoning designation. The ground sign the petitioner will be utilizing at the property entrance will have 32 square feet of sign area, will be allowed to reach up to 6 feet in height and will be required to locate outside of the right-of-way and site triangles as designated by NCDOT. In addition to allowing additional signage, the Office Institutional (OI) zoning district is a more appropriate zoning designation for a public park, as the park would be permitted by right.

The properties located on three of the four sides of the subject property are currently zoned for, and are developing with, single-family residential uses. The Canterfield Estates and Sequoia Hills subdivisions are located to the south and the River Hills subdivision is located directly north. To the west, there is a large tract of undeveloped Low Density Residential (LDR) property.

The current zoning map shows the parcels to the east of the subject property as part of a large Cabarrus County Office Institutional (OI) zoning district. This district was rezoned from Countryside Residential (CR) during the June 2005, countywide rezoning. The total combined area of these tracts is approximately 404 acres in size. This Office Institutional (OI) district is not identified in the Strategic Plan for Economic Development that was prepared for Cabarrus County in March 2006 as a potential economic development site. However, it has been identified by the Harrisburg Land Use Plan, adopted February 2001, as a Future Employment area.

A broad goal of the Harrisburg Area Plan (HAP) for much of this planning area is to promote the development of well designed single-family neighborhoods. The property requesting rezoning under this petition falls under the Suburban Residential (SR) designation of the Harrisburg Area Plan (HAP). The Suburban Residential (SR) district is one of the area plan's single family districts and deems 2-4 units per acre appropriate. A specific goal recommended by the Harrisburg Area Plan (HAP) is to allow the rezoning of County designated Medium Density Residential (MDR) and Low Density Residential (LDR) properties, to allow for open space preservation, such as parks. She said that is a very specific goal outlined in the Harrisburg Area Plan (HAP). The subject property has already been developed as the Pharr Mill Park through federal and state funding. There is no potential for residential development on this property in the future. She said that is one of the reasons there were no comments received from the school system.

She said in conclusion, this rezoning request is an extension of an existing zoning district, Office Institutional (OI), that abuts the property on one of its four sides. The petitioner has indicated they wish to rezone the property to utilize the entrance ground sign that has already been purchased for the Pharr Mill Park property.

This is a conventional rezoning request. All uses for Office Institutional (OI) zoning district must be considered in the approval process. Some uses that are permitted may not be suitable for locations near residential properties. Based on the purpose statement, the Office Institutional (OI) zoning district is the more appropriate designation for a public park.

The Harrisburg Area Plan (HAP) designates this property as Suburban Residential (SR) with a density of 2-4 units per acre. It further recommends that lands zoned County Low Density Residential (LDR) should be allowed to rezone for open space preservation. The extension of the existing Office Institutional (OI) zoning district is compatible with the surrounding residential uses and is supported by the Office Institutional (OI) intent and rationale statement of the Cabarrus County Zoning Ordinance. The Planning and Zoning Commission should consider all the information presented and render a decision according to the Commission's vision for this area of Cabarrus County.

Ms. Watts said the list of the adjacent property owners and the list of permitted uses were included in the staff report. She received a few calls about what the rezoning was for; they were neither positive nor negative. She said Mr. Randy Daniels with the Parks and Recreation Department is here to answer any questions.

Ms. Watts showed an example of what the sign would look like.

Mr. Shoemaker asked if this zoning request would have been made if the sign had not been ordered prior to this.

Mr. Randy Daniels, Parks Superintendent for Cabarrus County addressed the Board. He said the change had been discussed but he thinks this was the determining factor. They

talked about doing the change to Office Institutional (OI) but when this came up, they decided to pursue it.

Mr. Shoemaker asked how many parks were planned around the County that are not in this zoning designation.

Mr. Daniels said they do not have any planned at this time. They are pursuing purchasing some property in the Midland area but they do not have anything lined up right now.

Mr. Shoemaker asked if they were thinking about using that property in the future for some type of park.

Mr. Daniels said yes.

Mr. Shoemaker asked if it would be their intent at that time to then bring forth a zoning request like this right after you purchase the land.

Mr. Daniels said it would depend on what the property was zoned at the time of the purchase. They do not have anything specifically located right now; they are in the process of looking for property in that area.

Mr. Shoemaker asked if once the property was purchased, would they come to the Board and ask for a rezoning before doing anything else.

Mr. Daniels said yes.

Ms. Morris, Planning and Zoning Manager, addressed the Board. She said if the Board remembers, a Parks and Recreation representative came to the Board for approval on that particular park. She said they had to file a Conditional Use Permit for it, so any parks that are done in the residential areas have to file a Conditional Use Permit. They have to come back and continue to amend that permit as they add on or make changes; if they do not do a master plan initially. She said this will help them in that respect; where they have the Office Institutional (OI) zoning and now they are permitted by right and will not have to continue to come back to the Board and ask for those changes and amend that plan.

Mr. Berg asked if with the current zoning any time they have added a building or parking or something it would have to come back as a Conditional Use.

Ms. Morris said that is correct, they have had a change of staffing in the Parks and Recreation Department, as far as the Department Head, and she believes this is how the new Department Head would like to handle any new parks that are developed; to get the appropriate zoning up front so that they can expand as they would like to add other additional services.

Mr. Berg asked if the larger sign could have been a condition of the Conditional Use under that zoning.

Ms. Morris said absolutely not.

Mr. Shoemaker asked if staff agrees with the Office Institutional (OI) as the way to go in the future.

Ms. Morris said Office Institutional (OI) is a more appropriate zoning designation; when you look at the Zoning Map it tends to tell you where schools, churches and parks are located and allows again for those uses to be permitted by right so that they do not have to jump through quite as many hoops to be able to develop those types of uses.

She said the schools just went through some rezoning on the schools to try to get those properties to Office Institutional (OI). She thinks that for any County project this is going to be the trend.

The Chair opened the floor for discussion.

Mr. Shoemaker thought the sign was the real reason for the rezoning, but now that we get down to it, it sounds like this is the appropriate way to do it. He said having read the Low Density Residential (LDR) and what that designation is and then what the Office Institutional (OI) is, he agrees with staff. He thinks the big thing is making sure that we use due diligence in directing people who do public facilities both County and City and everybody.

There being no further discussion, Mr. Shoemaker **MOTIONED, SECONDED** by Mr. Griffin to **Approve** Petition 2007-05 (R) Zoning Atlas Amendment - Office Institutional (OI) to Low Density Residential (LDR). The vote was unanimous.

Consistency Statement (presented by Mr. Koch, County Attorney):

Although the Harrisburg Area Plan (HAP) designates this property as Suburban Residential (SR) and this rezoning is to a non-residential zoning designation, the rezoning is still consistent with the Harrisburg Area Plan (Hap) and is reasonable and in the public interest because the Harrisburg Area Plan allows such land to be rezoned for open space preservation.

There being no further discussion Mr. Shoemaker **MOTIONED, SECONDED** by Mr. Ensley to approve the consistency statement as read by Mr. Koch. The vote was unanimous.

Ms. Morris, Planning and Zoning Manager, addressed the Board. She said Zoning Atlas Amendment C2007-06 (R-SU) had been advertised, but the Petitioner was unable to satisfy comments staff and other agencies had identified. She said it was filed in the office by GMST Holdings, LLC for property located at 6300 NC Highway 49. She said due to the Petitioners efforts to satisfy comments, staff is requesting that Petition C2007-06 (R-SU) be tabled. She said the Petitioner should be able to address those items within

30 days and be able to come back in December, if not, we will ask the Board to table it again in December.

There being no further discussion Mr. Griffin **MOTIONED, SECONDED** by Mr. Shoemaker to table Petition C2007-06(R-SU). The vote was unanimous.

Directors Report:

Ms. Morris said there have been some talk and some newspaper articles about the moratorium that we have, which is not really a moratorium. She said several years ago as a settlement to a lawsuit, the City and the County agreed that in the City's five year annexation area, if a project came into the County, the County would offer the project up to the City, the City would then decide whether or not they wanted to provide utilities to that particular project and whether or not they wanted to annex that project in. She said that is the gist of what came out of that agreement; apparently there were some discussions and they went back and amended that particular agreement. She said so that the Board would be clear she wanted to walk through it.

She said there are two areas that are defined, Sub-Area 1 and Sub-Area 2. She said if you want to develop in Sub-Area 1, you would have to use a well and septic system and develop under the Cabarrus County regulations. She said to develop in Sub-Area 2, is where the City would have the option to run utilities and to also ask for a voluntary annexation. She said they have to do the voluntary annexation first, then if the City decides to take them in, they would follow and develop under the Unified Development Ordinance (UDO) standards not the County standards. If there was an area there where they decided that they wanted to run utilities but not annex; then it would go back to the old way, they would provide the utilities but then develop under County standards.

She said if the Board remembers, the Roycroft Subdivision was asking for utilities. They got the utilities from Concord but they had to do a hybrid of the standards and had to figure out which one was the stricter of the two and meet that. She said hopefully, this will take some of that confusion away. She said in a nut shell, it boils down to well and septic in Sub-Area 1 and Annex potential in Sub-Area 2.

Mr. Berg asked what the schedule was for this, how long does it last?

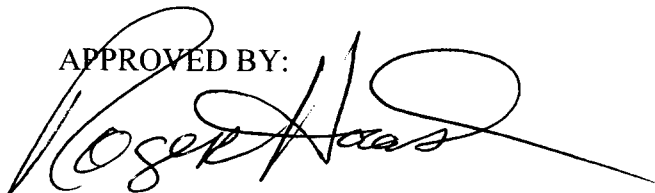
Mr. Koch said it runs for a period 8 months from the time the agreement is signed by the Judge.

Mr. Berg asked if some one would have had to already apply for a permit in that area to be able to develop, until those 8 months is up.

Mr. Koch said in Sub Area 1.

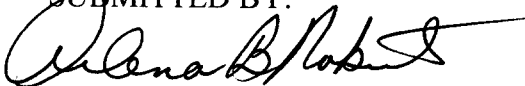
Ms. Morris reminded the Board of a training opportunity on November 29, 2007, sponsored by Centralina Council of Government (COG).

APPROVED BY:

A handwritten signature in black ink, appearing to read "Roger Haas", written over a horizontal line.

Roger Haas, Chairman

SUBMITTED BY:

A handwritten signature in black ink, appearing to read "Arlena B. Roberts", written over a horizontal line.

Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager