



Cabarrus County Government

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

Agenda

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

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

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

Planning and Zoning Commission Minutes

July 12, 2022

Mr. Adam Dagenhart, Chair, called the meeting to order at 6:31 p.m. Members present, in addition to the Chair, were Mr. Jeff Corley, Mr. Kevin Crutchfield, Ms. Holly Grimsley, Mr. David Hudspeth, Mr. Andrew Nance, Ms. Ingrid Nurse, Mr. Charles Paxton, Mr. Chris Pinto, and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Mr. Phillip Collins, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board, and Mr. David Goldberg, Deputy County Attorney.

Roll Call

Approval of Minutes

Approval of June 14, 2022, Planning and Zoning Commission Meeting Minutes.

Ms. Holly Grimsley asked to abstain from the vote because she was not at the meeting.

Mr. Kevin Crutchfield also asked to abstain from the vote.

Mr. David Hudspeth said he read the minutes but was not at the meeting.

Mr. David Goldberg, Deputy County Attorney, said it is permissible for the members to vote on the minutes if they were not at the meeting.

There being no corrections or additions to the minutes, Mr. Jeff Corley **MOTIONED, SECONDED** by Ms. Ingrid Nurse to **APPROVE** the June 14, 2022, meeting minutes. The vote was unanimous.

Approval of the Granting Order with Finding of Facts for VARN2022-0001, Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Evolution Recreation & Aquatics is the applicant. Ethan & Austin Properties is the owner.

There being no corrections or additions to the Granting Order or Findings of Fact, Ms. Ingrid Nurse **MOTIONED, SECONDED** by Ms. Holly Grimsley to **APPROVE** the Granting Order with Finding of Facts for VARN2022-0001. The vote was unanimous.

Approval of BOA Findings of Facts, Conclusion of Law, and Decision for APPL2021-00001, Connie Arstark, 3233 Hahn Scott Road, Mt. Pleasant, NC.

Ms. Holly Grimsley would like to abstain from this vote.

Mr. Goldberg recommend that Mr. Steve Wise be allowed to vote on the BOA Findings of Facts, Conclusion of Law, and Decision for APPL2021-00001, during the recusal of Ms. Holly Grimsley since he was at the meeting.

Mr. Kevin Crutchfield would like to go on the record that he cannot support the BOA Findings of Fact for several reasons. He cannot support that the property does not qualify as a bona fide farm. There are other things associated with the perennial creek and the plan is not supported by what he has looked into.

He wants to go on record that he does not agree with this, he thinks there have been some changes in the North Carolina Farm Act that just got passed into law that alters the conclusions on whether or not it is a bona fide farm, and those should be considered. He also thinks, that due to the whole discussion about the perennial creek, there should be a site visit by the entire Board out there to the location to view this property and determine that we are making the right decision. What he does not want to do as a citizen of this county is to treat one of my other citizens unfairly and he thinks what he sees of the findings of fact, it does that. It appears to him there are several issues with that, and he does not support what we are doing here, and he thinks we all should somewhat be ashamed if we do not do what we are supposed to do to get the right answer.

There being no corrections or additions to the BOA Findings of Facts, Conclusion of Law, and Decision for APPL2021-00001, Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Andrew Nance to **APPROVE** BOA Findings of Facts, Conclusion of Law, and Decision.
The vote was 8 to 1.

New Business Planning Board Function:

RZON2022-00003 – Request to rezone from Office/Institutional Conditional Use (OI-CU) to Office/Institutional (OI). Applicant is Evolution Recreation & Aquatics and Owner is Ethan & Austin Properties. Address is 11202 Harris Road (PIN: 4670-45-1661).

The Chair called on Mr. Phil Collins to present the Staff report.

Mr. Phillip Collins, Planner addressed the Board presenting the Staff report for RZON2022-00003.

He said the subject property is approximately five and a half acres and is currently occupied by an indoor recreation facility. The main building is approximately 28,000 square feet in size and sits in the center of the property. Parking areas surround the main building on three sides. An access easement crosses the subject property (through the existing parking lot) on its east side.

The access easement provides access to an existing Wireless Telecommunications Tower located

to the north of the subject property. A 15-foot utility easement (Charlotte Water) also straddles the eastern property line. Adjacent land uses consist of residential and vacant properties. Also, a wireless telecommunications tower, as mentioned before, is located on the property to the north. Properties surrounding the subject property to the north and west are zoned Town of Huntersville Rural Residential. Properties to the east of the subject property are zoned LDR, and properties to the south are zoned OI and Charlotte Single Family Residential. The subject property is currently served by Mecklenburg public water and sewer.

It is the intent of the office and institutional district to accommodate relatively low intensity office and institutional uses at intensities complementary to residential land use. This district serves as a transitional district between residential land uses and higher intensity non-residential land uses.

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. This district should be located adjacent to residential districts or in areas where its use would serve as a transition between residential land uses and higher intensity non-residential land uses. Higher intensity non-residential land uses may include commercial districts, light industrial or mixed-use districts. When bordering residential districts or residential developments, care should be taken to assure natural or manmade buffering and architectural compatibility so that the nonresidential activities are not a nuisance to residential use.

The intent of the conditional district that is currently on the property is to eliminate certain uses that would be permitted within the Conventional OI district. This conditional district restricts the permitted uses of the subject property to Indoor Recreational Facility and Office.

The subject property is located within the boundary of the Western Area Land Use Plan (Plan) and is planned for Medium Density Residential uses. More specifically, the Plan recommends a density of one to three dwelling units per acre.

Although the recommendation of the Plan is for residential uses, the subject property is developed with an indoor recreational facility. The subject property was rezoned from Medium Density Residential (MDR) to OI-CU in 2005 to permit the current use. Rezoning the property would permit all uses within the OI district. The rationale of the OI district states that the OI district is for low intensity office and institutional uses that can be complementary to adjacent residential land use.

The proposed rezoning is not consistent with the Western Area Plan. However, the subject property currently supports an existing recreational use which is complimentary to the adjacent residential properties. Rezoning from OI-CU to OI would increase the permitted uses of the subject property to include all permitted uses within the OI district.

In advance of submitting a rezoning request, the applicant submitted a site plan to the BOA requesting variances from three sections of the Cabarrus County Development Ordinance that apply to the proposed use of swim club. The site plan shows how the property owner intends to convert the site from an indoor recreational facility only to a swim club with outdoor water features and other amenities.

The variance requests were approved by the Board of Adjustment at its regular meeting on June 14, 2022, in anticipation of the potential new use of the site.

Should the rezoning request be approved, the applicant understands that the site will need to be developed in accordance with the plan approved by the BOA at its regular meeting on June 12, 2022.

Although a site plan and variance requests were submitted and approved for the site, the proposed rezoning request is a conventional request. If approved, any uses allowed in the OI district would be permitted on the subject property.

The OI zoning district serves as a transitional district between residential and commercial districts. It is also the more appropriate district for institutional and recreational uses located near residential areas, such as swim clubs, country clubs, tennis clubs, parks, churches, and schools.

This is a conventional rezoning request; therefore, all uses permitted in the OI zoning district would be allowed on the subject property if approved. The Planning and Zoning Commission should consider all the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County.

The Chair asked if there were any questions for Mr. Collins. There being none, the Chair asked the Applicant if they would like to say anything. The Applicant said no from the audience. The Chair asked if there were any questions for the Applicant, there was none.

The Chair said we need to adopt the Rules of Procedure.

Mr. Charles Paxton, **MOTIONED, SECONDED** by Mr. Andrew Nance to adopt the Rules of Procedures. The vote was unanimous.

The Chair opened the Public Hearing. There being no one to speak for or against the rezoning request the Chair closed Public Hearing. The Chair said the Board needs to discuss the proposed request and come up with a motion to approve or deny the case.

Mr. Jeff Corley has a question for Mr. Goldberg. He said the variances were very specific if he remembers that correctly, specific encroachments for specific things, in specific areas. So, with the straight rezoning, you could not take an encroachment for one thing and turn it into an encroachment for something else. That would be a brand-new variance that would be required, is that correct.

Mr. Goldberg said that is correct. If they want to use the variance that has been granted, they must follow the site plan as submitted and approved. If they want to make any changes to that, then they would have to come back for approval. What he wants to be clear about is, if they were to propose a completely new use that did not require a variance, but was compatible with the new rezoning, then they would not need that variance anymore, it could be anything.

Mr. Corley thinks this project would provide an opportunity to significantly upgrade the landscaping and the esthetics of the site. He also feels that it will allow for better compliance with the ordinance, to be classified as a swim club versus an indoor recreational classification, it will just continue the same use, just outdoors as well. He feels that is very complementary and is a good use, that zoning district, to step down from the surrounding zonings.

The Chair asked if anyone else had anything to add.

The Chair said as Mr. Corley said it is not detrimental, there are several other swim clubs within the area. The zoning would be in line with the actual use.

There being no further discussion, Mr. Jeff Corley **MOTIONED, SECONDED** by Ms. Ingrid Nurse, to **APPROVE** the rezoning based on the transitional district in between uses. The use is recreational use in the area, is also present. It would not be detrimental to the neighborhood, as it would enhance the area by making upgrades to the site, including landscaping. It would provide better compliance as a swim club versus the old indoor recreational classification, and it would allow the site to continue to be used for the same use, just outdoors as well as indoors. The vote was unanimous.

Consistency Statement:

Mr. Jeff Corley said this rezoning is reasonable and in the public interest, based upon the continued use as a recreational facility, the use as a transition district between uses. The project will enhance the area with upgrades to the site including landscaping. It would put them in better compliance with the current ordinance using the swim club definition as opposed to the old indoor recreation classification. The use would not change, they would just be providing the same use through a new outdoor amenity.

Mr. Andrew Nance, **MOTIONED, SECONDED** by Mr. David Hudspeth to **APPROVE** the Consistency Statement. The vote was unanimous.

New Business Board of Adjustment Function:

The Chair said anyone wishing to speak on this case or testify during the public hearing for this case must be sworn in. If you wish to speak, we need to have a completed blue card. Provide it to the Clerk.

The Chair asked anyone wishing to speak to or testify to stand and he administered the oath.

The Chair introduced Petition VARN2022-00002 – Request for variance from the separation distance of tower from property lines or residential structures and the landscaping requirement for a Wireless Telecommunications towers facility. The applicant is Cabarrus County, and the address is 4300 Gold Hill Road East (PIN: 6603-12-8036).

The Chair called on Mr. Phillip Collins to present staff report.

Mr. Phillip Collins, Sr. Planner, addressed the Board presenting the staff report for VARN2022-00002. The subject property is 13.62 acres in size and is currently vacant and wooded. An intermittent stream crosses the northwestern corner of the subject property. Adjacent land uses consist of residential, agricultural, and vacant properties. The subject property is surrounded by property zoned AO on all sides.

The purpose of this request is to seek relief from Chapter 8, Section 8-4.34 Table 1 and Chapter 8, Section 8-4.34.8.c of the Development Ordinance.

The subject property originally consisted of two parcels. These parcels were purchased by the County. A deed was recorded on August 27, 2021, which included the two parcels and confirmed new ownership. The two parcels were combined in February of this year.

The application states that the proposed 305-ft self-supporting tower will operate primarily as a 911 Communications Tower and secondarily as an opportunity for commercial carriers to collocate on the tower.

The applicant intends to make use of the surrounding mature forest and understory trees as the required landscaping. The application states that the site is well away from the right of way of Gold Hill Road East and due to the surrounding vegetation, the compound will not be visible from the roadway or neighboring properties. Only the portions of the site for the compound area and driveway will be cleared, leaving most of the site untouched.

Therefore, the applicant is requesting relief from the landscaping requirement of Section 8-4.34.8.c.

The applicant contends that unnecessary hardship results from the strict application of the ordinance because of the abundance of existing mature forest and understory trees that can reasonably be expected to block the view of the tower from the public road and neighboring properties, even during the fall and winter seasons with no leaves on most trees and shrubbery.

The applicant contends that hardship results from conditions that are peculiar to the property in that the size of the property and the abundance of mature trees and understory trees are more than sufficient that the tower compound will not be seen from the public road and neighboring properties.

The applicant contends that hardship did not result from actions taken by the applicant or the property owner because strict adherence to the ordinance would require installation of landscaping when there is more than sufficient existing forest and understory trees to create the landscape buffer necessary to meet the requirements of the ordinance.

The applicant is requesting relief from the separation requirement of Table 1 Section 8-4.34, which requires the tower height plus 50 feet from the compound to property lines and public rights-of-way.

The proposed tower is 305 feet in height which would require a separation distance of 355 feet from the compound to any property lines.

The compound is 337 feet from the right of way of Gold Hill Road East and 340 feet from the rear property line.

The applicant contends that unnecessary hardship results from the strict application of the ordinance because setbacks are typically imposed to avoid potential harm to the public. The proposed tower would land upon its on property in the event of a fall and the tower compound is set back a greater distance from the property lines than its height.

The applicant contends that hardship results from conditions that are peculiar to the property because of the shape of the property and the inability to meet the required setbacks, while achieving a tower height necessary for the proper radio frequency distribution to achieve optimum signal service for E911 services.

The applicant further contends that additional hardship was realized as due diligence research revealed that the setback is measured from the right-of-way line in this case and not the centerline, which is the property line.

The applicant contends that hardship did not result from actions taken by the applicant or the property owner because the applicant originally started this process as a 911 Communications Tower solely for the purpose of emergency communications, but as the process progressed, the possibility of having commercial collocates was added.

Had the tower remained a 911 Communications Tower only, the tower would not have to be set back from property lines if a fall zone letter from a PE certifying that the tower would not fall onto any neighboring properties was submitted.

The applicant was not aware that the setback ordinances would become an issue when siting a tower that is a maximum height of 305 feet during the selection and eventual purchase of the two adjoining parcels that when combined, would total 13.63 acres. The applicant firmly believed that a parcel of 13.63 acres would certainly be large enough to site the tower and compound and meet any setback ordinances related to same.

The applicant contends that the variance requests for setback reductions and to use existing landscape to meet the buffer requirements are consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved as follows:

- It is firmly believed that granting the variance would enhance the public's safety and wellbeing due to better 911 emergency communications between 911 dispatch operators and first responders in this part of the County.
- The applicant believes allowing the variance would cause no danger to the public while traveling the adjacent public road or to the adjacent property owners or tenants and that the spirit of the ordinance is being met because the setbacks are only not being met in two of the four cardinal directions to the East by 15 feet and to the West by 18 feet (Staff report says 15 but that is a typo, it is 18 feet). North and South comply with the ordinance.
- The surrounding mature forest and understory trees provides superior screening of view for the tower compound and site components inside. The Applicant further believes that standard immature commercial landscaping, while sufficient in cases where no existing forest and understory vegetation exist is a good method, but in this case would be less than preferable.
- The applicant understands that the next step in the approval process is to request a Special Use Permit for the construction of the WTC Tower.

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

- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall submit a site plan along with the subsequent Special Use Permit request that complies with the findings and conclusions of this variance request.
- Approved variances must be reflected on site plan submittals moving forward. Any changes thereto would require review and approval from the Board of Adjustment.
- In return for relief from the separation requirement from the compound and surrounding property lines, applicant shall submit a fall zone letter, signed by a Professional Engineer, and sealed by a structural engineer licensed in the State of NC.
- Applicant agrees that in the event the natural buffer area is destroyed by blight, a natural disaster or significant weather event, and the compound becomes visible from the road right-of-way or adjacent properties, the required compound buffer area shall be installed.

Mr. Collins said they have submitted a sealed letter and he will submit that for the record.

The Chair asked if there were any questions for Mr. Collins.

Mr. Hudspeth asked if there was a power line that crosses that property.

Mr. Collins thinks it is in the middle, the applicant can clarify that.

The Chair thinks what you are alluding to is if the tower fails will it clip the lines. He said yes, possibly.

Mr. Corley said that fall radius would essentially prevent anything from going within that fall radius on this property?

Mr. Collins said right, except the driveway. The driveway to site goes through it obviously.

There being no further questions or comments from Staff the Chair called on the Applicant.

Mr. Kyle Bilafer, Applicant (Cabarrus County) 2732 Stonewood View, Kannapolis, NC, addressed the Board. Travis McGhee and some folks from Motorola are also here. He said briefly about the project, obviously it is a 305-foot tower at 4300 Goldhill Road East in Northeastern Cabarrus County. The Cabarrus County radio system has coverage deficiencies in that part of the County largely because of the topography, from the low-lying areas around the rivers and the creeks and the ridges that run along Little Buffalo Creek and Stephens Church Road.

This location at Gold Hill Road at its heights will provide coverage to public safety in this part of the County. After reviewing the project with Zoning, it was discovered that the designs exceeded the setbacks on the east and west property by 15 feet, all of which Mr. Collins told you.

This is primarily for public safety. There has been comments about cell phone services going on there, that is not what we are bringing up for you. He said that would be an independent carrier that would bring that up and do all of those studies on that. This is primarily for the 305-foot tower that includes the lightning rod. Motorola is the Contractor that has gone through the General Statute for design build. It was not bid out single prime to Motorola, there was an RFG for North Carolina General Statute for design build as the construction delivery method, which Motorola submitted on and has been contracted to handle both the design and build.

The Chair asked if there were any questions for the applicant.

The Chair opened the Public Hearing. He said there are representative from Motorola who do not wish to speak at this time unless the Board has questions.

Mr. John Gomez, 5030 Gold Hill Road addressed the Board, he lives down the road from this project. He said the Board might remember him from the meeting about the rezoning on the Quarry, which is also right next to him. At that time, that was already on the books before the neighbors knew about it.

This meeting here about this tower, the initial meeting about a month or so ago, we were told that

Planning and Zoning Commission
Minutes
June 14, 2022

it was only going to be for 911. So, now you are saying it is also going to be used for other carriers.

There is cell phone tower not a quarter mile from where this one is proposed to be built. There is one already in existence, and it has been there for he does not know how many years. That is the first thing.

He said the second thing is, if Motorola already has the ideas and the plans and they have already been given permission to do this then it seems to him that the Board has already decided that it is going to happen.

Like he said, there is already a cell tower not a quarter mile from where this is proposed, you already have Motorola doing the design specs for it. The fall zone, again if you are going to do a variance for a fall zone, maybe like this gentleman over here wanted you to go look at the one on Hahn Scott Road, maybe you all should take a look at these places before you vote on them.

This variance, he guesses Cabarrus County is asking for variances to build this, or not build that or to be exempt. It seems to him that the County would be more willing to be compliant to any kind of laws, whether they are environmental laws. Because it is his understanding that any towers of any kind have regulations that they need to comply for under environmental issues. He may have been misinformed, but he spoke with a company that builds these towers and they told him that under environmental regulations, that is what this vegetation issue is about.

He knows that that is all a wooded area, and if you all live in town, maybe all that part of County is woods to you. Well, there are a lot of people who live out there and a lot of people that are building out there and a lot of people with kids out there.

We may not get all the news right away and you just put that sign up a month or so ago at the earliest, he would guess. This is already the second meeting on it and not all the neighbors know about it.

Another question that he had on the building site that he had the plans on, the elevation on that goes from 700 feet, which is the highest point in that area. His house is down the road, and it is almost at 700, and the neighbor right beside there, their house is on that other ridge which is about 700 feet. At the first meeting they said that the cell tower would not be visible to my neighbor. Well, if the highest point is 700 feet and my neighbor who lives on there, this cell phone tower is going to be 300 feet and it is going to be built within that 700-to-500-foot elevation, they are going to see it; that is 1,000 feet, 800 feet.

So, really you need to let people know if it is going to be seen or not. If it is going to be seen, he has seen other towers where they put pine branches on it, trying to make it look like a pine tree. You see them on the interstate and in different places. It seems to him you already have it planned out, you already have somebody working on plans to build it, to construct it. You already have plans for that contractor.

We would like to have some input as to what is going to happen, because he knows that you people decided that a 300-foot rezoning is not a big deal to you. Unless you live in town, maybe in town a big cell phone tower next to you don't make any difference. Most of the people out his way, we moved out there for a reason, because we like it out there. We don't think there is anything wrong with having 911, but if there is an existing tower not even 400 yards to one beside one, then why do you need another one? Is it just because Cabarrus County wants to get into the cell phone communication business or what?

Again, the variance about the landscaping, he does not know if Cabarrus County is the one asking for it or the construction people are asking for it, the fall zone. Again, he has talked with some people that work on these tower constructions and it would be nice if we knew exactly what type of design construction these people are working on, is it the lattice type of construction or is it the old spindle tower construction. These are things we as neighbors would like to know, for safety, just for information.

Like the Quarry told us, last year or when ever it was, they want to be good neighbors. All of us here are voting tax payers and we would like to know.

The Chair asked Mr. Kyle Bilafer if he would like to respond. He thinks there is some clarification that you can provide.

The Chair said as Mr. Bilafer is coming up, he wants to state that this is the first meeting that the Planning and Zoning Commission has had about this case.

Mr. Kyle Bilafer addressed the Board stating that he would like to talk about the Fall Zone first.

The Chair said maybe start with the type of pole, that it is not a monopole versus a lattice pole.

Mr. David Colclough, 4810 Brock Drive, Hurdle Mills, NC., addressed the Board. He said it is a self-supporting lattice tower. The structure is 300 feet, and it will have a five-foot lightning rod for the maximum height of 305 feet, as indicated in the variance request. It is not a spindle type, it is a lattice.

Mr. Bilafer said to address some of the other comments that we have already designed it and put it out to bid. We had to do an initial design when we were looking at the property. Obviously, the County made a significant financial acquisition in that property.

He said yes, we were figuring out that we could put it on it and since then, we have entered the design build contract. Yes, Motorola has done, with their designer, preliminary designs but those are not the final designs. He said the first meeting that we had was a neighborhood meeting, we have not been in front of this Board at any point. At least he has not been, and he does not think the project has.

The Chair thinks the gentleman is confused, when you say Motorola, and he is thinking cell. Can you explain that it is not just radio, he is assuming that it is for County cell phone, radios.

Mr. Travis McGhee, 10079 Fox Trotter Lane, Midland, NC., addressed the Board. He said originally, we had gone back and forth on whether or not this project was going to have co-locates at some point later down the road, at his point, it is not. Today, it is going to be a Public Safety 911 communications tower, meant for law enforcement, fire departments and EMS. It will allow microwaves for point-to-point communication with other towers, and with radio antennas that the radios inside the patrol cars and the radios that officers carry communicate with. As of today, there will not be any cell carriers co-locating on the tower.

The Chair said will it be correct to state that cell companies, the one's that build these towers, not necessarily just an average construction company, it is their area of expertise he assumes.

Mr. McGhee said some do, they do have a tower that is 1200 feet away, probably Verizon. He said cell carriers like to co-locate, it saves them the expense of having to add later down the road another communications tower. So, since one is already going to be there, and you could put two other carriers on it later down the road, is where the idea came from that at some point that might be the purpose of the tower, but we have stepped away from that. He said that would be for a carrier to come before the Board requesting to be put on the tower, but today it is just going to be for public safety.

Mr. David Hudspeth asked if there is a reason that you could not be on that other tower.

Mr. McGhee said the monopole that is 1500 feet away? We have to have two microwave paths to get to Kannapolis and then back to Mount Pleasant and that pole will not support the equipment that we need to put on it.

Mr. Hudspeth said that is what we needed to know so you can answer his question. The reason for this tower is because the other one is not adequate.

The Chair said structurally not adequate or not tall enough or both?

Mr. McGhee said Mr. Colclough would be better off answering this question.

Mr. Colclough asked what type of pole it was.

Mr. McGhee said it is a monopole.

Mr. Colclough said the maximum height for a monopole is 250 feet, most of them run around 200 feet these days. We have a microwave plan to be at 270 feet, an another one at 185. The 185 theoretically, would go on a monopole, but for the 270, the pole is not tall enough. Also, a tower owned by another entity or carrier is going to charge rent. The County would be on a long-term rent situation and cell carriers that are in that same situation of leasing space, their arrays

are in one elevation, let's say. The County has antennas that are 17 feet long in two places, transmit and receive, plus two dishes, so the rent would be fairly steep long term.

Mr. Hudspeth said, the microwaves require line of site, right?

Mr. Colclough said yes sir.

Mr. Hudspeth said the reason for the difference in the two heights on the microwave, he assumes is that one is facing one direction and one is facing another direction and so, the line of site would be different based on the other towers you are trying to reach.

Mr. Colclough said that is correct, we could not lower the higher dish down to a lower elevation because we would not have the line of site or the path, we would not have it.

Mr. Charles Paxton said what about the question about 500 feet and the 800 feet at the highest point, what is your answer to that?

Mr. McGhee recalls him (Mr. Gomez) talking about the elevation on the property. He thinks he was referring to how much of the tower we are actually going to see. He is not sure where on the plans what elevation we are building at, but ultimately, we are going to be, depending on the height of the trees, 150 feet above the tree line.

The Chair said he does not see on the plan where it gives the ground elevation unless he is just missing it. He asked if anyone else sees it.

Mr. Colclough said the survey has the elevations. (Mr. Collins showed the diagram on the overhead) He said 725 ground elevation is the general area of the tower.

The Chair said for clarification for the gentleman, the tower you are talking about is similar to the one at Frank Liske Park, not as tall.

Mr. McGhee said the one at Mount Pleasant High School would be its best reference.

Mr. Kevin Crutchfield said, the tree line out there is 150 feet tall?

Mr. McGhee is not sure on the exact height of the trees, because it has been there, the age of it, it could be 100 or 150 feet he does not know the exact height of the trees.

Mr. Crutchfield said the statement about it not being visible from his home is not true?

Mr. Colclough would not say that it is not true. He will say that it depends, he does not know where house is, but if you are close to a tree line it is going to hide a taller object behind it. If you are miles away, you will be able to see the tower for sure, if you have a line of sight. If you are on a high ground, you will be able to see a tower above the tree line from a distance. But if

you are the adjoining property, he may very well be able to see it, but he may not, it depends where on the property he is and how close he is to the tower. As you get closer, it is going to be harder to see it above trees.

Mr. Crutchfield said correct, but that is all based on how far back the tower is from the edge of the tree line. You mentioned you had a bunch of neighborhood meetings.

Mr. McGhee said we had one.

Mr. Crutchfield asked if it was well attended.

Mr. McGhee said we had one resident show up and it was the adjoining property to the south.

The Chair asked if it was William and Anna Hielscher?

Mr. McGhee said that is correct. Her concern at that point was cellular carriers being on the tower, which we are not doing at this point.

Mr. Crutchfield said when you do cellular tower carriers on that, eventually when that happens is that a revenue stream for the County if you are going to lease space.

Mr. McGhee said yes, it can be if we lease the space.

Mr. Charles Paxton said you keep saying at this point, at some point, are you going to change that around or are you going to leave that option open or are you going to close that option at some point?

Mr. McGhee said we have not been approached by any carrier to co-locate. But, if they did, at that point it would be their responsibility to come in front of the Board and request it.

Mr. Paxton said you would not oppose that?

Mr. McGhee said not if they approached us, and they came in front of the Board.

The Chair asked if they currently had any towers with carriers co-locating?

Mr. McGhee said Mount Pleasant.

Mr. Bilafer said, we lease land to a cell phone provider at the Cabarrus County School Transportation Department. He said you would have to ask yourself in a lot of those cases, if the juice is worth the squeeze, in terms of the carrier because they do have a lot of subcontractors that are coming, and we are liable. There are Certificate of Insurance checks, there are different types of security checks, specifically with the tower that is at the school site. They have to do

structural integrity checks for any type of equipment that they put on it and obviously as they update their equipment.

So, if somebody were to approach us, the County's stance would be looking at what the financial value is versus the type of effort we have to put into managing it.

Mr. Jeff Corley said the physical tower if it was built just as 911 versus co-locate, same tower little different? Explain to him what, maybe some attachments, some brackets.

Mr. Colclough said it is the same tower, the same tower structure. That is one of his pet peeves. We are building a radio tower, we are not building a cellular tower, although it can be used for a cellular if the County so choose. He likes to call it a radio tower because that is what we are using for emergency communication, but it is the same tower.

The Chair thinks the plan shows that if they did add that in the future it would be at a lower elevation than anything the County had equipment wise.

Mr. Bilafer said most likely, yes.

Mr. Chris Pinto asked if the tower would have a light.

Mr. McGhee said it will be a white light during the day and a red light at night.

Mr. Colclough said as required by the FAA it is a medium intensity.

Mr. Pinto asked how it lined up with the airpark runway in Gold Hill?

Mr. Colclough has not seen the FAA study. He has seen the result of the study, but he has not seen the FAA flight path paperwork.

Mr. Pinto said and how it lines up?

Mr. Colclough said he has not, no.

Mr. McGhee said it is to the south of it. He thinks the flight path runs east and west, but we are south of the property, and they found that there would be no obstruction.

The Chair said so you do have FAA approval?

Mr. McGhee said we do.

Ms. Ingrid Nurse asked if it something that we should see first? Since it is something that he (Mr. Gomez) mentioned.

The Chair said the only problem he sees with that is how do you see something that does not exist? The only thing that we would be able to see would be the vegetation.

Mr. Corley asked Mr. Goldberg if we denied the one variance that is specifically required just for the co-locate, right. The setback requirement is just to allow the co-locate, if he is reading that correctly, and if we denied that they still potentially could come back and ask for that again if they had a co-locate tenant that wanted to be on there.

Mr. Goldberg said essentially, there are certain structural requirements that are required to allow for the possibility of collocation. This is why we are having this discussion, even though there is not a plan to collocate at this time. The discussion is do we want to allow for that possibility in the future.

Mr. Collins said that is correct.

The Chair said his understanding is if the collocate was not on the plan, then the variance was not required, based upon the emergency use only.

Mr. Collins said in that case it is just site plan review.

The Chair said and then it would be just the landscape requirement.

Mr. Collins said right.

The Chair said but do remember that if they do choose in the future to collocate, that carrier has to come back before this Board.

Mr. Collins said this is just seeing if it is even a possibility.

The Chair said if we approve, we will still see something in the future.

Mr. Collins said you would see a Special Use Permit first.

The Chair said at that time we could deny the Special Use even though we approve the variances.

Mr. Goldberg said yes, you would be able to, there are very different standards for why that would be approved or not approved, and you have a little bit more flexibility on that front because you are in the world of a Special Use Permit.

Mr. Crutchfield said in reference to collocating, it requires a Special Use Permit? Is that what you are saying?

Mr. Goldberg said collocation in that since it changes the character of the tower from being an

emergency facility to a commercial facility. An emergency facility does not require a Special Use Permit but commercial does.

Mr. Corley said it makes it possible, but does not allow it, yet.

Mr. Goldberg said right.

The Chair asked if there were any questions or concerns. There being none he closed the Public Hearing.

The Chair read the following:

Section 12-20 Application of the variance power

A variance may only be allowed by the Commission in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all the following findings:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

All of these findings of fact shall be made in the indicated order by the Commission, which is not empowered to grant a variance without an affirmative finding of fact on all four categories above. Each finding of fact shall be supported by substantial, material, and competent evidence in the record of the proceeding before the Commission.

The Commission may impose reasonable conditions upon the granting of any variance to ensure that the public health, safety, and general welfare shall be protected, and substantial justice done. Violation of such conditions shall be a violation of this Ordinance.

The Chair said we have two variance requests, one is to allow a carrier to collocate in the future and the other is the landscape buffer around the compound.

Mr. Paxton said this collocate thing kind of bothers him. Either you are going to do it, or you are not going to do it. You are leaving open the possibility to do it he guesses. Right?

The Chair said that is what they state, yes.

Mr. Paxton said and that is why, because they can?

Mr. Corley said to him, every time we have seen one of these, we ask about towers in the area that can be used rather than a new tower. He understands this one, needs to be taller so we cannot really use a tower that is existing. But his hope would be that if we did allow this, that potentially long term will prevent another tower from needing to be out there for another carrier. He thinks that provides opportunities to make sure we do not go through this again with another monopole in somebody's backyard.

He thinks from an emergency communication stand point, there is plenty of merit to a tower being there. He shares that anxiety with the collocate but he thinks at the end of the day the tower can be there so why not put everything on it you can to avoid having to build something else right down the road again.

The Chair said the tower is 305, with the setback it is required 355, but unless the tower shoots up and then falls, he does not think it is going to fall outside. It is going to be contained within what they have as far as what they can meet for setbacks. He thinks it is reasonable.

Mr. Hudspeth said in the packet there is a reference to a design feature that allows this thing to break away in the middle, could the applicant address that?

The Chair asked Mr. Colclough to address that.

Mr. Colclough said he can start, but we also have a Structural Engineer from our Delta Oaks Engineering firm here as well and can address that. He said the tower manufacturer, Valmont Industries, has sent them sealed letter that says that the tower would basically break or fall somewhere at the midpoint and bend over like a foldable tape instead of toppling like a tree.

Mr. Michael Lassiter, Delta Oaks Group, 4904 Professional Court, Raleigh, NC., addressed the Board. He is addressing Mr. Hudspeth question.

Mr. Hudspeth said we had it in the packet, maybe you can explain it so we can understand it better.

Mr. Lassiter said the design for the tower shows the highest stress point is about 160 feet off the ground, not at the base of the tower. So, to Mr. Lassiter's point, it would perhaps fall like a folding ruler, rather than a broom.

Mr. Hudspeth said how much wind if you had a hurricane, or a tornado what would it take to make it collapse?

Mr. Lassiter said the tower is designed for 119 MPH. Hugo came through here about 33 years ago. He is not a meteorologist, but the local newspaper said it was about 80 MPH gusts. Some more information to add here is that it is being designed for higher class probably, then the tower down the road, meaning that it is going to be designed for a higher safety factor.

The Chair asked if there are any guys on this tower?

Mr. Lassiter said no, this is a self-supporting lattice structure, has we defined it in the TIA Standard which is our design code for towers.

The Chair reminded the Board that before they make a motion, that we have to check off those four items under the Section 12.20 (Variance of Power) whether we vote for or against.

Mr. Paxton asked the Chair to read the first variance request again.

The Chair said the first one would be an encroachment of 15 and 18 feet into the setback.

Mr. Crutchfield said if we pass this, then this land can be used for nothing else, is that correct?

The Chair does not believe so because it is not a special use.

Mr. Crutchfield said you cannot go in and harvest the trees off of it secondarily, because it would destroy the buffer, am I right?

Mr. Goldberg said right. The variance is being granted, especially on the landscape side, on the condition that that remains at its current state, and that it be restored even as one of the conditions in the event that it is destroyed. If you grant the variance on the landscaping, then it would have to continue to comply with the site plan as provided.

The Chair said and at any point it did not, the applicant would be required to meet, he assumes the current landscape buffer at that time not at time of approval?

Mr. Goldberg said that would be correct. At that point, they would no longer be meeting the conditions of the variance and they would have to come into compliance with the Ordinance.

The Chair said remember that we have to check off those four items, whether we approve or deny.

Mr. Jeff Corley thinks with the existing vegetation, he thinks it would be unreasonable. He thinks in certain situations you would be clearing good established buffer to plant five Crepe Myrtles

and two Holly trees. He thinks it is reasonable that we allow the use of existing. He thinks the intent of the ordinance is clearly met, if not exceeded by using that existing vegetation.

The Chair said number three, we can go ahead and mark off. The applicant is not taking any action, hardship. Like Mr. Corley said, they are not clearing property to build this project so, that one we can check off.

Mr. Goldberg would give them credit for number one as well on that - unnecessary hardship would result from the strict application of the ordinance. He said that was the one you were really talking about there, and then to you can talk about the peculiarity of the property versus a general requirement.

The Chair said number four we have already established from NCDOT, FAA and the Structural Engineer about public safety; it is not an issue. So, we can mark that one off.

The Chair asked if there were a motion.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Kevin Crutchfield to **APPROVE** the variance request for the relief from the four-foot-wide buffer around the tower compound. The vote was unanimous.

Mr. Goldberg said if it would be helpful, one of the ways you could approach this is to go through the four factors and have a discussion on those and you will see where everyone stands.

The Chair is going to go start with number four, public safety. Like he said earlier, NCDOT is okay with it, FAA has already signed off.

Mr. Crutchfield said for public safety he assumes there will be some kind of fence or something around this tower to prevent kids from climbing in?

The Chair said there is a fence. He is assuming it is more that if the structure falls, it is not going to hit anything. Which obviously, it is not going to because there are no existing structures and as Mr. Collins stated earlier, no proposed structures would be allowed outside of what they need for the operation of the tower, as well as the Structural Engineer stated that it will basically fold on itself.

Mr. Hudspeth said as it relates to public safety, it appears this is for public safety, it is necessary for public safety.

The Chair said that is correct, that is a double whammy.

The Chair said continuing down the list, number 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge

that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

Mr. Corley said you have to build a tower to improve public safety communication and you have to find a spot that works with topography, and you have to find a site that is available. There are a lot of challenges in siting this and he thinks providing this variance for this setback will allow for a more flexible use of the tower that otherwise that would be allowed anyway without a variance.

It was the consensus of the Board.

The Chair said number 2, The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

The Chair thinks that that was covered under number 3 as well. He asked if any one felt any different. No one felt different.

The Chair said moving on to number 1- unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

He said this is kind of tricky because it can be used for emergency services but the cohabitate part that kind of throws him.

Mr. Corley said from a siting standpoint these rules were going to follow that tower wherever it would end up going, right. Very few options, very limited geographical area, the height they need, the elevation they need, the availability of property to acquire to do this project he thinks potentially, has made it very, very hard to fully comply and still accomplish what this county needs to do.

Someone spoke but it was inaudible.

The Chair thinks what you are trying to say is it would take a larger piece of property and still have the same topography and elevation.

Mr. Hudspeth said they would have to make the tower shorter, or they would have to get another piece of property or buy more property.

The Chair said which a shorter tower does not work.

Mr. Hudspeth said there is a road on one side so they cannot by that side. He does not know about the other.

Mr. Goldberg said if you could just be clear about it, in the sense of there is a hardship by this being imposed and that hardship is unnecessary because of the strict application. He just wants to make clear that it is not that you believe that there is any deprivation of any use. That is not necessary to show. Essentially, it is a balancing test, that there is a hardship that could come with a bigger property or reducing is not exceeded by any kind of risk that are in the ordinance that they are trying to prevent.

The Chair said correct, he thinks that is what everybody was saying. He asked if the Board agreed. It was the consensus of the Board.

The Chair asked if there was a motion to approve or deny this request.

Mr. Andrew Nance **MOTIONED, SECONDED** by Mr. Charles Paxton to **APPROVE** the variance request for the setbacks with the conditions recommendations by Staff. The vote was unanimous.

The Chair said he would also like to add with the items that we just discussed as well.

The Chair said we probably need to do a third vote to add conditions recommended by Staff to the first vote.

Mr. Goldberg said technically, it would have been best if we had done those conditions as part of the first vote. Because we dumped them together. You could repeat the first vote with landscaping and add the conditions by Staff.

The Chair said let's do that, we will just repeat the first vote. The Chair asked Mr. Corley to restate his motion on the landscaping.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Kevin Crutchfield to **APPROVE** the variance request for relief from the four-foot-wide buffer around the compound (landscaping) with the conditions recommended by Staff. The vote was unanimous.

No Legal Update

No Directors Report

Planning and Zoning Commission
Minutes
June 14, 2022

There being no further discussion, Mr. Kevin Crutchfield **MOTIONED, SECONDED** by Holly Grimsley to adjourn the meeting at 7:51 p.m. The vote was unanimous.

APPROVED BY:

Mr. Adam Dagenhart

SUBMITTED BY:

Arlena B. Roberts

ATTEST BY:

Susie Morris, Planning and Zoning Manager

STATE OF NORTH CAROLINA)	CABARRUS COUNTY PLANNING AND
)	ZONING COMMISSION
COUNTY OF CABARRUS)	FILE NUMBER: VARN2022-00002
)	
IN RE: Cabarrus County, North Carolina)	
Variance Application)	
)	ORDER GRANTING VARIANCE
)	
Subject Property:)	
4300 Goldhill Road East, NC, 28071 (PIN)	
6603-12-8036))	
)	

THIS MATTER came before the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, on July 12, 2022, on the application of Cabarrus County, North Carolina (County) for two variances for property located at 4300 Goldhill Road East., Concord, NC 28025 (PIN 6603128036) (Subject Property).

Notice was given to Cabarrus County and to adjacent property owners as required by law.

A full complement of nine board members was present to hear this variance application. All of the witnesses were duly sworn, and documents were received in evidence. There was one witness in opposition to the variance application.

FINDINGS OF FACT

After hearing and receiving the evidence, the Board makes the following Findings of Fact:

1. The Subject Property is in the Agricultural/Open Space (AO) zoning district and is 13.62 acres in size. The property is currently vacant and wooded. An intermittent stream crosses the northwestern corner of the subject property
2. Cabarrus County proposes to build a 305-ft self-supporting communications tower on the property for the purposes of providing public safety communications.
3. Pursuant to Section 8-4.34, Table 1 of the Cabarrus County Development Ordinance (CCDO), the tower must be located a minimum of the tower height plus 50' from any property line or residential structure.
4. The proposed communications tower is 337 feet from the right of way of Gold Hill Road East and 340 feet from the rear property line. As such, the proposed communication tower would not comply with Section 8-4.34, Table 1 of the Cabarrus County Development Ordinance (CCDO).

5. Pursuant to Section 8-4.34.8.c of the CCDO, the landscaping for tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property and from any road right-of-way. The standard buffer shall consist of a landscaped area at least four (4) feet wide outside the perimeter of the compound.
6. The Subject Property is heavily wooded and would provide buffering that would meet or exceed the effective standards in Section 8-4.34.8.c of the CCDO.
7. On May 10, 2022, the County submitted a Variance Application to the Cabarrus County Planning Division. The application requests the relief from Section 8-4.34, Table 1 and Section 8-4.34.8.c of the CCDO.
8. The application requested relief from the tower height plus 50 feet from the compound to property lines and public rights-of-way and the standard buffer requirement for the landscape outside the perimeter of the compound.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

1. The application for variance is properly before the Board.
2. The County provided substantial, material, and competent evidence to the official record to support the variance application.
3. Regarding the variance of Section 8-4.34, Table 1—
 - a. Unnecessary hardship would result from the strict application of the Ordinance because it would prevent the County from the possibility of allowing other wireless service providers from co-locating their equipment on the proposed tower, which would prevent the County from benefiting from the resulting income and would prevent neighboring residents from benefiting from enhanced wireless coverage.
 - b. The hardship results from conditions that are peculiar to the property because of the shape of the property and the inability to meet the required setbacks, while achieving a tower height necessary for the proper radio frequency distribution to achieve optimum signal service for E911 services
 - c. The hardship did not result from actions taken by the applicant or the property owner because the inherent attributes of the property have created the hardship.

- d. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved because public safety would be enhanced by the addition of additional public safety communication coverage and capacity. Further, the intrusion into the setbacks would be de minimis and would not pose a material threat to public safety because the tower's design would prevent it from falling on any habituated area.
4. Regarding Section 8-4.34.8.c of the CCDO—
- a. Unnecessary hardship would result from the strict application of the Ordinance because it would require the undertaking of landscaping activities that are not necessary due to the abundance of existing mature forest and understory trees that can reasonably be expected to block all view from the public road and its right of way and the neighboring property and its residences even during the fall and winter seasons with no leaves on most trees and bushes.
 - b. The hardship results from conditions that are peculiar to the property because of the property's existing foliage and other natural features.
 - c. The hardship did not result from actions taken by the applicant or the property owner because the inherent attributes of the property have created the hardship.
 - d. The requested variance is consistent with the spirit, purpose, and intent of the, Ordinance, such that public safety is secured, and substantial justice is achieved because the current landscape provides superior screening from view of the tower compound and site components inside. Standard immature commercial landscaping, while sufficient in cases where no existing forest and understory exist is a good method, that is this case, commercial landscaping would be less than preferable.

Based on the foregoing Findings of Fact and Conclusions of Law, the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, hereby grants the variance consistent with the site plan presented at the hearing, pursuant to section 12-20 of the Cabarrus County Development Ordinance. The special conditions for approval of the variance are attached as Exhibit A and incorporated by reference. This variance Order shall run with the land with reference to the Property and shall be recorded in the Cabarrus County Public Registry.

This ____ day of _____, 2022, *nunc pro tunc* to July 12, 2022.

Adam Dagenhart

Chair, Cabarrus County Planning and Zoning Commission
Sitting as the Board of Adjustment

ATTEST:

Arlena Roberts,

Clerk to the Cabarrus County Planning and Zoning Commission

STATE OF NORTH CAROLINA

COUNTY OF CABARRUS

I, _____, a Notary Public in and for the said State and County do hereby certify that Adam Dagenhart, as Chair of the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, personally appeared before me this day and acknowledged the due execution of the foregoing Order.

Witness my hand and notarial seal, this ____ day of _____, 2022.

_____, Notary Public

My Commission Expires: _____

EXHIBIT A
CONDITIONS

1. The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
2. The applicant shall submit a site plan along with the subsequent Special Use Permit request that complies with the findings and conclusions of this variance request.
3. Approved variances must be reflected on site plan submittals moving forward. Any changes thereto would require review and approval from the Board of Adjustment.
4. Applicant shall submit a fall zone letter, signed by a Professional Engineer and sealed by a structural engineer licensed in the State of North Carolina.

Memo

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

From: Susie Morris, Planning and Zoning Manager

cc: File

Date: 8/31/2022

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

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

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

Memo

To: Planning and Zoning Commission Members

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

cc: File

Date: August 31, 2022

Re: Harrisburg Area Land Use Plan Review 2022

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

Amendments to the Plan:

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

Planning and Zoning Commission Actions and Consistency with the Plan:

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

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

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

HARRISBURG LAND USE PLAN REZONING SUMMARY
JANUARY 2016-JUNE 2022

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

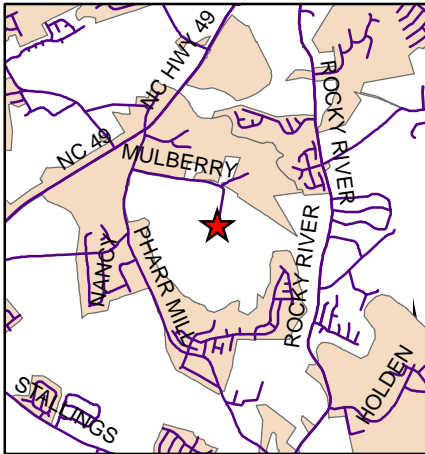
Zoning Map

Harrisburg Zoning

Exhibit E(2)

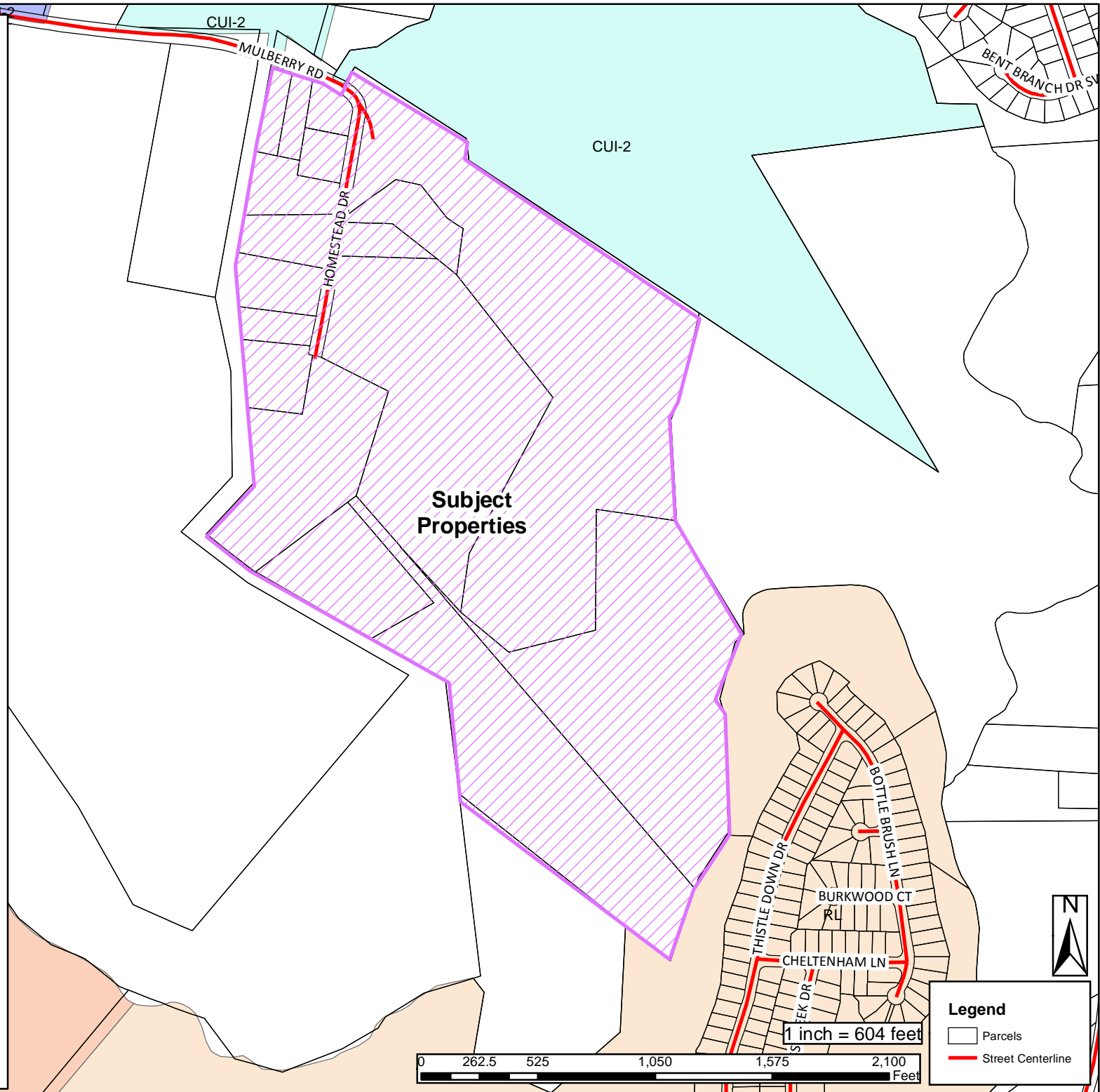


Applicant: Jennifer M. Hill, et al.
 Owner: Jennifer M. Hill, et al.
 Case: RZON2016-00005
 Address: Multiple parcels along Mulberry Road and Homestead Drive
 Purpose: Rezoning from OI to AO
 PIN: 5527094992, 5527095970, 5527097958, 5527097725, 5527095620, 5527095348, 5527095117, 5527085907, 5527084796,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



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

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

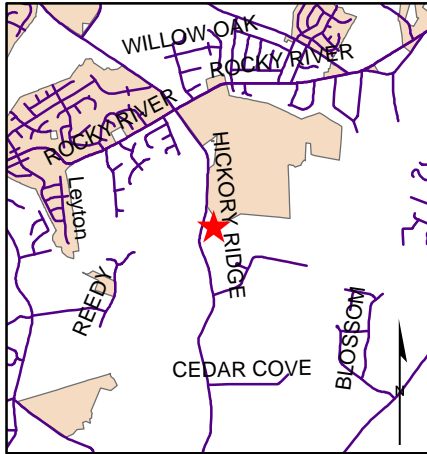


Future Land Use Map

Exhibit E

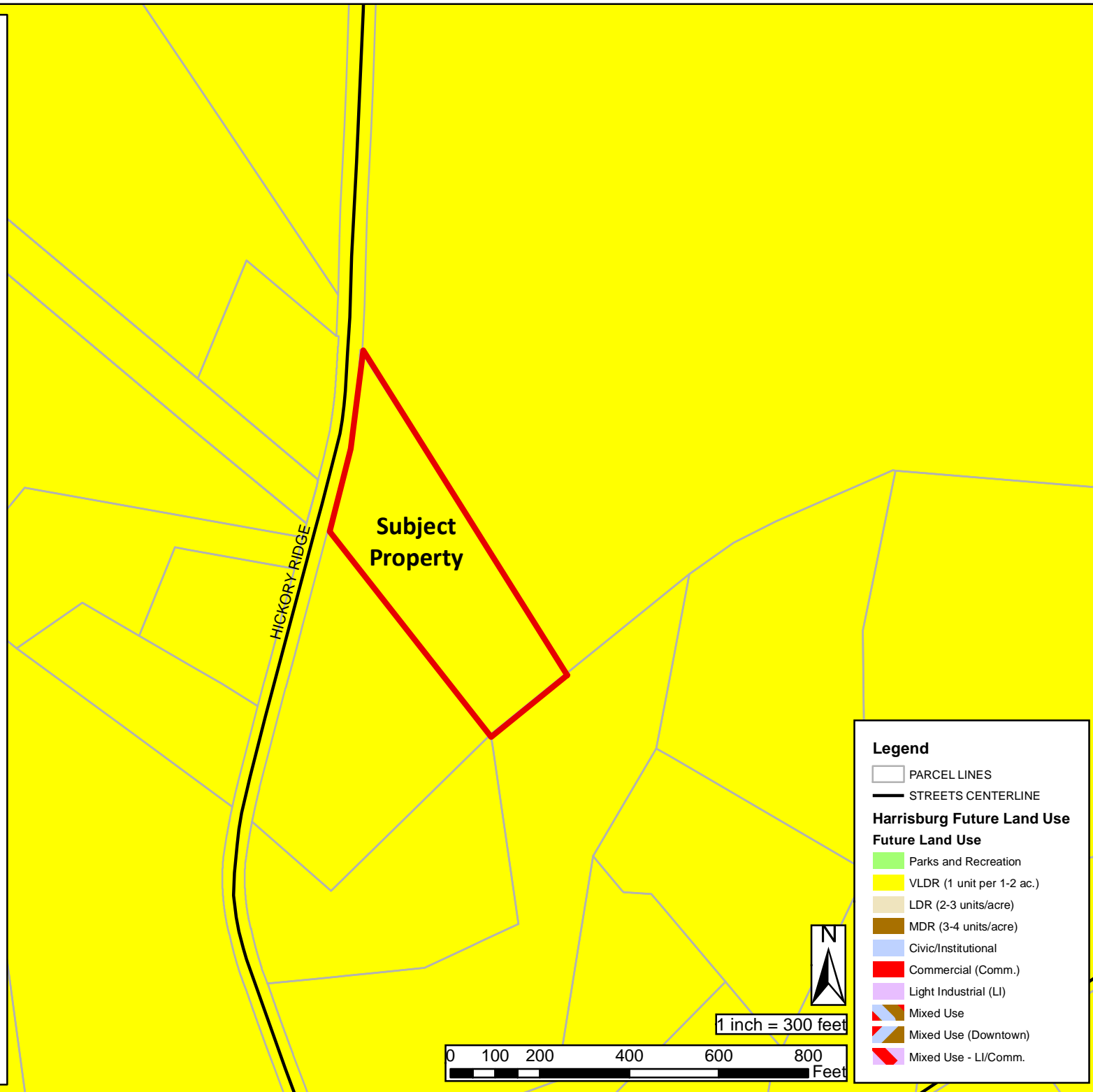


Applicant: William W Carriker III
Owner: Elizabeth C Carriker
Case: RZON2016-00008
Address: 9223 Hickory Ridge Rd
Purpose: Rezoning from CR to AO
PIN: 5516-53-5633



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

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



Legend

- PARCEL LINES
- STREETS CENTERLINE

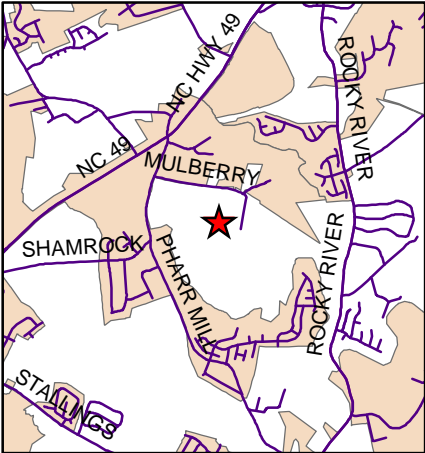
Harrisburg Future Land Use

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

EXHIBIT E Future Land Use Map

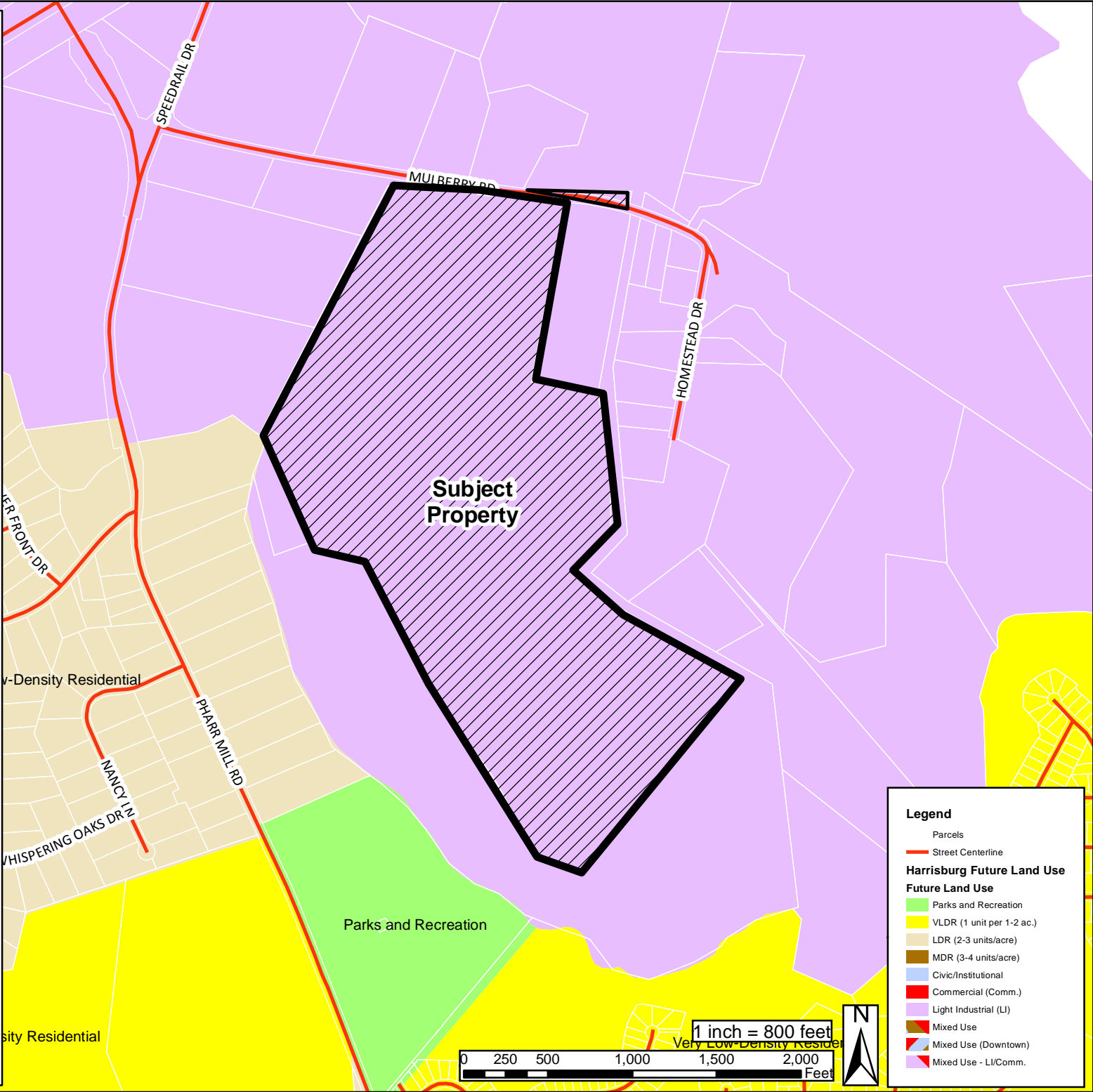


Applicant: Mulberry Industrial Park, LLC
Case: RZON2017-00001
Address: 2173 Mulberry Road
Purpose: Rezoning from OI to LI
PIN: 5517-98-5443



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

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



Memo

To: Cabarrus County Board of Commissioners

From: Susie Morris, Planning and Zoning Manager

cc: File

Date: 8/31/2022

Re: Proposed Planning and Zoning Commission Realignment

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

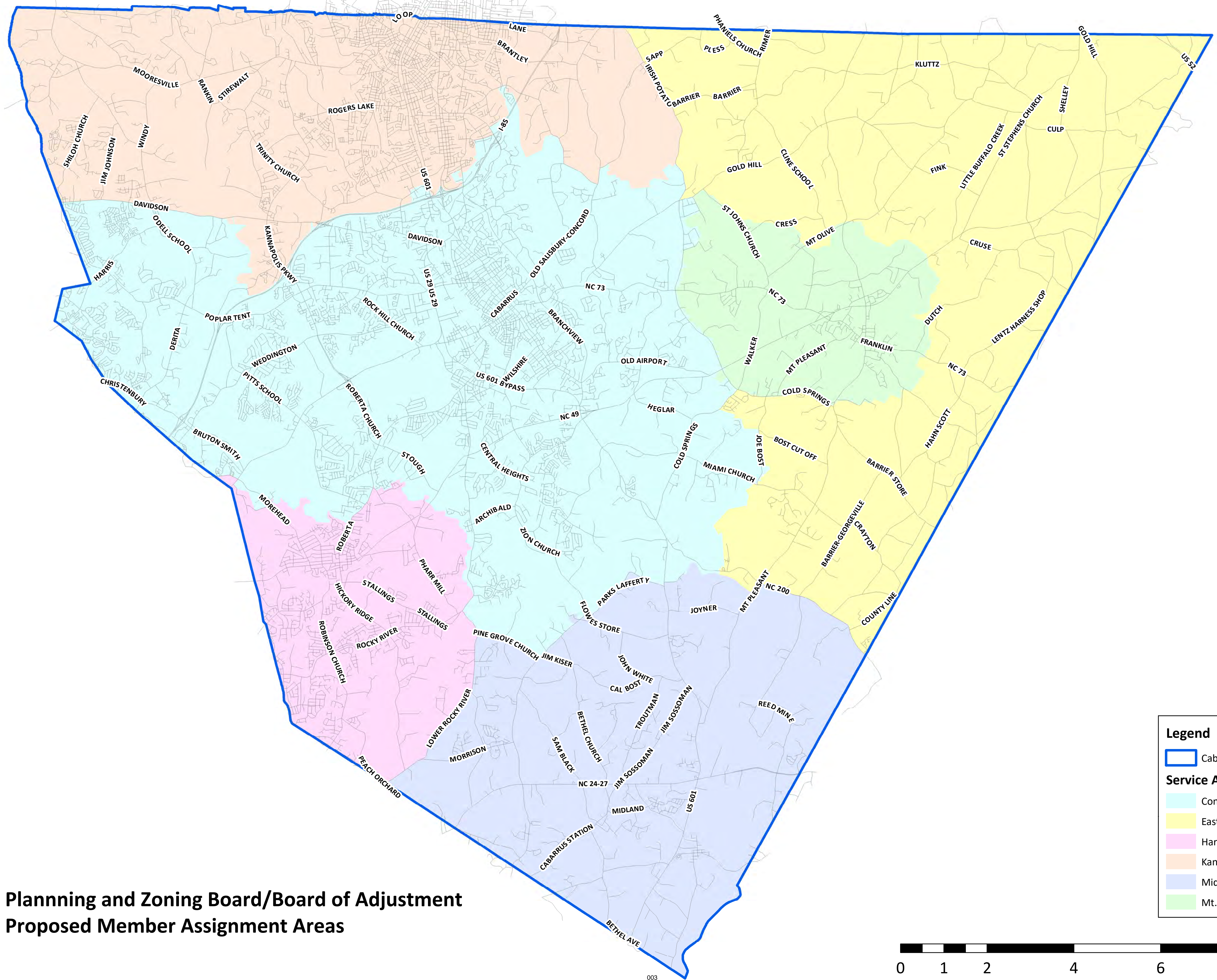
Planning Staff is requesting that the Board of Commissioners consider realigning membership areas based on annexation and service area mapping instead of the small area mapping.

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

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

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

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



Planning and Zoning Board/Board of Adjustment Proposed Member Assignment Areas

