



Commerce Department  
Planning Division

## Cabarrus County Government

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Cabarrus County Planning and Zoning Commission Meeting  
October 15, 2009  
7:00 P.M.  
Board of Commissioners Chamber  
Cabarrus County Governmental Center

### Agenda

1. Roll Call
2. Approval of September 2009 Meeting Minutes
3. New Business – Planning Board Function:
  - A. Proposed Text Amendment Text2009-0009 - Agriculture Female Chickens (limited number) – Less than 5 acres. *00009*
  - B. Proposed Text Amendment Text2009-000~~9~~<sup>8</sup> – Commercial Design Standards. *# 00008*
  - C. Proposed Text Amendment Text2009-00011-Chapter-Overlay Zones-Waterbody Buffer Zone.
4. Directors Report
5. Adjournment

# Memo

**To:** Cabarrus County Planning and Zoning Commission  
**From:** Susie Morris, AICP, Planning and Zoning Manager  
**CC:** File  
**Date:** October 7, 2009  
**Re:** Proposed Text Amendment TEXT2009-0009-Agriculture-Female Chickens (Limited Number)-Less than 5 acres

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- Attached you will find proposed changes to the Cabarrus County Zoning Ordinance to permit female chickens in limited numbers in the MDR and LDR Zoning Districts.
- The Ordinance that summarizes the changes is attached for your reference.
- Please read over the materials and be prepared to discuss the proposed text changes at the meeting.

**AN ORDINANCE AMENDING THE CABARRUS COUNTY ZONING  
ORDINANCE  
TEXT2009-0009**

**BE IT ORDAINED** that the Cabarrus County Zoning Ordinance is hereby amended as follows:

**ADD** Definition of Livestock to Chapter 2-Section 2-2. Basic Terms and Definitions  
Livestock-Shall include, but not be limited to, equine animals, bovine animals, sheep, goats, llamas, alpacas, poultry, fowl and swine. These types of animals are typically housed on a farm. Poultry Exception: See Chapter 7, Agriculture-Female Chickens (Limited Number)-less than 5 acres

**ADD** the following to Chapter 3  
Permitted Based on Standards MDR and LDR  
Agriculture-Female Chickens (limited number)-less than 5 acres

**ADD** the following as Permitted Based on Standards Section 3-8. Table of Permitted Uses  
3. Agriculture-Female Chickens (limited number)-less than 5 acres  
Renumber table to accommodate new use

**ADD** the following to Chapter 7 Permitted Based on Standards

2-B Agriculture-Female Chickens (limited number)-less than 5 acres

a) Zones Permitted based on standards  
Low Density Residential, Medium Density Residential

b) All lots that are utilized as single family detached residential will be permitted up to the following number of female chickens:

Number of Female chickens Permitted:

<1 acre-5  
1 acre-10  
2 acres-15  
3 acres-20  
4-5 acres 25

c. Requirements:

1. Female chickens are for egg production only;
2. The chicken house and run must be fully enclosed and the female chickens kept within it at all times. All chicken houses must be properly maintained in a safe, clean and sanitary condition that poses no health threat to the chickens or citizens and does not create a public nuisance. Runs must be well drained so that there will be no accumulation of moisture.
3. The chicken house must be used for female chickens only and must be well ventilated. Chicken houses shall be located a minimum of 25 feet from any property line. Run areas must be located a minimum of 15 feet from any property line and 50' from any stream.

4. All feed and other items associated with the keeping of chickens shall be stored properly and protected from rodents;
5. Waste products generated from the raising of chickens shall be disposed of properly. If on site composting is performed, compost storage areas shall be located a minimum of 15' from any property line and 50' from any stream. (\*\*See below for additional composting information.) If onsite composting is not used, all chicken related waste must be double bagged before being placed in on site roll out trash bins.
7. All structures, fencing, and female chickens must be located in the rear yard of the dwelling. The range area provided to any chickens must not include the crawl space of any residential structures.
8. Male chickens (roosters) are prohibited.

\*\*Compost is organic material that can be used as a soil amendment or as a medium to grow plants. It is created by: combining organic wastes (e.g., yard trimmings, food wastes, manures) in proper ratios into piles, rows, or vessels; adding bulking agents (e.g., wood chips) as necessary to accelerate the breakdown of organic materials; and allowing the finished material to fully stabilize and mature through a curing process. See the United States Environmental Protection Agency site for proper composting techniques <http://www.epa.gov/epawaste/conserves/rrr/composting/index.htm>.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ by the Cabarrus County Board of Commissioners.

\_\_\_\_\_  
H. Jay White, Chairman  
Cabarrus County Board of Commissioners

ATTEST:

\_\_\_\_\_  
G. Kay Honeycutt, Clerk to the Board



# Memo

**To:** Cabarrus County Planning and Zoning Commission  
**From:** Susie Morris, AICP, Planning and Zoning Manager  
**CC:** File  
**Date:** October 7, 2009  
**Re:** Proposed Text Amendment TEXT2009-0000<sup>0000</sup>-Commercial Design Standards

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- Attached you will find proposed changes to the Cabarrus County Zoning Ordinance Chapter 5 and Appendix B.
- Additional Language has been added to address commercial uses permitted in residential districts.
- Proposed changes are in red.
- Please read over the materials and be prepared to discuss the proposed text changes at the meeting.

PART II. NONRESIDENTIAL DISTRICTS.

Section 5-9. Nonresidential development standards.

A. *Dimensional standards.*

Nonresidential development shall meet the following standards.

	OI	LC	GC	LI	GI
<i>Lot Dimensions</i> (minimum)					
Lot area (square feet)	10,000	10,000	1 acre	1 acre	1 acre
Lot width (feet)	50	50	120	120	200
<i>Principal</i> (minimum feet)					
Front yard	30	30	40	50	75
Side yard (single)	5	5	10	10	30
Side yard (total)	20	20	30	30	30
Rear yard	20	20	20	20	30
<i>Accessory</i> (minimum feet)					
Front yard	30	30	same as principal	same as principal	same as principal
Side yard (single)	5	5			
Side yard (total)	20	20			
Rear yard	5	5			
<i>Height</i> (maximum feet)					
Principal	40	40	60	60	60
Accessory	20	20	30	30	30
<i>Lot Coverage</i> (maximum)					
Impermeable surface	75%	75%	75%	70%	60%
Structural coverage	50%	50%	50%	50%	40%

B. *Residential development in nonresidential districts.*

All residential development in nonresidential districts shall meet the standards of the HDR District.

C. *Commercial design standards.*

*Applicability*

The Commercial Design Standards are intended to be used for all commercial developments located within the jurisdiction of Cabarrus County.

*Purpose*

The purpose of these design standards is to establish a general set of principles and specific recommendations to serve as a guide for new development and/or renovations of commercial properties.

*Permitted Uses*

11.3.3.1 Permitted uses shall be governed by Chapter 3, Establishment of Zoning Districts.

*Section 1-Appendix B Design Standards (See Appendix B)*

1. *The Commercial Design Standards listed in Appendix B shall apply to all new or expanding commercial and office developments in the O-I, LC, and GC zoning districts (See Chapter 3, Table of Permitted Uses-Commercial Uses). The minimum standards of Appendix B shall be incorporated and used in PUD districts.*
  
2. *The design standards of Appendix B shall apply to the following commercial uses listed in Chapter 3, Table of Permitted Uses-Commercial Uses when permitted in the AO, CR, LDR, MDR or HDR zoning districts:*
  - *Bank/financial institution/ ATM*
  - *Convenience stores with or without petroleum sales*
  - *Gas stations*
  - *Restaurants with or without drive thrus*
  - *Retail sales/shoppers' goods*
  - *Retail sales, shopping centers/10,000 SF and less*
  - *Nursery/Daycare*

*Section 2-General Design Standards*

All other Commercial and office uses as listed in Chapter 3, Table of Permitted Uses-Commercial Uses, permitted in the AO, CR, LDR, HDR and MDR zoning districts shall also be subject to these standards. (See Chapter 3, Table of Permitted Uses-Commercial Uses)

*Review Criteria*

The following criteria shall be considered by staff in reviewing development proposals in addition to the standards established for major and minor site plan review:

*Setbacks*

Setbacks shall be determined by the zoning district and any additional standards in Chapter 4, Chapter 7, or Chapter 8 related to the proposed use. In the event there are discrepancies between the standards established for the zoning district and setbacks established in Chapter 4, Chapters 7 or Chapter 8, the stricter of the two shall apply.

*Connectivity and Sidewalks*

Sidewalks shall serve as the secondary mode of transportation and shall link residential and commercial developments, common areas and parking areas. Sidewalks shall be a minimum of five feet wide and shall have a minimum six-foot landscaped buffer area between the road and the sidewalk itself.

*Parking*

Off street parking shall be required and determined per Chapter 10.

*Parking lot design*



Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the buildings and shall include designated walkways. Parking lots shall be adequately screened from public view and shall include landscaping and buffering per Chapter 9 of the Cabarrus County Zoning Ordinance.

*Landscape*

A Landscaping plan shall be submitted in accordance with Chapter 9 of the Cabarrus County Zoning Ordinance.

*Loading/Unloading Areas and Loading Docks*

Loading and unloading areas shall be installed per Chapter 10. Loading/unloading areas shall be placed, to the greatest extent possible, to the rear of the structure and shall be screened from the view of any street or any residentially developed or residentially zoned property. Loading docks shall be located to the rear of the structure and shall not be visible from any street right-of-way or residentially developed or residentially zoned property.

*Solid Waste Storage*

Solid waste containers shall be confined to an enclosed area that is screened on all sides. Solid waste storage areas shall be located to the rear or side of the structure. These areas shall be designed to compliment the structure and should be constructed from materials that match the building. Solid waste storage areas shall not be located in any planting yard and shall be screened from any street and/or any residentially developed or residentially zoned property.

*Mechanical Equipment*

All rooftop mechanical and electrical equipment shall be completely screened from view from all streets and adjacent properties. All screening walls/parapets shall be constructed and designed of materials compatible to that of the primarily structure and shall be incorporated into the design of the structure. Metal screening walls shall not be permitted. To the greatest extent possible, mechanical appurtenances shall be located within the structure. Appurtenances such as heating and air conditioning equipment, coolers, etc. shall be screened entirely from public view and shall be designed and finished to match adjacent building materials. In addition to design elements, landscape materials shall be incorporated to provide additional screening and/or softening of equipment areas.

*Height*

Building height shall be regulated in accordance with Chapter 5, Dimensional Requirements.

*Building Materials*

All buildings shall be constructed of quality materials. These materials include brick, either plain or painted, split faced block either plain or painted, horizontal

siding, wood, wood shingle, architectural metal, stone or concrete-based stucco. Corrugated metal may be used as an accent material only.

*Design Review Committee*

All applications for Site Plan approval subject to the standards established in Appendix B shall be approved by the Cabarrus County Planning and Zoning Board, sitting as the Design Review Committee, based upon the design guidelines in effect at the time of review.

Projects subject to the standards established in Chapter 5, Section 5-9, C-1 shall be subject to administrative site plan review only.

When reviewing applications for commercial development permitted in residential zoning districts, the Design Review Committee shall review the project in relation not only to Appendix B but also the following criteria:

- Architectural design of neighboring residential buildings
- Setbacks in relation to existing buildings and residential development
- Compatibility with neighborhood character, context and scale

As part of the formal review process, the Design Review Committee may approve deviations from the standards listed in Appendix B when the Design Review Committee determines one or more of the following are applicable to the proposed project:

- To provide for architectural design compatibility in relation to the existing neighborhood or structures where appropriate
- To provide for adjusted setbacks in relation to existing buildings or residential development where appropriate
- To request changes in architectural character or site design when the project is not compatible with the context of the surrounding neighborhood
- To request changes in scale where appropriate

*Appeal of Design Review*

An aggrieved party may appeal a decision of the Planning Administrator in writing within 30 days of a decision. All appeals shall be heard by the Cabarrus County Board of Adjustment.

An aggrieved party may appeal a decision of the Planning and Zoning Board, sitting as the Design Review Committee, in writing within 30 days of a decision. All appeals of Design Review Committee (Planning and Zoning Board) decisions shall be heard by the Cabarrus County Board of Commissioners.

*Enforcement*

Any violation of a permit issued under this section shall be enforced through the provisions of the Cabarrus County Zoning Ordinance.



## COMMERCIAL DESIGN STANDARDS

The Commercial Design Standards listed in Appendix B shall apply to all new or expanding commercial developments in the O-I, LC, and GC zoning districts (See Chapter 3, Table of Permitted Uses-Commercial Uses). The minimum standards of Appendix B shall also be incorporated and used in PUD districts.

Appendix B standards shall also apply to the following commercial uses listed in Chapter 3, Table of Permitted Uses-Commercial Uses, when permitted in AO, CR LDR, MDR or HDR zoning districts:

Bank/financial institution/ATM

Convenience stores with or without petroleum sales

Gas stations

Restaurants with or without drive thrus

Retail sales/shoppers' goods

Retail sales, shopping centers/10,000 SF and less

Nursery/Daycare

## STANDARDS

### REVIEW CRITERIA

The following criteria shall be considered by staff in reviewing development proposals in addition to the standards established for major and minor site plan review:

### AMENITY AREA

Projects containing groups of buildings to be devoted primarily to office and/or retail activities shall incorporate amenity areas into the site design. Amenity areas include, but are not limited to, public plazas, courtyards, squares or small parks on the site. Design elements to be included in the amenity areas are seating walls, benches, outdoor dining/gathering areas, decorative fountains or water features, clock towers and/or garden areas. Since the purpose of these amenity areas is to serve as pocket recreational areas and to help foster a sense of community, additional elements shall be considered if the applicant shows that the design meets the intent of this section.

### SETBACKS

The setbacks to be established are intended to form a consistent relationship of buildings to the street and sidewalk. This relationship shall form a visually continuous, pedestrian-oriented street front. The best way to maintain this relationship is to have minimal vehicle use between building faces and the street. **Front building setbacks shall be between a minimum of fifteen (15) feet and maximum of (25) feet to maintain a consistent and uniform streetscape.** All other setbacks are established in Chapter 5 of

the Cabarrus County Zoning Ordinance. Buildings should be arranged so that they help to frame and define fronting streets (as well as any internal or side streets). Buildings shall not be separated from fronting streets by large expanses of parking. In some instances, the setbacks may be adjusted by the Administrator to address access issues and access road placement. In the event the Administrator grants an adjustment to the required setbacks, additional landscape shall be required. Setbacks adjustment requests shall be handled on a case by case basis.

**CONNECTIVITY AND SIDEWALKS**

Sidewalks shall serve as the secondary mode of transportation to the use of roads and shall link residential and commercial developments, common areas, and parking areas. If a proposed development includes multiple buildings in the site design, then an overall connectivity plan shall be provided for the development. Sidewalks shall be a minimum of five feet wide and shall have a minimum six-foot landscaped buffer area between the road and the sidewalk itself. Sidewalks shall remain as unobstructed as possible by items such as plantings or trash receptacles.

**PARKING REQUIREMENTS**

Parking areas shall balance the needs of both the automobile and the pedestrian. Off street parking areas shall be designed to minimize breaks in the pedestrian environment and the visual continuity of the streetscape. Additionally, no more than two rows of parking may be permitted on the side of the structure. Off street parking shall be required and determined per Chapter 10. Parking areas shall primarily be located to the rear of the proposed structures to minimize visibility. In the event that a proposed development includes multiple structures, parking areas may be permitted in "front" of the internal buildings. In no case, however, shall expanses of parking be permitted between any street or street right-of-way and structure.



**PARKING LOT DESIGN**

Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the buildings. This may be achieved in smaller lots by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking areas should channel pedestrians from the car to the perimeter of the lot. A paving material that is different in color and/or texture from that of vehicular areas shall delineate these pedestrian travel ways and shall be clearly marked. Small posts or bollards incorporating lights may also serve the same purpose. Parking lots shall be adequately screened from public view and shall include landscaping and buffering per Chapter 9 of the Cabarrus County Zoning Ordinance.



### LANDSCAPING

A Landscaping plan shall be submitted in accordance with Chapter 9 of the Cabarrus County Zoning Ordinance. In the event that the strict interpretation of Chapter 9 would limit the use and/or design of a site (such as in the case of upgrades to existing facilities) the Administrator shall have the authority to approve a modified landscape plan if the plan is determined to be in keeping with the overall intent of Chapter 9 and these design guidelines.

### LIGHTING

Lighting for all non-residential uses shall provide proper lighting for security purposes while not diminishing the quality of any surrounding residential uses.

- All light fixtures (freestanding, flood, or any other form of light fixture) shall be provided with full cut-off fixtures, visors, or any other suitable directional control to direct light either downward or directly on the appropriate building. (Wall pack lighting is not permitted)
- No light fixture shall create any glare or spillover lighting effects on any residential properties or streets.
- Freestanding light fixtures along all public street systems and internal street systems shall not exceed nineteen feet in total mounted height and shall consist of a decorative fixture that shields the source of light away from neighboring properties.
- Lighting located within parking lots may not exceed thirty-three feet in total mounted height. Parking lot lighting shall consist of a fixture that shields the source of light away from neighboring properties and direct the illumination to the ground's surface.
- Lighting installations should include timers, dimmers, and /or sensors to reduce overall energy consumption and unnecessary lighting.
- Lighting levels for canopies and awnings of commercial facilities shall be adequate only to facilitate the activities taking place in such locations and shall not be used to attract attention to the businesses. Lighting fixtures mounted on canopies shall be recessed so that the light's lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained. Canopies shall be constructed of non-light-emitting material.

### LOADING/UNLOADING AREAS AND LOADING DOCKS

Loading and unloading areas shall be installed per Chapter 10. Loading/unloading areas shall be placed, to the greatest extent possible, to the rear of the structure and shall be screened from the view of any street and/or any residentially developed or residentially zoned property. Additionally, loading/unloading spaces shall be located such that interference with traffic on streets and or internal driveways is minimized. In the event that a loading dock is necessary to support the proposed use, the dock shall be located to the rear of the structure and shall not be visible from any street and/or residentially developed or residentially zoned property.

**SOLID WASTE STORAGE AREAS**

Solid waste containers shall be confined to an enclosed area that is screened on all sides. Solid waste storage areas shall be located to the rear or side of the structure. These areas shall be designed to compliment the structure and should be constructed from materials that match the building. Solid waste storage areas shall not be located in any applicable planting yard and shall be screened from any street and/or any residentially developed or residentially zoned property.

**MECHANICAL APPURTENANCES**

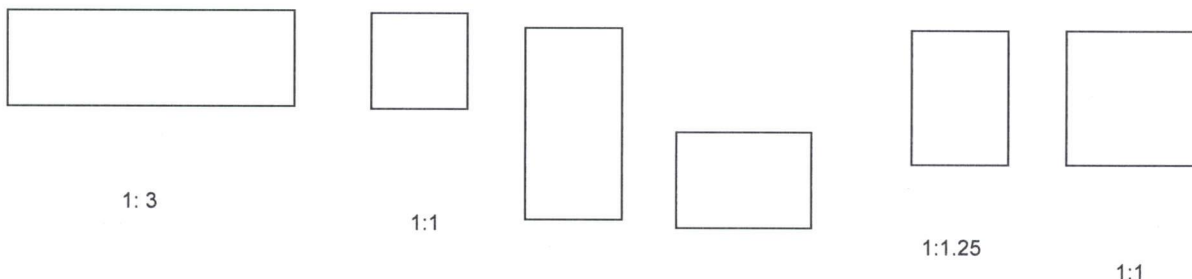
All rooftop mechanical and electrical equipment shall be completely screened from view from all public streets and adjacent properties. All screening walls/parapets shall be constructed and designed of materials compatible to that of the primarily structure and shall be incorporated into the design of the structure. Metal screening walls shall not be permitted. To the greatest extent possible, mechanical appurtenances shall be located within the structure. Appurtenances such as heating and air conditioning equipment, coolers, etc. shall be screened entirely from public view and shall be designed and finished to match adjacent building materials. In addition to design elements, landscape materials shall be incorporated to provide additional screening and/or softening of equipment areas.

**ARCHITECTURAL DESIGN STANDARDS**

**MASSING AND RHYTHM**

To insure a consistent scale and compatible character of each and every building, massing and rhythm shall be considered in the site design. A single large dominant building mass shall be avoided in new buildings and, to the extent reasonably feasible, in development projects involving changes to the mass of existing buildings. Horizontal masses shall not exceed a height-width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed elements. Changes in mass shall be related to entrances, the integral structure, and/or the organization of interior spaces and not merely for cosmetic purposes. All buildings shall incorporate the aspects outlined in this document to insure that no single building, here forth, shall be constructed counteractive to the goals established for the commercial design standards.

Figure 4





**Examples of appropriate width to height ratios.**

**HEIGHT**

Building height shall be regulated in accordance with Chapter 5, Dimensional Requirements.

**SCALE AND ROOFLINE**

The goal for scale is to be reiterated in regard to height. The scale of buildings should be such that the street edges are defined and relate to the human proportions. This scale can be achieved through the use of architectural detailing on the first floor of buildings so that larger buildings are broken up into smaller units, by maintaining height limits, by using large picture windows along front facades and by using plantings around the buildings. A range of roof forms is acceptable as long as they are compatible with the architectural character, scale, and height of surrounding buildings. Mansard roofs are not permitted.

**FENESTRATION**

Fenestration includes the structural openings to buildings, including doors and windows. All buildings shall have their principle entrance opening to a street, square, plaza or sidewalk to create an invitation to the pedestrian. Access from the public sidewalk, street right-of-way or driveway to the principle structure shall be provided through an improved surface. The first floor of all buildings, including structured parking, must be designed to encourage and to complement pedestrian-scale interest and activity by the use of transparent windows and doors on at least 50% of the first floor street frontage. These openings should be arranged so that the uses are visible from and/or accessible to the street. Not less than fifty percent (50%) of the length and twenty-five percent (25%) of the surface of the primary structure(s) shall be in public entrances or windows. In addition, a combination of design elements must be used on the building façade to animate and enliven the streetscape. Reflective glass is prohibited. Where ventilation grates or emergency access doors are located on the first floor, they must be decorative in nature.

**ACCESS**

Structures should be sited so that the primary access is from the street front sidewalk leading to the parking area. In the event that a structure is located on a State Numbered Highway, the Administrator may permit the primary access to be located facing the parking area. All street level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access



which may be provided. Doors shall be recessed into the face of the building to provide a sense of entry and to add variety to the streetscape.

### ARTICULATION

In order to add architectural interest and variety and to avoid the effect of a single long or massive wall with no relation to human scale proportions, the following standards shall apply:

- No wall shall have a blank, uninterrupted length exceeding twenty (20) feet.
- All building walls must include at least two of the following:
  - change in plane,
  - **change in materials**, texture or masonry pattern, or
  - windows.
- Include an equivalent aspect that subdivides the wall into human scale proportions such as an articulated base with a height no more than ten (10) feet.
- In the event that actual doors and windows are not feasible because of the nature of the use of the building, side or rear walls that face walkways may include false windows and door openings defined by the following:
  - frames,
  - sills,
  - lintels, or
  - proportioned modulations of the wall.
- All sides, including the rear, of the building shall include materials and design characteristics consistent with those on the front.
- Use of inferior or lesser quality materials on side or rear walls is prohibited.

In the event that canopies, awnings or other similar appurtenances are used, the following standards shall apply:

- Such appurtenances shall be constructed of materials designed to complement the streetscape and the structure.
- Any appurtenance may extend from the building up to eighty (80%) percent of the width of the sidewalk area or nine feet, which ever is less.
- In no case shall any such facility extend beyond the curb line of the street, nor shall it interfere with the growth or maintenance of street trees, or maintenance of street lights or street signs.
- A minimum overhead clearance of eight (8) feet from the sidewalk shall be maintained.

### MATERIALS

All buildings shall be constructed of quality materials. These materials include brick, either plain or painted, horizontal siding, wood shingle, stone, **split faced block plain or painted**, concrete-based stucco **or architectural metal**. All trim materials shall be stone, cast stone, cast concrete, or painted wood. It is recommended that the primary structure be neutral in color, i.e. light grays, browns, beiges, whites or earth tones. The

trim may be of various contrasting colors to that of the primary structure. **Corrogated metal may be used as an accent material only.**

Where any sloped roofs are utilized, they shall be covered with high profile asphalt shingles, natural clay tiles, slate, concrete tiles (with natural texture and color), ribbed metal, wood shakes or shingles. Forms and finish materials of buildings, signage, gasoline pump canopies and other accessory structures, shall be compatible with the architectural character of the adjacent area and structures through compliance with the following guidelines:

- all buildings, including gasoline pump canopies, shall utilize a consistent architectural style in keeping with the design of the primary structure;
- differing buildings, businesses, or activities within the same development may be distinguished by variations within this architectural style;
- Sides and backs of buildings shall be as visually attractive as the front through the design of roof lines, architectural detailing, and landscaping features.

## DEFINITIONS

**Articulation** The detailing of a structure or building, i.e. brick patterning or ornamental work.

**Clapboard** A long, narrow board that overlapped to cover the outer walls of frame buildings.

**Colonnaded (Porch)** A series of columns situated at regular intervals to uphold a roof structure and create a breezeway or porch.

**Cornice** A horizontal molded projection that crowns and complete the wall structure and visually connects the wall to the roof structure.

**Facade** The principle, vertical surface of a building which is set along the frontage line. The elevation of a facade is the vertical surface area and is subject to visual definition by building height, setbacks, and transition lines.

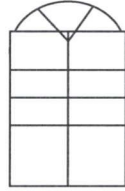
**Fenestration** The entryways and windows of a building.

**Gable (Roof)** A "gable" maybe any one of three things: a triangular wall section at the ends of a pitched roof bounded by the two roof slopes and the ridge pole; the ends of a pitched roof building with a gable in the roof section; or an ornamental triangular architectural section.

**Lintel** The horizontal beam forming the upper member of a door or window frame and supporting part of the structure above it.

**Massing** A unified composition of two-dimensional or three dimensional shapes or volumes, especially one that has or gives the impression of weight, density, or bulk.

**Palladian Windows** A window encompassing an arch above the primary window structure; or an arch window set above a primary window structure. See example below.



**Parapet** A low protective railing or wall along the edge of a roof or balcony.

**Pediment** An arch or triangle shape architectural feature, usually placed above windows or doors. These features may be seen further embellished with molding details or carvings of wood.

**Pilaster** A supporting column or pillar with a capital and base.

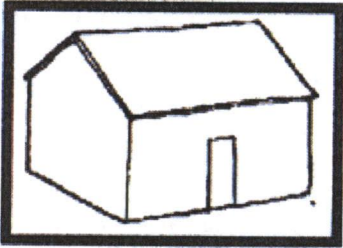
**Porte-Cocheres** A porch roof projecting over a driveway at the entrance to a building.

**Rhythm** Movement, characterized by a pattern repetition or alternation of formal elements or motifs in the same or modified form.

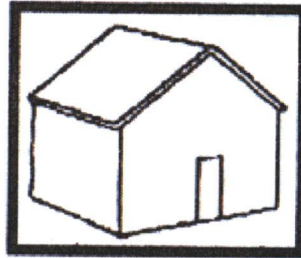
**Setback** A line prescribed for the full width of the facade above which the façade sets back. The location of a recess line is determined by the desired height to width ratio of the fronting space, or by a desired compatibility with existing buildings.



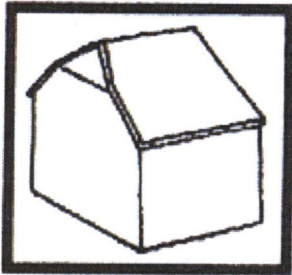
Side Gabled



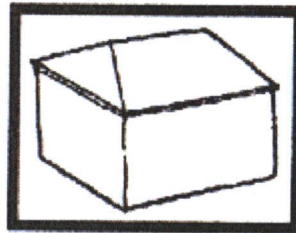
Front Gabled



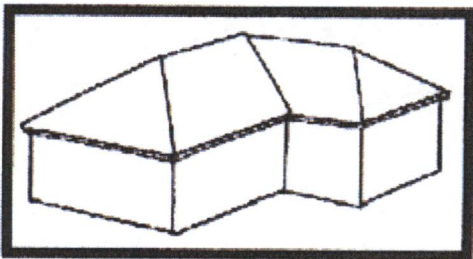
Hipped-Gabled



Simple Hipped



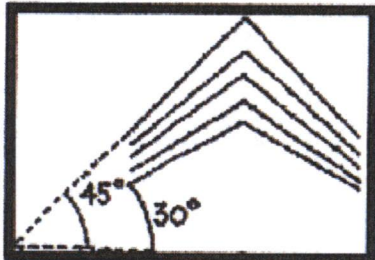
Cross-Hipped



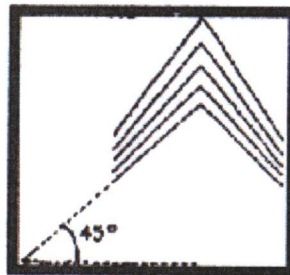
Low Slope - Less than 30°



Moderate Slope - 30 to 45°



Steep Slope - More than 45°



# Memo

**To:** Cabarrus County Planning and Zoning Commission  
**From:** Susie Morris, AICP, Planning and Zoning Manager  
**CC:** File  
**Date:** October 7, 2009  
**Re:** Proposed Text Amendment TEXT2009-00011-Chapter 4-Overlay Zones-Waterbody Buffer Zone

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- Attached you will find proposed changes to the Cabarrus County Zoning Ordinance Waterbody Buffer Zone language.
- The existing Part II, Waterbody Buffer Zone will be replaced with the proposed language. Proposed changes are in red.
- Please read over the materials and be prepared to discuss the proposed text changes at the meeting.



## **PART II. WATERBODY BUFFER ZONE**

### **Section 4-8. Intention of Waterbody Buffer**

The purpose of the Waterbody Buffer Zone is to provide protected, vegetated strips of land adjacent to streams, rivers, lakes, ponds, impoundments, or wetlands. These buffers are retained in a natural, undisturbed, state, in an effort to avoid erosion problems and to reduce the velocity of overland flow, thus trapping sediment and soil eroded from cropland or land being developed to limit pollutants from entering the waterway.

### **Section 4-9. Effect upon bona fide farms**

While North Carolina law exempts bona fide farms from local zoning regulations, the County strongly encourages the use of best management practices in farming. A waterbody buffer is one of these practices and is therefore consistent with North Carolina Sediment Control Law and thus is a 75% reimbursable North Carolina Agricultural Cost - Share Program. This program is administered through the Cabarrus Soil and Water District. The following text shall apply to all development or changing of conditions (e.g., timbering, land clearing, etc.) adjacent to waterbodies as defined below.

#### **4.9-1-Impoundments for agricultural purposes**

Impoundments used primarily for bona fide agricultural purposes, including animal watering, irrigation, or other agricultural uses shall not be subject to buffering requirements unless the waterbody is part of a natural drainage way (i.e., unless the waterbody is located on a Class 1 or Class 2 stream);

### **Section 4-10. Requirements of the Waterbody Buffer Zone**

- 1) A minimum 50-foot buffer shall be established on all sides of perennial or Class 1 streams in addition to any lakes, ponds or impoundments. Class 1 streams include all rivers, streams, lakes, ponds or waterbodies shown on the USGS Quadrangle Maps as a solid blue line.
- 2) A minimum 30 foot stream buffer shall be established on all sides of all intermittent or Class 2 streams and any identified wetlands. Class 2 Streams shall include all rivers or streams shown on the USGS Maps as dotted or dashed blue lines, identified as a stream on the NCRS Soil Survey for Cabarrus County or identified as a stream by a qualified stream classification professional as defined in Section 4-11.3.
- 3) The applicant must provide a detailed survey that field verifies the location of all perennial and intermittent streams, lakes, ponds, impoundments and wetlands on the subject property and within 100 feet of the boundary of the subject property as well as the applicable buffer areas. No development, including soil disturbing activities or grading, shall occur within this buffer area.

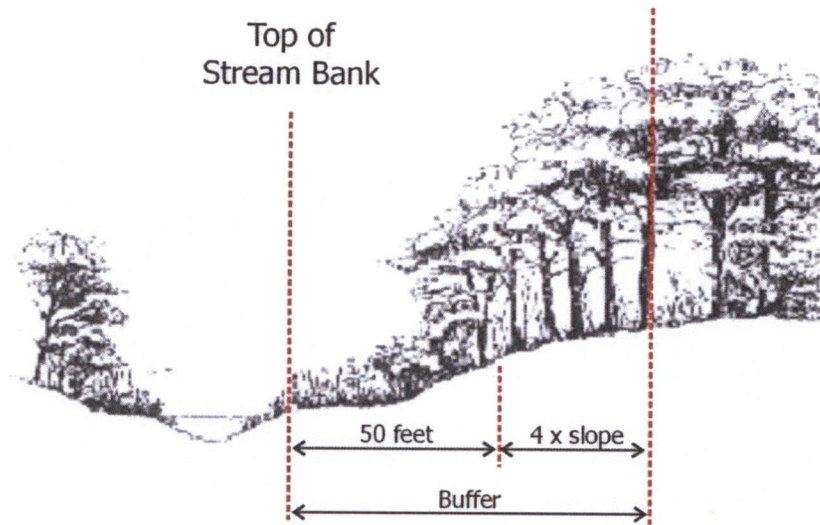
4) Streams may exist even if they are not mapped on the USGS Quadrangle Maps or NCRS Soil Survey Maps. A qualified professional must identify streams that exist on the site but are not mapped. For purposes of this section, a qualified professional shall mean an individual that has attended wetlands delineation training using application of the 1987 Wetland Delineation Manual by the US Army Corps of Engineers and Identification of Perennial and Intermittent Streams training supported by the North Carolina Division of Water Quality.

5) The determination that a waterbody or stream indicated on a USGS Map or NCRS soil survey map does not exist must be concurred by the NCDENR Division of Water Quality and/or the US Army Corps of Engineers.

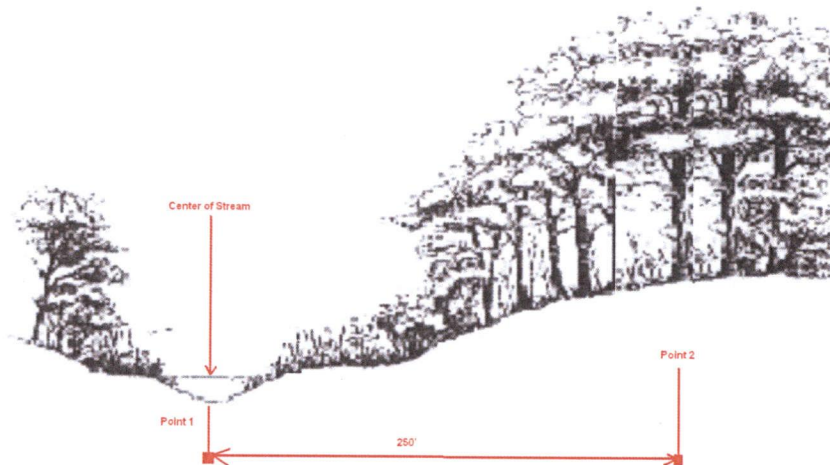
6) The Waterbody Buffer Zone shall be determined and clearly delineated on site prior to any development or pre-development activity occurring in order to protect the required buffer from encroachment or damage.

7) The waterbody buffer shall be maintained as follows and shall be shown on all site plans or subdivision plats related to the project submitted for review, including soil and erosion control plans:

(a) The size of a perennial stream or Class 1 waterbody buffer shall be measured from the annual average stream bank, perpendicularly for a distance of 50 feet plus 4 times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 120 feet from the edge of the stream. For Lakes, ponds or impoundments, the buffer shall be computed using the high water elevation in place of the stream bank in the calculation.



$Width = [50 + (4 \times S)]$   
 Minimum width: 50 feet (areas with flat slopes)  
 Maximum width: 120 feet (areas with steep slopes)



Pre-development elevation of Point 1 in feet = E1  
 Pre-development elevation of Point 2 in feet = E2

$$S = \frac{E2 - E1 \text{ (feet)}}{250 \text{ feet}} \times 100$$

(b) The size of an intermittent stream or Class 2 waterbody buffer shall be measured from the annual average stream bank perpendicularly for a distance of 30 feet on either side of the waterbody.



8A) All buffer areas shall remain undisturbed. When agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities must occur near the buffer zones, they shall conform to all State and Federal regulations. Other unnamed agricultural activities that would result in significant disturbance of the existing soil, increase soil erosion, or destroy plant and wildlife habitats can only occur with an approved replacement program and shall also be consistent with North Carolina Sediment Control Law and in coordination with the North Carolina Wildlife Resources Commission's District 6 Biologist, and in consultation with the Cabarrus Soil and Water District Representative. Existing agricultural operations, forested or vegetated areas within stream buffer areas shall follow the State's forest practice guidelines which include best management practices (BMPs) as defined by the North Carolina Soil and Water Conservation Commission.

8B) Permitted activities/uses within the buffer area include sewer easements, providing the activities strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary step in completing construction of any sewer facilities. Sewer easements should be as close to perpendicular or parallel to the stream channel to minimize the impact on the stream buffer.

Overhead and/or underground utilities, roads, streets, bridges, or similar structures should be placed within existing public rights-of-way and must cross the buffer as close to perpendicular as possible.

Any proposed recreation facilities or greenways must be located a minimum of 60' from the top of the stream bank. This includes any proposed pedestrian, hiking or biking trails. Recreational structures are not permitted in the waterbody buffer.

8C) In the event that a buffer is disturbed, all disturbed areas within the buffer zone shall be revegetated with appropriate vegetation immediately. Forested areas shall be reforested as detailed in the approved replacement program discussed in 8A above.

8D) A progress report shall be submitted by the individual, corporation, or company disturbing land in the Waterbody Buffer Zone to the Cabarrus County Planning and Zoning Department within 60 days of approval of the replacement program by the Soil and Water Conservation District staff. Two other reports may be required at 120 and 180 days if the program is not completed. The first two reports shall explain what work has been completed and any results as well as a time schedule for completion of the rest of the program. The final report shall document that the replacement program has been completed. The site shall be regularly inspected by the enforcement branch of the Cabarrus County Planning and Zoning Department and the Cabarrus Soil and Water Conservation District to assure activity and compliance. Any noncompliance shall be treated as a zoning violation and be subject to enforcement as described in Chapter Twelve of this Ordinance.

9. A minimum setback for all buildings from the buffer for waterbodies as classified and defined in Section 4-10-1 shall be at least 20 feet. For waterbodies classified and defined in Section 4-10-2, the setback shall be a minimum of 10 feet from the buffer. If there is a difference in the zoning ordinance setback and the no build buffer, the greater of the two shall apply. No building or structures shall be permitted in the no build buffer area.

10. Where the Water Body Buffer Zone or no build buffer impacts or is part of a lot, a note shall be placed on the plat or site plan and a restriction shall become part of the deed for the property stating that said property is subject to the Waterbody Buffer Zone.

11. Applicants and property owners are strongly encouraged to consider the dedication of property or easements subject to the Water Body Buffer Zone to one of the following when appropriate:

- Property/Home Owners Association
- Cabarrus Soil and Water Conservation District
- A conservation organization





Planning and Zoning Commission Minutes  
October 15, 2009  
7:00 P.M.

Mr. Todd Berg, Chair, called the meeting to order at 7:00 p.m. Members present in addition to the Chair were, Mr. David Baucom, Ms. Brenda Cook, Mr. Eugene Divine, Mr. Larry Ensley, Mr. Larry Griffin, Mr. Ted Kluttz, Ms. Amy Ma, and Mr. Ian Prince. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Planning and Zoning Commission and Mr. Richard Koch, County Attorney.

### Roll Call

### Approval of Minutes

Ms. Amy Ma, **MOTIONED, SECONDED** by Mr. Larry Ensley to **APPROVE** the September 17, 2009, meeting minutes with the following corrections:

1. Page 3, third Paragraph, change the word betted to vetted,
2. Page 3, sixth Paragraph, change the word surmountable to insurmountable;
3. Page 22, Second Paragraph, replace Mr. Ma with Ms. Ma.,
4. Page 29 the last Paragraph, delete the word Mr. before Ms. Ma.

The vote was unanimous.

### New Business – Planning Board Function:

The Chair introduced Proposed Text Amendment Text2009-0009 – Agriculture Female Chickens (Limited number – Less than 5 acres).

Ms. Morris said there is a typo; there are two text amendments with the same number, this will be Text 2009-0009 and the Commercial Design Standards will be 2009-00008.

Ms. Morris said about three months ago, Concord started talking about having chickens in the city limits. We were asked to look at our Ordinance to see what it said about having chickens if you lived in a subdivision; if it allowed it. Our current Ordinance allows you to have livestock, but you must have a minimum of five acres; that applies in MDR (Medium Density Residential) and LDR (Low Density Residential).

Ms. Morris said what this ordinance change does is defines livestock; at this point we do not have a definition in the ordinance. She said it has goats listed; and we have already had a pigmy goat issue in the County. Her interpretation of the pigmy goat was that he was a pet.

She said the current ordinance language is really geared more towards livestock. She said when you get more into the definition, it says they are raised, and typically sold or some how they get a profit off of it. This is basically what this ordinance is geared

toward. She said there is an exception for poultry, which is a limited number and this would be a lot that is less than five acres in those particular zoning districts; MDR and LDR.

She said there have been a lot of discussions about what the setbacks should be, should there be setbacks, should there be design criteria, are we going to permit it, are we not.

She said what the Board has in front of them is that it would be permitted by right in these two zoning designations and these are actual subdivision lots. She said they would be allowed to have female chickens only, no roosters are permitted. The chickens have to be in a house, or in a run, not out in the yard. They have to be 50 feet from the streams, 15 feet from the property lines, and if the owner chooses to do composting on site, it directs them to what the EPA has as best practices for composting. She said if they are going to put it in the trash, they have to double bag it and things like that. Essentially, this allows someone to raise their own chickens and have organic eggs or what have you; they would be able to that.

She initially proposed three chickens and was told that would not be enough; that is why you see numbers that you do. She had a conversation with Mr. Tommy Porter; he raises chickens on a very different level, and she was told that not all of the chickens would lay eggs on the same day. She was told that having five would allow for one chicken to lay on one day, and two could lay on another day and the others on other days; five chickens should get them through the week. She said they would not be allowed to slaughter them or anything like that at the house.

Ms. Morris said there was some input from Mr. Goforth, the Poultry Agent in the County. He said we had pretty much addressed concerns that had materialized in other jurisdictions. She said the City of Concord did not approve the text amendment. Apparently, there was an issue with some chickens in the road and a bus some where.

We have been asked to look at this because of the whole local foods movement, and to allow folks who want to have chickens do it properly and correctly.

The Chair said the only question he had was the distance from the property line and the compost storage areas. He said 15 feet from a property line for chicken compost seems kind of close. He asked if that was part of the EPA recommendation.

Ms. Morris said no. She said the EPA's recommendations are more on what you can add, how many times you need to turn it and those kinds of things; that is what is on their website. If you are going to do the composting, either you maintain it properly or you have it in the container so you can turn it or maybe you should not do it. She said all of this is open for discussion.

Ms. Ma said her concern is a couple of things; one is allowing it (chickens) on less than one acre. We have homes on a 1/5 of an acre, we see the property battles where they mow within a blade of each other on the line and you have all of those problems.



Somebody putting chickens there, right next door, it is not going to go over well. We have a lot of restrictions and covenants that will prevent it anyway, but she is a little concerned that we are inviting a lot of difficulty. If they really want a farm, then they need to move out of the 1/5 of an acre lot to do it.

Ms. Ma said her other concern is the setbacks. She said particularly when we get up to four or five acres they are allowed 25 chickens, but they still have the same setback situation. She said imagine if you will, a larger lot with little subdivision lots right next to it; so, now they are allowed 25 chickens right next to the property line; 25 feet in because they have five acres. The fact that they are not using the five acres, they are only using one little bit near other people; her sense would be personally, that if you are going to allow more, the set backs increases with the number of chickens and she would get out of allowing any under one acre. She said if you live on a tiny lot, you just have to live with the fact that you will have to buy your and eggs in the store.

Mr. Griffin said most of the subdivisions in the County with the smaller lots, their covenants and restrictions ban that anyway.

Ms. Ma understands that, but rather than relying on the private restrictions to protect people, she would rather the board does it.

The Chair said if you were in MDR, how small could the lot be?

Ms. Morris said 10,000 square feet.

Ms. Morris said in an amenity subdivision if it were MDR they could actually go to 5,000 square feet.

Mr. Griffin said we do not have any MDR any more in the county.

Ms. Morris said we have a little bit.

Mr. Berg said what about LDR.

Ms. Morris said we have LDR.

Mr. Berg said what size.

Ms. Morris said if it were amenity it would be 10,000, and the average lot width is 60 feet and the average lot width for the MDR, if it were 5,000, would be 50 feet. She said that is where some of this will potentially control itself with those setbacks on the smaller lots, because they may or may not be able to accommodate what they need to, depending on the house placement (on the lot).

Ms. Ma said her neighbors Beagle was enough for her, she would not want five chickens.



Ms. Morris said this is open for discussion, so if you have concerns about setbacks, she will need some numbers. If you want it to be some kind of graduated scale, then we will need to figure out some numbers for that as well.

The Chair would like to see the 15 feet go to 25 feet from the property line, and if you are on a really small lot that is 50 to 60 feet wide, that is going to preclude having it at all; unless you put it right smack in the middle of your back yard.

Ms. Ma said if you are going to do the 25 feet on the property line she would like to see 25 feet for the compost and the run as well.

The Chair said yes; increase all of the 15 feet to 25 feet.

Ms. Morris said the house itself is 25 feet from the property line and then the run area would be 15 feet and 50 feet from any stream. She asked if they were saying they wanted the run to be 25 feet and the compost to be 25 feet, and if they wanted to increase it to 25 feet for the house or leave the house and the run the same distance. She said because the house would be located and then the run protrudes from the house.

The Chair wants the run to be 25 feet and the compost 25 feet, keep 25 feet to the house and 50 feet to the stream. He said have the chicken house protrude into their yard away from the property line.

Ms. Morris said the chickens have to be contained within the run and the house.

Mr. Prince said typically there are nesting boxes and then there is a lower part which is open; it is still all enclosed, but it is the two combined.

Mr. Prince said a guy that wants to have a couple of chickens to generate eggs for the family is probably not going to have more than an acre; he is going to be a smaller condensed version of that. He thinks on less than an acre is okay; he is more worried about when you get up to 20 to 25 units, you are no longer feeding the family, you are feeding the community, and then we are transitioning into much more agricultural.

Ms. Ma said how about if under an acre five chickens and over an acre up to five acres ten chickens.

Mr. Prince thinks that with 25 chickens you are in production mode at that point.

The Chair asked how many eggs a chicken lays per day.

Ms. Morris said one per day; if it lays everyday.

The Chair asked if these setbacks were typical.

Ms. Morris said a lot of places do not really regulate it. The City of Charlotte allows chickens, but you have to get a permit. We did not really want to make people go through a permitting process for the chickens or for the structure if that is what the structure was going to look like.

The information she found was from a local group here in Concord. She looked at what Charlotte had, and she looked at California. She said California allows chickens in the City of Los Angeles, Oakland, San Diego and San Jose. She said where it talks about designated distance; less than 15 feet, more than 15 feet but less than 20; then they try to regulate the animals that way.

Ms. Morris showed some examples of chicken houses and runs.

She said Charlotte Mecklenburg regulations are under the police department. If you have livestock, you have to get a permit and it has to be renewed annually and they have to verify that they take care of the animals like they are suppose to; for the domestic fowl.

Ms. Morris said looking at what the chicken group had proposed to Concord, and looking at what Charlotte, Asheville, and California had, and taking all of that in and we tried to come up with something that maybe would work.

The Chair said what he has heard so far is the setbacks, the 25 feet, and potentially capping the total number of chickens.

Mr. Prince proposes on less than an acre five chickens, one to two acres 10 chickens, and two to five acres 15 chickens. He also thinks that in the MDR and LDR that we have left in the County you will not see too many parcels in that two to five acre range.

Mr. Morris said based on the setbacks, houses located a minimum of 25 feet and runs 25 feet; so the house and runs 25 feet from the property line?

Ms. Ma is still not sure that either following Concord in not doing it is a good idea, or the permitting as much as it is a hassle, it gives you an opportunity to look at it and say, okay you are right next to another house, have you talked with your neighbor about it; as opposed to a situation where they are going to as right, put this thing next door. She said typically on our newer subdivisions where there is no landscaping, you are going to be looking directly at a chicken house. It may not be what they bargained for in a residential area. She does not like relying on restrictive covenants, some are so poorly drafted.

Mr. Griffin said if the folk's sign up for covenants and restrictions and don't restrict them, that is their right at that level; we are talking about county wide, this is America.

Mr. Morris said in that central area, probably in the northwest area, that have those smaller subdivisions, they are going to need the utilities and are going to end up in the city limits anyway; so, really we are dealing with what is left over.



Mr. Griffin said we are dealing with the stuff south and east in the county, out toward Mt. Pleasant, south toward Midland; that is about all that is left.

The Chair asked if there were restrictions in AO and CR.

Ms. Morris said no, they can have livestock.

The Chair said no setbacks or anything?

Ms. Morris said yes, as long as they have the five acres, the five acre minimum for actual livestock is for LDR and MDR, so if they wanted to have a horse or something like that they would have to have five acres or more. She said this is just for the hens, five acres or less.

Mr. Koch asked if the Board wanted to consider putting a provision in that disallows the chickens to live in the residence. He said there were two pot belly pigs in Harrisburg that were living in the house and they wanted a text amendment to be able to allow them to be in the yard, and they turned down the text amendment. He thinks something happened to the pig subsequently, they are no longer there.

Ms. Morris said the City of Concord has a weight limit on pot belly pigs. She said with the pygmy goat, it is still kind of left open for interpretation. We had the one case but he was clearly a pet, he lived in the house and he got moved outside when they moved here; we have not seen as much of that.

Ms. Morris said this is all a part of the local foods "Farm to Fork" campaign to allow the folks who want to; to have it. She said that don't want to buy the old eggs in the store or want to make sure that it is organic. She said they are taking care of the chickens and bringing eggs from their chicken house to their table; which is the whole Farm to Fork program and Cabarrus County is very active in that program.

Mr. Griffin said it will take some dedication to take care of five chickens. We are not talking about most of the folks in this county that live in a subdivision would even want chickens.

The Chair thinks this where the board is:

- Increase the setbacks from 15 feet to 25 feet for the chicken house, the run and the compost pile.
- Changed the quantities to: less than an acre would be allowed five chickens, one to two acres would be allowed ten chickens and over two acres would be allowed 15 chickens.

He asked if there were any other thoughts.



Ms. Morris asked if the Board was okay with that definition and did they think that pretty much covers it. She said if we have pygmy goats or something come up, we would deal with that as we move along; since we have only had the one case so far in five years.

The Board agreed.

There being no further discussion, Mr. Larry Griffin **MOTIONED, SECONDED** by Mr. Klutz to recommend Approval of Text Amendment 2009-0009- Agriculture Female Chickens to the Board of Commissioners with the following changes:

- Increase the setbacks from 15 feet to 25 feet for the chicken house, the run and the compost pile.
- Change the quantities to: less than an acre would be allowed five chickens, one to two acres would be allowed ten chickens and over two acres would be allowed 15 chickens.
- Chickens will not be allowed to live in the residence.

The vote was 8 to 1 with Ms. Ma voting against.

**The Chair introduced Proposed Text Amendment Text2009-00008 – Commercial Design Standards.**

Ms. Morris said a couple of months ago some text was presented to this Board relaxing Appendix B with all uses in the County. She said when it was taken to the Board of Commissioners, there was some additional discussion and it was sent back to staff to go back and look at it again and rework it. She said the items marked in the red text are what have been changed. She said what it does is take anything that is essentially in those same districts as the original language; OI, LC, and GC; if they are in those districts and they are commercial or office developments, specifically related to the table in Chapter 3. She said related to that particular list, if it is commercial; if it is a gas station they are subject to it, if it is a church they are not subject to it because a church is listed in institutional, and if it is a school it would not be subject to the design standards.

She said the second part says that the design standards in Appendix B will apply to commercial uses permitted in AO, CR, LDR, HDR and MDR. She said the more intense commercial uses that are allowed in the residential zoning districts would be subject to those standards. She said anything else in those districts would only be subject to the original language that we brought you. For example: Ms. Moore came and was talking about the stable project that they had; so, the commercial stable would not be subject to Appendix B anymore, it would only be subject to what boils down to some materials type of standards. The setbacks would be based on the zoning district to try to get those types of uses more in line with that. She said this is the first part of the changes.

Ms. Morris said the second part of the changes puts the Planning and Zoning Commission back in as the Design Review Committee. She said anything that is subject to Appendix B will come to this Board for the final review. She said as part of that

process, projects that are subject to the standard would be the ones that are permitted in the residential districts. If for some reason someone thought they should be closer to the road, or further back from the road, things like that, those contextual things; this Board would have the ability to approve what they were asking for or to ask them for something different. For example, if they came in with some huge big box at a corner and the Board did not think that it was architecturally consistent with anything in that general area and it was just going to destroy the character of that neighborhood, you could ask them to make some variations to that plan. She said that part is on Page 5-28 and it is very different from what we had before; either they met the standards or they did not meet the standards. She said when the Board is reviewing the ones that are subject to it in the residential districts; you will be looking at the architectural design of neighboring residential buildings, setbacks in relation to existing buildings, and then compatibility with context and scale. She said if the Board thinks something is completely out of whack, the Board has the ability to say no, we are not going to approve this, and the applicant needs to go back to the drawing board.

Ms. Morris said as part of that process, the Design Review Committee may approve deviations from the standards listed in Appendix B when the Board determines one or more of the following are applicable:

- To provide for architectural design compatibility in relation to existing neighborhood or structures where appropriate.

Ms. Morris said, for example if we had a lot of old metal farm buildings or something that was already there that were being used as commercial buildings, and they wanted to put something that looked kind of similar, but was not exactly in keeping with the standards. She said the Board would have the ability to say okay, its contextual, it looks like every thing around it, and we are okay with it.

- To provide for adjusted setbacks in relation to existing buildings.

She said if everybody else is back at 50 feet and the ordinance is calling for them to be up at 30 feet or 20 feet, the Board would have the flexibility to allow them to push back to that 50 foot, if that is where you all thought it needed to be.

- To request changes in architectural character or site design when the project is not compatible with the context of the surrounding neighborhood.

Ms. Morris said that is where if one of those big boxes came in you could ask them to make it look like the surrounding neighborhood if that is not what they were already proposing.

- To request changes in scale where appropriate.

Ms. Morris said the list of those uses where that would actually apply is on Page 5-26. She said it would be banks, convenience stores, gas stations, restaurants, retail sales,



nursery/daycares. She said most of those things, if they are going to develop will need utilities and will end up being annexed in. She said if they don't though, that is where the Board will have a little bit of flexibility if they are able to develop, on well and septic, or if the cities say that they do not want to take them in. She said it will probably be relatively few and far between what the Board would actually see, subject to those particular standards, where you have to make those judgment calls. She said everything else will pretty much be either they meet Appendix B or they don't. We will not be bringing it to the Board until they do. She said it is just these couple of things where that flexibility is built in on the off chance that they are not annexed.

Ms. Morris said the setbacks for those have changed so they are consistent with what the primary setback is for that zoning district. So, now if they are in AO, we are not asking them to come up to the street at 20 feet; we are asking them to settle in somewhere between 50 and 75 depending on what kind of road they are on. Hopefully, this is kind of the middle ground between having those really strict standards for commercial; subjecting churches and schools to these things and then having the Mom and Pop's that maybe are able to locate somewhere else in the County.

The Chair said the actual changes to Appendix B were relatively few.

Ms. Morris said yes, the changes to Appendix B start on pages 1 – 9, it lists those additional zoning district items that would be subject to those standards. She said you will see that the setbacks are changed; they are half of what the zoning district designation is; the minimum that we have is 30 feet, so the commercial will be 15 feet and the maximum will be 25 feet. She said if you are in AO and you are at 50 feet, your commercial will be sitting at 25 feet. She said instead of that 10 to 20 that we had, now its backed up to 15 being the minimum and the maximum of 25; in reality everybody will probably push back to the 25.

She said there is still no parking in the front of the building unless it is more a development. She said the chance of us reviewing one of those is not very likely because they will need utilities and they will be annexed in. It talks about the parking and adjusting setbacks if there is some kind of an access issue. That is really the only thing that staff can help folks out with, the rest of it would require a Variance or they would have to modify the design.

She said the loading and unloading clarifies that it cannot have people backing out onto the streets or backing into parking areas; it needs to be localized and handled there. With the massing and rhythm, we kept the height and width ratio, but we added more flexibility so they would have the ability to create some kind of presence on the street without being as rigid as it was.

She said some of the articulation was changed to allow a little bit more flexibility and the materials, split faced block plain or painted was added and the architectural metal was added.



Ms. Morris said those were the only changes, but the changes that were made were to allow a little more flexibility.

Mr. Prince thinks that on the rare occasion, that this may actually come before us, this gives us some flexibility to use good judgment and he thinks it is going to fit the bill.

Ms. Morris said especially when you get to the ones that are permitted in the residential districts.

Mr. Prince said having the ability to be able to go and make those changes almost as we would in a conditional use application, he thinks will probably make the majority of this Board feel comfortable too.

Mr. Griffin said it is refreshing to think that somebody might trust us to make an informed decision.

Ms. Morris said it really does give the Board some authority and flexibility. She said they would have to state their case of course, but it allows you to decide what is good and what is not.

There being no further discussion, Mr. Ian Prince **MOTIONED, SECONDED** by Mr. Larry Griffin to recommend **Approval** of Text Amendment 2009-00008 - Commercial Design Standards to the Board of Commissioners as submitted. The vote was unanimous.

**The Chair introduced Proposed Text Amendment Text2009-00011 Chapter 4 – Overlay Zones- Waterbody**

Ms. Morris said we had some issues come up with farm ponds; ponds that are specifically used for irrigation. She said this text expands a bit and clears up the intention; which if you read it before, it really did not make sense. It does allow for impoundments and agricultural uses to not be buffered unless they are on a Class 1 or Class 2 stream; that is very different from what we have had since 2005.

The Chair asked why the setbacks on a stream were changed.

Ms. Morris said in practice, what was happening was if there was an intermittent stream, (which sometimes looks like a wet weather ditch), they had to buffer off of that 75 feet plus another 20 feet before they could ever start using their lot. She said the setbacks now on the intermittent are Class 2's. It will be just a straight 30 foot set back on either side, and then a 10 foot no build buffer. She said nothing is changing on the perennials; it is still 50 foot to 120 foot with that calculation. They will not have to do calculations on the intermittent; either it is or it isn't.

Ms. Morris said on the lot, this is also significantly different from what we had. She said prior to 2005, there was a certain percentage that they could have on the lot if it were in

the River Stream Overlay. In 2005, in anticipation of the IBT (Inter Basin Transfer), the part of the lot that was in the River Stream Overlay or in the Water Body Overlay, could not count as part of the lot. It could be 50% if you had a lot over one acre. This will now allow folks to actually count that as part of the lot. So, if they have a 10,000 square foot lot and 1,000 square feet is actually in the water body overlay, it counts towards the lot, but they still have to meet the buffer and the setback and then they can build. She said the buffer is still undisturbed; with enforcement it is typically complaint driven, but this will clear up with the farmers if somebody has a pond that they are using for watering, they would not be subject to those buffers so they could mow up to the rim.

Ms. Morris said our Ordinance actually said that you had to give the property to home owners or the conservation district or a conservation organization; even if you were a single person that had a single lot. It now says that they are strongly encouraged to dedicate it, but it does not require them to have to do that. She said this is strictly talking about just that buffer; because it is still a part of somebody's lot and if you dedicate it or force them to do that, it doesn't really help you to get a greenway or anything anyway; because it is just that person's lot.

Ms. Morris said these are the main changes: the buffer counts as part of their lot, the setbacks on the intermittents have been reduced and the clarification of what the actual intent is for the overlay.

The Chair asked if Dennis Testerman or anyone from Soil and Water had an opportunity to review this.

She said yes, she sent it to Dennis Testerman.

Ms. Morris said this mimics what we had adopted before as the Waterbody Overlay; mimics the IBT, what was required as part of that IBT; because it applies county wide. What we had was actually more stringent than what they agreed to as part of the IBT, so, this kind of backs it off. We have had some folks as far as Reval tax cases and things like that saying; by the way, this is a taking, because we are requiring them to do this and then you won't let them use their property to count toward the lot. Hopefully, it will clean up some of the legal issues this way. She said the intent is still the same and she thinks it will still accomplish the same thing, when you have a minimum of 40 feet to allow the soil to drain out of the water before the water actually hits into the stream.

Mr. Griffin thinks it looks reasonable.

Ms. Ma's only concern is, as you count part of the stream as part of the lot, we increase the density potentially near the stream. She said one of the big problems in Middleton Place and similar areas is that the flood zone has gotten larger and should have been larger to begin with, and there are houses built too close to it ending up under water. She said the further we can keep people away from the streams the better.

Ms. Morris said this deals specifically with the stream. We do have the Flood Prevention Ordinance that says what they can do and they don't always run together. She said



typically, this will be inside of the floodplain. She said if somebody comes in with 100 acres, and 25 acres is flood plain or in the River Stream Overlay, we allow them that entire parcel as part of that calculation for the density calculation. She said they are not being penalized. She said it is specifically dealing with the ponds and the intermittent buffers and allowing them to count it as part of their lot.

There being no further discussion, Mr. Larry Griffin **MOTIONED, SECONDED** by Mr. Larry Ensley to recommend **Approval** of Proposed Text Amendment, Text2009-00011 – Overlay Zones – Waterbody Buffer Zone to the Board of Commissioners as submitted. The vote was unanimous.

### **Directors Report**

Mr. Susie Morris, Planning and Zoning Manager, addressed the Board stating that all of the work the Board had done on the Carolina Thread Trail had come to an abrupt halt at the Board of Commissioner's work session. She said they had some discussions and thought that everyone along that trail should be notified before we adopted any kind of a plan like that. We have since met with the consultants working on the plan. She said there are approximately 25,000 people who would need to be notified along the trail because it is so huge. We are going with Plan B; which will be to take back to the Commissioners a detailed report of how many people are along that segment and try to better educate them about how when the segment is actually built, that is when the notification process happens. She said they are not subject to it; it is ¼ of a mile on either side, it is a swath and the path can land anywhere in that.

Ms. Morris said if the Board hears that the project has been derailed, that is not exactly the case. She said Concord is about to undertake part of the greenway and they were hoping to ask for some of the grant money from the Carolina Thread Trail. We are hoping to be able to move it forward so that the jurisdictions can go ahead and ask for that money. She said hopefully we will get all of this resolved in November and be able to move along with adoption at the Board of Commission level.

Mr. Griffin said when you start doing a mile or two miles at a time to get the trail approved, it is going to be hard to keep. He said there will be some people in some of these areas that are not going to want you to do it; they could be here in mass. He said you could have people on the other parts of the trail that will think it is great. He said you may wind up in a situation where you cannot complete the trail because some segments of it are not approved; because of people weighing in on it. He does not know what you do about it. He said there are roughly 25,000 people that would have to be notified, but that may not be a bad thing if you get some useful input about the overall routing of the trail.

Ms. Morris said the consultants will be going back, and parks and recreation will be working with them to let them know this is where we are and see where they want to head with it. If they understand that we are at the 50,000 foot view and we kind of come down; that is when all of the public participation happens. She said a lot of it mimics the



livable community blueprint; it is not new and that is already out there, but it is new because it is the Carolina Thread Trail. Hopefully we will be able to get the issues resolved and move on with that in November.

Mr. Griffin asked if this was something that you could have used eminent domain for.

Ms. Morris does not think there is a will to do that with the Commissioners.

Mr. Griffin would not think so; he thinks that would be a political faux-pas right now.

Ms. Morris does not think that is even an option at this time with the Board of Commissioners.

Ms. Morris said the process for the Harrisburg Land Use Plan has started. She said this time we are having several educational sessions with our appointed and elected officials. She said the invite this Board received for next Wednesday is on school planning. The next session will be Planning 101 on Tuesday, November 10, 2009.

She said the school planning session is to try and get the School Board, Board of Commissioners, Harrisburg Town Council, the Planning and Zoning Commission, and Harrisburg Planning and Zoning Board together to understand how siting of schools impact growth and development.

She asked the Board members to let her know if they will be attending the session. She said at this point there are about 75 people invited. She said the first community meeting will be in Harrisburg on Thursday, November 12, 2009. She said hopefully we will come back after January 1<sup>st</sup> with some draft text as well as some kind of draft map to take out to the public. She said in Phase II we will have the charrette and an additional community meeting.

She said the website is a Share Pointe site which will be maintained through the County. She said if any of the Board members have a facebook page that will be set up. She said the only thing you will be able to do on the facebook page is receive notifications. She said for any input, you would actually go to the county main page. She will get the links to the Board once they are up and running; it will have all of the documentation, including the minutes for them to look at.

Ms. Morris said on last Friday, October 9, 2009, we received Phase II of our APF litigation. The second suit that was filed the developer now says that the Judge says that you cannot have an APF; so they want their money back, and not only do we want our money back we want it with interest. She said the first case was appealed.

Mr. Koch said no; the record on appeal is due the beginning of next week. He said that is the first step in the appellant process and it will not be scheduled for argument until some time next year.

Ms. Morris said until then, we are business as usual. She said if we get any new developments they will still be required to do the reservation of capacity and then move forward with their mitigation agreement and also still required to pay the voluntary mitigation payment.

The Chair asked if the money had to be escrowed or can it be dispersed.

Mr. Koch said there is no escrow order at this point.

Mr. Koch said concerning the Harrisburg Area Land Use Plan meeting next week, if it appears we are going to have a quorum of members of this Board attend that meeting, it will be considered an open meeting, so we will have to advertise it or recess this meeting. He said it is understood that no action will be taken, but it will still be part of a deliberative process.

Ms. Morris said the Small case has been appealed and we are moving forward with that and the Overcash case also got appealed.

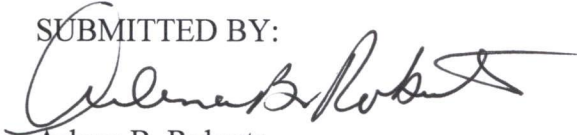
There being no further discussion, Mr. Larry Griffin **MOTIONED, SECONDED** by Mr. Prince to **RECESS** the meeting until October 21, 2009. The vote was unanimous. The meeting ended at 8:00 p.m.

APPROVED BY:

A handwritten signature in black ink, appearing to read 'Todd Berg', written in a cursive style.

Todd Berg, Chairman

SUBMITTED BY:

A handwritten signature in black ink, appearing to read 'Arlena B. Roberts', written in a cursive style.

Arlena B. Roberts

ATTEST BY:

Susie Morris  
Planning and Zoning Manager