



## **Cabarrus County Government**

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Cabarrus County Planning and Zoning Commission Meeting  
June 12, 2018 @ 7:00 P.M.  
Board of Commissioners Meeting Room  
Cabarrus County Governmental Center

### **Agenda**

1. Roll Call
2. Approval of May 8, 2018 Planning and Zoning Commission Meeting Minutes
3. **Old Business – Planning Board Function:**
  1. Proposed Adoption of the Harrisburg Area Land Use Plan Update (PLOTHER2018-00001)
4. **New Business – Board of Adjustment Function:**
  1. Wallace Park (VARN2016-00003) Guidance/Interpretation
  2. McBride Solar Farm (CUSE2017-00001) Guidance/Interpretation
5. Directors Report
6. Legal Update

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Mr. Chris Pinto, Chair, called the meeting to order at 7:02 p.m. Members present in addition to the Chair, were Ms. Mary Blakeney, Mr. Jeffrey Corley, Mr. Adam Dagenhart, Ms. Holly Grimsley, Mr. Andrew Nance, Mr. Charles Paxton, Mr. Richard Price, Mr. Brent Rockett, and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Phillip Collins, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

**Roll Call**

Mr. Charles Paxton **MOTIONED, SECONDED** by Mr. Brent Rockett to **APPROVE** the March 13, 2018, meeting minutes. The Vote was unanimous.

**New Business – Planning Board Function:**

The Chair introduced Petition RZON2018-00001 - Request for Rezoning from Low Density Residential (LDR) to Agriculture Open (AO). The applicant is James Garmon. Located at 2643 Miami Church Road.

The Chair asked if any Board member had a conflict of interest for this case. There being none, he called on Mr. Collins to present the staff report.

Mr. Phillip Collins, Sr. Planner, addressed the Board and presented the staff report for RZON2018-00001. The applicant is James Garmon. The property is located at 2643 Miami Church Road.

The subject parcel is mostly vacant but does support a building that appears to have been built around 1975. Cold Water Creek borders the subject property to the north and east. There is a considerable amount of floodplain located on the subject property. The property is subject to the Waterbody Buffer Zone in Chapter 4 (WBZ) and The Flood Damage Prevention Ordinance Chapter 15.

The adjacent land uses are residential and vacant. The subject property is surrounded by CR and LDR zoning.

The AO district is comprised mostly of lands, usually found on the eastern side of the County, which due to physical characteristics such as soil type, topography, etc., should remain agrarian. To a lesser degree, these are also those lands which are conducive to providing recreationally oriented open space. These land areas should remain the farmland and undeveloped/forested land of the County. Public utilities will not be planned for these areas.



Consequently, residential uses that support those working and/or owning the land, home occupations allied with existing residences, and very limited business endeavors are envisioned as complementary to the area. In sum, the primary activity of these lands is agricultural - housing and business are typically related to, and supportive of, the practice of modern day agriculture. It is not, however, improbable that a small hamlet type settlement might evolve in this zoning district. As to those areas constituting open space, manmade uses must take care to enhance and not detract from the essential character of the area.

Cabarrus County, due largely to its proximity to the Charlotte-Mecklenburg metropolitan area, is in a growth mode which will, in all probability, continue. While the issue of farmland preservation may ultimately be more driven by market economics, it still behooves policy makers to prudently attempt farmland preservation. Less a matter of market economics is the concept of retaining unspoiled, undeveloped lands for future generations to enjoy.

The Central Area Land Use Plan designates this area as Low Density Residential (LDR). The LDR designated area is intended to allow low to moderate density residential accommodating community development. Predominant uses include single-family residential at densities of up to 2 units per acre, or up to 3 units per acre if additional development standards are met.

In conclusion, the proposed zoning change to Agriculture Open Space from Low Density Residential would be a change to a less intense zoning district.

The subject property is mostly vacant but does support a building that appears to have been built around 1975, which was prior to the adoption of the Cabarrus County Development Ordinance.

- The building located on the property has historically been used for non-residential purposes, mainly equipment storage.
- Cold Water Creek borders the subject property to the north and east.
- There is a considerable amount of floodplain located on the subject property which places constraints on development of the site.
- Due to the stream and the significant floodplain, the property is subject to the Waterbody Buffer Zone in Chapter 4 (WBZ) and the Flood Damage Prevention Ordinance (Chapter 15).
- The AO zoning district allows limited commercial uses as part of the district.
- If the proposed rezoning request is approved, the applicant intends to seek approval of a Contractor or Trade Shop (Landscape) on the subject property.
- If the request is approved, the applicant understands that submittal for commercial site plan review and compliance with the Cabarrus County Development Ordinance for a Contractor or Trade Shop would be required.

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

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Mr. Jeff Corley asked if this site is not nonconforming.

Mr. Collins said there is a portion of the building that is in the waterbody buffer which you could say is not conforming but it was there before the waterbody buffer was even a thought.

The Chair said it is in the latest floodplain that was passed in January?

Mr. Collins said no. We looked at the preliminary on there; it is close, but the waterbody buffer does come up to the building, so it is in the waterbody buffer.

Mr. James Garmon, 114 Louis Drive, Concord, NC addressed the Board. He wants to use the building for storage. It used to have power on it and they took the power off when Jim Avett used to rent it from his Dad.

They asked him if it could be a commercial building. They wanted to come down and check it out. He told them that it would never pass and he wanted to fix it up. So, he pulled the power off and he has been fixing it up for some years and now he would like to get the power back on and keep it as storage for equipment and stuff like that.

The Chair asked what kind of business he has.

Mr. Garmon said a lawn care business; to keep lawn mowers and stuff like that in it. He would not disturb anyone. He would be in at 7:00 a.m. and out the door and back by 7 or 8 in the evening.

The Chair asked how many employees he had.

Mr. Garmon said two; himself and two other guys.

The Chair asked if he had ever considered a tree farm or anything down in there.

Mr. Garmon said no; there is no tree farm.

Mr. Richard Price said how big is this building?

Mr. Garmon said it 40 x 28 or 38 x 28 something like that.

Mr. Price said is it a metal building?

Mr. Garmon said no, it is a block building with a metal roof on it.

Mr. Stephen Wise asked if it was on City of Concord power or Duke Energy.

Mr. Garmon thinks it could be either. He does not know for sure but the City of Concord ran a temporary pole.

Mr. Wise is just curious, the electrical inspection department will not pass the service that is on there; it has to be rezoned to get power?

Mr. Garmon said that is correct, it has to be rezoned to get power on it.

Mr. Paxton asked if he had any issues in regard to electrical service that they would question.

Mr. Garmon said the electrician went up to pull a permit and they would not let him pull one until it was rezoned.

Mr. Wise said it had power at one time?

Mr. Garmon said yes, it had power for years. Mr. Avett rented the property from Mr. Garmon's Dad and had the power in his name. They would not let him switch it over.

The Chair said, at this time, the Board will discuss the proposed request, make a motion and establish findings to support the decision.

Mr. Price said as far as he is concerned, anytime you can change a property into a lesser impact and given our proximity to Charlotte and all the growth that is going on, that is a good thing. He said to be able to maybe preserve a property; especially one that is somewhat critical as that one is next to Cold Water Creek.

Mr. Corley said for him it is a continued use of a facility that was preexisting the zoning. We are just allowing that use to continue.

The Chair said it is an existing use that is a more appropriate in the district that it is going into AO as opposed to LDR.

Mr. Adam Dagenhart does not have an issue with. He said it states that if they do anything commercial or trade they will have to go through a commercial site plan. He does not think there will be an issue.

There being no further discussion Ms. Holly Grimsley **MOTIONED, SECONDED** by Mr. Charles Paxton to **APPROVE** RZON2018-00001, Request for Rezoning from Low Density Residential (LDR) to Agriculture Open (AO). The vote was unanimous.

## **CONSISTENCY STATEMENT**

Mr. Richard Koch, County Attorney read the following statement:

The proposed rezoning, while not consistent with the provisions of the Central Area Land Use Plan, is nevertheless compatible and reasonable and in the public interest based on the following findings:

1. This proposed rezoning is a down zoning to essentially an agrarian zoning district which is a less intense district than the present zoning.
2. There is an existing building on the property that predates the imposition of zoning in the County, which has been used traditionally for nonresidential purposes which are allowable in the AO zoning district.
3. The rezoning in this case is necessary to be able to get power again to that existing building.

There being no further comments, Mr. Brent Rockett **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the Consistency Statement as presented. The vote was unanimous.

**New Business – Planning Board Function:**

The Chair introduced Petition RZON2018-00002 – Request for Rezoning from AO to OI, +/- 4.216 acres. Applicant is Carlos Moore Architect. Located at 3101 Cline School Road (PIN: 5662-25-1973).

The Chair asked if any Board member had a conflict of interest for this case. There being none, he called on Mr. Collins to present the staff report.

Mr. Phillip Collins, Sr. Planner, addressed the Board and presented the staff report for RZON2018-00002 - Request for Rezoning from AO to OI +/- 4.216 acres. Applicant is Carlos Moore Architect. Located at 3101 Cline School Road (PIN: 5662-25-1973).

This site has historically been used as a school and as a religious institution. The site currently supports structures used as part of a religious institution and a mobile home. The subject property is located in the protected area of the Dutch Buffalo Creek Watershed and is subject to the Watershed Overlay Zone described in Chapter 4 of the Cabarrus County Development Ordinance.

The adjacent land uses are residential and vacant. The subject property is surrounded by AO zoning.

The proposed zoning district is OI and the OI district is intended 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 or on weekends. 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 subject property is located in the Eastern Planning Area. The Eastern Area Plan designates the subject property as Agriculture Open Space. This area permits development while protecting open space and agricultural land uses. This district is intended to remain agrarian in nature and the primary uses are agricultural and single-family residential, with densities of up to one unit per 3 acres or up to one unit per two acres, provided additional standards are met. The plan recommends different strategies to meet these goals, such as clustering development and promoting voluntary agricultural districts.

In conclusion, the site is currently used as a religious institution and has been for several years.

- Prior to 2016, the religious institution was comprised of two structures on the site that were used by the congregation. One of the buildings, an old school, was destroyed by fire in 2016.
- The Agriculture Open Space (AO) and the Office Institutional (OI) districts both allow religious institutions as a Conditional Use (C) or as a Permitted Based on Standards (PBS) depending on the seating capacity of the proposed facility.
- The applicant intends to build a new structure on the site to replace the structure destroyed by the fire.
- The site currently has several existing non-conformities related to the zoning district, including building setback encroachments, required landscape buffer encroachments and impervious area overages.
- The proposed rezoning to the OI zoning district would bring the site into better compliance with the Cabarrus County Development Ordinance.
- The subject property is located in the protected area of the Dutch Buffalo Creek Watershed and is subject to the Watershed Overlay Zone described in Chapter 4 of the Cabarrus County Development Ordinance. The Overlay restricts the overall development of the site to 12% built-upon area.
- If the request is approved, the applicant understands that submittal for commercial site plan review and compliance with the Cabarrus County Development Ordinance for a Religious Institution would be required.

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 of the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County.

Mr. Corley said the parcel in the back appears to contain a building that creeps into the parcel we are discussing. Does this action affect the use for that building or parcel?

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Mr. Collins said no. Actually, on the survey that is from the 2010 aerials and it may be a little off compared to GIS. If you look on the survey, the line is actually in the middle.

Mr. Corley said excellent.

Ms. Virginia Moore, Carlos Moore Architect, 222 Church Street N. Concord, NC, addressed the Board. We are requesting a rezoning from AO to OI at the suggestion of the County (staff) and we agree with that.

She showed a 1986 aerial. She said the original building, which was a school, the first building closest to the street, was built in 1926-1927, prior to any kind of ordinance being established. At some point in time, probably the mid 1970's (73-74), the church purchased it and has occupied it since 1973. That also predates everything (ordinance and zoning) with this.

The church has occupied this property and held church services in the front building, which was their sanctuary, since 1973. The rear building was constructed in the early to mid-1980s. This is a 1986 aerial so it obviously existed in 1986. We can look at an aerial in 1983, it does not exist. She said a lot of the parking and all of the drives are already existing there.

The summer of 2016, July 10 or 11<sup>th</sup>, late at night there was a fire. It burned it to the ground, eight fire departments showed up to try to help. It was a total loss; a disaster.

She said the church contacted them some time right after that. She gave them a proposal and people were in and out of her office for over nine months to a year. They ordered a metal building, it is dated early June 2017, it is stamped, it is signed and sealed and the building currently lays out there in the dirt at the project site.

We have encountered some hurdles and she is not going to go into a long dissertation about that because it is pointless. What we are doing is asking for a rezoning, so they can build their church building.

The existing building that burned was 10,500 square feet. The building they are proposing to put back is 3,200 square feet. It is about a third of the size. They are not proposing any new parking or anything like that.

She knows this is not a conditional use, but is giving some food for thought. This is something that she guess everybody assumed, that since the building burned down that they could rebuild; logic would kind of say that.

When we submitted plans, it came to our attention that there is a one year time line on when you can rebuild and it must be started and completed in that one year time frame. In her opinion, that is not feasible, as far as a timeline; but it is what it is.

We are asking for a rezoning so we can bring it into compliance the best that we can. The County has stated that it will be in compliance, better than it is now.

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She said if we keep it in AO, which churches are currently allowed in AO, right now today. If we went in to AO, it cannot be rotated in the same footprint that it was previously, which the Church would like it to go in the same footprint (she showed on site plan where the building would go). She drew the setbacks on the site plan and said it bisects the back piece approximately 20 feet.

By bringing it into OI, the best she can understand is that the rear of the building will no longer be in the setback at that point and time. It is her understanding that it would allow the building to be perpendicular to the main road rather than parallel; so the church would get what it wants with both of those things.

She said the question is still out there about buffers. This is the best we can do given the time line has expired and we are no longer grandfathered with anything.

Ms. Moore said without going into a long drawn out mess, she asked that the Board approve the rezoning so that the church can move forward with reconstructing their sanctuary.

Mr. Paxton said the metal building is there now?

Ms. Moore said the parts and pieces are there.

Mr. Paxton said soon after the appropriate approvals is when they will begin construction on the new metal building?

Ms. Moore is sure they would do it the day of; she does not feel that they would lollygag. She thinks they will rejoice once the permit was available. She said the building permit is available; we need to go through the site permitting process.

Mr. Corley said as far as exterior, he is assuming that it will somewhat match the existing structure?

Ms. Moore said it is a straight up metal building.

Mr. Paxton asked if this will serve as their new sanctuary.

Ms. Moore said this one will be their fellowship hall. What we have done in there is provide some bathrooms and proper egress and an open room. The church had to relocate the sanctuary to the other building after the fire.

The Chair said that was a pretty historic building in that part of the woods over there. He remembers that night, he could see it and he lives on St. Stephens Church Road.

The Chair opened the public hearing.

Pastor Gary Posey, 3171 Cline School Road, Concord, NC addressed the Board. He appreciates the opportunity just to be here tonight. He said July 7, 2016, a lightning bolt hit their building.

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He and his wife were out of town when they got the call that the church was on fire. They were three hours away. They met with the Fire Chief; the fire departments and the media were there. They said it was one of the biggest fires in the County.

We had been there 43 years as a church and made a beautiful sanctuary out of that school building and it really served a great purpose for them.

When the lightning bolt hit it, there were those that witnessed the bolt that hit. He said one was a Deputy Sheriff, so they did not have to do a fire investigation on the fire.

He showed a picture of the fire and he said there was a cross that was made in the smoke in there in the fire. He is thankful that no one was in the building when it hit. He believes it was the Lord, when this happened that no one was in the church. If it had been on a Sunday night instead of a Monday night. They say, that lightning bolt, came through the roof, down through the ceiling and exploded in the auditorium and went through the floor; that is how powerful it was. They say, then a series of explosions took place because years ago in the schools they would put solvent on the floor and saw dust and things of that nature.

He has learned a lot since the fire about the County. He came up after the fire to the Building and Zoning office, they told him the first thing he needed to do was to go to the Health Alliance. He did that and Mr. Troutman came out and looked at the property and approved the septic system and everything that we could use.

They transitioned over to the other building they were using for a gymnasium and made a nice sanctuary there. They were using the other building for fellowship, when we had dinners and people would bring potluck or when we had wedding receptions, dinners, homecoming and things like that they would use their big building.

It transitioned into a nice sanctuary and they already had the heating, electric and the air already there. They just had to lower the ceiling in there. They did not miss any Church services much at all when they moved into the other building.

They had a real large BBQ and cookout for the firemen and everyone that helped. They saved their fellowship building; they saved our gymnasium. He appreciates the firemen that did that even though they could not save our sanctuary.

After Mr. Troutman approved the septic system and everything, Mr. Seagraves did the demolition and we got that cleared right away. He ordered the building by faith. The same exact people that put the other existing building up, it is going to be the same thing. It will go right with the other.

He said this is the building we have had over a year just lying there ready to put up. (He showed a picture of the building parts on the ground) They have called him three or four times asking when they can send a crew to put it up. He told them everything is on hold right now.



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They transitioned over into the other building and have not missed our television program. They are still on television/radio.

He showed a picture of the congregation that transitioned into the building. He said a lot of these folks live in the county. We appreciate our neighborhood, the local Grange voted them Church of the Year and gave them a plaque. St. John's Lutheran Church had a dinner in their honor for the work they have done in the County and for the prison ministry they had.

They closed the prison now, so they are not involved with that from Mt. Pleasant any longer, but they did that for many many years and some of the gentlemen that they brought out as a community sponsor are still in their church and the family is doing well.

He is thankful for what they have been able to accomplish over the years that they have been there and they would like to continue. This building we anticipate on putting up, is a lot smaller than the one they had.

He does not think that it would not be much of a threat to the watershed or runoff or anything like that because it is a lot smaller. If they could get this change, it would really help them proceeding. It is going right where the building was and everything else has been approved.

Our folk are looking forward to it and if we can proceed with it, with the Board approval, it would be a real blessing.

Mr. Tim Seagraves, 4615 Lower Stone Church Road, Rockwell, NC, addressed the Board. He did the demolition. He grew up a couple of miles from where the old school building set. He said Preacher Posey and the church have been great neighbors. They were there before he was ever alive; his whole life they have been there. They are a staple to the community out there and everybody in our whole area knows if you need anything or whatever, you can count on Preacher Posey and his wife, they have always been there for pretty much everybody.

Mr. J. C. Grindstaff, 360 Patience Drive, Concord, NC, addressed the Board. He just wants to reiterate what Brother Posey said, that we lost the church due to the fire. We have a good sanctuary now and are looking to replace it with the new building to have a fellowship hall so we can be more of a service to the community.

He has been in the church for 30 of the 40 some years that they have been there. He grew up in the church and the Pastor and his wife has watched him grow up and now they are watching his children grow up in the church.

He is a contractor and is anxious to see the building go up and to help. Aesthetically, he thinks it will look better. We are used to seeing a structure there on that property and it is gone. It does not look the same as it always did, but if we get this new building put up, aesthetics will make things look better and let us serve the community more than we do right now.

The Chair closed the public hearing.

The Chair said at this time the Board will discuss the proposed request, make a motion and establish findings to support the decision.

Mr. Richard Price thinks these folks need to be able to build their building. It sounds like they have worked with staff and have come up with a reasonable solution for the problem that they had there and he sees no reason not to approve it.

The Chair said it was pretty good timing to buy the building, if you bought it now it would probably be 35 to 40 percent more. He said it was a pretty good leap of faith there.

There being no further comments Mr. Charles Paxton **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** Petition RZON2018-00002- Request for Rezoning from AO to OI, +/- 4.216 acres as presented. The vote was unanimous.

### **CONSISTENCY STATEMENT**

Mr. Richard Koch, County Attorney read the following statement:

The proposed rezoning while not consistent is compatible with the Eastern Area Land Use Plan and is reasonable and in the public interest based on the following findings:

1. For many years this site has been used as a religious institution.
2. Both the AO and OI zoning districts allow religious institutions.
3. The proposed continued use is as a religious institution.
4. There exist nonconformities with the present Ordinance, this rezoning will bring the present site into closer compliance with the Ordinance as a result.
5. The rezoning will facilitate replacement of a building that was destroyed by fire.

There being no further comments, Mr. Adam Dagenhart **MOTIONED, SECONDED** by Mr. Brent Rockett to **APPROVE** the Consistency Statement as presented. The vote was unanimous.

### **Directors Report**

Ms. Morris said some of us attended training at the COG, it was a pretty good training. Mr. Pinto and Mr. Wise attended. They talked about some things that have come up in our meetings.

The Chair said it was kind of fun to see some of the people just blurt stuff out that was way off.

Mr. Wise agrees; we have a lot better staff than then some of them do.

Mr. Pinto said a lot better training then anybody in there.

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Mr. Wise said they were asking questions about stuff we should know. We should be thankful that Cabarrus County has a good staff that helps with our work.

Mr. Pinto said one of the modules that we went through had pictures of a site plan in Concord.

Ms. Morris said the Branchview Apartments was a case study.

She said it was interesting to hear some of the comments and to think these people are the people making the decisions related to these cases. If she had been the applicant, I would be a little leery.

She does not think they have any training scheduled anytime soon. We will keep looking for different training opportunities for the Board and she put money in the budget again next year for training opportunities as well.

Hopefully, you all received the email for the May 16, 2018, joint meeting with Harrisburg. She was going to do a brief presentation tonight but decided instead of going down that route and so you would not have to sit through it again. For those members who have been engaged in that process, there is not really anything different that will be in the next presentation.

The main things that we are hearing, and have heard, is how do you maintain a small town character. We need a mix of retail uses, people want to live here, but there is nowhere for them to work, so how do we address that? The people that live there and jobs are not really matching up; what happens with the speedway? Everybody wants parks and greenways, but they do not want to pay for them and they do not want their taxes to go up.

She said interestingly enough, the whole opinion that the Town should somehow intervene in the Town Center is still a very strong opinion; through all of the surveys. Probably one of the recommendations of the plan will be for the Town to explore whether or not there are some P3's that can happen that get that area going.

She does not know if the Publix across the street will help or hurt. It is interesting that the question that was not asked, was would you be willing to put your tax dollars towards this or have the tax increase for the Town Center to get it moving? Because, they really want the greenways but they do not want their taxes to go up to have to pay for it.

So, May 16<sup>th</sup>, 6:00 p.m. to 8:00 p.m., in the Multipurpose Room. We will be providing either heavy hors d'oeuvres or dinner.

The Board will be asked at the joint meeting to make a recommendation on the plan that night, on moving the plan forward to the respective Elected Officials. Each Board will make separate recommendations for their elected officials, so that we can kind of keep it moving. We have advertised it, posted it at the Courthouse, we will send out an agenda.

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Harrisburg would prefer to have their side of it done before July 1<sup>st</sup>, the new fiscal year. We may be June or July going to the Board of Commissioners, depending on what is happening with the budget; sometimes items get moved to July from June.

We are working through our flood map ordinance updates. If the Board remembers back in the fall and then maybe in January, we had those meetings that you were invited too. Some of you went on line and checked out the new maps on the FRIS system to see what was happening with your property or properties you knew were in the floodplain.

Our letter of final determination, which is the letter that FEMA sends out, they anticipate it will be out on May 16<sup>th</sup>. Once that gets here, we will be working on updating our flood ordinance and we may be looking for some input from the Text Amendment Committee. The State has pushed out another model ordinance and some of what is in that ordinance that they are suggesting are really good ideas, but we are not sure if they are ideas that would be commonly accepted throughout the community. We may be looking for some feedback on that.

One of the items is essentially, that you do not allow any development in the floodplain, floodway or 100 year floodplain. In Cabarrus County, we have some lots that are 100 percent in the 100 year floodplain. Do we go that far or do we try to incorporate language maybe that says no new structures located in the 100 year floodplain. She said seeing if we can still kind of meet the intent, maybe without pushing as far as they are asking; because there is some flexibility there.

Our new maps, based on that final determination letter being issued May 16<sup>th</sup> should be effective November 16<sup>th</sup>, so we have to have all of this done and in place prior to that date.

It will have to come to the Planning and Zoning Commission first because it is part of the ordinance and then to the Board of Commissioners for them to approve the new ordinance language.

She said 2015, was the last one we adopted; not too long ago and incorporated into the Development Ordinance. Then there was a 2016 and now there is a 2017, hopefully, they will not come out with a 2018, that we will have to go back and change.

### **Legal Update**

Mr. Koch said we finally got the agreement signed with the John Bunyan Green heirs with reference to the Muddy Creek Wastewater Treatment Plant. The Variance that the Board approved has all been taken care of; no appeals, so the legal matters related to that are now finally concluded.

The Board may recall that he mentioned, that on the Carter Towing zoning violation that was appealed (the Board heard sometime last year), that Mr. Carter had taken out a warrant for stalking against Mr. Therelle, who was the neighbor that had taken some photographs and actually

testified at the hearing. He said that trial on that criminal charge was this past Wednesday and he was found not guilty of that.

Mr. Jay Lowe testified in that case. There was quite a bit of testimony that was at variance with what was actually stated in your zoning violation hearing of last year. Also, there was some admission of some new violations. We were trying to get a tape of that proceeding. It turns out they no longer tape the misdemeanor criminal proceedings in District Court. They still do all the civil and they do the felony part that is in District and other things and Superior Court, but they do not tape those, so we do not have right out of their mouth about some violations that are occurring out there. We are going to follow up on that as he understands and deal with those. That is where that matter stands at the moment.

With reference to Mr. Phillip Little, he apparently has some potential new violations out on his property that may end up coming before the Board. He has never paid his money to the County, even though he has not put the trailer with the signs back out yet. We filed a motion this week for contempt and obtained a Show Cause Order; that matter is still going on.

In the Shelly case, he has released all of his attorney's except one. That particular individual is going to carry his case forward, but he is involved in a couple of trials. We had actually scheduled some depositions, to try to bring that case as to the County to an end, on that last remaining claim that was not dismissed. That is going to probably take a couple of months now because of some scheduling issues.

The Chair asked about the solar farm on Joyner and Mt. Pleasant Road.

Mr. Koch said if the Board recalls, when you approved that conditional use permit, one of the conditions was that they maintain the existing trees in the buffer, particularly around Mr. and Mrs. Stewart's house. Well that was clearly in the conditional use permit and one of the conditions.

In the meantime, the project was sold to a company called Canadian Solar. They are the ones that are actually developing it now, instead of the original developer who applied to the Board. He said there is nothing wrong with that and it is not uncommon.

They hired a company called DEPCOM to do the actual construction of the solar arrays. Apparently, DEPCOM came in there and basically, bulldozed down most of the existing trees in the buffer and particularly those around the Stewart property, creating a violation of the conditional use permit. He said that is what occurred.

In the meantime, we have spent a considerable amount of time and effort trying to figure out how to deal with that. It does not appear that Canadian Solar was aware of what was going on with their contractor. We do not know exactly where the miscommunication came in or exactly what happened and how much intent to just ignore the conditional use permit existed when all of this occurred.

But, Canadian Solar has stepped in and is attempting to rectify the situation. They are working very closely with the Stewarts to come up with a new landscape plan to deal with that and try to replicate, in so far as you can, with new plantings what was originally there. That is still an open issue.

As you can imagine, the Stewarts are very unhappy about it. There may be some other issues out there. Ms. Morris will be going out there this Thursday to conduct another inspection and see what else may be out there. We at least know this part of it is an issue.

He said that site is so massive, remember that it is 650 acres and not all of the property lines were clearly marked and the buffer lines established when Ms. Morris and Mr. Wayne Krimminger first went out there to see it. They are going to try to go back and do that and see if there is anything beyond dealing with the property around the Stewarts.

It also turns out that apparently, the plan that was presented to this Board for approval was maybe iteration number 5 out of maybe 13. Apparently, they are constructing number 13. So, we have an issue there that we are attempting to deal with and the question is, how much of a difference is there?

He said there is that issue, it's the buffer issue. The Stewarts have counsel and he has been dealing with them. Canadian Solar has counsel and we have been dealing with them and trying to figure out how to work through this; if it can be worked through.

That is where it is, there a lot of other little details but that is essentially it. We had a meeting a couple of weeks ago with pretty much all the people that are involved, including the Stewarts, their lawyer, Canadian Solar people, landscape people that could talk about how to address rectification of the buffer areas. There is a lot of effort being made to try to see if it can be dealt with but, it is an open issue at this point.

It was required that DEPCOM post a bond at 125 percent of an estimated cost, to dealing with replacement of that buffer area. He said that has been put into place, but that is not the end of the matter. There is a notice of violation that was issued and it is being dealt with.

That is as much as he can tell at the moment. He supposes there is a possibility it will be coming back the Board in some fashion, we just don't know what that is going to look like yet. There is more to come. It is not anything that is being litigated, there is no lawsuit that has been filed, there is no appeal that been filed or anything at this point. It has not gone to that stage yet, but it is an open issue. We have spent a lot of time on it.

There being no further discussion, Ms. Holly Grimsley, **MOTIONED, SECONDED** by Mr. Adam Dagenhart to Adjourn the meeting. The vote was unanimous.

**APPROVED BY:**

Planning and Zoning Commission  
Minutes  
May 8, 2018

Mr. Chris Pinto, Chair

**SUBMITTED BY:**

Arlena B. Roberts

**ATTEST BY:**

Susie Morris, Planning and Zoning Manager

DRAFT

# Memo

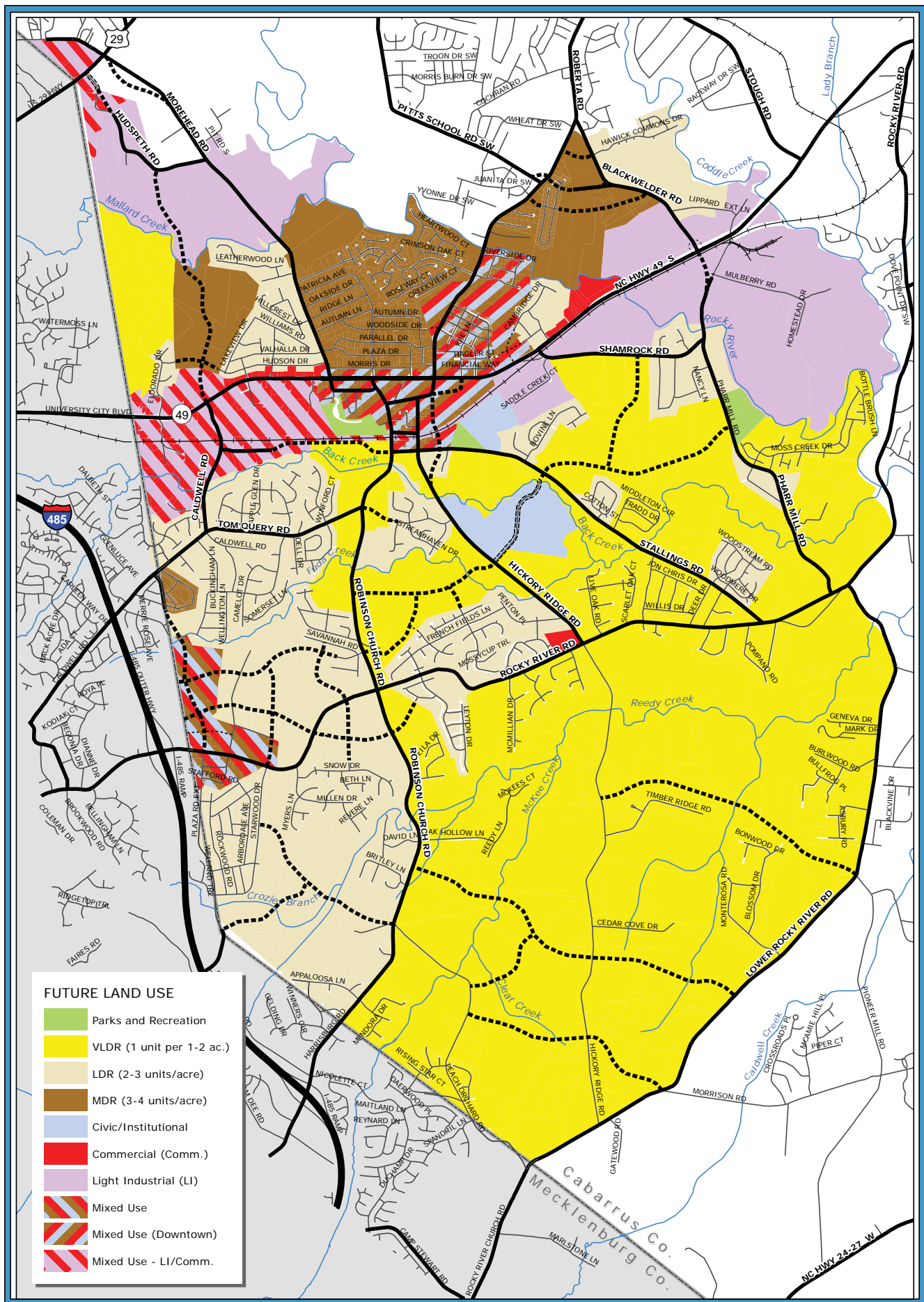
**To:** Cabarrus County Planning and Zoning Commission  
**From:** Susie Morris, AICP, CZO, Planning and Zoning Manager  
**CC:** File  
**Date:** 6/4/2018  
**Re:** Proposed Adoption of the Harrisburg Area Land Use Plan Update (PLOTHER2018-00001)

---

- Cabarrus County and the Town of Harrisburg have partnered to plan the Harrisburg Planning area of the county for several years. The plan was last updated in 2010.
- The County and Town partnered in 2017 to review and update the existing Harrisburg Area Land Use Plan to better reflect current market conditions and land supply.
- As part of the update process, an Advisory Committee was formed to oversee the process and to provide input and direction to Staff and the consultants working on the project. Cabarrus County had three representatives on the Committee with two alternate members filling in as needed. Cabarrus County was fully represented at all four of the Advisory Committee meetings. Commissioner Kiger also participated in the process as the Planning and Zoning Commission liaison.
- The project included multiple opportunities for public input, including in person engagement sessions (4) and on-line survey opportunities (2). Town and County Staff used social media (Twitter, Facebook, County newsletter and Channel 22 programming) to solicit input from citizens for the proposed plan and to encourage participation in the planning process.
- As a result of the efforts by the town and the county to encourage public engagement, there were more than 200 in person contacts at the public meetings and over 450 on-line survey responses.
- Using citizen input and area analysis, the Advisory Committee, Consultants and Staff formulated a draft plan that recognizes existing land use patterns as well as future opportunities for new or expanded land use.
- The final draft plan was presented at a joint meeting of the Cabarrus County Planning and Zoning Commission and the Town of Harrisburg Planning and Zoning Board on May 16, 2018.
- The Town of Harrisburg Planning and Zoning Board voted on May 16<sup>th</sup> to make a recommendation to their elected officials for approval of the draft plan.
- The draft Harrisburg Area Land Use Plan document is included for reference. The current land use plan document is located at <https://www.cabarruscounty.us/resources/harrisburg-area-land-use-plan>.



- The current adopted and proposed land use maps are included separately for ease of comparison.
- Please read through the document and be ready to discuss the proposed updates to the plan.
- Following the discussion, the Commission will be asked to make a recommendation to the Board of Commissioners regarding the updated document.



**FIGURE 9: HARRISBURG  
AREA FUTURE LAND USE MAP**  
HARRISBURG AREA LAND USE PLAN  
August 2010

3,000 1,500 0 3,000 Feet



LandDesign

Data Sources:  
Cabarrus County GIS, Mecklenburg County GIS  
N:\\_2008\1008319\GIS\FLUM 63010.mxd

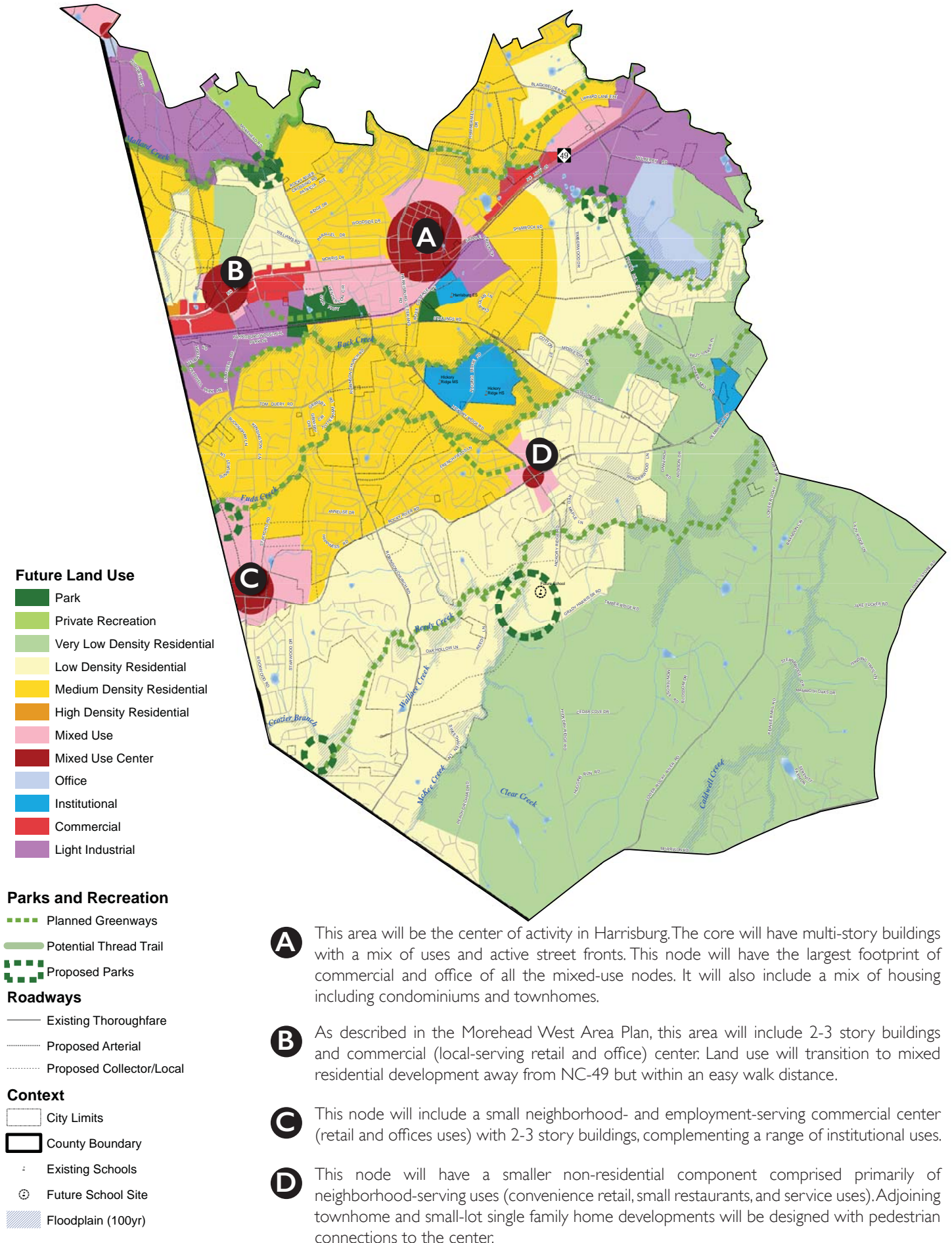


Figure 4. Future Land Use Map



# FUTURE LAND USE

The following descriptions are descriptive, not prescriptive, and indicate the general types of land uses desired in each category on the future land use map.



## PARKS

Various types of passive and active parks and other recreation facilities may be accommodated in all land use categories. Where depicted on the Future Land Use Map, Park areas may be developed as community-serving facilities, such as public greenways, neighborhood or community parks.



## PRIVATE RECREATION

This area is intended to include indoor and outdoor recreation facilities that are suited to sites with adequate road infrastructure. Indoor sports arenas, family-oriented entertainment, and special-use outdoor venues are examples of the types of uses that may comprise these areas.



## VERY LOW DENSITY RESIDENTIAL

This area is intended to remain predominantly rural while allowing residential uses at very low densities. Conservation design is a common subdivision approach if utilities are available, allowing smaller lots in exchange for more open space. Architecture is sensitively integrated, avoiding valuable natural features. Gross densities are less than one unit per acre for conventional subdivisions, and up to two if conservation design standards are met. Some business uses typically located in rural areas, such as small engine repair, may be appropriate provided such uses adhere to performance standards to minimize potential impacts to surrounding uses.



## LOW DENSITY RESIDENTIAL

This area is characterized by low- to moderate-density residential development (up to 3 dwelling units per acre). Single-family detached homes are complemented by natural areas as well as formal and informal open space amenities. Conservation design, which includes more open space in exchange for smaller minimum lot sizes, may be recommended in locations with sensitive natural resources.



## MEDIUM DENSITY RESIDENTIAL

This area is comprised of predominantly single-family detached homes but may include attached single family units, such as townhomes and duplexes. The mix of housing types are intended to create neighborhoods with a density range of 3 to 4 dwelling units per acre. Improved open spaces are interspersed and the streetscape is more formal.



### HIGH DENSITY RESIDENTIAL

This area is intended to accommodate a variety of age groups and lifestyle preferences. Attached single family and multi-family units are intended for areas where access to the transportation network is high. Density ranges from 4 to 15 dwelling units per acre.



### MIXED USE

This area encourages the blending of complementary commercial, office and a mix of residential housing types. These areas typically offer a horizontal mix of uses where changes in use occur between adjacent buildings. Buildings are typically one and two stories. Designed to facilitate access via walking and biking, mixed-use areas should be located near potential commercial and mixed use nodes where access via the road network, sidewalks, greenways, and/or future transit is feasible.



### MIXED USE NODE

These areas are intended to be centers of activity that include a mix of retail, restaurant, service, and office uses in addition to a variety of residential housing types. The mix of uses can be horizontal as well as vertical where a change in use can occur between floors of the same building. Buildings of two stories and above are common, and connected streets include short block lengths and pedestrian facilities. Open space is integrated in the form of plazas and greens.



### OFFICE

These areas include a mix of professional offices, flex space and supporting commercial uses.



### INSTITUTIONAL

These areas include schools, churches, hospitals, campus style development and government uses.



### COMMERCIAL

These areas are comprised of local-serving retailers, restaurants, professional offices, and service uses. Such uses may be vertically mixed in multi-story buildings. All such uses should be located along major corridors and concentrated at key intersections.



### LIGHT INDUSTRIAL

These areas are intended to be light industrial, office, and multi-tenant flex space. This area promotes the concentration of employment-generating uses in an area with desirable access to highways (I-485 via NC-49). Limitations on use should serve to mitigate negative impacts on residential development, such as traffic congestion, noise, and light pollution.





# HARRISBURG

## AREA LAND USE PLAN

---

May 31, 2018



CABARRUS COUNTY  
*America Thrives Here*



HarrisburgNC  
*The right side of opportunity*





# ACKNOWLEDGEMENTS

Thank you to everyone who has taken part in this process. A special thanks to the people with asterisks next to their names, who served on the Advisory Committee that oversaw this project.

## HARRISBURG TOWN COUNCIL

Steve Sciascia, Mayor  
John Booth, Mayor Pro Tem  
Benita Conrad  
Rick Russo  
Ron Smith  
Christopher Barfield  
Diamond Staton-Williams  
Troy Selberg

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Scott Noel \*  
Lloyd Quay, P&Z Vice Chair \*  
Andy Rathke, P&Z Chair  
John Overcash  
Steve Bedwell

## HARRISBURG STAFF

Josh Watkins, Planning Director  
Tom Lesser, Zoning Administrator  
Andrew Strong, Planner  
Carly Bedgood, Planning Support Specialist

## CONSULTANT TEAM

Nealon Planning  
Stewart  
LandDesign  
Noell Consulting  
Kimley-Horn & Associates

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Diane R. Honeycutt, County Commissioner, Vice Chair  
Blake Kiger, County Commissioner  
Elizabeth (Liz) Poole, County Commissioner  
Lynn Shue, County Commissioner

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James Litaker  
Jerry Wood, Jr.  
Marry Blakeney  
Richard Price  
Steve Wise

## CABARRUS COUNTY STAFF

Susie Morris, Planning and Zoning Manager  
Phillip Collins, Senior Planner





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# ABOUT THE PLAN

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## PROJECT OVERVIEW

As development pressure increases with regional growth, the Town of Harrisburg and Cabarrus County receive increasingly frequent requests for development approvals and face important decisions regarding public investments in infrastructure and services. To inform those critical decisions, Town and County leaders chose to engage in a joint planning process to establish a vision for the future of the Harrisburg Area (Planning Area) along with a policy guide.

The Harrisburg Area Land Use Plan (HALUP) was originally adopted in 2010. Since then, the US has emerged from the Great Recession. Economic recovery coupled with the completion of I-485 and the high speed rail corridor improvements has put the Planning Area on the radar of both investors and conservationists. An update to the original plan, this plan

acknowledges more current circumstances. It defines a direction for future growth and development in and around Harrisburg. It is a policy document that conveys a future vision and the steps to achieve that vision. The plan is intended to clearly reflect the community's expectations and desires, and to guide decisions of Cabarrus County staff, Harrisburg town staff, appointed and elected officials, developers, and others involved in local development-related activities and conservation efforts. More importantly, the plan is intended to facilitate consistency in the decision-making that affects this area, which is governed by the two jurisdictions. Such decisions include those related to development proposals for properties within the study area, regulatory changes, and public infrastructure investments. All such decisions should support the implementation of the plan.



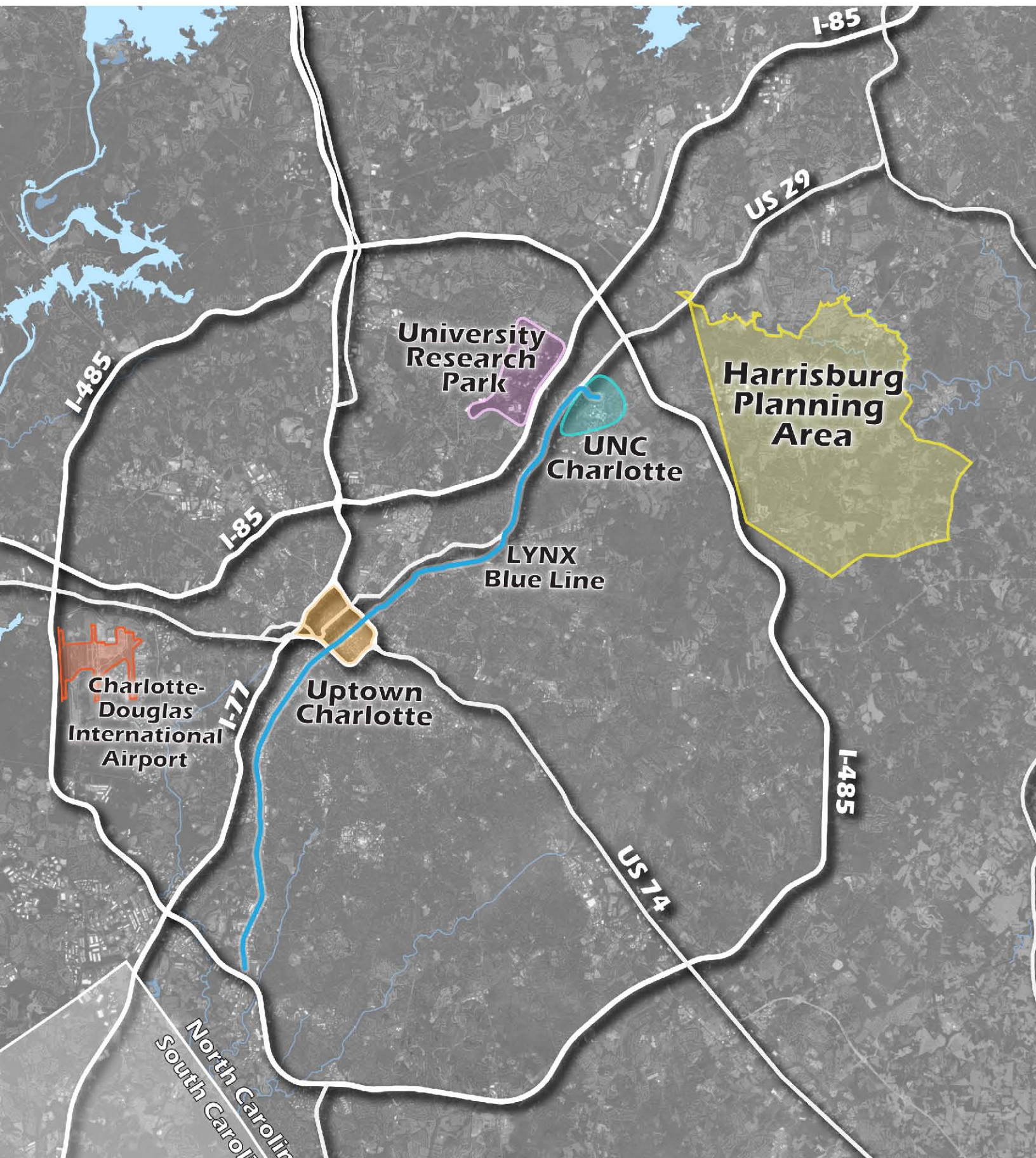


Figure 1: Regional Context Map



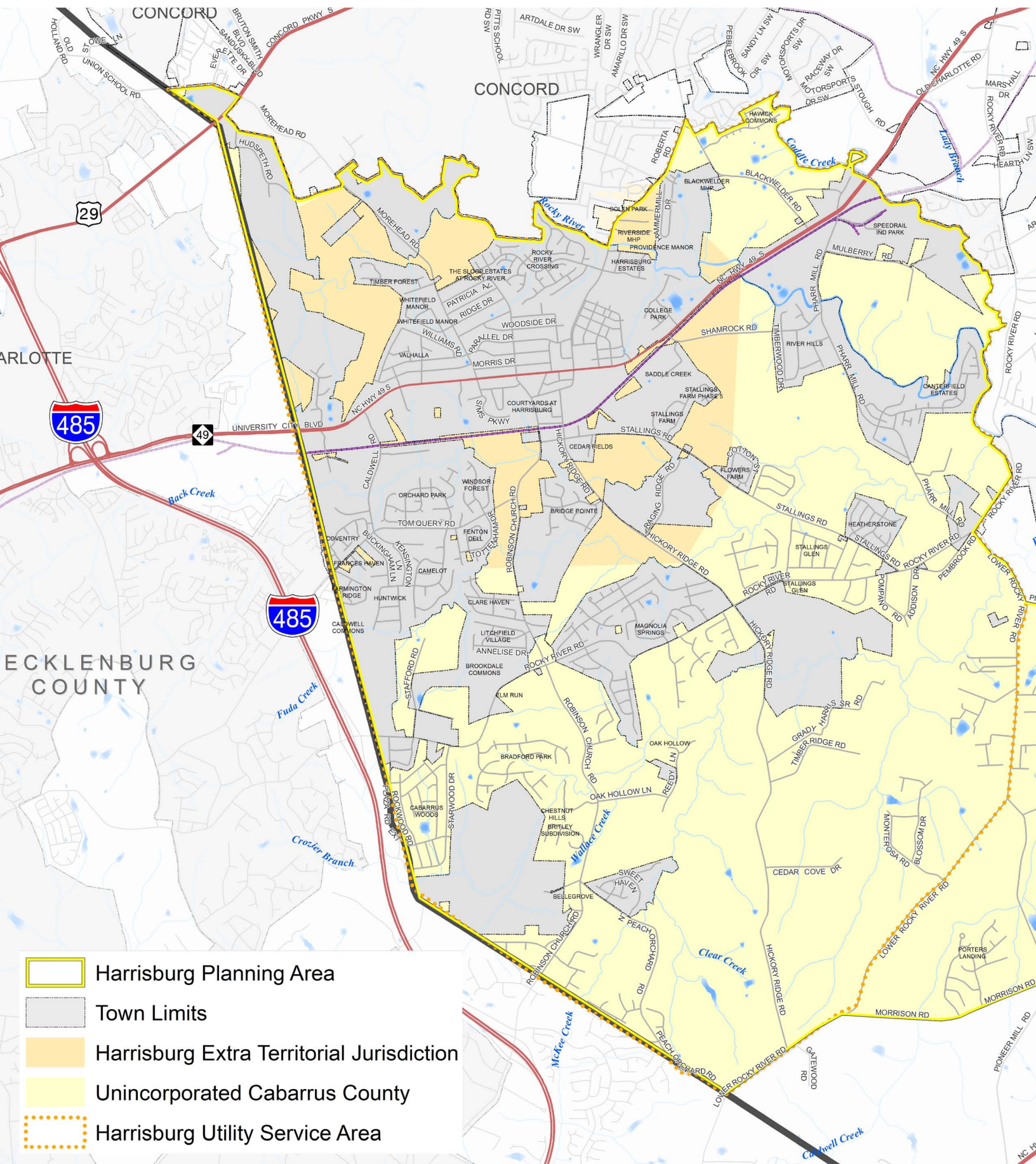


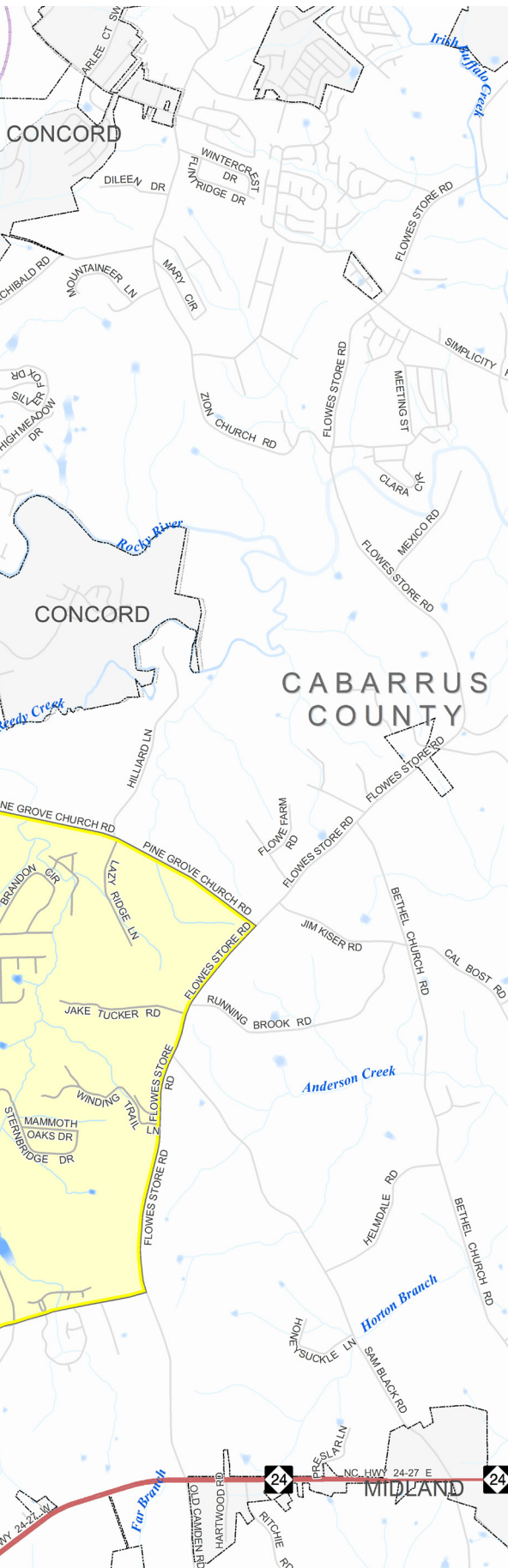
Figure 2. The Planning Area

# ABOUT THE PLAN

## THE PLANNING AREA

Incorporated in 1973, the town of Harrisburg is located in Cabarrus County adjacent to Mecklenburg County. Harrisburg is a growing suburban community that sits directly in the path of future metropolitan growth. It is known regionally as a great place to live and raise a family. It is in close proximity to the University of North Carolina at Charlotte and the Charlotte Motor Speedway (CMS). Also, it is a 30-minute drive from Uptown Charlotte and is within five miles of I-485, which connects to I-85 and I-77. The quality of life it offers and its position in the region are a couple of the many attributes that make this area an ideal location for people of all ages and a wide variety of businesses. In recent years, it has been attracting mostly residential development. With the completion of I-485 beltway around Charlotte, it is becoming increasingly more appealing to businesses.

Encompassing 17,000 acres, the Harrisburg Planning Area includes incorporated and unincorporated areas. Cabarrus County uses the small area plan concept for long range planning. The Harrisburg Planning Area is one of seven currently designated planning areas. These planning areas typically encompass municipalities and areas outside the municipalities, like Extra Territorial Jurisdiction (ETJ) areas, future annexation areas or utility service areas. Using the small area concept allows for a more detailed study of the area.







# ABOUT THE PLAN

## THE PLANNING PROCESS

This plan was created through community collaboration. The citizens of both incorporated and unincorporated areas were able to work together to create a coordinated plan that takes into consideration the impacts of anticipated growth and development in the area. It is the result of a ten-month process with meetings and other community input opportunities offered over the course of this period. Three community meetings, complemented by online surveys, occurred at key points to give community members a chance to have their voices heard. Stakeholder interviews, another type of meeting held in the initial phase of the project, augmented the information gleaned from the analysis of existing conditions, as people with direct knowledge of crucial data shared insights and clarified the relevance of specific

circumstances to the planning process. Advisory Committee meetings were also conducted during this process. The committee was made up of six members, each representing either the Town's or the County's Planning and Zoning Board. This committee helped guide the process by deciphering input, sharing background information, offering ideas for policy changes, and evaluating products of the process prior to completion.

The seven steps of the process, as depicted in Figure 3, began with a detailed examination of existing conditions and culminated in preparation of this document and companion summary documents.

Summaries of public input are provided in the Appendix.

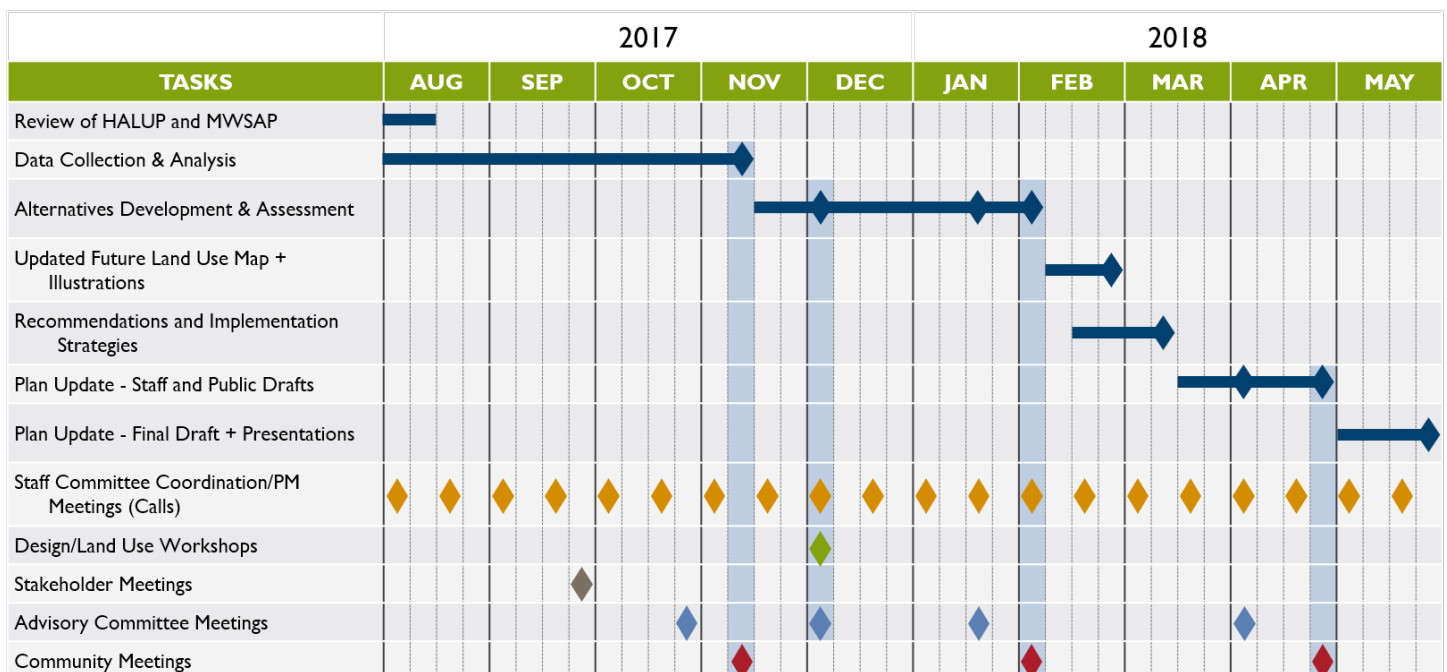


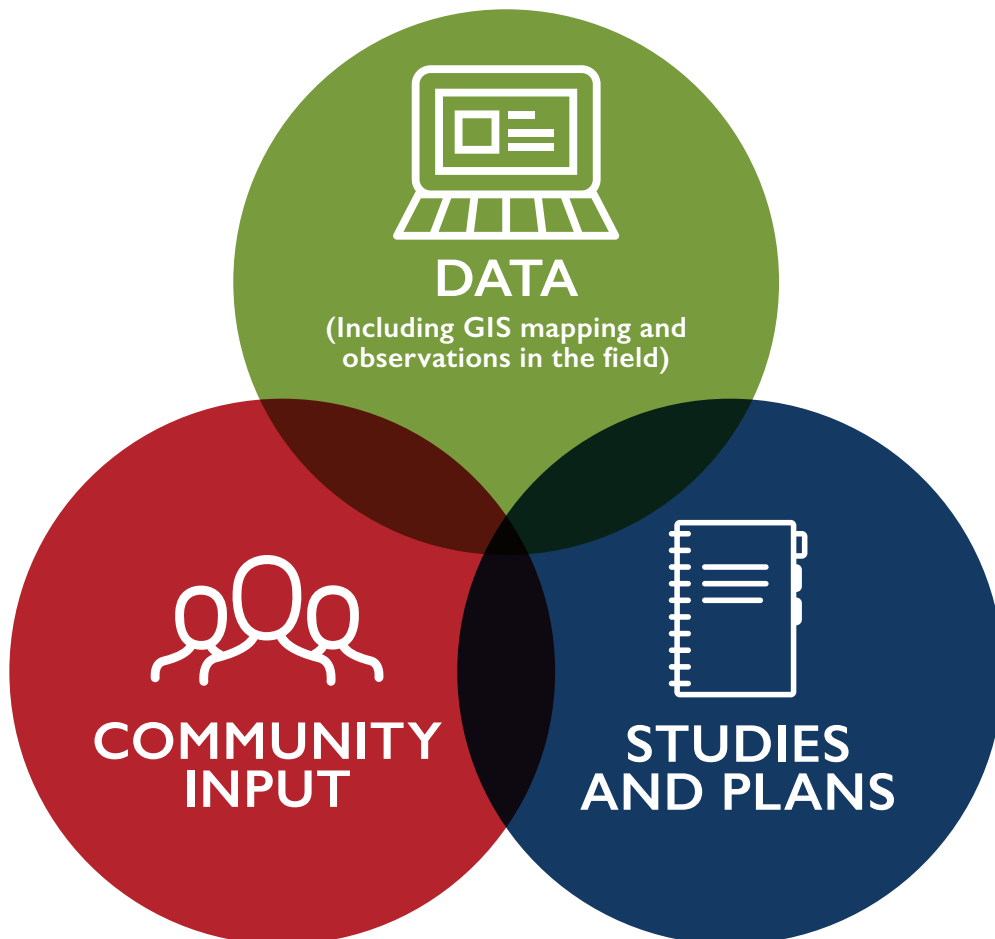
Figure 3. Project Schedule



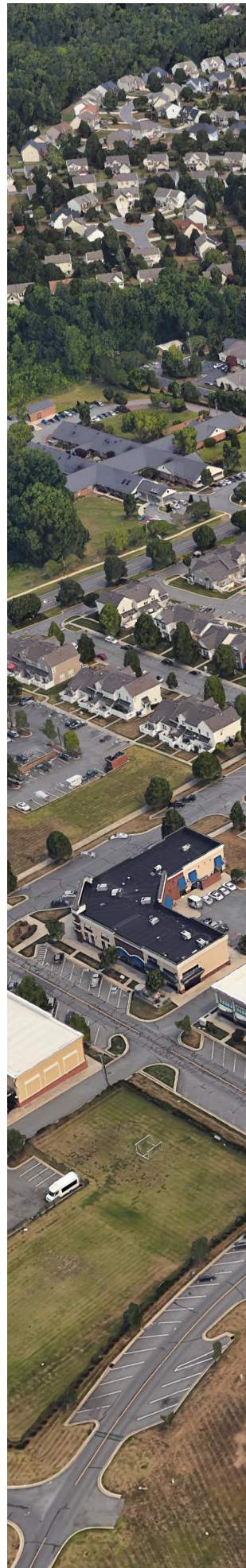
# HARRISBURG AREA TODAY

This section provides a snapshot in time, documenting current circumstances and trends that should influence any choices made and drive the development of a plan for the future. The primary purpose of a detailed examination of the existing conditions of the Planning Area is to gain a deep understanding of the potential impacts of various factors on future economic, environmental, and social conditions of the Planning Area. Taking such impacts into account, we identify the assets to protect over time, issues to overcome, and opportunities to seize in order to

realize a better future. Everything we understand about the Planning Area today is the result of analysis of a combination of inputs: data from various sources, GIS mapping, and field observations; completed studies and adopted plans; and information gathered from stakeholders through in-person meetings and surveys. The information on the following pages highlights the key findings of the existing conditions assessment. A more detailed report of the existing conditions is provided in the Appendix.



Three primary sources of information are relied upon in the early stages of the process.







Source: Google Earth



# DEMOGRAPHICS

## POPULATION CHARACTERISTICS

Harrisburg has a growing mature population, with more than 40% of households being over the age of 55.

*“Millennials are much more likely to choose to locate in close in, urban neighborhoods... and they currently live in urban areas at a higher rate than any other generation... millennials value walkable, urban neighborhoods so highly that location has become a major factor in their job considerations”*

– Core Values: Why American Companies Are Moving Downtown, Smart Growth/america/cushman & Wakefield



The average household size: **3.75**  
This is an indication that the community has a lot of families living in the Planning Area.

## HOUSING



Voted Money Magazine's 2015  
**Top 50** Places to Live

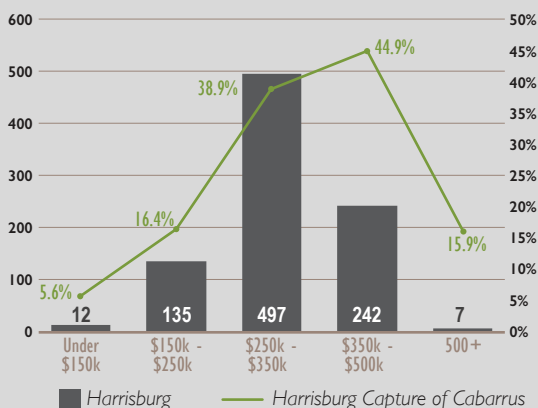
UNITS ADDED 2010 – 2015

**\$227,965**

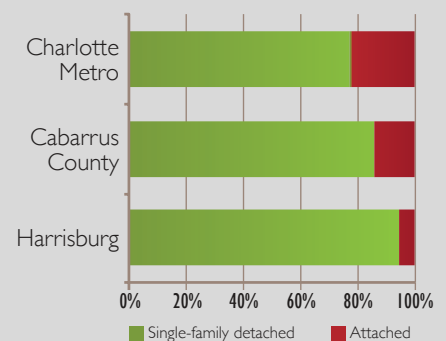
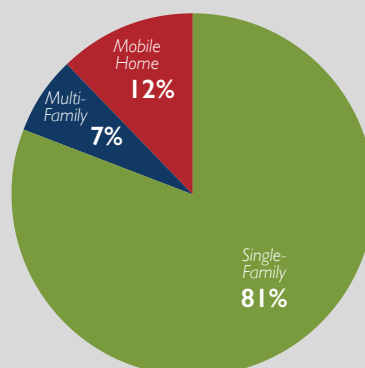
HOMEOWNERSHIP RATE

**90%**

SINGLE-FAMILY SALES 2013 – 2015



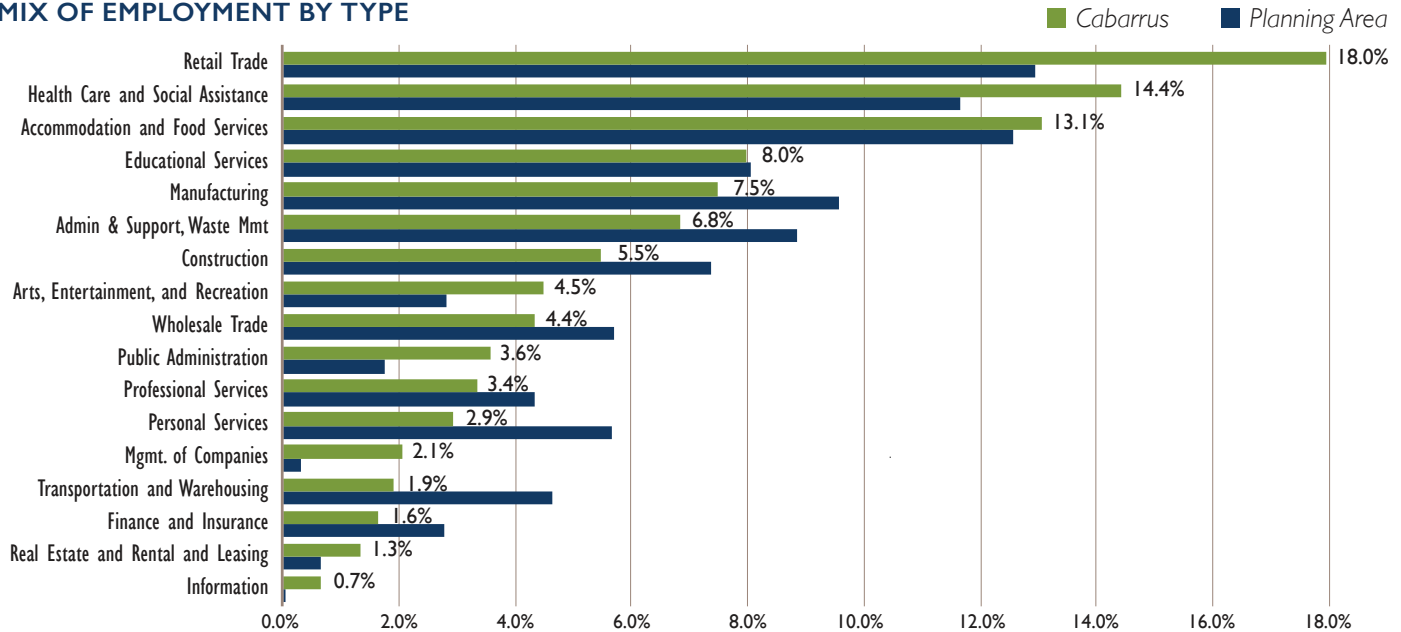
UNITS ADDED 2010 – 2015



# MARKET/ECONOMIC DEVELOPMENT

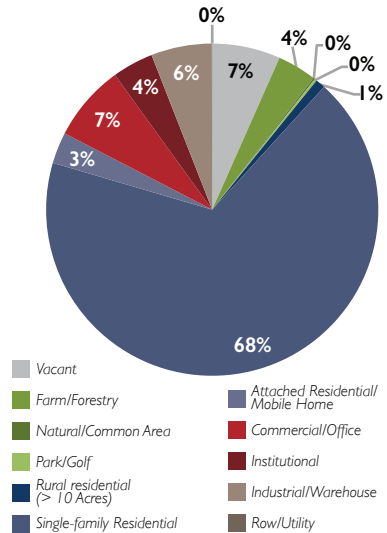
## EMPLOYMENT

### MIX OF EMPLOYMENT BY TYPE



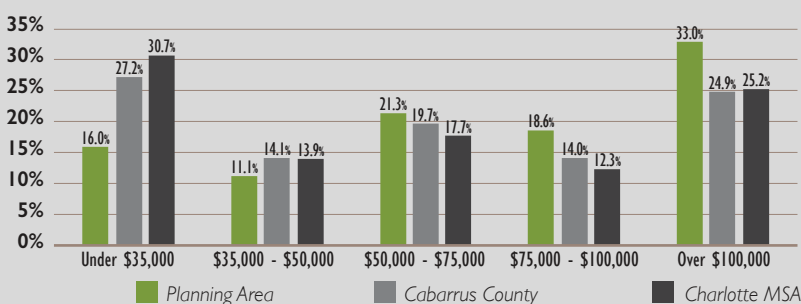
### KEY ISSUES + OPPORTUNITIES

- Harrisburg has a growing mature population. More than 40% of heads of households over age 55.
- Harrisburg is not appealing to Millennials and younger market audiences who will drive housing demand in the coming decade.
- More lower-maintenance, walkable, and lifestyle-driven alternative housing products (townhouses, apartments, walkable single-family) in mixed-use locations to gain appeal to older and younger age groups.
- Locations around parks, trail systems, and in or near town centers create value and allow more dense, alternative housing to function as a lifestyle products as opposed to just being a price-alternative.
- High housing costs, due primarily to regulations, are tempering availability.
- Harrisburg's job growth has been modest. The lack of a diverse range of employment exacerbates existing issues of generating substantial tax base revenue. Also, residents commuting to higher-wage jobs elsewhere in the region leads to increased traffic as well as retail leakage (spending money closer to places of employment instead of Harrisburg).
- Local-serving employment core at the Rocky River/ I-485 intersection can potentially attract local-serving professional services, medical and other office users.
- Industrial users can be attracted to areas along NC-49 and to the north toward Charlotte Motor Speedway where uses are more compatible with the noise generation by the speedway and value the proximity to I-85.



## INCOME

### EXISTING HOUSING BY TYPE (%)



### PER CAPITA INCOME

\$31,129

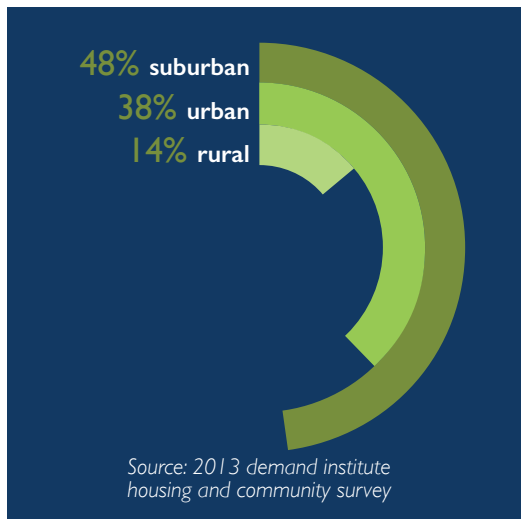
### THE MEDIAN HOUSEHOLD INCOME

\$75,762

# MARKET CONDITIONS PROJECTIONS

## DEMAND/OPPORTUNITY SUMMARY

	Units/SF Demanded	Notes
<b>For-Sale Residential</b>	<b>4,715 total units</b>	Close to half could be for smaller lot, townhouse, or villa product—creating lifestyle the key
<b>Rental Residential</b>	<b>1,180 units</b>	Opportunities to serve older adults in Harrisburg, provide wider array of options for Millennials and others
<b>Office</b>	<b>131,000 local</b> Add'l demand potential beyond study area	Mostly local-serving, smaller uses—requires placemaking/lifestyle
<b>Retail</b>	<b>730,000 SF</b> (net after Farmington)	Creating mixed-use, walkable areas key to capturing demand
<b>Industrial</b>	<b>700,000 SF</b>	Situated (and connected) for more opportunity for distribution to Charlotte region



## RESIDENTIAL MARKET TRENDS MAJOR GENERATIONAL SHIFTS

### GREATER INTEREST IN MORE WALKABLE/URBAN LOCATIONS:

- 47% say it's very important to live and work without relying on a car
- Car ownership actually decreasing from 73% in 2007 to 66% in 2011
- 64% prefer/require walkable locations
- 62% want to live in mixed-use communities in close proximity to shopping, dining, and work.
- Half want to live in Suburban locations (shown at right) vs. Urban ones—an opportunity for Harrisburg.

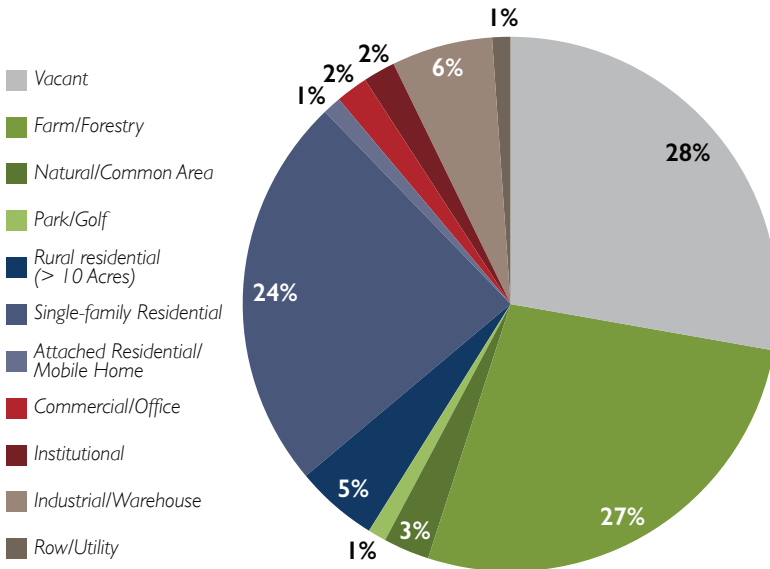
## FOR-SALE HOUSING DEMAND 2015-2040

- Harrisburg has potential to support around 4,715 new owner households between 2015 and 2040
- 87% or so of this demand can be for detached products, nearly half of which could be for smaller-lot single-family or villa/patio homes
- Smaller offerings of townhouses and condos are sup-portable.

	2015-2020	2020-2025	2025-2030	2030-2035	2035-2040	Total
<b>Small-Lot SDF</b>	254	151	169	189	212	974
<b>Average/Large Lot SDF</b>	579	344	386	432	484	2,225
<b>Villa/Patio Home</b>	242	144	161	181	203	931
<b>Townhouse</b>	121	72	81	90	101	466
<b>Condo</b>	31	19	21	23	26	120
<b>Total</b>	1,228	729	817	916	1,026	4,715

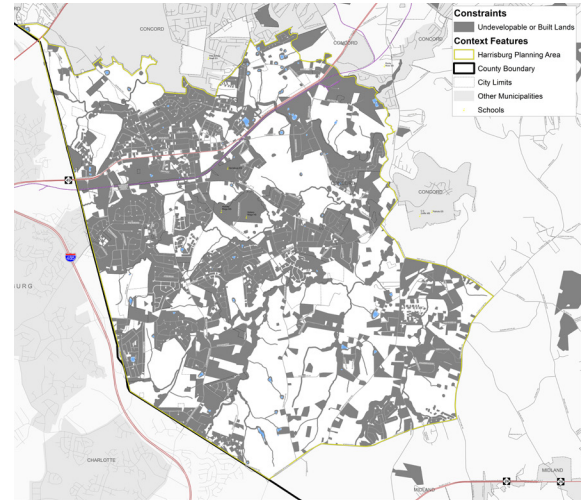
# LAND USE

## EXISTING LAND USE



Commercial, office and industrial uses make up only 8% of the land area. Residential uses make up 30% of the land area but comprise 70% of the tax base.

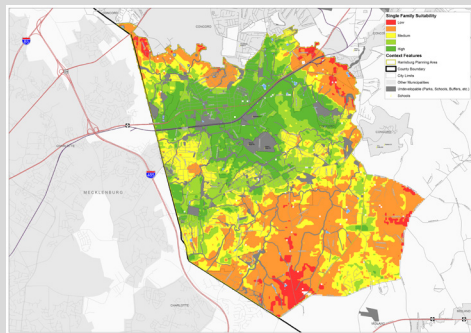
## LAND SUPPLY



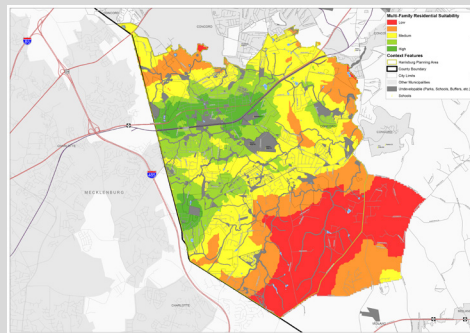
Approximately 40% of the land area in the study area is developed (gray on the map above). Vacant and underutilized areas make up the remainder of the areas (white areas on map)

## FUTURE LAND USE

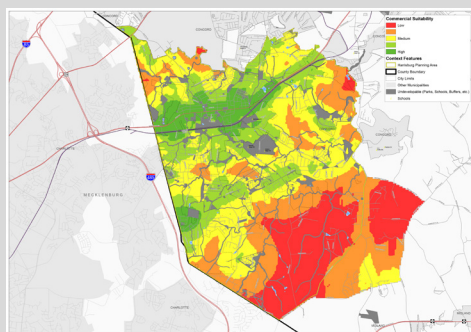
Future development in the planning area will be attracted to sites that are suitable based on land use.



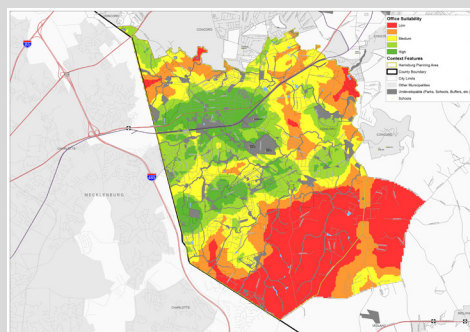
RESIDENTIAL SUITABILITY



MULTI-FAMILY SUITABILITY



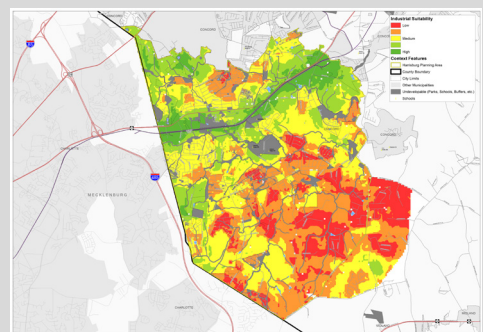
COMMERCIAL SUITABILITY



OFFICE SUITABILITY

## SUITABILITY

The suitability of land refers to the capacity of land to support a type of land use as well as the attributes that make the area or parcel more or less attractive for future growth. Suitability analysis is based on the factors that typically influence site selection. Green areas are more suitable and red areas are generally less suitable.



INDUSTRIAL SUITABILITY



# PARKS AND RECREATION

## PARKS, RECREATION, GREENWAY, AND OPEN SPACE

There are 40 miles of greenways planned for the Harrisburg Area.

Priority Connections: Connections to the Carolina Thread Trail via Mallard Creek and the planned Cross Charlotte Trail, along Rocky River to the growing network of trails in Cabarrus County, and Concord, along Back Creek, and along Fuda Creek



Plazas and village greens can create central organizing spaces in new mixed use areas and can act as a draw for businesses and an amenity for local residents.



Nature parks and preservation of streams and water quality and native forests were among the parks, recreation and open space priorities identified at the first public meeting.

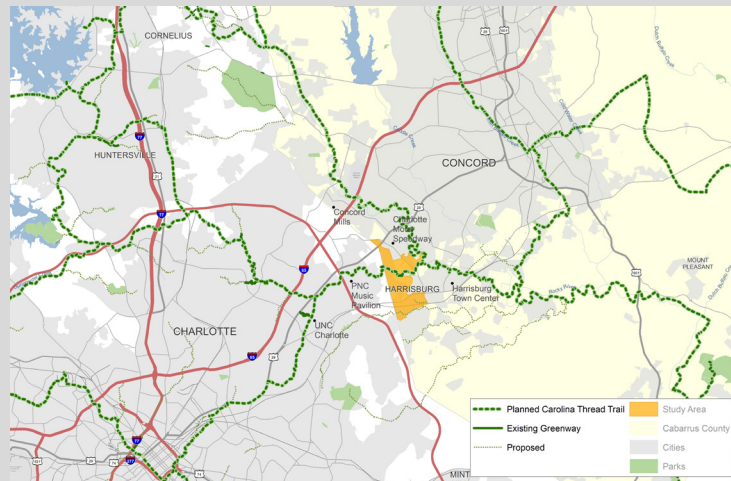


Walking trails and greenways were the top priority recreation facilities identified in the Harrisburg Parks Master Plan and the Cabarrus County Parks Comprehensive Master Plan.

## FACILITIES AND PROGRAMS

The Town currently has two park facilities, the Harrisburg Park on Sims Parkway and the Stallings Road Park, adjacent to Harrisburg Elementary. The Town maintains Pharr Mill Road Park in partnership with Cabarrus County. The 2010 Parks and Recreation Master Plan called for key updates to the parks system. Harrisburg's Comprehensive Bicycle, Pedestrian and Greenway Master Plan and

the Carolina Thread Trail Master Plan for Cabarrus County identifies greenway linkages, primarily located along major tributaries, that will be part of the 15-county Carolina Thread Trail, a regional network of greenways, trails and conserved land. This Plan will identify parks and greenway priorities for the Town based on adopted plans and feedback received during the process.





# NATURAL RESOURCES

## VALUABLE NATURAL RESOURCES

Nearly all major tributaries have been considered impaired by NC DEQ standards over the past two decades. Large forested flood plains and four designated Natural Heritage Natural Areas are unique features in the area.

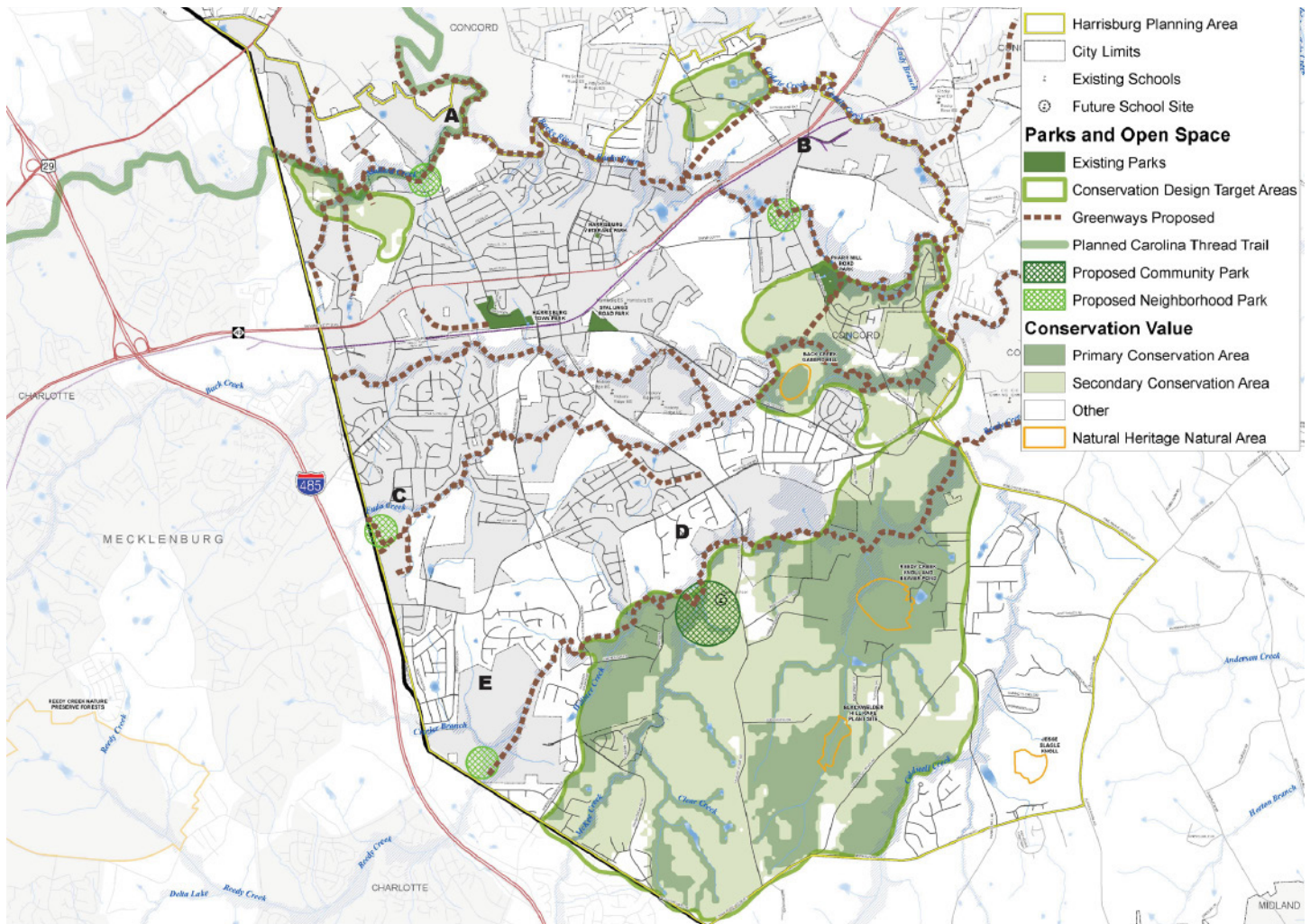
Some areas adjacent to streams have slopes that exceed 15%, which are challenging for development.

Land fragmentation from dispersed low density residential development threatens habitat and farmland in the Reedy Creek subwatershed (southern part of Planning Area).



Conservation Subdivisions or Open Space Subdivisions are a design strategy that places development on the most suitable areas while conserving large portions of properties (typically 40%+) as common open space. This design strategy preserves property rights, allows flexibility in design while also encouraging the preservation of unique natural features as amenities.

Source: LandDesign





# UTILITIES

## WATER

The city of Concord serves as the water source for the Town of Harrisburg and the surrounding area. Harrisburg has a contractual agreement to purchase water from Concord. The current contract expires in June of 2018.

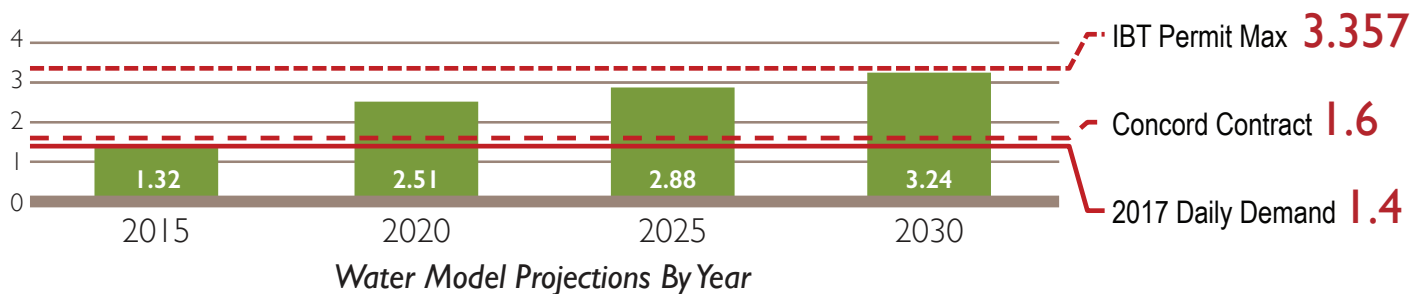
**Demand** – 2015 Projection: 3.24 MGD in 2030, which indicates a future deficit of 1.71 MGD.

**Irrigation** – Use of water for irrigation, especially on residential lots (lawns), is exacerbating water demand issues.

**Need for additional storage** – An elevated tank is being considered



### WATER MODEL - PROJECTED DEMAND (MGD)

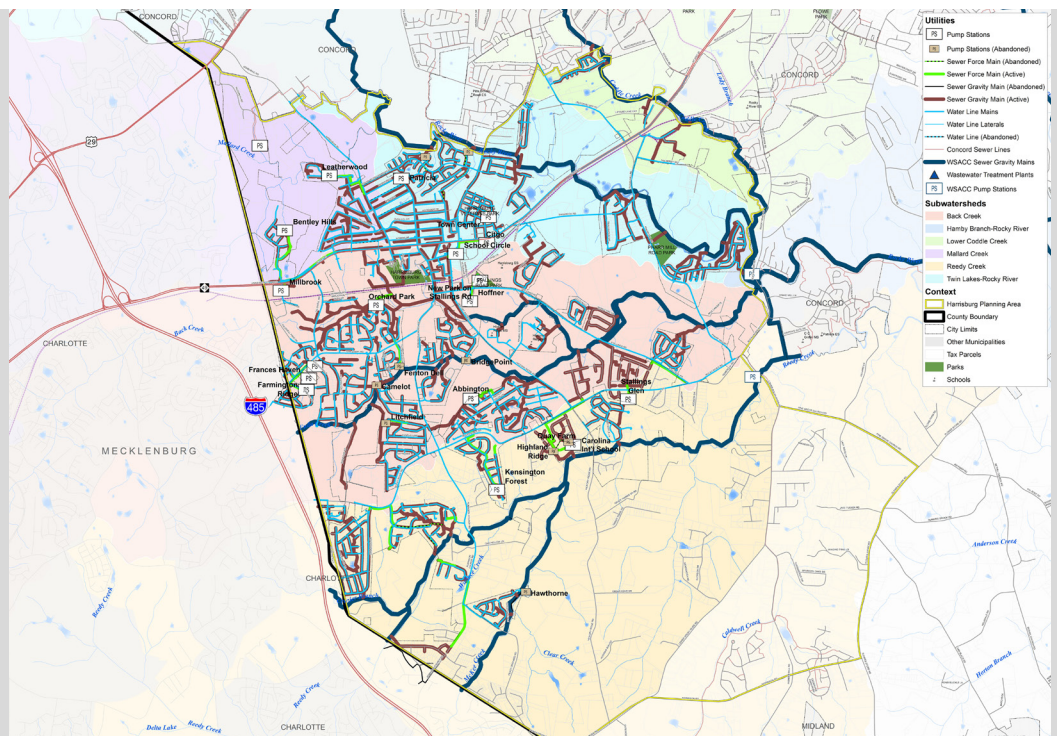


## WASTEWATER

Sewer lines are needed in key areas where development is desired.

Soil in areas not served by sewer have a "very limited" classification for septic tanks, making development challenging.

The south eastern portion of the Planning Area has not been served due to an agreement to phase extensions in support of the 2010 plan. It expired in 2015.



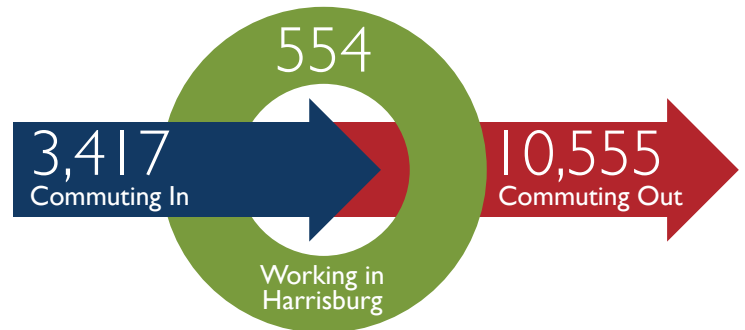


# TRANSPORTATION

## ROADWAYS PROVIDING KEY CONNECTIVITY & MOBILITY

Roberta Road, Hickory Ridge Road, Rocky River Road, Morehead Road, Caldwell Road, NC-49

The existing roadway network's degree of connectivity limits local and regional mobility to a series of key streets or crossings, causing undue congestion during the peak hour periods.



## RAIL

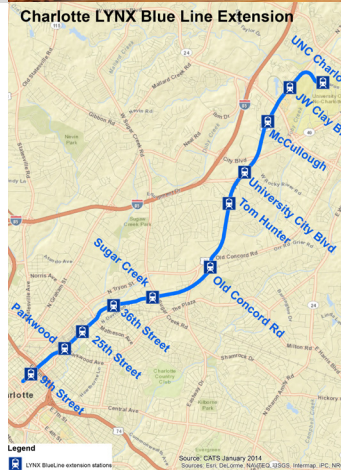
Rail line improvements have been made to accommodate high-speed rail between DC and Atlanta. A stop is being contemplated in Harrisburg.



## TRANSIT

Charlotte Area Transit System (CATS) provides Express Bus service via 46x to Harrisburg Road at I-485.

The LYNX Blue Line Extension will have a park-and-ride stop on US-29 at UNC Charlotte.



## BIKE / PED

State bicycle routes 1 and 6 (Piedmont Spur) traverse through Harrisburg

Town Hall Neighborhood Fitness Trail

Town Park trails (Pharr Mill, Stallings Road, Community Park)









# HARRISBURG AREA 2040 VISION

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Planning for the future involves the creation of a vision for the future and setting a course toward that desired future condition. A plan enables the community to manage change with intention. By looking ahead 20 or more years, we can anticipate changes, be deliberate about the choices we make, and create the future we wish to see. During the planning process, goals and objectives are determined, and they serve as the “framework” for developing land use and growth management solutions. The existing conditions assessment, in addition to the direct feedback from the Advisory Committee, stakeholders and community, informed the the following goals, which were established with the intent of realizing the most successful future possible. The

goals of the Harrisburg Area Land Use Plan guided the creation and evaluation of three land use scenarios. The final Harrisburg Area Land Use Plan, complete with the Harrisburg Area Future Land Use Map, is a direct outcome of feedback in response to the three scenarios. In addition, four subareas were identified with the intention of focusing on areas that are subject to the greatest amount of development pressure in the near future. The conceptual illustrations were created for these focus areas to determine what types of development are appropriate and that these areas would be able to support. The conceptual illustrations, most importantly, communicate the intent of the Future Land Use Map in these areas.

# GOALS AND OBJECTIVES

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The goals and objectives, which guided the development of the Harrisburg Area Land Use Plan and shaped the Future Land Use Map, were developed with thoughtful input from the community and refined with feedback on specific

development scenarios (refer to Appendix). They will continue to provide direction for the future of the Planning Area, informing decisions of town and county leaders as they manage change over the next two decades.

## MAINTAIN OPEN SPACE

- To support recreation
- To support agriculture
- To support natural resource protection
- To maintain existing neighborhoods
- To maintain property values

## IMPROVE CIRCULATION & SUPPLY TRANSPORTATION OPTIONS

- To reduce congestion
- To ensure easy access within the community
- To ensure easy access with other places

## EXPAND RECREATIONAL OPPORTUNITIES

- To help people lead healthier lives
- To enhance quality of life
- To give all residents more things to do in town
- To support sports for our youth

## PROMOTE HIGH QUALITY DEVELOPMENT

- To maintain property values and protect property owner's investments
- To improve the look and image of the town
- To make the area more attractive to potential residents, employers and other investors

## ENCOURAGE A MIXTURE OF LAND USES AND HOUSING OPPORTUNITIES

- To expand tax base
- To support local retail

## FOSTER ECONOMIC DEVELOPMENT

- To support local businesses
- To create jobs and diversify industries
- To attract investments

## SUPPORT EXISTING AGRICULTURE

- To protect wildlife habitats and important plant communities
- To protect the viability of existing agricultural operations
- To maintain scenic views

## ENSURE THE SCALE OF GROWTH FITS THE SMALL TOWN CHARACTER OF HARRISBURG

- To be sure the residents of the planning area get the kind of growth they want

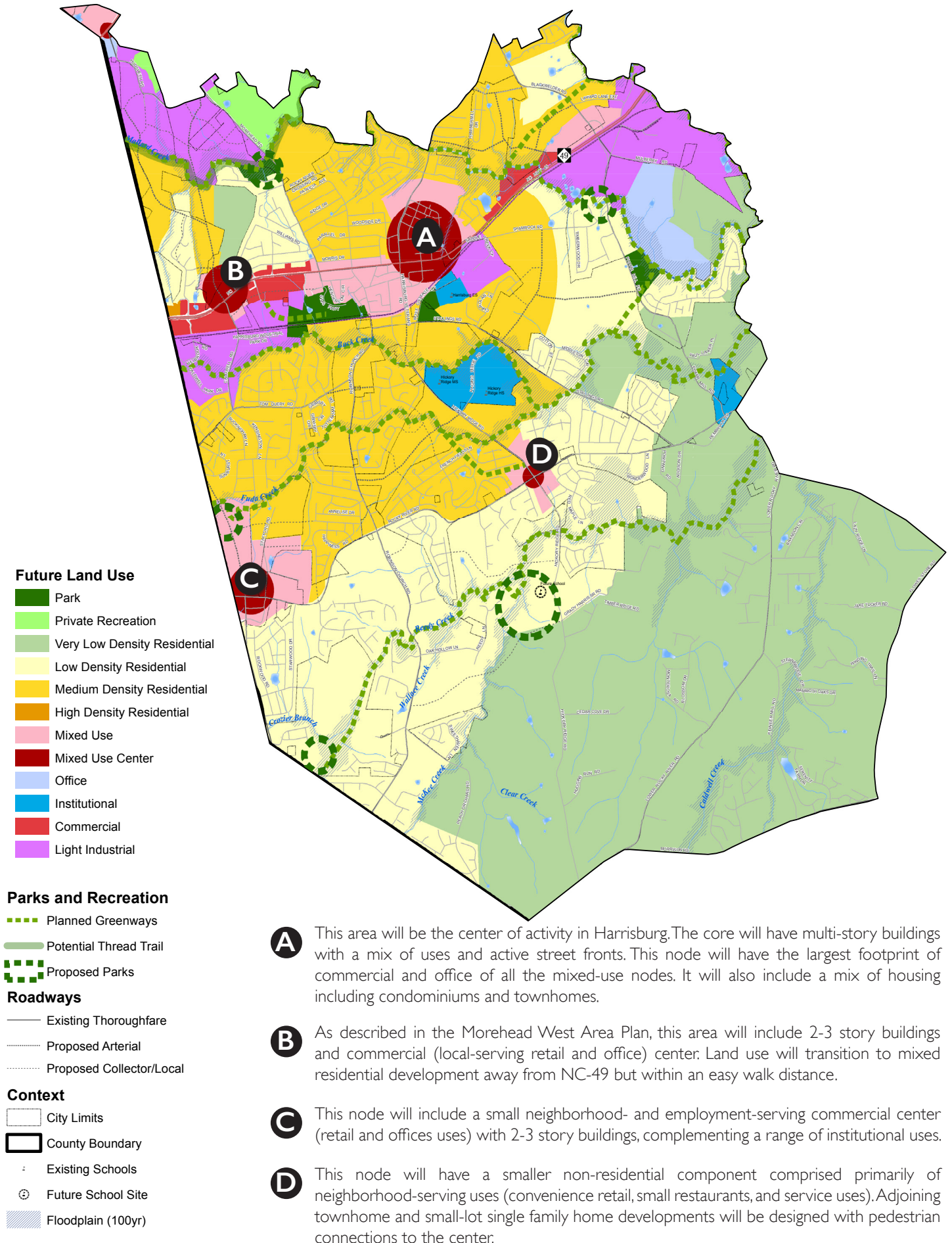


Figure 4. Future Land Use Map



# FUTURE LAND USE

The following descriptions are descriptive, not prescriptive, and indicate the general types of land uses desired in each category on the future land use map.



## PARKS

Various types of passive and active parks and other recreation facilities may be accommodated in all land use categories. Where depicted on the Future Land Use Map, Park areas may be developed as community-serving facilities, such as public greenways, neighborhood or community parks.



## PRIVATE RECREATION

This area is intended to include indoor and outdoor recreation facilities that are suited to sites with adequate road infrastructure. Indoor sports arenas, family-oriented entertainment, and special-use outdoor venues are examples of the types of uses that may comprise these areas.



## VERY LOW DENSITY RESIDENTIAL

This area is intended to remain predominantly rural while allowing residential uses at very low densities. Conservation design is a common subdivision approach if utilities are available, allowing smaller lots in exchange for more open space. Architecture is sensitively integrated, avoiding valuable natural features. Gross densities are less than one unit per acre for conventional subdivisions, and up to two if conservation design standards are met. Some business uses typically located in rural areas, such as small engine repair, may be appropriate provided such uses adhere to performance standards to minimize potential impacts to surrounding uses.



## LOW DENSITY RESIDENTIAL

This area is characterized by low- to moderate-density residential development (up to 3 dwelling units per acre). Single-family detached homes are complemented by natural areas as well as formal and informal open space amenities. Conservation design, which includes more open space in exchange for smaller minimum lot sizes, may be recommended in locations with sensitive natural resources.



## MEDIUM DENSITY RESIDENTIAL

This area is comprised of predominantly single-family detached homes but may include attached single family units, such as townhomes and duplexes. The mix of housing types are intended to create neighborhoods with a density range of 3 to 4 dwelling units per acre. Improved open spaces are interspersed and the streetscape is more formal.



### HIGH DENSITY RESIDENTIAL

This area is intended to accommodate a variety of age groups and lifestyle preferences. Attached single family and multi-family units are intended for areas where access to the transportation network is high. Density ranges from 4 to 15 dwelling units per acre.



### MIXED USE

This area encourages the blending of complementary commercial, office and a mix of residential housing types. These areas typically offer a horizontal mix of uses where changes in use occur between adjacent buildings. Buildings are typically one and two stories. Designed to facilitate access via walking and biking, mixed-use areas should be located near potential commercial and mixed use nodes where access via the road network, sidewalks, greenways, and/or future transit is feasible.



### MIXED USE NODE

These areas are intended to be centers of activity that include a mix of retail, restaurant, service, and office uses in addition to a variety of residential housing types. The mix of uses can be horizontal as well as vertical where a change in use can occur between floors of the same building. Buildings of two stories and above are common, and connected streets include short block lengths and pedestrian facilities. Open space is integrated in the form of plazas and greens.



### OFFICE

These areas include a mix of professional offices, flex space and supporting commercial uses.



### INSTITUTIONAL

These areas include schools, churches, hospitals, campus style development and government uses.



### COMMERCIAL

These areas are comprised of local-serving retailers, restaurants, professional offices, and service uses. Such uses may be vertically mixed in multi-story buildings. All such uses should be located along major corridors and concentrated at key intersections.



### LIGHT INDUSTRIAL

These areas are intended to be light industrial, office, and multi-tenant flex space. This area promotes the concentration of employment-generating uses in an area with desirable access to highways (I-485 via NC-49). Limitations on use should serve to mitigate negative impacts on residential development, such as traffic congestion, noise, and light pollution.



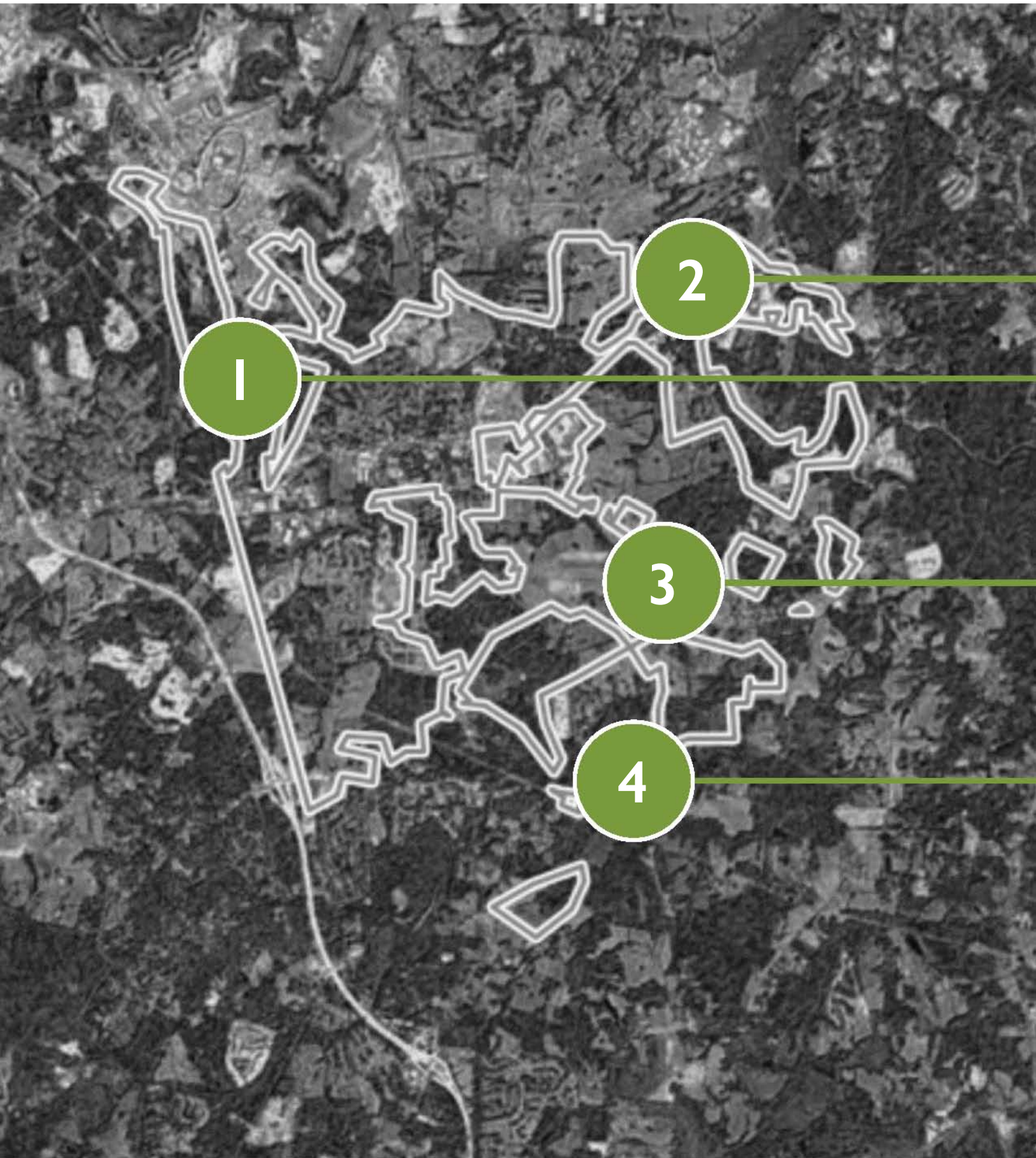


Figure 5. Focus Areas Map

# FOCUS AREAS

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## ● BLACKWELDER

An area of agriculture today, it is also the ideal location for future residential development as well as a compatible mix of nonresidential uses adjacent to NC-49.

## ● MOREHEAD WEST

The western gateway into Harrisburg, this area was the subject of the Morehead West Area Plan (2017). This area offers Harrisburg the best opportunity for job growth.

## ● SHAMROCK

Positioned between existing neighborhoods, this area is a draw for residential development with easy access to nearby schools and parks.

## ● HICKORY RIDGE

This area encompasses the site of the new elementary school (opening Fall 2019) and a potential future park, which will attract residential development.

The evolution of the Planning Area will occur over a period of years. However, some areas will be subject to development pressures in the near future. Each focus area named above has been studied as part of the planning process to better understand development potential consistent with the future land use vision. Each set of conceptual illustrations on the pages that follow convey one of several possibilities. Considering the potential use of parcels collectively, decisions about future development on individual parcels can be made in a manner that optimizes the utilization of land while adhering to the community's objectives.



# FOCUS AREA I: MOREHEAD WEST

The western gateway into Harrisburg, this area was the subject of the Morehead West Area Plan (2017). It offers Harrisburg the best opportunity for job growth, particularly in this mixed-use node at Caldwell Road extension. It offers current and future residents more housing choices within walking distance of local-serving retail, dining, services, and small-scale professional offices.

## FEATURES

- A mix of uses and quality development offer a new shopping and dining destination within walking distance of surrounding neighborhoods.
- Future commercial uses organized around an internal network of local streets and private drives.
- Businesses benefit from the synergy created by close proximity to one another.
- A mix of housing types could be accommodated to meet the increasing demand for “empty nester” housing units, which include patio homes, townhomes, condominiums, and other multi-family products.
- Traffic is improved by local trips diverting to the local network, thereby reducing turning movements along NC-49.
- The positioning of 2- and 3-story buildings, flanked by a well-designed streetscape, can create a center of activity that is both functional and welcoming.
- The streetscape frames views and incorporates furnishings, signs and lighting to create a sense of arrival into Harrisburg.







Figure 6. Focus Area I











# FOCUS AREA 2: BLACKWELDER

An area of agriculture today can become a central greenspace amidst future neighborhoods that include an array of housing types. Higher densities here provide opportunities to walk and bike to the Town Center and justify investments in desired commercial development as well as transit access.

## FEATURES

- Existing agriculture remains in operation as development in close proximity to the town center takes shape.
- Town houses and live/work units are among the buildings that flank the commercial development.
- Small scale commercial uses along NC-49.
- A variety of green spaces and trail connections are part of the amenities.



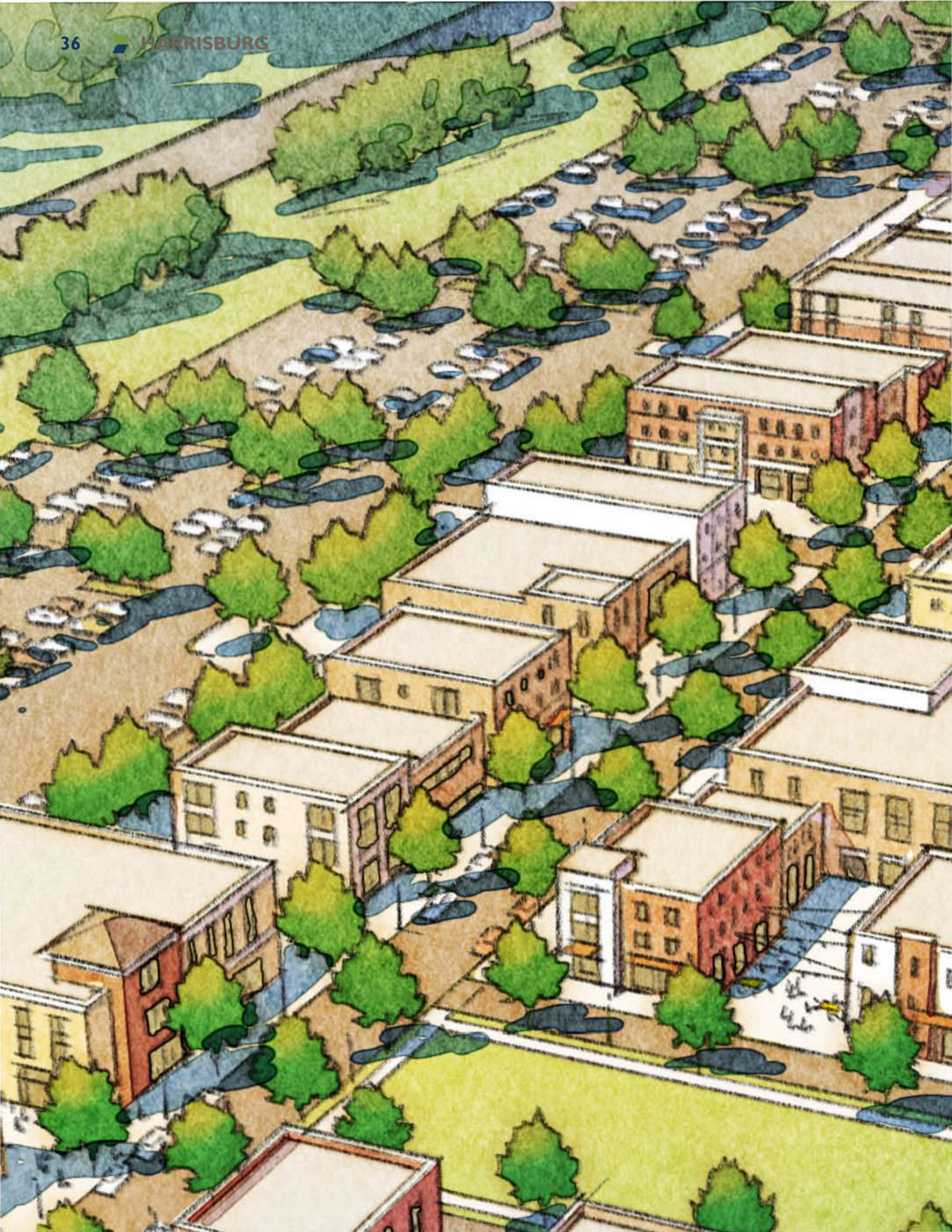


2



Figure 7. Focus Area 2











## FOCUS AREA 3: SHAMROCK

A mixed-residential development area where new homes, varying in size and appealing to diverse age groups, can coexist. Complemented by a variety of open spaces, the neighborhoods within this area have access to passive and active recreation, including a greenway planned for the Back Creek corridor. Densities transition to match adjacent neighborhoods. Natural resources such as the mature forest near Back Creek, steep slopes along Pharr Mill Road and pastoral features such as existing fencerows are preserved.

### FEATURES

- Single-family homes and lots are comparable to adjoining neighborhoods.
- Compact residential mix can accommodate senior living community or simply create a multi-generational neighborhood.
- Attached units near Pharr Mill Park help increase safety.
- Open space is integrated.
- Greenway connections are possible.





3



Figure 8. Focus Area 3











# FOCUS AREA 4: HICKORY RIDGE

The clustering of homes around the new elementary school creates a village setting and preserve natural areas along tributaries. Densities begin to taper off as distance from the school increases. The overall density of development is the lowest in the Planning Area. The residents can enjoy ample open space afforded by conservation design while having easy access to the school and potential adjoining park via sidewalks, greenway trails, and bike routes.

## FEATURES

- Development is integrated into the landscape. Lots are clustered to avoid important natural resources.
- The school is the focal point and an amenity for adjacent neighborhoods.
- Green space is an important feature at the “front door”.
- Lot sizes vary to respond to market demand.
- A parallel road network lessens congestion on Hickory Ridge Road.





4



Figure 9. Focus Area 4















# REALIZING THE VISION

The following recommendations along with specific strategies, or action steps, will aid efforts to achieve the goals and realize the vision reflected in the Future Land Use Map. The recommendations and strategies are in no particular order. They are presented to enable those involved in implementation to effectively evaluate and determine priorities, and identify short-, mid-, and long-term tasks. However, the project team, working with the Advisory Committee, has identified five priority actions steps to be considered immediately following plan adoption.

## TOP 6 PRIORITY ACTION STEPS

### **FACILITATE COMPLETION OF HARRISBURG TOWN CENTER**

*Refer to LU-1*

### **CREATE VALUE IN KEY AREAS TO ATTRACT INVESTMENT: AMENITIZED, MIXED-USE NODES WITH EMPLOYMENT**

*Refer to LU-6 and ED-3*

### **AMEND THE UDO**

*Refer to LU-7*

### **DEVELOP THE GREENWAY SYSTEM THROUGH PUBLIC AND PRIVATE PARTNERSHIPS**

*Refer to PR-1*

### **RENEGOTIATE WATER AGREEMENT WITH CITY OF CONCORD**

*Refer to LU-3*

### **DEVELOP A STRATEGIC MOBILITY PLAN**

*Refer to TR-1*

# LAND USE & DEVELOPMENT DESIGN

## LU-1

### CONTINUE EFFORTS TO CREATE A TRUE “DOWNTOWN” FOR HARRISBURG

The Town Center should function as the heart of the community—a central gathering place for residents, a viable business location, and a memorable destination for visitors. Its role in economic development cannot be underestimated. A recent issue of Southern Business & Development encouraged companies in search of a place to invest to “check out the community’s downtown,” as the quality of the downtown is evidence of the community’s stability and commitment. Survey respondents indicated strong support for the completion of Town Center.

- Maintain the location of Town Hall, and incorporate other civic uses that, like Town Hall, function as key anchors and attract visitors on a regular basis, which is critical for the long-term viability of the businesses that have located—or will locate—in this area.
- In the short term, continue to implement the master plan for Town Center; approving development that is consistent with the plan.
- Over the long term, expedite the completion of the Town Center.
  - Work with the current owner(s) to devise a strategy to move the Town Center development forward in a manner that serves the interests of the Town as well as the owner(s). Consider the following as part of the strategy:
    - Remove regulatory barriers. Evaluate and amend the Planned Unit Development (PUD) district zoning. Alternatively, rezone the PUD to a special design district that facilitates the completion. Consider the creation of a form-based district with a corresponding regulating plan. Land use conditions may be applied vertically (by building floor) as well as horizontally to ensure first floor uses activate the street level, where appropriate.
    - Create a development agreement. Components of the agreement may include conditions for Town participation in funding infrastructure and amenities to catalyze private investment.
    - Consider the establishment of an independent, non-profit organization comprised of representatives of the Town of Harrisburg, business owners, and residents to oversee development.
  - Identify catalyst sites and, with Town participation, facilitate key development projects in partnership with private developers that are in alignment with the Town Center Master Plan (or subsequent regulating plan, if one is adopted by the Town) and spur more development that is in keeping with the vision.
- Consider the creation of a special tax district to fund improvements to and maintenance of the public spaces within.

## LU-2

### LINK LAND USE WITH TRANSPORTATION IMPROVEMENTS

Transportation, like other forms of infrastructure, should support the desired development pattern. However, development design and intensity can have an impact on the capacity of the existing and future network. Decisions about development should minimize congestions while supporting alternative modes in specified areas.

- Reduce traffic congestion through development orientation and access. Development along major roads should have access from local and internal street systems to minimize traffic volumes on key connectors and reduce turning movements.
- Consider the impacts and opportunities of the High Speed Rail corridor. Discourage incompatible uses and mitigate impacts with setbacks and noise attenuation requirements.
- Consider the possibility of transit connections that utilize CK Rider, CATS, a village circulator, or link to Blue Line LYNX to leverage concentrated development in Harrisburg Town Center.
- Establish design standards that create a compatible relationship between development and future greenways. This may be accomplished with an overlay district for development standards to be applied within a specified distance of the greenway corridor.



### DOWNTOWN MANSFIELD

Mansfield, Connecticut had no downtown until recently. The community’s desire for a vibrant, mixed-use, pedestrian-oriented downtown for Mansfield was realized in 2017 after many years of collaboration between the public and private sectors. The Mansfield Downtown Partnership is an independent, non-profit organization formed to oversee the effort. Since 2001, the Partnership has worked to create a master plan, establish the regulatory framework, attract tenants, and program the public spaces with events. Today, “Downtown Storrs” is the heart of the community enjoyed by residents, visitors and students.

[www.mansfieldct.gov/content/1914/6514/6528/default.aspx](http://www.mansfieldct.gov/content/1914/6514/6528/default.aspx)



## LU-3

### BALANCE DEVELOPMENT AND CONSERVATION INTERESTS

Concern was expressed by some residents about the loss of open space and the need to manage growth to protect trees, farms, and open space. Rural land owners also conveyed a desire to retain the right to sell or develop their land. Balancing these demands can be done through policies and design criteria that specify the role of open space in future development while providing flexibility to meet market demands. Survey respondents preferred conservation design over large lot conventional subdivisions more than 2 to 1.

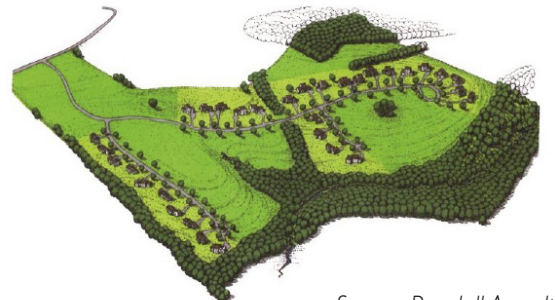
- A land conservation approach to the subdivision of land, as permissible in the County's Open Space Subdivision Option and the Town's Conservation District, should be encouraged to accomplish development in areas where the preservation of natural and cultural resources is imperative and where conventional development would have a negative impact on the protection of such resources.
  - Improve regulations for increased development design flexibility, provided higher standards for conservation of valuable natural and cultural assets in the Harrisburg Planning Area are met. For example, smaller lots may be permitted if open space area requirements are exceeded and the land set aside encompasses the "primary" resource types. (Note: A public process should be conducted to define the "primary" open space types that the Harrisburg community values.)
- Build on the recent efforts of the Cabarrus County Soil and Water Conservation District (CCSWCD) and NC Wildlife Resources Commission (NCWRC) to identify and conserve important natural resources in the Harrisburg Planning Area. Utilize input gained through the HALUP planning process to improve conservation of natural assets that are valued by the residents of the Planning Area. Based on public input natural resource priorities included streams, buffers and wetlands that contribute to water quality, mature forests, and important wildlife habitats and corridors.
- Consider amendments to the Town's UDO. Specifically, modify the Town's Conservation District requirements to incentivize conservation design in target areas (e.g., Reedy Creek Watershed).
  - Allow by-right conservation design for subdivisions that do not exceed the maximum gross density of the zoning district, as a review and permitting process that is no more onerous than that associated with conventional subdivision design approval will help make conservation design an easy choice. The density bonus is built in. In other words, 100% of the total number of lots allowed could be accomplished. [Note: Conventional design typically cannot achieve 100% of the allowed lots once land area for infrastructure, floodplains, and other features are subtracted and the minimum lot dimensions (area and width) are met.]
  - Evaluate the current standards with a specific assessment of the following:
    - The feasibility of open space provision and resulting lot sizes. With a range of open space percentages (minimum and maximum), continue to relate density bonuses to the amount of open space set aside. Reward those who choose to exceed the minimum open space requirements when using a conservation design approach. Reductions in dimensional requirements should help achieve lot sizes that are marketable. Consider standards that address both average lot sizes and minimum lots sizes.
    - Potential impacts to adjacent neighborhoods. Assess buffer yard requirements to ensure a positive transition from existing development to new development and establish project boundary standards that require new lots to be equal to or greater than the size of the lots abutting that project boundary in an existing subdivision.

**Analyses of recent major conservation subdivisions demonstrates an overall savings of 36 percent on construction costs when compared to conventional subdivisions.**

#### CONVENTIONAL SUBDIVISION DESIGN



#### CONSERVATION SUBDIVISION DESIGN



Source: Randall Arendt



#### IDEA:

**Reward developers who exceed open space standards with a density bonus.**

# LAND USE & DEVELOPMENT DESIGN

## LU-4

### RECOGNIZE THE VALUE OF AND PROTECT EXISTING AGRICULTURAL OPERATIONS

Appreciated for their role in preserving the character and scenic quality of the area, some of the existing agricultural operations are still viable. Contributing to the local economy, these farms represent 27% of the Planning Area and contribute more in taxes than they consume in services. These farms should be protected from encroachment by new development.

- Require working agricultural lands (PUV) parcels to be shown on preliminary plans.
- Keep residential density very low where agricultural land use is predominant to reduce conflicts between neighborhood residents and common agricultural practices.
- Increase awareness of voluntary agricultural districts (VAD) and their benefits as a means to increase the number of properties and geographic area in agricultural use in the VAD program.
- Consider critical mass necessary for viable agriculture in conservation programs and future planning efforts.
- Encourage new developments near working agriculture to be designed in a way that reduces conflict between future residents and existing agricultural operations.
- In subdivisions employing a conservation design approach, cluster development away from working agriculture.
- Establish building setbacks and preserve mature forest buffers between new homes and existing operations.

Homes within walking distance of natural parks sell for up to 20 percent more.

~ Economic Research Associates



### BUCKS COUNTY, PA

Voters in Bucks County, PA, overwhelmingly approved a \$59 million bond referendum to fund a ten-year program dedicated to the permanent preservation of farmland, parkland, and natural areas.

Since 1997, the Bucks County Open Space Program has been a success in both the quantity and quality of land protected. The County's investment of \$59 million leveraged approximately \$80 million in additional funding (primarily through state and local municipal matches) resulting in the preservation of more than 15,000 acres.



## LU-5

### EXPAND HOUSING OPTIONS

Housing choices address affordability, lifestyle preferences, and aging in place. The mix facilitates the multigenerational aspect of the community.

- Diversify the offerings to appeal to a broad range of audiences, from younger singles and couples just starting out, to matures seeking/ needing to move-down from detached single-family ownership to an array of products to those seeking Harrisburg's high quality of life but unable to afford much of its product today. Support development of:
  - for-sale products, including townhouses, villa/patio home product and smaller-lot detached product (Active Adult Community)
  - rental apartments targeting matures, independent and/or assisted living.
- Create value for property owners.
  - Create open space and amenities in mixed-use nodes and require open space in new development that enhance property values, making such areas more attractive for investment.
  - Through what is given back (smaller lot product and/or more density in exchange for preservation of open space), increase investors' potential return on investment.



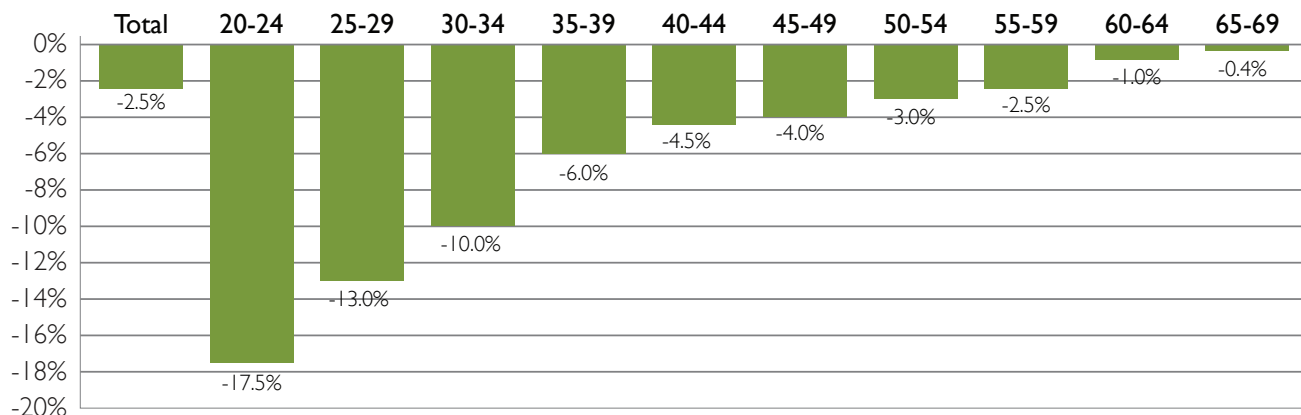
73.9%

Number of people in a recent survey conducted in NC's Triangle that prefer to live where they could walk to stores or restaurants.

#### MAJOR RESIDENTIAL MARKET TRENDS:

- Boomers & Millennials will drive real estate preferences in the next decade. They are seeking lower-maintenance and lifestyle products in walkable, mixed-use settings.
- Significant interest in making trade-offs for walkability, park proximity/ access, and nicer finishes (less size).
- Homeownership is down significantly from 2006.

#### CHANGE IN HOME OWNERSHIP BY AGE COHORT 2006-2013



# LAND USE & DEVELOPMENT DESIGN

## LU-6

### FOCUS ON QUALITY

By seeking opportunities to improve the overall appearance of Harrisburg and the surrounding area, particularly at its gateways, the community can present a positive image, reinforce its identity to distinguish itself in the region, and build investor confidence. Communities across the US that are enjoying success with economic development cite quality of place and quality of life as major factors influencing location decisions. Investors are drawn to communities that demonstrate a commitment to quality.

- Ensure a higher level of quality in all future development.
  - Review and amend the Town's Unified Development Ordinance and other applicable development codes as necessary to maintain or improve the quality of architecture, landscaping, and other details in new development, expansions, and redevelopment.
  - Through the conditional rezoning process, encourage a higher level of investment in façade treatments (articulation, fenestration, materials, finishes, etc.), landscaping, site furnishings (benches, lighting, etc.), and other elements that are visible from public streets or other public vantage points, than applicable codes require.
  - Lead by example. Examine the Town's policies, procedures, and practices in terms of the design and maintenance of public facilities and spaces. Prepare a set of design guidelines to describe specifically a set of standards for the Town to follow to ensure the consistent application of agreed upon standards to all public spaces as they are developed and/or improved.
- Focus on placemaking.
  - Prepare design guidelines for public and private use. Design standards should take into consideration the function and intended experience of each place. Goals of the design guidelines go beyond aesthetics and address safety, community image, community identity (brand and history/heritage), and quality of the experience.
  - Apply Crime Prevention Through Environmental Design (CPTED) principles to public space design and maintenance.
  - Improve the appearance of the NC-49 corridor, Harrisburg's main street.
    - In connection with a detailed study of the NC-49 corridor to address access management and safety, prepare a streetscape design concept to introduce more landscaping along NC-49, such as street trees along the edges and trees or shrubs in new medians.
  - Prepare Streetscape Design Guidelines to guide publicly- and privately-funded aesthetic enhancements to the road corridor and encourage improvements beyond the right-of-way.
  - Prepare a Public Realm Master Plan that addresses the types, locations, and opportunities with a wide variety of public and publicly-accessible spaces.





## LU-7

### ENSURE ZONING IN THE PLANNING AREA (TOWN AND COUNTY) IS CONSISTENT WITH FUTURE LAND USE PLAN MAP

Local land development regulations are one of the most effective tools for accomplishing the vision for future development and conservation in the Planning Area.

- Revise the Town's Unified Development Ordinance (UDO) to address gaps, and streamline for ease of use.
- Amend the Town's UDO to facilitate future development and redevelopment as described in this plan.
- Conduct an assessment of the existing UDO. At a minimum, the assessment should:
  - Identify barriers to achieving the goals, objectives and policies outlined in this plan as well as solutions for overcoming those barriers.
  - Define new zoning districts or modify existing districts to accommodate development that is consistent with the community's vision for the area, as reflected in the Future Land Use Map. For example:
    1. Assess the need for a mixed-use district (MU) that can be utilized in key locations throughout Harrisburg. This district should enable a mix of compatible uses on large and small sites where adequate infrastructure is available or can be extended. The mix of uses can vary and may be all nonresidential uses. Provisions to consider include but are not limited to the following:
      - Minimum development site area: 5 acres
      - Mix of uses shall contain some nonresidential uses. Development shall not consist exclusively of residential uses.
      - Orientation of, and relationships between, buildings should eliminate need for buffers within development, particularly to separate residential and nonresidential uses.
    2. Limit uses in Light Industrial district to industrial and other employment uses to avoid encroachment of institutional, residential, and other uses on existing businesses. This would also preserve the Town's ability to attract and accommodate new—or expand existing—job-generating uses in locations where such businesses prefer to locate. Limit permitted commercial uses to existing uses and those that support the industrial uses.
- Revise the UDO based on the recommendations of the UDO assessment.
- Support rezoning applications for changes in zoning that demonstrate the intent to implement the the plan. To ensure future agreement on development proposals within the study area, the Town and the County should continue a coordinated process for rezoning application review.
- In Harrisburg's jurisdiction, support the creation of other PID districts. The emphasis of any new PID district should be on flexibility in use provided specific performance standards set forth for the district are met. Such standards shall address the potential negative impacts of each permitted use on adjacent development (existing or future) or on the community as a whole to ensure such impacts (i.e., noise, light, and traffic) are avoided or sufficiently mitigated.

PROPOSED FUTURE LAND USE	APPROPRIATE ZONING DISTRICT(S) – TOWN	APPROPRIATE ZONING DISTRICT(S) – COUNTY
Mixed Use	MU (new), C-1, B-1, O-1, PUD, TND	
Commercial	C-2, C-1, B-1 (along NC-49), O-1	LC, GC, OI
Office	O-1, PID	OI, LI, GI, GC
Light Industrial	I-1, PID, and I-2 (for existing General Industrial)	LI
HDR	RC, RV, C-2 (if existing and/or abutting NC-49)	HDR
MDR	RV, RM-1, PID	MDR, HDR
LDR	RL, RM-1, PID	LDR, MDR
VLDR	RE, RL	AO, CR, LDR
Recreation, Public	All Districts	All Districts
Recreation, Private	C-2, C-1, PID	LI, OI, LC, GC
Commercial, Entertainment, Hospitality/Lodging (Refer to Morehead West Area Plan)	C-2, C-1, B-1, CD, PID, MU (new)	LI, OI, LC, GC

Table 1. Recommended Application of Zoning Districts

# CULTURAL & HISTORIC RESOURCES

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## CHR-I

### CONSERVE HISTORIC AND CULTURAL RESOURCES THAT CONTRIBUTE TO THE CHARACTER OF THE AREA

Cultural and historic assets, as vestiges of the past, help tell the story of a place and its evolution. They help differentiate a town from surrounding areas and contribute to the character and authenticity. People can more easily attach to a place when the story of its past resonates with them.

- Update/Consider conducting a formal survey of existing structures and properties that, locally, have historic value to create an inventory of such assets.
- Raise awareness of existing historic and cultural resources through educational programs and events, and public art that tells the story of the history of the area.
- Encourage the preservation of such resources, making them focal points within the development pattern through sensitive integration, employing conservation design principles. Open space surrounding such assets as well as appropriate orientation of new structures should respect the value of cultural resources.







# ECONOMIC DEVELOPMENT

## ED-1

### IDENTIFY AND PROTECT KEY EMPLOYMENT AND INDUSTRIAL LOCATIONS FROM OTHER DEVELOPMENT

Maximize potential industrial development opportunities in targeted areas along NC-49 and closer to Charlotte Motor Speedway (CMS).

- Identify infrastructure needs in targeted business and industrial locations to ensure maximum site availability and attractiveness to the market;
- Identify key areas and targeted properties for industrial or office development and identify the means by which these properties can be protected from development as other land uses;
- Provide easy access online and to key economic entities in the county and region to maximize knowledge & visibility of these sites to the market;
- Where possible, amenitize these targeted locations via access to trail systems (including the Carolina Thread Trail, where applicable), parks, retail cores, and other quality-of-life amenities typical stand-alone sites don't offer.
- In areas closest to CMS, consider tie-ins to the Speedway, UNC-Charlotte, etc. to target auto-related industries to the area.  
*NOTE: Refer to Morehead West Area Plan for more specific strategies (see Appendix)*

## ED-2

### CREATE GREATER OPPORTUNITIES FOR OFFICE DEVELOPMENT

While the Harrisburg area is not likely to attract large-scale national or regional-serving office uses, its affluence and strong residential base should prove attractive for local, neighborhood- and area-serving office uses such as Realtors, insurance agents, law firms, accountants, home-builders, medical office uses, and others.

- Focus on creation of lifestyle-driven employment locations; those that are located in more walkable, mixed-use areas or projects;
- Encourage mixed-use walkable development in projects that are located in key employment and residential cores.
- Facilitate the creation of parks and greenways in mixed-use locations to provide walking, running, and/or biking opportunities for businesses.
- Encourage the development of vertically-integrated and or side-walk-connected office and retail opportunities in the market.
- Enhance walkability, aesthetics and character of the NC-49 corridor to further its attractiveness for office uses.
- Consider extension of bike lanes and sidewalks to foster connections within higher-intensity residential and commercial cores.

**Commercial, office and industrial uses make up only 8% of the land in the Harrisburg Area, but these properties make up over 13% of the tax base.**



**ED-3**

## ENCOURAGE RETAIL DEVELOPMENT IN MIXED-USE, WALKABLE LOCATIONS

Almost 30% of those surveyed expressed support for mixed-use development. Shopping, dining and entertainment uses were the most popular types of uses survey respondents wanted to see in the Harrisburg Area.

Demand exists for about 730,000 square feet of retail between 2015 and 2040. Given shifting retail dynamics favoring more experiential or lifestyle-driven locations, development of retail in mixed-use, more dense residential cores should be encouraged.

- Focus demand on more local, neighborhood-serving retail uses as opposed to more regional-serving, “big box” retail.
- Encourage retail development in cores or nodes as opposed to strip development along major thoroughfares.
- Where possible, deliver retail in more walkable, street-oriented format with strong connectivity to residential areas, parks, greenways, bike lanes, etc.



## BAXTER VILLAGE

A good example for Harrisburg to look to is Baxter Village in Fort Mill, SC, which incorporates retail and office uses in a walkable town center environment. Office tenants are found on the 2nd or 3rd floor of mixed-use buildings, or on all levels of freestanding office buildings. Tenants include local investment offices, insurance brokers, architects, chiropractors and other medical professionals, Realtors, and similar local-serving office uses. Office space in Baxter is more than 90% occupied, with retail access, parks/ walkability, and strong design being big attractions. Fort Mill's demographics are not unlike Harrisburg's and, thus, Baxter provides a potential road map for lifestyle-driven office locations.



# PARKS, RECREATION, & OPEN SPACE

## PR-1

### CREATE A CONNECTED SYSTEM OF GREENWAYS

Greenways ranked as the #1 priority during the first HALUP public meeting. Recreation was voted the #2 priority in the survey. Internal greenway connections appeal to all ages and can help create a healthy community.

- Continue to require new development to reserve land for and to construct greenways that are in the adopted Harrisburg Comprehensive Bicycle, Pedestrian and Greenway Plan.
- Coordinate with the City of Charlotte and Mecklenburg County to connect to the Cross-Charlotte Trail.
- Get blanket easements from property owners when utilities are installed.
- Seek funding from the North Carolina Department of Transportation (NCDOT), the Parks and Recreation Trust Fund, the Carolina Thread Trail, and other sources.
- Encourage the other TOD: Trail-Oriented Development. Adjacent to greenways, development should be oriented toward the greenway, much like a positive relationship of buildings to a street. Create a positive edge, as development “embraces” the corridor and the greenway and connecting trails provide access to points of interest or destinations along the route.



Potential trail-oriented development along Mallard Creek



## PR-2

### IMPROVE EXISTING PARKS AND DEVELOP ADDITIONAL PARKS

Recreation including nature parks, trails and greenways was a high priority for participants. Significant disparity exists between access to parks in different parts of the planning area.

**Harrisburg Park:** Make incremental improvements to Harrisburg Park

**Future Trailhead / Nature Park:** The Town of Harrisburg and the Catawba Lands Conservancy own land adjacent to Morehead Road that could serve as a future trailhead and nature park.

**Pharr Mill Historic Park:** The historic site of Pharr Mill could be utilized as a historic park with interpretive signage and neighborhood amenities (i.e. a picnic shelter and/or playground).

**Fuda Creek Park:** Coordinate with the future mixed-use development of Farmington to include a park along the banks of Fuda Creek.

**Hickory Ridge Park:** Coordinate with landowners adjacent to the planned school to determine feasibility of a park that is connected to the school grounds and can be utilized by students and residents.

**Holcombe Woods Park:** The planned development of Holcombe Woods will include land dedicated to a public park.

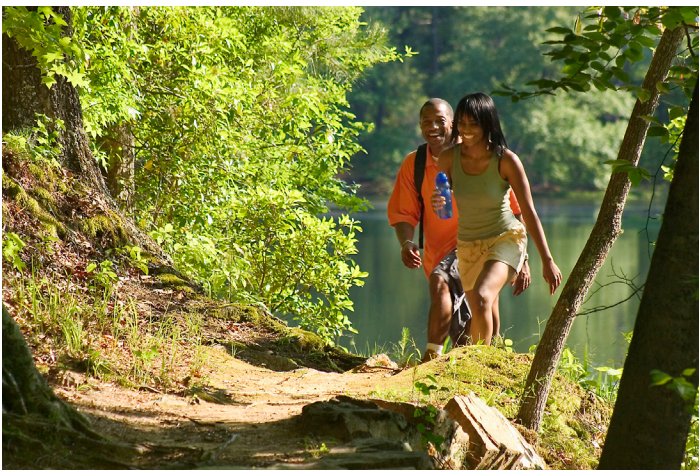
In Apex, North Carolina, homes in the Shepherd's Vineyard development adjacent to the American Tobacco Trail sold for \$5,000 more than other homes in the neighborhood.

– Rails to Trails Magazine



IDEA:

Design and build 10 miles of greenways over the next 10 years





# PARKS, RECREATION, & OPEN SPACE

## PR-3

### INTEGRATE OPEN SPACE AND AMENITIES IN NEW DEVELOPMENT

Maintaining open space was ranked as the most important goal during the first HALUP (Harrisburg Area Land Use Plan) public meeting and the survey. Open space preservation has many health and economic benefits. Access to open space and parks is a determinant of physical health and has shown to improve mental health. Studies have shown that integrating open space, parks and trails into new development can lead to higher property values and reduced time on the market.

- Encourage open space/conservation subdivisions in Conservation Design Target Areas (see map to right) that accommodates development while protecting sensitive natural resources.
- Locate a portion of open space in new developments at the “front door” within development, affording the occupants direct physical and visual access to it for recreation, socializing, and communing with nature.
- Utilize input gained through the HALUP planning process to increase access to open space and amenities in new development. Based on public input open space priorities included nature parks, greenways and parks and amenities that can be used by all ages.
- Modify open space standards in the UDO to clarify type and location of required open space.
- Maintaining large tracts of connected open space should be a priority in the Reedy Creek watershed. Framing open space with new development should be a secondary goal.



Homes that have access to parks and other forms of open space can yield a higher return and sell faster than conventional lots (Source: Green Growth Toolbox, Location: Chatham County, NC).



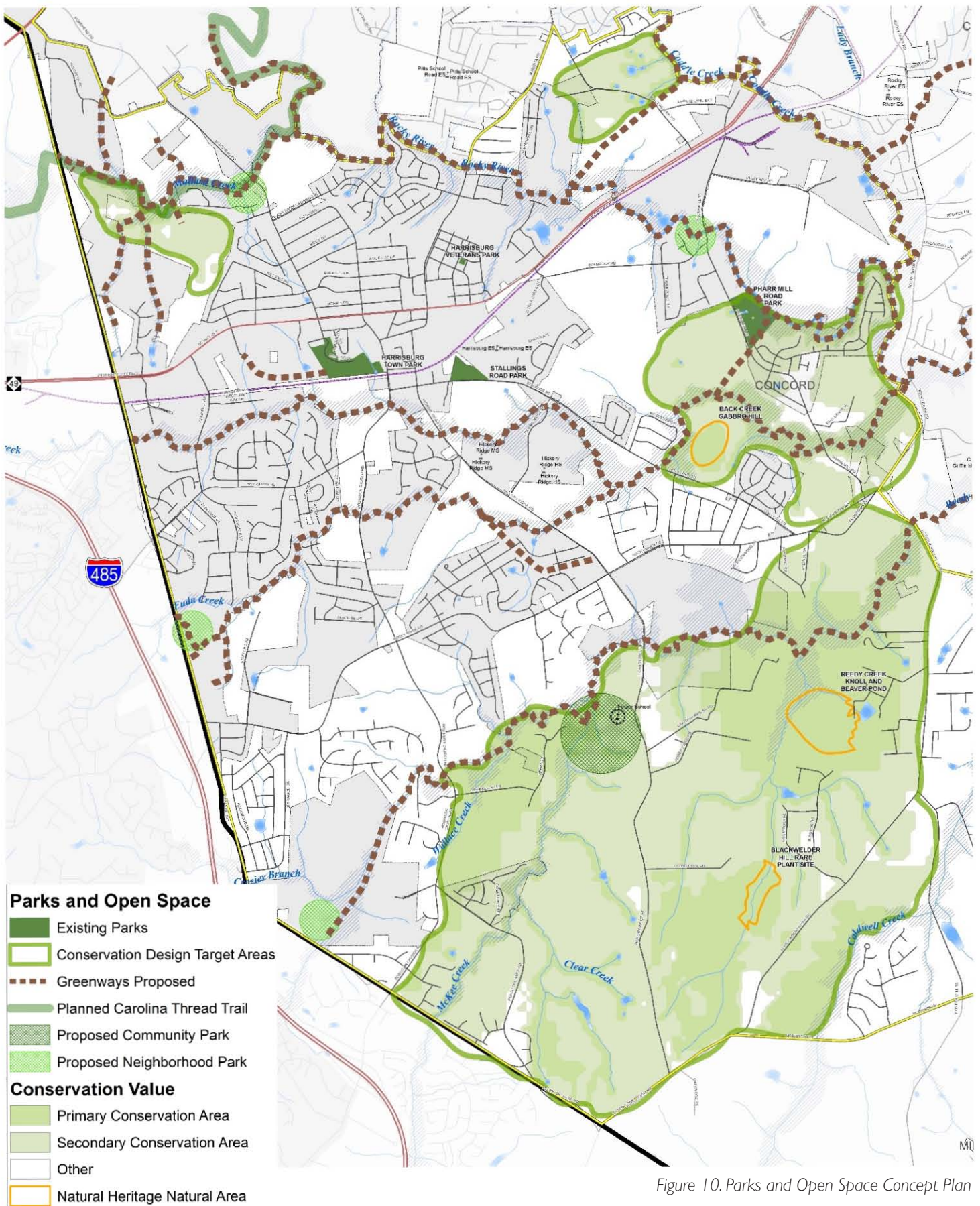


Figure 10. Parks and Open Space Concept Plan

# ENVIRONMENT & NATURAL RESOURCES

## ENR-1

### PROTECT WATER QUALITY

Nearly all major tributaries have been considered impaired by North Carolina Department of Environmental Quality standards over the past two decades. Current impaired streams include Back Creek, Caldwell Creek, Mallard Creek, McKee Creek, Reedy Creek, and the Rocky River. Protecting streams and water quality were voted the highest priority preservation activities at the first community meeting.

- Improve stormwater management.
  - Encourage low-impact design (LID) as recommended in the Upper Rocky River Watershed Management Plan.
  - Consider the creation of a low-impact design (LID) option for new development that reduces infrastructure requirements if design criteria is met (i.e. reductions in impervious surface, use of pervious pavements, infiltration trenches, bioswales, etc.)
- Partner with local and state agencies and private landowners to preserve and restore areas that are critical to water quality, including streams, riparian areas, mature forests and wetlands.
  - Continue to preserve vegetative buffers and steep slopes adjacent to streams.
  - Promote wetland conservation. In addition to US Army Corps of Engineers requirements, encourage the preservation of vernal pools and small wetlands as well as upland habitat adjacent to wetlands.
  - Encourage stream restoration and enhancement projects, and incentivize landowner participation.

## ENR-2

### PRESERVE THE EXISTING TREE CANOPY TO THE EXTENT PRACTICABLE

Protecting native, mature forests were voted the second highest priority preservation activity at the first community meeting.

- Continue to designate and protect heritage trees
- Encourage the preservation of mature, native forest.
- Require the delineation of mature hardwood forest stands over a certain size threshold on preliminary plats, provided such information is maintained in the County's database.
- Work with Cabarrus County to create an inventory of large mature forest tracts. This data can be used to prioritize open space design in new development and limit habitat fragmentation.
- Encourage site design to respect agricultural relics such as trees along fence lines

**Less  
fragmented**



**More  
fragmented**



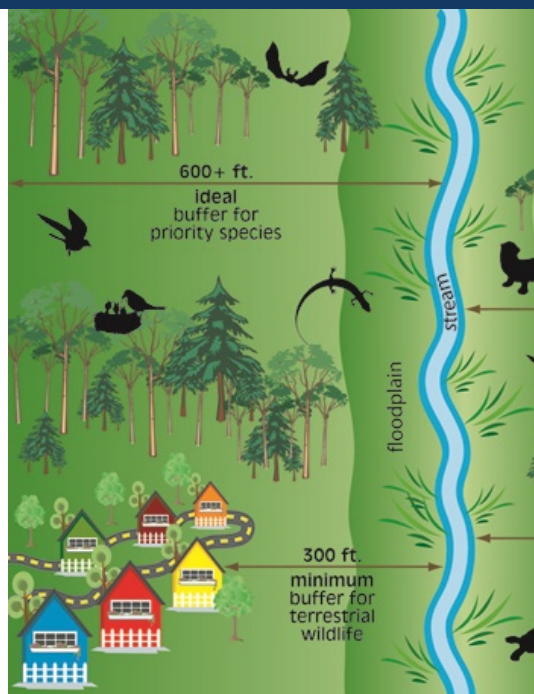
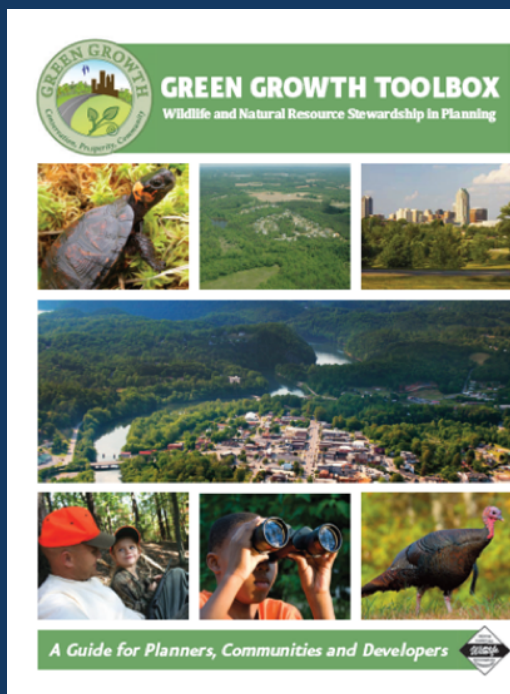


## ENR-3

### PROTECT IMPORTANT PLANT AND ANIMAL HABITATS

There are four designated Natural Heritage Natural Areas located within the Planning Area. These sites and other habitats are home to unique natural communities and rare plant and animal species. Protecting these resources, and the open spaces, through site design techniques can help maintain small town feel and rural character that can distinguish parts of the planning area from more urbanized areas.

- Increase awareness of the presence and importance of such habitats and corridors that connect them, thereby increasing the sensitivity of development in protecting such assets.
  - Utilize the natural resource database and maps maintained by the State to educate developers and inform them of opportunities to conserve the natural assets valued by the community and mitigate or minimize the impacts of development on the protected areas.
- Create/improve incentives for protecting key habitat hubs and corridors.
  - Encourage the conservation of Natural Heritage Natural Areas in the Reedy Creek watershed through voluntary preservation efforts and site design.
  - Encourage the preservation of habitat corridors along major tributaries. The NCWRC recommends wildlife corridors need to be a minimum of width of 300ft to allow for priority species to travel across sites.
- Regularly evaluate the plan review process to ensure the preservation of documented habitats of important plant and animal species.
- Study funding mechanisms to fund voluntary open space acquisition.
- Work with Cabarrus County Soil and Water Conservation District (SWCD) to obtain easements, as necessary.



The Green Growth Toolbox (GGT) and the Cabarrus County Natural Resource Conservation Design Guide (NR-COD) provide information on benefits of conservation design. They also provide guidance on priority conservation areas and how to update local ordinances to protect open space.

# TRANSPORTATION

## TR-1

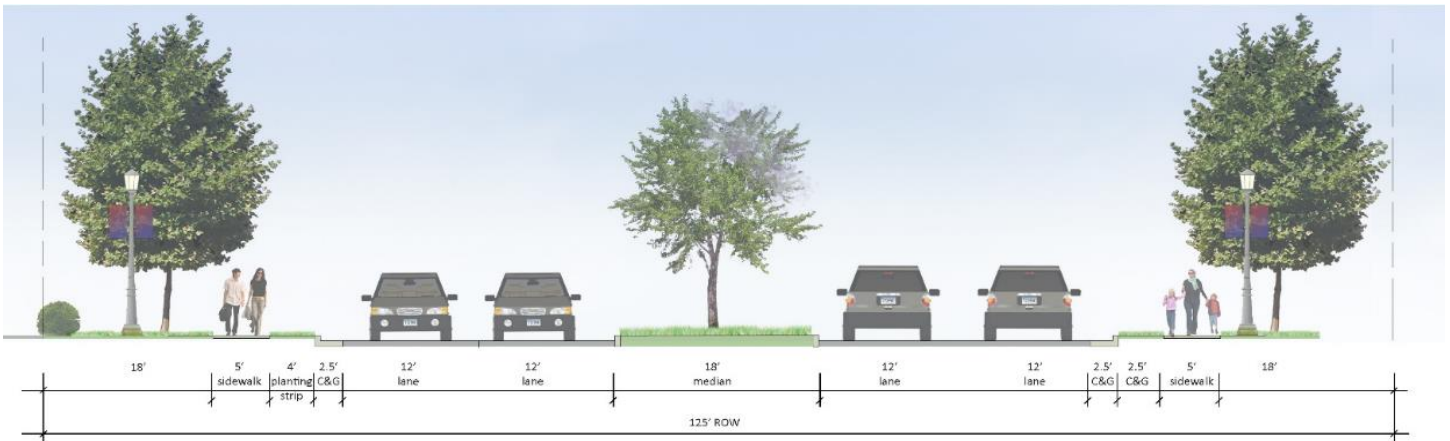
### STRATEGIC MOBILITY PLAN

- Develop a strategic mobility plan for the Town to guide decisions for all modes of transportation.
- A town wide, long-term traffic improvement options guide that supports the growth outlined in the land use plan.
- Options need to include regional influences, potential costs, all users, and incorporate alternative transportation choices.
- The plan serves as the foundation to develop a roadway systems that includes multiple routes to ensure mobility in the event of emergencies and other blockages.
- The plan should include a street typology framework and roadway design priority matrix to reflect how streets relates to the local and regional network and adjacent land uses.

## TR-2

### COMPLETE STREETS POLICY

- Develop a policy of how the Town envisions the community providing roadways that safely accommodate all users.
- The development of this policy promotes health, livability, and placemaking.
- The Town should develop a process to determine the components of each transportation capital improvements project.
- The process should utilize context-sensitive solutions to balance the needs of all users, making accommodations for pedestrians, bicyclists, trucks, and transit riders.
- The criteria should consider the project context including factors such as topography, scenery, history, values of residents, and businesses.
- The Town should partner with North Carolina Department of Transportation (NCDOT), Cabarrus-Rowan Metropolitan Planning Organization (CRMPO), and Charlotte Regional Transportation Planning Area (CRTPA), as applicable, to connect the roadway, bicycle, and transit systems and to collectively solve larger mobility issues.





## TR-3

### BICYCLE AND PEDESTRIAN

- Create a bicycle and pedestrian system which is accessible, safe, convenient, and links priority destinations.
  - Robinson Church Road
  - Connections to Town Center
  - Hickory Ridge Road (from middle school north)
  - Stallings Road (missing links)
  - East/West along Rocky River Road
- The Town should develop a long term funding strategy for facility design and construction.
- Develop a pedestrian and bicycle CIP that is updated yearly.
- Develop a flexible implementation tool to leverage available funding sources from NCDOT, Congestion Mitigation and Air Quality (CMAQ), and private sources to maximize available funding.
- Take differences in age and physical ability into consideration in the design of bicycle and pedestrian facilities to ensure they enhance mobility for all residents.



## TR-4

### TOWN CIRCULATOR

- Work with the Concord-Kannapolis Area Transit Service (CK Rider) and the Charlotte Area Transit System (CATS) to develop a Town Circulator for Harrisburg.
- Connect Town Center in Harrisburg to the CK Rider Red Line along Bruton Smith Boulevard/Concord Mills Boulevard
- Work with CKAT and CATS to develop an express bus connection from Town Center to the CATS Blue Line station at JW Clay Blvd/UNC Charlotte station on US-29.
- Work with CKAT to develop the stop locations and hours of operation for the Town Circulator.
- One implementation strategy for consideration would be the extension of the Red Line from Bruton Smith Boulevard to Town Center.
- The Town should conduct a ridership survey of the citizens to determine ridership volume, destinations, and service hour needs.
- The Town should partner with North Carolina Department of Transportation (NCDOT), Cabarrus-Rowan Metropolitan Planning Organization (CRMPO), and Charlotte Regional Transportation Planning Area (CRTPA) as applicable to connect the roadway, bicycle, and transit systems, and to collectively solve larger mobility issues.



# UTILITIES

## U-1

### FACILITATE DESIRED DEVELOPMENT WITH THE UTILITY INFRASTRUCTURE REQUIRED

Strategic investments in public utilities is one of the most effective ways to attract development to areas where such development is desired. From an economic development standpoint, it is a means of being more competitive as the Town recruits development that will bolster the tax base and create jobs.

- Address water pressure issues by creating water loops in conjunction with planned infrastructure improvements (i.e., with the construction of Caldwell Road Extension).
- Coordinate with Concord to ensure adequate storage capacity exists in elevated tanks.
- Extend sewer along Mallard Creek in phases (refer to Morehead West Area Plan).
- Coordinate with Mecklenburg County/Charlotte Water.

*NOTE: Refer to Morehead West Area Plan for more specific strategies (see Appendix)*

## U-2

### DEVELOP A UTILITY SYSTEM EXTENSION POLICY

Public investments in utility extensions should reinforce the community's decisions about where to support growth. Such investments are the “carrots” that attract desired development, rewarding those who make the private investment.

- Phase extensions to follow a logical progression of development, particularly into areas delineated for Very Low Density Residential (VLDR) development, where conservation design is encouraged and public utilities will be required to support this choice.
- Support extensions through private development.
  - Continue to accept privately developed systems provided system design standards for equipment and line sizing are adhered to.
  - Continue to reimburse the difference in cost due to upsizing lines to serve future development and waive tap fees.
  - Develop incentives and policies related to water reuse.

Water utilities across the United States and elsewhere in North America are saving substantial amounts of water through strategic water-efficiency programs. These savings often translate into capital and operating savings, which allow systems to defer or avoid significant expenditures for water supply facilities and wastewater facilities.

– Cases in Water Conservation



## U-3

### SECURE THE WATER SUPPLY

Other municipalities in the US are already facing the issue of running out of water. Demand for water is increasing, but supply is not.

- Renew the agreement with the City of Concord for water supply.
- Renegotiate the agreement with the City of Concord for an increase in allocation. Seek an increase equal to or greater than the current interbasin transfer (IBT) permit maximum. Increases should be based on the results of a water model that takes into account projected growth reflected in the Future Land Use Map.
- Work with the City of Concord to seek a long-term water supply solution to address future demand beyond 2040.
- Consider water conservation policies, and establish a related conservation initiative that may include one or more of the following:
  - An educational program promoting the benefits. Encourage xeriscaping and/or native vegetation to meet landscaping requirements.
  - Increased fees for irrigation. A sliding scale based on amount used and time of day, as well as separate metering of irrigation systems, should be considered.
  - Landscaping standards that emphasize xeriscaping (landscape design requiring little or no irrigation) and promotes the use of native vegetation.
  - Promotion of the use of low-flow fixtures, particularly in new construction.
  - Water re-use.



The City of Ashland, Oregon is one of several communities highlighted in this EPA report, which describes several approaches to water conservation.

According to the report, "Ashland's 1991 water efficiency program Ashland's conservation efforts consisted of four major components: system leak detection and repair, conservation-based water rates, a showerhead replacement program, and toilet retrofits and replacement. Ashland's conservation efforts have resulted in water savings of approximately 395,000 gallons per day (16% of winter usage) as well as a reduction in wastewater volume."

The report features 17 communities that have had success with such initiatives.

<https://www.epa.gov/sites/production/files/2017-03/documents/ws-cases-in-water-conservation.pdf>

# COMMUNITY FACILITIES

## CF-1

### INTEGRATE PUBLIC BUILDINGS SEAMLESSLY INTO THE COMMUNITY

Public buildings can serve as organizing elements in the built environment and anchors in areas where the collection of uses would benefit from high levels of daily foot traffic. Schools are magnets for residential development. Therefore, careful consideration of each site before selection is necessary to fully understand the potential impacts and benefits of new school locations.

- Meet with the Cabarrus County School Board representatives to discuss the Harrisburg Area Land Use Plan, once adopted, so that this plan may serve as input into the next school facilities plan update(s).
- Continue to promote the Cabarrus County School Site Guidelines as the School Board determines future school locations in the Planning Area.
- Locate community buildings in prominent locations. Sites should be highly visible from several vantage points. The structures should be oriented to be the terminus of views down key corridors, and flanked by civic open space to give the structure the prominence it deserves. Examples of such buildings include Town Hall, a post office, a library, a school.
  - Assess potential sites based on the above criteria.
  - Work with the County and regional agencies seeing locations for comparable buildings in the Planning area to accomplish these results.

## CF-2

### PUBLIC SAFETY

Through the design of private development, transportation facilities, and parks and other public spaces, and through the delivery of adequate community services, the residents and property owners in the study area want to be assured that their safety is a priority.

- In public safety (i.e., police, fire and emergency medical service), maintaining or improving the response times (particularly for ISO ratings) is critical as growth continues. Update the service areas and facilities plans for public safety to ensure level of service needs are met





# GENERAL

## G-1

### BEGIN IMPLEMENTATION OF THE PLAN IMMEDIATELY FOLLOWING ADOPTION

Successful implementation efforts, especially tangible changes, demonstrate commitment, and instill resident; and investor confidence of this plan is achieved.

- Following adoption of the plan by both the Town and the County, embark on implementation efforts immediately, focusing first on the six priority action steps (refer to page 47).
- Establish an implementation program that enables the Town and the County to work separately and jointly.
  - Evaluate and prioritize implementation strategies outlined in this Harrisburg Area Land Use Plan.
  - Develop an implementation guide that reflects the prioritization by identifying short-, mid-, and long-term activities.
  - Establish metrics to be used in monitoring progress.
  - Form a committee to oversee and measure progress on implementation activities, particularly those identified as short-term or first-year tasks
- Update the plan at least every 5-7 years.
- For consistency, update the adopted plans of the Town and the County by incorporating the recommendations of this plan. Consider the following as priorities:
  - Parks and Recreation Master Plan
- Implement the Morehead West Area Plan.

## G-2

### PARTICIPATE IN REGIONAL COORDINATION

Cooperating and communicating with the other units of government, area agencies, and local organizations facilitates the creation of partnerships, advancement towards common goals, and better utilization of resources.

- Work in partnership with each other and with neighboring jurisdictions
  - Concord
  - Midland
  - Charlotte-Mecklenburg
- Coordinate with local and regional and state agencies
  - Metropolitan Planning Organization (MPO)
  - Charlotte Regional Transportation Planning Organization (CRTPO)
  - Water and Sewer Authority of Cabarrus County (WSACC)
  - North Carolina Department of Transportation (NCDOT)





# APPENDIX

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HARRISBURG AREA EXISTING  
CONDITIONS REPORT

HARRISBURG LONG-RANGE GROWTH  
FORECAST

HARRISBURG DEMAND SUMMARY

PUBLIC INPUT SUMMARY 1

PUBLIC INPUT SUMMARY 2

PUBLIC INPUT SUMMARY 3

MOREHEAD WEST AREA PLAN





# Memo

**To:** Cabarrus County Planning and Zoning Commission, Acting as Board of Adjustment  
**From:** Susie Morris, AICP, CZO, Planning and Zoning Manager  
**CC:** File  
**Date:** 6/4/2018  
**Re:** Wallace Park Variance (VARN2016-0003) Guidance

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- As you may remember, the Board of Adjustment considered a variance request in September of 2016 related to the new Wallace Park facility (VARN2016-0003).
- The request was for various encroachments into the Waterbody Buffer Zone, the required landscape buffer and setbacks.
- The required landscape buffer was a 75' buffer, which is also the setback requirement.
- Alfred Benesch and Company has been hired to work on the Master Plan for the park.
- As currently designed, a road to access the southern portion of the site would run concurrent with the path of the existing dirt road on the property near the eastern property line. This area was identified in the variance request as area #5. Installing this road at the property line, on top of the current dirt road, allows the site to the west to remain available for passive recreation.
- A review of the variance is requested to determine if the new paved road can be placed "on top" of the existing dirt road based on the variances that were approved. The dirt road is located in the 75 foot setback.
- There was discussion about the new access road being installed at the meeting, however, it was implied that the road would be located out of the 75 foot setback.
- A condition was placed on the variance that the applicant had to install landscape between the trails and the new road when the road was constructed.
- A copy of the meeting minutes from September are included for your reference.
- A copy of the proposed Master Plan, the proposed typical for the trails/landscape/street, the Exhibits showing area #5 and the staff report are included for reference.
- Please be prepared to discuss the variances that were granted in relation to the proposed Master Plan and to provide guidance as to whether or not the variance included use of the dirt road (paving the existing road bed) for access to the southern portion of the site.

PLANNING STAFF REPORT  
 CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
 09/13/2016

Staff Use Only:  
 Approved: \_\_\_\_\_  
 Denied: \_\_\_\_\_  
 Tabled: \_\_\_\_\_

**Variance: VARN2016-00003**

Applicant Information: Jonathan Marshall, Deputy County Manager  
 Acting as Agent for Cabarrus County Government  
 PO Box 707  
 Concord, NC 28027

Owner Information: Cabarrus County  
 P O BOX 707  
 Concord, NC 28026

PIN#: 5544-72-3955

Area in Acres: +/-111.8

Purpose of Request: The applicant proposes to use the subject property as a Public Use Facility (County owned Rob Wallace Park). A Public Use Facility is permitted in the OI zoning district as a by right use.

The Applicant is seeking relief from Chapter 4, Part II Waterbody Buffer Zone and Chapter 9 Landscaping and Buffer Requirements. The applicant wishes to construct a walking and bike trail around the perimeter of the proposed Rob Wallace Park, which will encroach into the required #2 Level Landscape Buffer, the required Waterbody Buffer Zone, and the Waterbody setback.

This variance request includes three individual variances from the Cabarrus County Zoning Ordinance:

- **Variance Request #1, Relief from the Required #2 Level Landscape Buffer**
- **Variance #2, Relief from the Muddy Creek and quarry pond Waterbody Buffers**

**Variance Request #1, Relief from the Required #2 Level Landscape Buffer**

Chapter 9 Landscaping and Buffer Requirements requires a #2 level Landscape Buffer between “Institution/Public” uses and any existing Residential uses. This buffer is to be 75 feet wide and requires 11 trees and 40 shrubs per 100 linear feet. Residential uses abut the entire western border of the parcel, continue around the northern border, and stop just north of the quarry pond in the



southeast corner of the property. The #2 level landscape buffer is required along this entire perimeter of the parcel. Since the southern and southeastern borders of the parcel abut Industrial Uses, no buffer is required.

Applicant is requesting that a trail system be permitted in the required #2 level landscape buffer yard. On the western side of the property, the proposed biking trail would run for approximately 1245.6 linear feet of the landscape buffer length, therefore eliminating approximately 4982.4 sqft of the required landscape buffer, as seen in Sheet 2.1 of the site plan. The walking trail portion of the western side of the property would affect 63.03 linear feet of the landscape buffer, thus eliminating another +/- 504.24 sqft of the required landscape buffer.

On the north central side of the property, the proposed biking trail would run for approximately 515.49 linear feet of the landscape buffer length, therefore eliminating approximately 2061.96 sqft of the required landscape buffer, as seen in Sheet 2.2 of the site plan. The walking trail portion of the north central side of the property would affect 73.87 linear feet of the landscape buffer, thus eliminating another +/- 590.96 sqft of the required landscape buffer. A portion of the landscape buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately 762.52 linear feet of the landscape buffer (6100.16 sqft).

#### **Variance #2, Relief from the Muddy Creek and quarry pond Waterbody Buffers**

Applicant is requesting that a trail system be permitted in the required Waterbody Buffer Zone. Per Chapter 4 Overlay Districts and Zones, Part II Waterbody Buffer Zone, these buffers are to be retained in a natural, undisturbed state, in an effort to avoid erosion problems and to reduce the velocity of overland flow. Section 4-10, 11 requires a 60 foot setback from the top of the stream bank for any proposed pedestrian, hiking, or biking trails.

On the western portion of the waterbody buffer of Muddy Creek, the proposed biking trail would run for approximately 1570.15 linear feet of the waterbody buffer length, therefore eliminating approximately 6280.6 sqft of the required waterbody buffer, as seen in Sheet 3.1 of the site plan. The walking trail on the western portion of the waterbody buffer for Muddy Creek would affect 219.1 linear feet of the waterbody buffer, thus eliminating another

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+/-1752.8 sqft of the required waterbody buffer. Additionally, 1488.42 linear feet (5953.68 sqft) of the proposed biking trail and 259.6 linear feet (2076.8 sqft) of the proposed walking trail will ALSO lie within the required 60 foot setback from the edge of Muddy Creek. (See site plan, 4.1).

On the central portion of the waterbody buffer of Muddy Creek that crosses the center of the property, the proposed biking trail would run for approximately 1507.51 linear feet of the waterbody buffer length, therefore eliminating approximately 6030.04 sqft of the required waterbody buffer, as seen in Sheet 3.2 of the site plan. The walking trail on the central portion of the waterbody buffer for Muddy Creek would affect 30.91 linear feet of the waterbody buffer, thus eliminating another +/-247.28 sqft of the required waterbody buffer. A portion of the required waterbody buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately 80.61 linear feet of the waterbody buffer (644.88 sqft). Additionally, 1554.04 linear feet (6216.16 sqft) of the proposed biking trail, 162.32 linear feet (1298.56 sqft) of the proposed walking trail, and 119.33 linear feet (954.64 sqft) of BOTH the biking and walking trails will ALSO lie within the required 60 foot setback from the edge of Muddy Creek. (See site plan, 4.2).

On the eastern portion of the waterbody buffer of Muddy Creek and the quarry pond, the proposed biking trail would run for approximately 229.44 linear feet of the waterbody buffer length, therefore eliminating approximately 917.76 sqft of the required waterbody buffer, as seen in Sheet 3.3 of the site plan. The walking trail on the eastern portion of the waterbody buffer for Muddy Creek and the quarry pond would affect 538.64 linear feet of the waterbody buffer, thus eliminating another +/-4309.12 sqft of the required waterbody buffer. A portion of the required waterbody buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately 1091.91 linear feet of the waterbody buffer (4367.64 sqft). Additionally, 232.56 linear feet (930.24 sqft) of the proposed biking trail, 453.06 linear feet (3624.48 sqft) of the proposed walking trail, and 1018.04 linear feet (8144.32 sqft) of BOTH the biking and walking trails will ALSO lie within the required 60 foot setback from the edge of Muddy Creek. (See site plan, 4.3).

Site Description:

The subject property is largely undisturbed and the plan is for it to be developed as Public Use Facility (County owned Rob Wallace



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Park). The property has a network of dirt roads throughout and a large quarry pond in the southeast corner of the property. Two berms located on the subject property, constructed in the 1950's, redirect storm water away from Muddy Creek, which flows from the southwest corner of the parcel, along the southern border and across the center of the property flowing north and then around the quarry pond to the southeast corner of the parcel. The first berm cuts across the center of the property between Muddy Creek and the upper quarry pond. The trails will be developed on the side of the berm opposite Muddy Creek. The second berm lies in the southeast corner of the parcel between the eastern side of the large quarry pond and Muddy Creek. This berm currently contains a dirt road on which the proposed trails will lie. There is also a 3700 SF utility/storage building located on the southern end of the property. The subject parcel contains several water features subject to compliance with the Waterbody Buffer Zone.

Current Land Uses:	Vacant (Future site of Wallace Park)
Adjacent Land Uses:	North – Single Family Residential & Vacant East – Industrial, Vacant, Single Family Residential South – Industrial (McGee Brothers Company & the future Intertape Polymer Group plant) & Vacant West – Single Family Residential
Permitted Uses:	All uses permitted within the Office Institutional zoning district
Existing Zoning:	OI (Office Institutional)
Surrounding Zoning:	North: SFR (Single Family Residential) - Midland Zoning East: SFR (Single Family Residential) and IND (Industrial) - Midland Zoning AND GI (General Industrial) – County Zoning South: GI (General Industrial) – County Zoning West: SFR (Single Family Residential) – Midland Zoning
Signs Posted:	08/24/2016
Newspaper Notification 1:	08/31/2016
Newspaper Notification 2:	09/07/2016
Notification Letters:	08/24/2016

#### Exhibits

EXHIBIT A – STAFF REPORT  
EXHIBIT B – APPLICATION  
EXHIBIT C – SITE PLAN  
EXHIBIT D – AERIAL MAP  
EXHIBIT E – ZONING MAP  
EXHIBIT F – FUTURE LAND USE MAP  
EXHIBIT G – ADJACENT PARCEL LETTER & LIST  
EXHIBIT H-1&2 – VARIANCE SIGNS  
EXHIBIT I – SOIL MAP

#### Agency Review Comments

**Zoning Review :**

*Staff review of the plans shows that the proposed project does not meet the standards for landscape buffering and Water Body Zone buffering as required, therefore, the applicant is seeking a variance from the required level #2 landscape buffer, the required water body buffer, and the required 60 foot setback in the Waterbody Buffer zone.*

**Fire Review :**

*No fire code related concerns (per Steve Langer, Fire Marshal).*

**NCDOT Review :**

- *If any part of the proposed walking biking trail falls within Ncdot r/w then an approved encroachment will be required for those areas.*
- *No access to the park will be allowed from Bill Mcgee Road extension (per Marc Morgan, NCDOT). A new address will be assigned to the County portion of the park and will be addressed off of the main entrance on Bethel School Road.*

**Health Alliance Review:**

*No Health Alliance related comments (per David Troutman, Environmental Health Director).*

**Sherriff's Department Review:**

*No Sherriff's Department related comments (per Ray Gilleland, Lieutenant Sherriff).*

**Soil and Water Conservation Review:**

- *When constructing the mountain bike trails, we recommend following the contours especially in areas nearest the stream in order to reduce erosion off the trail into the stream.*
- *We recommend keeping the walking trail entirely out of the buffer, since the 8' trail will require more clearing than the bike trail and will be covered with gravel.*
- *It looks like the biking trial and even some of the walking trail may enter into jurisdictional wetlands along the southern edge. We recommend moving the trail outside of this area, as it will make maintenance difficult.*



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- *The center section of the property has a shallow water table, which could cause issues of standing water. See attached soil map.(EXHIBIT I)*

**Emergency Services Review:**

*No EMS related concerns (per James Lentz, EMS Assistant Director).*

**History / Other Information**

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

The subject property is approximately 111.8 acres and the proposal is to develop the property as Public Use Facility (County Park).

The subject property contains several water features that are subject to the Waterbody Buffer Zone.

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

The subject property is required to maintain a minimum 60 foot setback from the top of stream banks for all proposed pedestrian, hiking, or biking trails.

Applicant contends that the perimeter walk and bike trail follow historic pathways used on the park property. In one case, the location is dictated by the berm stated previously and in another, the only available location between a quarry pond and the stream.

Applicant contends that the map exhibits show that the intent of the ordinance is met by existing vegetation and topography. In both cases, the path is located where gravel or dirt drives already exist.

Applicant contends that the property may be used with a shorter trail or switchbacks in other locations. The trail, as planned, takes advantage of wooded areas, existing gravel paths, unique vistas, and areas that will be developed in later phases.

Application states that in the areas where the variances are requested, the County will add new vegetation when the permanent road is constructed as part of future phases.

The applicant is requesting individual votes for each requested variance from the ordinance. A summary of the variance requests is as follows:

**Variance #1 Summary**

Relief from the #2 level Landscape Buffer along the entire western border of the parcel, continuing around the northern border, and stopping just north of the quarry pond in the

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southeast corner of the property

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On the western side of the property:

- the proposed biking trail would run for approximately 1245.6 linear feet of the landscape buffer length, therefore eliminating approximately 4982.4 sqft of the required landscape buffer
- the proposed walking trail portion would affect 63.03 linear feet of the landscape buffer, thus eliminating another +/- 504.24 sqft of the required landscape buffer

On the north central side of the property:

- the proposed biking trail would run for approximately 515.49 linear feet of the landscape buffer length, therefore eliminating approximately 2061.96 sqft of the required landscape buffer
- the proposed walking trail portion would affect 73.87 linear feet of the landscape buffer, thus eliminating another +/- 590.96 sqft of the required landscape buffer.
- a portion of the landscape buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately 762.52 linear feet of the landscape buffer (6100.16 sqft)

## **Variance #2 Summary**

Relief from the required Waterbody Buffer Zone and 60 foot setback along various portions of Muddy Creek

On the western portion of the waterbody buffer of Muddy Creek that crosses the center of the property:

- the proposed biking trail would run for approximately 1570.15 linear feet of the waterbody buffer length, therefore eliminating approximately 6280.6 sqft of the required waterbody buffer
- the proposed walking trail would affect 248.56 linear feet of the waterbody buffer, thus eliminating another +/- 1988.48 sqft of the required waterbody buffer
- approximately 1488.42 linear feet (5953.68 sqft) of the proposed biking trail and 259.6 linear feet (2076.8 sqft) of the proposed walking trail will ALSO lie within the required 60 foot setback

On the central portion of the waterbody buffer of Muddy Creek that crosses the center of the property:

- the proposed biking trail would run for approximately 1507.51 linear feet of the waterbody buffer length, therefore eliminating approximately 6030.04 sqft of the required waterbody buffer
- the proposed walking trail would affect 30.91 linear feet of the waterbody buffer, thus eliminating another +/- 247.28 sqft of the required waterbody buffer



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- a portion of the required waterbody buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately 80.61 linear feet of the waterbody buffer (644.88 sqft)
- approximately 1554.04 linear feet (6216.16 sqft) of the proposed biking trail, 162.32 linear feet (1298.56 sqft) of the proposed walking trail, and 119.33 linear feet (954.64 sqft) of BOTH the biking and walking trails will ALSO lie within the required 60 foot setback

On the eastern portion of the waterbody buffer of Muddy Creek that crosses the center of the property:

- the proposed biking trail would run for approximately 229.44 linear feet of the waterbody buffer length, therefore eliminating approximately 917.76 sqft of the required waterbody buffer
- the proposed walking trail would affect 538.64 linear feet of the waterbody buffer, thus eliminating another +/- 4309.12 sqft of the required waterbody buffer
- a portion of the required waterbody buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately 1091.91 linear feet of the waterbody buffer (4367.64 sqft)
- approximately 232.56 linear feet (930.24 sqft) of the proposed biking trail, 453.06 linear feet (3624.48 sqft) of the proposed walking trail, and 1018.04 linear feet (8144.32 sqft) of BOTH the biking and walking trails will ALSO lie within the required 60 foot setback

#### Conditions of Approval

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

- Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project.
- Applicant shall install landscape as stated in application with future road construction to mitigate any approved variances.

# CABARRUS COUNTY VARIANCE APPLICATION



STAFF USE ONLY:

Application/Accel#: VARN2016-00003

Received By: JRE

Date Filed: 08/17/16

Amount Paid: \$618.00

## Instructions

1. Schedule a pre-application meeting with Staff. During this meeting, Staff will assess the proposed variance request to evaluate options that may be available to you through the zoning ordinance. If it is necessary to proceed with the request, Staff will explain the procedures and requirements, including the thresholds of consideration for Variance requests.
2. Submit a complete application to the Planning Division. All applications must include the following:
  - Cabarrus County Land Records printout of all adjacent property owners. This includes properties located across the right-of-way and all on-site easement holders. The list must include owner name, address, and Parcel Identification Number.
  - A recent survey or legal description of the property.
  - 18 folded copies of the proposed site plan. At a minimum, the site plan shall show the following:
    - The subject property and any adjacent properties.
    - All existing buildings, including setbacks from property lines.
    - All proposed buildings, parking facilities and accessory uses, including setbacks from property lines (if applicable).
    - The location and type of screening and buffering proposed (if applicable).
    - Impervious surface ratio (if applicable).
    - Waterbody buffers (if applicable).
    - Delineation of the proposed Variance on the site plan so that type of variance the applicant is seeking is clear. (This may be accomplished by submitting two site plans. One to show the requirements of the ordinance and a second to show what the variance request will achieve.)
    - Any additional item(s) that should be illustrated on the plan as determined during the pre-application meeting.
  - Any additional documents essential for the application to be considered complete. (Determined at pre-application meeting)
3. Submit cash, check, or money order made payable to Cabarrus County.  
Fees: Residential Variance request = \$500.00 or Non-residential Variance request = \$600.00  
+3% technology fee based on total application fee

The deadline for submittal is always the same day as the Planning and Zoning Commission Meeting which is the second Tuesday of the month. Applications must be submitted before 2:00 PM that day for consideration on the next available agenda.

***Incomplete applications will be returned to the applicant and will not be processed.***

## **Process Summary:**

1. Hold a pre-application meeting with Staff to discuss your request and the variance process.



2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.
3. When the complete application is received, Staff and appropriate agents will review the application and site plan and will make comments on the proposed request.
4. Staff will begin to prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for the Variance request.

**Meeting Information:** Meetings are held the second Tuesday of each month at 7:00 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

**Variance:** Variance requests are considered by the Board of Adjustment during a quasi-judicial hearing. This means that anyone wishing to speak regarding the application must be sworn in. The vote requirement for the Variance request to pass is 80% or greater. Additional conditions may be added as part of the Variance approval process.

**Questions:** Any questions related to the Variance process may be directed to the Planning Division at 704-920-2141, between 8 AM and 5 PM, Monday through Friday.

#### Application Information

Applicant's Name  
Jonathan Marshall

Property Owner's Name  
Cabarrus County

Applicant's Address  
PO Box 707  
Concord NC 28027-0707

Property Owner's Address  
same

Applicant's Telephone Number  
704 920-2145

Property Owner's Telephone Number  
\_\_\_\_\_

Legal Relationship of Applicant to Property Owner

Employee

Existing Use of Property

Agriculture / Park

Existing Zoning

O-I

Property Location

Bethel School Rd. - Midland

Tax Map and Parcel Identification Number (PIN)

5544-72-3955

#### TO THE BOARD OF ADJUSTMENT

I, Jonathan Marshall, HEREBY PETITION THE BOARD OF ADJUSTMENT FOR A VARIANCE FROM THE LITERAL PROVISIONS OF THE ZONING ORDINANCE. UNDER THE INTERPRETATION GIVEN TO ME BY THE ZONING ADMINISTRATOR, I AM PROHIBITED FROM USING THE AFOREMENTIONED PARCEL OF LAND. I REQUEST A VARIANCE FROM THE FOLLOWING PROVISION(S) OF THE ORDINANCE.

**The following information shall be completed by applicant(s) seeking a variance:**

1. Variance Request Including Related Zoning Ordinance Section(s)

Section: 4-10.11 and 9 part II and III

Waterbody Buffer Zone

Buffers and Landscaping

2. Reason(s) for Seeking a Variance

The perimeter walk and bike trail complies with the Zoning Ordinance for most of its 2 mile length. There are two areas where a variance from the Waterbody Buffer and general Buffer requirements is requested to maximize use of unique features of the property.

**FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a Variance. Direction is received by both state legislation and local ordinance. Under the state enabling act, the Board is required to reach four (4) conclusions as a prerequisite to the issuance of a Variance:

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.

In order to make its determination, the Board will review the evidence submitted in this application as well as receive public comment during the scheduled public hearing. This application will be entered into the official record of the public hearing.



*The responsibility for presenting evidence to support the Variance request, as described during the meeting and to the Board of Adjustment, lies completely with the Applicant.*

#### **FINDING OF FACT CHECKLIST**

*Please provide an explanation to each point in the space provided.*

1. The alleged hardships or practical difficulties are unique and singular to the property of the person requesting the variance and are not those suffered in common with other property similarly located.

*(The problem must be unique to the property and not a public hardship and must apply to the property, not the property owner).*

*The perimeter walk and bike trail follows historic pathways used on the park property. In one case the location is dictated by a constructed berm (1950's) and in another the only available location between a quarry pond and stream.*

2. The alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with the provisions of the ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return.

*(This often will be the most difficult area in which to make a determination. The issue, as established by court decisions, deals with the nebulous term of "reasonableness." Generally, if the variance is sought to make a greater profit on this property at the expense of others in the area, this point cannot be met. This item is best reviewed with the concept of, "is the property barred from a reasonable use if the strict terms of the ordinance are adhered to"?)*

*The property may be used with a shorter trail or switchbacks in other locations. The trail as planned takes advantage of wooded areas, existing gravel paths, unique vistas and areas that will be developed in later phases.*

3. The variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

*(This is a second way to address reasonableness. This is also where the issue of "where did the hardship originate from?" should be addressed. Self-inflicted hardships should be carefully reviewed for reasonableness.)*

*The attached maps show that the intent of the ordinance is met by existing vegetation and topography. In both cases, the path is located where gravel or dirt drives already exist.*

4. **The variance is in harmony with and serves the general intent and purpose of the ordinance.**

*(If a variance is granted, is the overall "spirit" of the zoning ordinance still intact? While difficult to explain, some types of variance are usually not in accord with the general intent and purpose of the ordinance and therefore must be cautiously reviewed. These often include extending a non-conforming use in scope, a use variance (clearly not allowed), and modifying a dimensional standard so as to the detriment of a neighborhood or area.*

*The second part relates to the question, if granted will the spirit of the adopted plan for proper development of the neighborhood or area be compromised?)*

*The variance for the Waterbody Buffer is requested in one area where a berm causes stormwater to flow away from the stream and in another where a drive has always existed. The variance from buffer standards meets all purpose statements at the beginning of Chapter 9 which will be shown on the exhibits.*

5. **The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance.**

*(This is the final way to address reasonableness via common sense. Simply put, does the variance make sense? Will its approval or denial endanger any one? Will the essential character of the area be altered if approved or denied?)*

*Exhibits and testimony will be provided to show how this standard is met by locating the trail on the historic location of access roads and through unique conditions of the property.*

**Possible Conditions, suggested by the applicant**

If the Board of Adjustment finds that a variance may be in order but the Board still has concerns in granting the variance, reasonable conditions can be imposed to assure that any of the five points will continue to be met and not violated. In your review of the five points, are there any conditions that you believe would clarify the justification of a variance? If so, suggest these conditions in the space below.

*In the area where the buffer and landscape variance is requested, the County will add new vegetation when a permanent road is built as part of later phases.*

**I CERTIFY THAT ALL OF THE INFORMATION PRESENTED BY ME IN THIS APPLICATION IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.**

SIGNATURE OF OWNER:



DATE:

*8-9-2016*



SIGNATURE OF APPLICANT:  DATE: 8-19-2016

# Rob Wallace Park

## Overall Variance Request

- Sheet 1 - Overall Site Plan
- Sheet 2.1 - Landscape Buffer Encroachments (Western Property Line)
- Sheet 2.2 - Landscape Buffer Encroachments (North Central Property line)
- Sheet 3.1 - Water Body Buffer Encroachments (Southern Property Line)
- Sheet 3.2 - Water Body Buffer Encroachments (Property Center)
- Sheet 3.3 - Water Body Buffer Encroachments (Eastern Property Line)
- Sheet 4.1 - Within 60' of Water Body Buffer (Southern Property Line)
- Sheet 4.2 - Within 60' of Water Body Buffer (Property Center)
- Sheet 4.3 - Within 60' of Water Body Buffer (Eastern Property Line)
- Sheet 5 - Aerial Photo

Total Encroachments					
ID	Length (Linear Feet)	Square Footage	Trail Type	Buffer	Description
1	63.03	504.24	Walking	Landscape buffer	Landscape buffer of western property line
2	1,245.60	4,982.40	Biking	Landscape buffer	Landscape buffer of western property line
3	73.87	590.96	Walking	Landscape buffer	Landscape buffer of north central property line
4	515.49	2,061.96	Biking	Landscape buffer	Landscape buffer of north central property line
5	762.52	6,100.16	Walking /Biking	Landscape buffer	Landscape buffer of north central property line
6	248.56	1,988.48	Walking	Waterbody Buffer	Western portion of WBB of Muddy Creek
7	1,570.15	6,280.60	Biking	Waterbody Buffer	Western portion of WBB of Muddy Creek
8	30.91	247.28	Walking	Waterbody Buffer	WBB for portion of Muddy Creek traversing center of property
9	1,507.51	6,030.04	Biking	Waterbody Buffer	WBB for portion of Muddy Creek traversing center of property
10	80.61	644.88	Walking/Biking	Waterbody Buffer	WBB for portion of Muddy Creek traversing center of property
11	538.64	4,309.12	Walking	Waterbody Buffer	Eastern portion of WBB of Muddy Creek
12	229.44	917.76	Biking	Waterbody Buffer	Eastern portion of WBB of Muddy Creek
13	1,091.91	4,367.64	Walking/Biking	Waterbody Buffer	Eastern portion of WBB of Muddy Creek
14	259.60	2,076.80	Walking	60' from Muddy Creek	Within 60' of western portion of Muddy Creek
15	1,488.42	5,953.68	Biking	60' from Muddy Creek	Within 60' of western portion of Muddy Creek
16	162.32	1,298.56	Walking	60' from Muddy Creek	Within 60' of central portion of Muddy Creek
17	1,554.04	6,216.16	Biking	60' from Muddy Creek	Within 60' of central portion of Muddy Creek
18	119.33	954.64	Walking/Biking	60' from Muddy Creek	Within 60' of central portion of Muddy Creek
19	453.06	3,624.48	Walking	60' from Muddy Creek	Within 60' of eastern portion of Muddy Creek
20	232.56	930.24	Biking	60' from Muddy Creek	Within 60' of eastern portion of Muddy Creek
21	1,018.04	8,144.32	Walking/Biking	60' from Muddy Creek	Within 60' of eastern portion of Muddy Creek

Legend

Park Boundary

Required 75' Landscape Buffer

Ponds

Streams

Within 60' of Water Bodies

Class 1 Water Body Buffer

City Limits

Structures 2010

Parcel

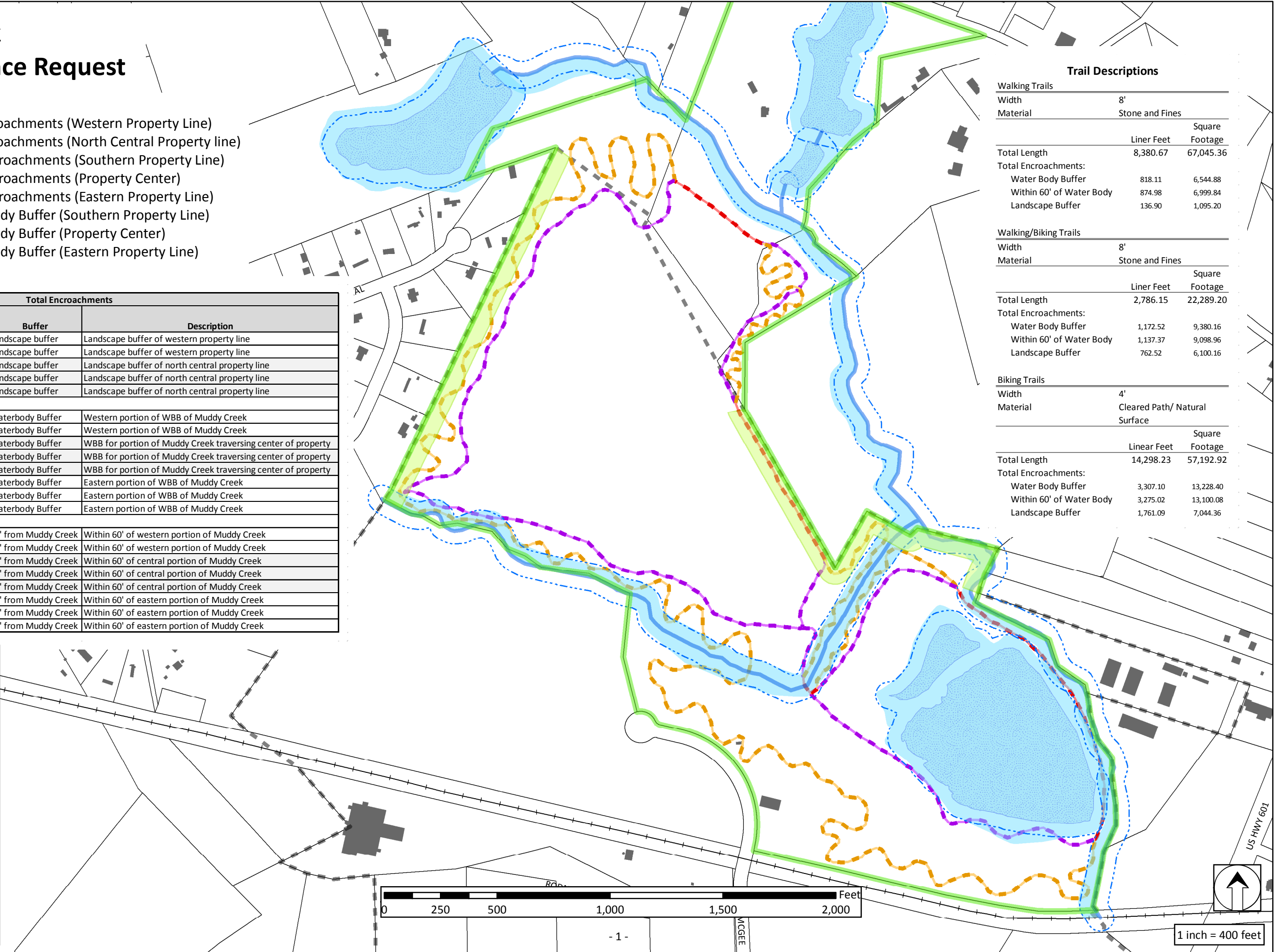
Railroad

Biking Trail

Walking Trail

Walking/Biking Trail

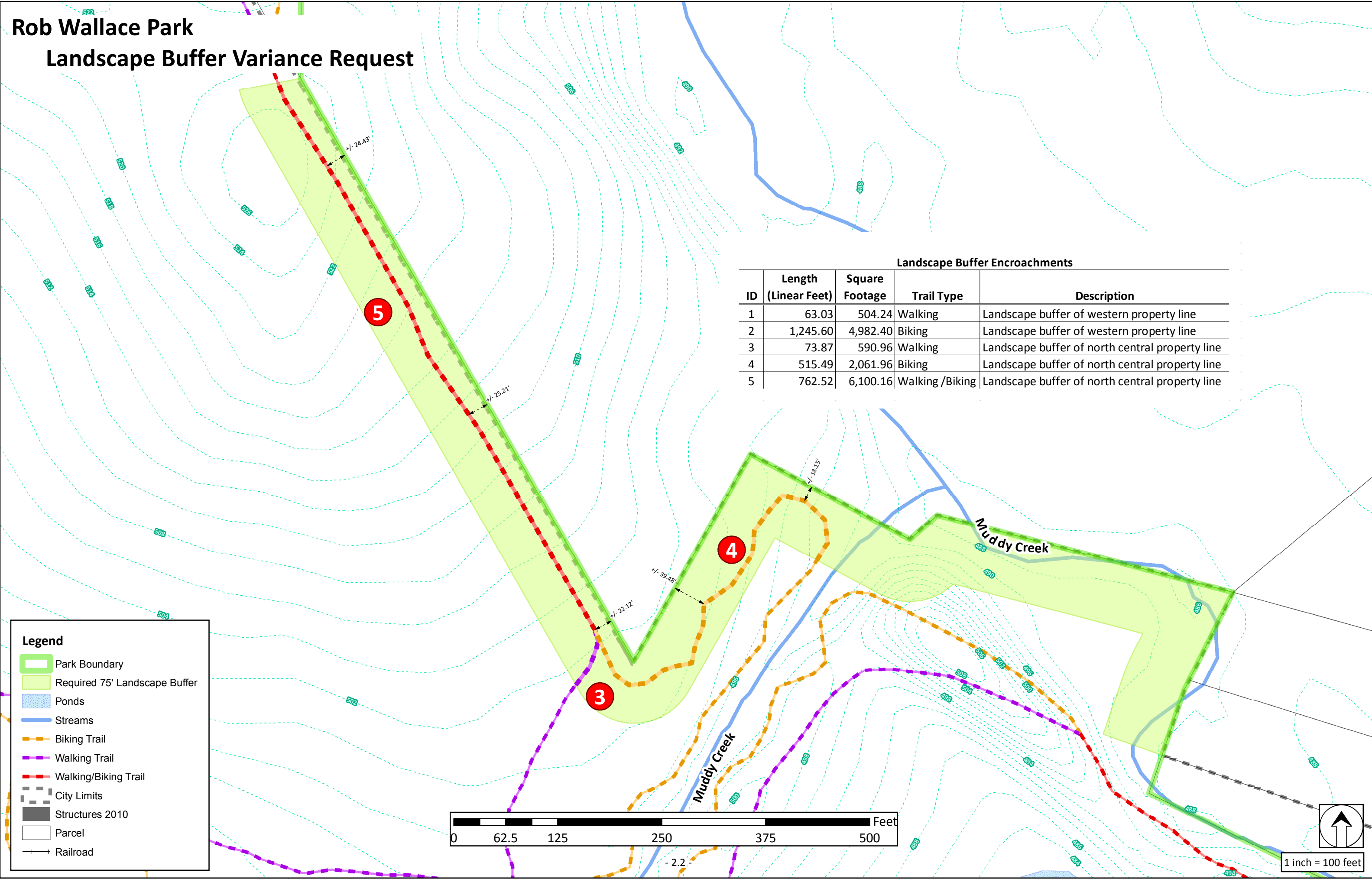
Trail Descriptions		
Walking Trails		
Width	8'	
Material	Stone and Fines	
	Liner Feet	Square Footage
Total Length	8,380.67	67,045.36
Total Encroachments:		
Water Body Buffer	818.11	6,544.88
Within 60' of Water Body	874.98	6,999.84
Landscape Buffer	136.90	1,095.20
Walking/Biking Trails		
Width	8'	
Material	Stone and Fines	
	Liner Feet	Square Footage
Total Length	2,786.15	22,289.20
Total Encroachments:		
Water Body Buffer	1,172.52	9,380.16
Within 60' of Water Body	1,137.37	9,098.96
Landscape Buffer	762.52	6,100.16
Biking Trails		
Width	4'	
Material	Cleared Path/ Natural Surface	
	Linear Feet	Square Footage
Total Length	14,298.23	57,192.92
Total Encroachments:		
Water Body Buffer	3,307.10	13,228.40
Within 60' of Water Body	3,275.02	13,100.08
Landscape Buffer	1,761.09	7,044.36





# Rob Wallace Park

## Landscape Buffer Variance Request



Landscape Buffer Encroachments				
ID	Length (Linear Feet)	Square Footage	Trail Type	Description
1	63.03	504.24	Walking	Landscape buffer of western property line
2	1,245.60	4,982.40	Biking	Landscape buffer of western property line
3	73.87	590.96	Walking	Landscape buffer of north central property line
4	515.49	2,061.96	Biking	Landscape buffer of north central property line
5	762.52	6,100.16	Walking /Biking	Landscape buffer of north central property line

Legend

Park Boundary

Required 75' Landscape Buffer

Ponds

Streams

Biking Trail

Walking Trail

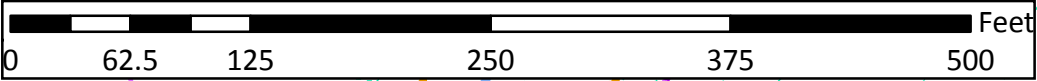
Walking/Biking Trail

City Limits

Structures 2010

Parcel

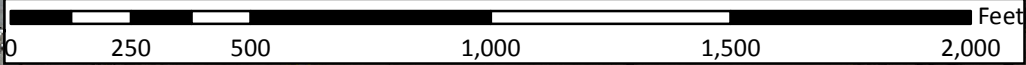
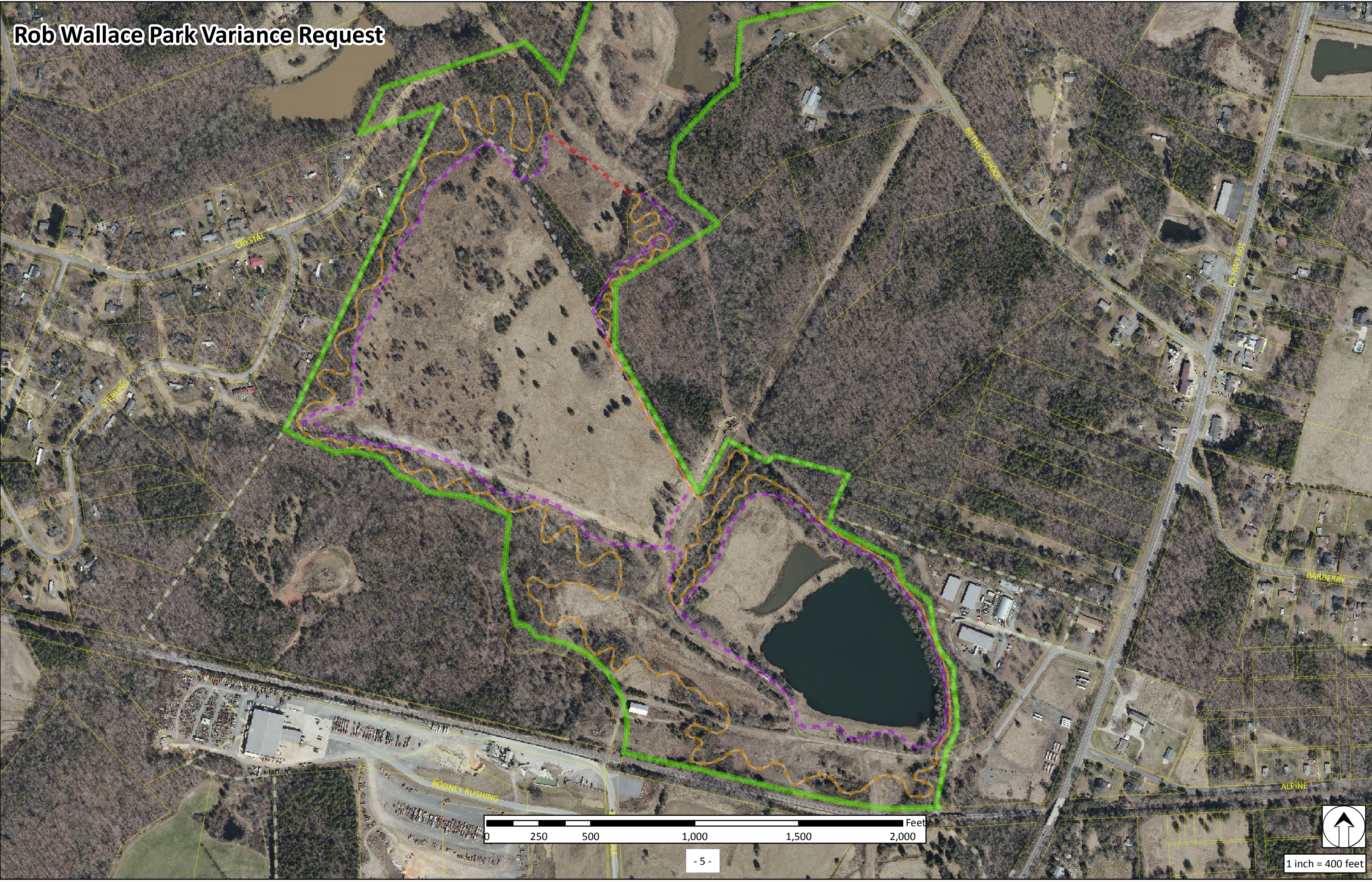
Railroad



1 inch = 100 feet

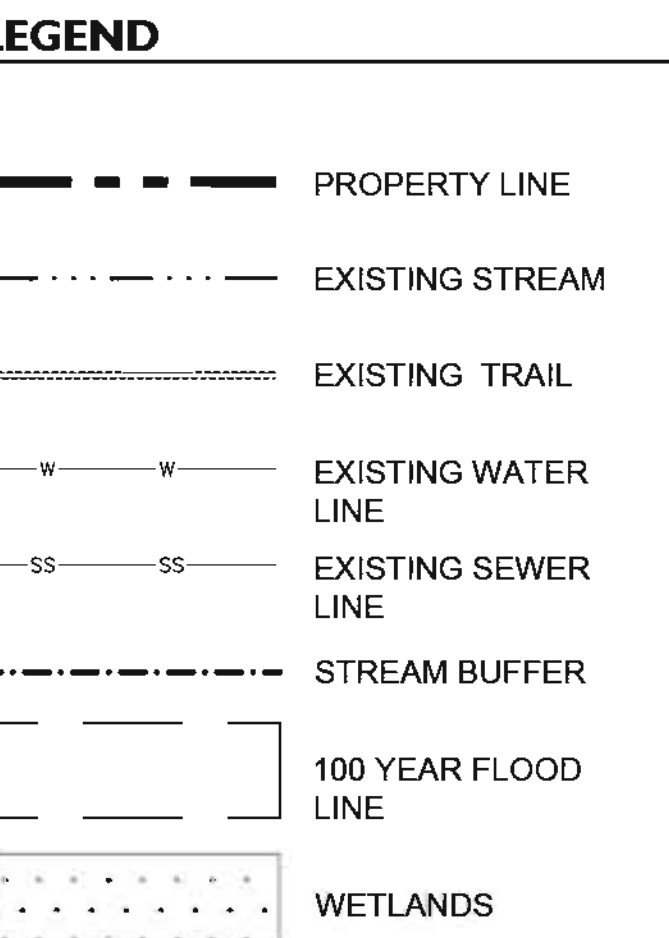
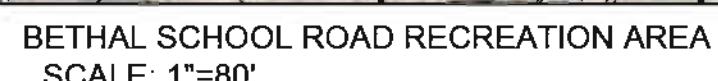


Rob Wallace Park Variance Request

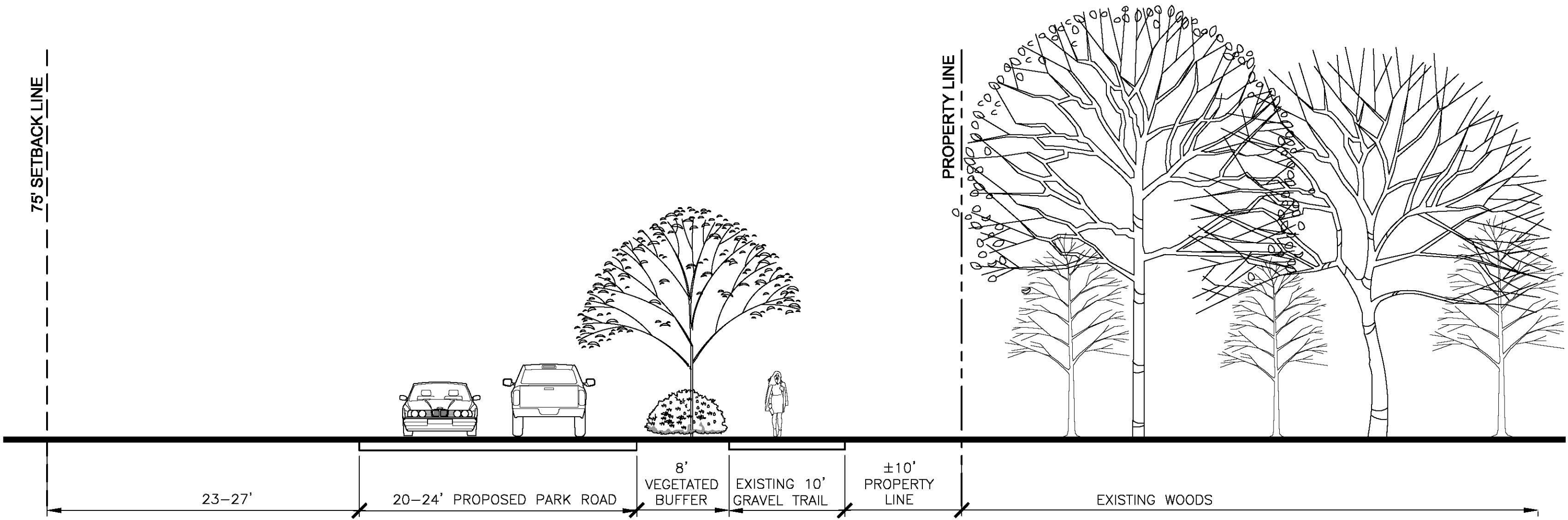




# Master Plan



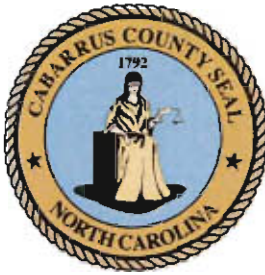




**ROB WALLACE PARK PHASE 2 SECTION**

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## Cabarrus County Government

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### Planning and Zoning Commission Minutes September 13, 2016

Ms. Susie Morris, Manager, Planning and Zoning, called the meeting to order at 7:00 p.m. Members present Ms. Mary Blakeney, Mr. Jeffrey Corley, Mr. Adam Dagenhart, Ms. Shannon Frye, Mr. Andrew Graham, Mr. Jeff Griffin, Mr. Dane Laney, Mr. James Litaker, Mr. Chris Pinto, Mr. Aaron Ritchie and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning, Manager, Mr. Jason Earliwine, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

The Oath of Office was administered to reappointed members Mr. Adam Dagenhart, Mr. Jeff Griffin, and Mr. Chris Pinto.

Mr. Aaron Ritchie nominated Ms. Shannon Frye as the Chair of the Planning and Zoning Commission. There being no other nominations, Ms. Frye was appointed by Acclamation.

Mr. Aaron Ritchie nominated Mr. Chris Pinto as the Vice-Chair of the Planning and Zoning Commission. There being no other nominations, Mr. Pinto was appointed by Acclamation.

Mr. Aaron Ritchie nominated Mr. Richard Price as the Chair of the Planning and Zoning Commission in the absence of both the Chair and Vice-Chair of the Planning and Zoning Commission. There being no other nominations, Mr. Price was appointed by Acclamation.

### **Roll Call**

Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Mr. Chris Pinto to **APPROVE** the August 9, 2016 meeting minutes. The Vote was unanimous.

Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the Findings of Fact for **VARN2016-00001**. The vote was unanimous.

The Chair asked all persons speaking for any of the Board of Adjustment cases or who plan to testify during the public hearings to stand to be sworn in and to complete a blue card. The Chair administered the oath.

### **New Business – Board of Adjustment Function:**

The Chair introduced Petition APP2016-00001, Appeal of Notice of Violation for illegal reception facility. The Board received a memo indicating that an interpretation is being requested from the Attorney General. In light of that pending matter, we are being asked to make a motion to defer until October.

Ms. Morris said that is correct. The applicant themselves did not make the request, the Department of Agriculture has made the request to the AG's office. She thinks that the applicants' attorney may be tracking it or keeping up with it and thinks there is a potential that there may be an interpretation before the October meeting. Typically, we allow people to table twice before they have to pay the fees again and then we re-advertise it.

Mr. Koch, County Attorney, was told today by Mr. Scarbrough that they think they may have that opinion as early as today or tomorrow. Mr. Scarbrough is going to send it to Mr. Koch when he receives it, but Mr. Koch has not received it yet.

Ms. Morris believes October would be appropriate and we can revisit it then at the meeting.

The Chair asked if there was a motion to Table until the October meeting.

Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Mr. James Litaker to **TABLE**, APP2016-00001 Appeal of Notice of Violation for illegal reception facility. The vote was unanimous.

The Chair introduced Petition VARN2016-00003 – Request for Variance from the requirements of Chapter 4, WaterBody Buffer Zone and Chapter 9 Landscape Buffers. Cabarrus County is the applicant and owner of the property. Located at 13800 Bill McGee Road, PIN554-72-3955.

Mr. Jason Earliwine addressed the Board presenting the staff report. This is VARN2016-00003, the applicant is Jonathan Marshall, Acting as Agent for Cabarrus County. The parcel is +/- 111 acres and is the subject property, also know as Rob Wallace Park.

The applicant proposes to use the subject property as a Public Use Facility (County owned Rob Wallace Park). A Public Use Facility is permitted in the OI zoning district as a by right use.

The Applicant is seeking relief from Chapter 4, Part II Waterbody Buffer Zone and Chapter 9 Landscaping and Buffer Requirements. The applicant wishes to construct a walking and biking trail around the perimeter of the proposed Rob Wallace Park, which will encroach into the required #2 Level Landscape Buffer, the required Waterbody Buffer Zone, and the Waterbody setback.

We actually have two Variances, the second variance we have broken down into several parts.

- **Variance Request #1, Relief from the Required #2 Level Landscape Buffer**
- **Variance #2, Relief from the Muddy Creek and quarry pond Waterbody Buffers which also includes a 60 foot Waterbody setback**

**Variance Request #1, Relief from the Required #2 Level Landscape Buffer**

Chapter 9 Landscaping and Buffer Requirements requires a #2 level Landscape Buffer between "Institution/Public" uses and any existing Residential uses. This buffer is to be 75 feet wide and requires 11 trees and 40 shrubs per 100 linear feet. Residential uses abut the entire western border of the parcel, continue around the northern border, and stop just north of the quarry pond



in the southeast corner of the property. The #2 level landscape buffer is required along this entire perimeter of the parcel. Since the southern and southeastern borders of the parcel abut Industrial Uses, no buffer is required.

Mr. Earliwine will go map by map as he goes through each part of variance. He said this is an overall map showing the entire buffer area.

The Applicant is requesting that a trail system be permitted in the required #2 level landscape buffer yard. On the western side of the property, the proposed biking trail would run for approximately 1245.6 linear feet of the landscape buffer length, therefore eliminating approximately 4982.4 square feet of the required landscape buffer, as seen in Sheet 2.1 of the site plan (shown on the overhead, the green section on the western border). The walking trail portion of the western side of the property would affect 63.03 linear feet of the landscape buffer, thus eliminating another +/-504.24 square feet of the required landscape buffer.

(He showed the map of the north central section of the park)

On the north central side of the property, the proposed biking trail would run for approximately 515.49 linear feet of the landscape buffer length, therefore eliminating approximately 2061.96 square feet of the required landscape buffer, as seen in Sheet 2.2 of the site plan. The walking trail portion of the north central side of the property would affect 73.87 linear feet of the landscape buffer, thus eliminating another +/-590.96 square feet of the required landscape buffer. A portion of the landscape buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately another 762.52 linear feet of the landscape buffer (6100.16 square feet).

Mr. Earliwine said moving now into Variance #2 which is the request for the Waterbody Buffer again, it is broken down into multiple parts that we will ask the Board to vote on individually at the end.

**Variance #2, Relief from the Muddy Creek and quarry pond Waterbody Buffers**

The applicant is requesting that a trail system be permitted in the required Waterbody Buffer Zone. Per Chapter 4 Overlay Districts and Zones, Part II Waterbody Buffer Zone, these buffers are to be retained in a natural, undisturbed state, in an effort to avoid erosion problems and to reduce the velocity of overland flow. Section 4-10, 11 requires a 60 foot setback from the top of the stream bank for any proposed pedestrian, hiking, or biking trails.

On the western portion of the waterbody buffer of Muddy Creek, (He showed the site plan) the proposed biking trail would run for approximately 1570.15 linear feet of the waterbody buffer length, therefore eliminating approximately 6280.6 square feet of the required waterbody buffer, as seen in Sheet 3.1 of the site plan. The walking trail on the western portion of the waterbody buffer for Muddy Creek would affect 219.1 linear feet of the waterbody buffer, thus eliminating another +/-1752.8 square feet of the required waterbody buffer. Additionally, 1488.42 linear feet (5953.68 square feet) of the proposed biking trail and 259.6 linear feet (2076.8 square feet) of the

proposed walking trail will ALSO lie within the required 60 foot setback from the edge of Muddy Creek. (He showed site plan, 4.1).

Mr. Earliwine said if the Board has any questions as we are going along, please feel free to ask them. He does not want it to get too confusing or over whelming, we can take a break and ask questions as we are looking at each map.

The Chair said looking at this site plan, the trail would be the mustard color with the red dot?

Mr. Earliwine said the biking trail; the walking trail is the pink colored one, and the dotted line represents the 60 foot setback. He showed the portions that lies within the setback on the map.

The Chair said it is where it is coming inside of that dashed line is where it encroaches?

Mr. Earliwine said correct. On each map of the site plan, they should be represented the same way; the pink is the walking trail, the orange color is the biking trail and the dotted line which ever map we are looking at would, represent different things. This one is the 60 foot setback for the waterbody buffer.

On the central portion of the waterbody buffer of Muddy Creek that crosses the center of the property, the proposed biking trail would run for approximately 1507.51 linear feet of the waterbody buffer length, therefore eliminating approximately 6030.04 square feet of the required waterbody buffer, as seen in Sheet 3.2 of the site plan. The walking trail on the central portion of the waterbody buffer for Muddy Creek would affect 30.91 linear feet of the waterbody buffer, thus eliminating another +/-247.28 square feet of the required waterbody buffer. A portion of the required waterbody buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately 80.61 linear feet of the waterbody buffer (644.88 square feet). Additionally, 1554.04 linear feet (6216.16 square feet) of the proposed biking trail, 162.32 linear feet (1298.56 square feet) of the proposed walking trail, and 119.33 linear feet (954.64 square feet) of BOTH the biking and walking trails will ALSO lie within the required 60 foot setback from the edge of Muddy Creek. (See site plan, 4.2).

Mr. Earliwine said the same guidelines are on this as the last one, with the 60 foot setback.

On the eastern portion of the waterbody buffer of Muddy Creek and the quarry pond, the proposed biking trail would run for approximately 229.44 linear feet of the waterbody buffer length, therefore eliminating approximately 917.76 square feet of the required waterbody buffer, as seen in Sheet 3.3 of the site plan. The walking trail on the eastern portion of the waterbody buffer for Muddy Creek and the quarry pond would affect 538.64 linear feet of the waterbody buffer, thus eliminating another +/-4309.12 square feet of the required waterbody buffer. A portion of the required waterbody buffer will also be encroached upon by both the biking AND walking trails in the same location. This portion accounts for approximately 1091.91 linear feet of the waterbody buffer (4367.64 square feet). Additionally, 232.56 linear feet (930.24 square feet) of the proposed biking trail, 453.06 linear feet (3624.48 square feet) of the proposed walking trail, and 1018.04



linear feet (8144.32 square feet) of BOTH the biking and walking trails will ALSO lie within the required 60 foot setback from the edge of Muddy Creek. (See site plan, 4.3).

Mr. Earliwine said for a brief site plan description; the property is proposed to be used for Rob Wallace Park, so it is largely undisturbed. It does contain a network of dirt roads throughout and there is a large quarry pond on the southeast corner of the property. There were two berms that were constructed he believes in the 1950's as he was told, that redirect storm water away from Muddy Creek. One of them lies on the southern border of Muddy Creek in the central section and the other lies in the southeast corner on the far side of the large quarry pond. There is also a 3700 square foot utility storage building located on the southern end of the property.

The current land use is vacant and it is the future site of Rob Wallace Park. The adjacent land uses are single family residential and vacant on the northern side and on the eastern and southern side most of it is industrial land or vacant, McGee Brothers own a piece of property and the future Intertape Polymer Group.

Mr. Earliwine was asked to read over the history of the property and any important points to summarize the entire thing.

The subject property has historically been zoned General Industrial. Cabarrus County submitted a rezoning request for the zoning of the property to be changed to Office Institutional and it was approved by the Planning and Zoning Commission on August 9, 2016.

The subject property is approximately 111.8 acres and the proposal is to develop the property as public use facility/County Park. The subject property contains several water features that are subject to the waterbody buffer zone. The subject property is required to maintain a #2 Level landscape buffer on the western, northern and part of the eastern borders of the property, each of which abuts residential uses. The subject property is required to maintain a minimum 60 foot setback from the top of stream banks for all proposed pedestrian hiking and biking trails.

The applicant contends that the perimeter walk and bike trail follow historic pathways used on the park property. In one case the location is dictated by the berm, as he stated previously and the only other available location between the quarry pond and the Muddy Creek.

The applicant contends that the map exhibits show that the intent of the ordinance is met by existing vegetation and topography. In both cases, the path is located where gravel or dirt drives already exists.

The applicant contends that the property may be used with a shorter trail or switchbacks in other locations. The trail, as planned, takes advantage of wooded areas, existing gravel paths, unique vistas, and areas that will be developed in later phases.

Mr. Earliwine said while we have the map up (he showed the quarry pond and one of the trails) you have probably seen on other maps, takes it across a berm that exists between the quarry pond and Muddy Creek and it is a raised elevation with an existing dirt road and there may even be some

gravel underneath there as well. The other berm that we were talking about is along Muddy Creek on the southern side or southeastern side of Muddy Creek and the proposed trail would be on the far side of that so it would not affect Muddy Creek on the opposite side there.

The Chair said back to that berm, what the proposed variance is going to be on the other side of the berm with the trail. She is trying to understand the relationship between the existence of these berms and what stormwater function they are providing; is that creating the need to put the buffer.

Mr. Jeff Corley thinks the berms are in the buffer and are actually guiding water away from the stream, so he thinks the intent is using that existing berm will not allow that water to drain into the stream.

The Chair said the placement of the trail.

Mr. Corley said the placement of the trail does not immediately impact the stream.

Mr. Earliwine said on this berm here (pointed to map) that is exactly right. The trails would be on the top of the berm which already has a gravel or dirt road. So stormwater really would not be altered as far as he understands it. On the opposite side of the berm, this is the side that has Muddy Creek, the trail would be on this side (pointed to map).

The application states that in the areas where the variances are requested, the County will add new vegetation when the permanent road is constructed as part of the future phases.

The applicant is requesting individual votes for each requested variance from the ordinance which he will explain. A summary of the variance request are as follows.

Mr. Earliwine gave the Board a breakdown of how the applicant wanted this to be voted. For the record there are four votes we are looking for.

The first is for the landscape buffer, only.

1. Request from Variance of Level #2 Landscape Buffer to permit walking and biking trails to be located in the required 75 foot wide planting bufferyard area.

The other three variance request all fall within the waterbody buffer category.

1. Request for Variance from Muddy Creek and quarry pond waterbody buffer requirement. To use existing dirt roads located in the required buffer area as part of the proposed trail system with no replanting or replacement of buffer for already cleared areas.

Mr. Earliwine said this is just laying trails down where there it is already a cleared road, so they do not have to worry about vegetation there.



2. Request for a Variance to allow additional clearing for new trails to be placed in the required waterbody buffer natural area including inside the 60 foot setback requirement.

Mr. Earliwine said this request is just for clearing new sections of trail.

3. Request for a Variance to allow the proposed trails system to be located closer than 60 feet to the stream bank.

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

- Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of projects.
- Applicant shall install landscape as stated in application with future road construction to mitigate any approved variances.

The Board has a right to add conditions as you see fit. Mr. Earliwine will answer any questions the Board may have and Ms. Erin Lineberger from Soil and Water Conservation is also here to answer any questions if you have any environmental type questions.

Mr. Jeff Corley asked Mr. Earliwine to walk him through how these squiggly lines got where they are.

Mr. Earliwine said that might be a question to ask the applicant. We just received the layout and added it into the GIS layer, so we do not really know all of the details. He said Mr. Marshall took him and Mr. Collins out for a site tour. A lot of what they were talking about made sense as to where they wanted to place it but they walked it with some of their own people from environmental and parks and recreation and came up with the site plan.

The Chair asked if there were any additional questions specific to staff before we hear the applicants presentation.

Mr. Dagenhart said on the Intertape site plan, what type of buffer did they put along that stream? Because previously that property, the park property was not zoned Office Institutional (OI). What was required for them?

Ms. Morris said if she remembers correctly, it followed the streamline. That property at that time was General Institutional (GI). It would have been GI to GI, but they maintain the required stream

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buffer on their side. So, it ended up being a de facto buffer, even though they did not have to have it.

Mr. Jonathan Marshall, Deputy County Manager, addressed the Board giving the Board handouts. He stated that the Clerk has already been given these items.

Mr. Marshall has worked for the County since 1988, beginning as a land use planner, worked his way through as the Planning Director and administrator and now Deputy County Manager.

With him this evening is Mr. Bryon Haigler, Parks Program Manager and he will speak directly to the bike trails. We are going to talk about the walk/bike paths, so we will call that the path and then we will call the trails, which are bike only trails. So he is going to talk about the bike trails how they are constructed and how they will be located within those areas.

Mr. Marshall will be using, as a primary source of information, the aerial maps that the County maintains, as well as the LIDAR technology we use to do topography, to show the Board some parts of the topography that affect this and whether or not these actually meet the intent of the Ordinance. He said to do that he will rely heavily on the intent statements in both those chapters. He will start and then Mr. Haigler will discuss the bike trails.

Starting with some history of the property (showing the site plan) zooming in he shows the parcel lines. This is Bethel School Road to the north, the parcel with two small lakes on it is actually Phase I of this park and is located with the Midland zoning district and has all of its permitting through the Midland zoning office. That particular phase is under construction now. South of that is the larger parcel, which is 110 acres in total that includes a smaller piece, a three acre parcel, but then the main body that runs all the way to the rock quarry itself.

He is going to start with an aerial that dates back to 1950. As he stated, as a source, the County maintains these aerials and they are available to the public. We use them often times to see what something was in prior years. He is zooming in on the rock quarry and it is a little hard to orient. He shows the railroad and said the disturbed area is the rock quarry.

One of the pieces of information that he has given to the Board is from the previous owner, Mr. Wallace. Mr. Wallace purchased this property in the 1970's, but the rock quarry itself was built beginning the 1940's and closed sometime in the 1950's.

In this picture you will note that Muddy Creek itself passes along to an area north of where it is currently located. As we go through this you will see that the creek itself was in a different location at that location running through what is now being quarried.

By 1956, that same creek had been moved. As you can see it is now located further to the northwest and the berm was actually constructed. So, prior to that it ran through the quarry area. It ran through what was being quarried, but the creek was rerouted to go north and west of that and they used stone from the rock quarry itself as well as soil to build a berm to keep that creek in place. At that point, just to the east and south of the creek the flow was now back to the quarry and not



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into the creek itself. There was also a berm constructed along the eastern edge of the property which became the eastern edge of the rock quarry and ultimately the impoundment that did the same thing. It formed a berm that was both somewhere for them to put material but also allowed them buffer it from the creek.

This next aerial was actually taken in 1983 and one of the important pieces of this. We will take aerial shots and typically with this technology we would take them sometimes two years in advance of when they were published. 1983 is a published date, but these aerial photographs would have been shot in the winter of 1981 or 1982. It is important because zoning was initially enacted in Cabarrus County in 1982. All of the activity prior to that was before there was any zoning in Cabarrus County.

By this point there is water in the rock quarry. He wants to point out that you can see that the access roads have all been built. The main access off of Highway 601 to get into the property and some of that road still exists. There is also access along the southern edge of the rock quarry. As he zooms in you can see the road despite the tree cover that had built up over that berm, you can actually still see the road that comes down between Muddy Creek and the rock quarry itself.

Then in addition, you can see that access road continued up along, because this was a separate borrow area that was still active so there was actually another access road that ran just below the crown of the berm along Muddy Creek.

In 2001, by this point, the aerial photography gets a little clearer, but you can continue to see the access road in 2001, that ran along the side and also the activity on the southern part of the rock quarry and then also the access road that ran to the west.

Mr. Marshall said the northern part of the property is the second area of the variance that we will discuss. The property that he is showing here is owned by a separate property owner, the county does not control that. We do control this oddly shaped parcel and everything to the west here.

When you go back to the 1956 aerial, you can see there was a home on the property. The access came off of Bethel School Road through that oddly shaped parcel.

When we switched to the 1983, aerial when zoning was enacted, you can clearly see that there were access roads along that property line. That property line has a fence in there and you have a heavily wooded area on the other side of the property line along the fence line and not surprisingly you have a row of cedar trees. That road was already in existence and it remains today. (Shows photograph)

He said this first photograph is on the east side of the rock quarry and this is where you get to the lower end of the rock quarry itself and you can see the road beginning to go up the berm. The berm ends on that southeastern corner of the rock quarry. Again, he has sent these photographs to the clerk.

This photograph is the access road itself going across the top of berm. There is plenty of soil there and like much of Midland, is underlain by a slate belt. A strip of material that forms much of this was the slate itself, but it has also been graveled over the years. As the property owner, Mr. Wallace, ran cattle on this property and then fenced this, there is actually a fence line within these trees. He used this and continued to use this after the rock quarry closed as his way to access that fence line.

This photo shows the southern edge of the quarry itself. The over burden was placed there as they quarried it. You can see the fall is actually away from the quarry itself. The trail is intended to be down towards the toe of this slope. He said these are some water oaks that Mr. Wallace planted along that property line. So the intent is for the trail to be closer to those water oaks and to stay away from the quarry. So, well technically, this would be an area we would be asking for a variance, it really is not necessary, because it falls outside of the buffer itself because it slopes away from the rock quarry. He will discuss that issue further in just a moment.

This photo is on the northern end of the rock quarry, Muddy Creek is off to the left of the picture. That is the top of the berm so Muddy Creek lies well below this. The slope of this goes back to or towards the rock quarry. There is an aspect of that that he will discuss as we go through the variance application.

Mr. Marshall said this is the road that we are asking for the landscape buffer variance. The row of cedars that are along the fence line, just to the other side of that, is actually the other property. So we will be within 75 feet of that property line, but we wish to use this existing road that has been traditionally on the property. Again, just to the left in this picture was the former home site. That actually is where we want to eventually develop an educational building. So, we will have an access road that is further into the property and we will maintain that required 75 foot buffer from that property line.

One more thing before he leaves the aeriels. He shows current imagery as well as floodplain. The parcel that we are looking to get closer than the 75 feet requirement is a vacant parcel. It is heavily wooded as you can see from this photograph. It has extensive floodplain and it is also in the lower area. The lower area for this township, where you have this type of slate, you get a type of clay that settles there. We actually looked at this property to acquire and to use as an entrance to the park rather than the parcel that we ultimately acquired further up Bethel School Road.

What we found was that the portion closer to Bethel School is more useable. The extensive floodplain, the soil conditions and the small amount of property that is actually on the west side of the property, made it financially unfeasible to actually cross that. The soils would require that you start bridging before you get to the 100 year floodplain. While this is heavily wooded and could be logged, which would remove our buffer, the floodplain area itself would not be within that. We feel that there is some existing buffer that stays on the other side of the fence line, in addition to what we have on the fence line itself.

Mr. Marshall will speak now about the intent of the Waterbody Buffer.



In the handout, he listed the three parts of the intent, both talking about the overall intent, the effect on bona fide farms, as well as impoundments for agricultural purposes.

There are many areas that Mr. Earliwine went through where we will not need those variances. He is only going to go through those areas where we feel that we need to request those variances.

Where there is a 75 foot buffer for the walking and biking path, we will adhere to that 75 foot separation. He will show some of those areas as he goes through this.

There are going to be some areas that we do need to request with the water body buffer with the walking and bike trails that we be able to encroach on what is the water body buffer. On Muddy Creek, north of the IPG property, there are some areas that Mr. Earliwine showed where there has been a sewer line construction where it looks like our trail would do some meanders, get within that water body buffer, we will not need that variance. We will hold, and they have notes for the contractor to hold that required distance and will not be requesting a variance there. There are two areas where we are requesting a variance and why are:

The first is the berm that lies between the rock quarry itself and the adjacent industrial properties to the east. To use that traditional road that lies on top of the berm there. There are a couple of things that he feels are findings of fact that would be in favor of that. One is an existing road that has been there historically. Second, we are as far from the stream as we can get and stay on a flat area. He would argue that the impoundment for the rock quarry itself should not be part of the waterbody buffer and that gets back to this impoundments for agriculture purposes.

When this rock quarry began to fill up with water it was because of springs or a water table that they hit in the area rather than being stream fed. This rock quarry is not stream fed. The stream to the north, which is along the tree line has been separated by the berm. What little water does flow in from the north, comes from sheet flow in this open area that was also part of the quarry at one point. But, in order to separate out any sediment, Mr. Wallace, the former property owner, constructed a basin on this northwestern edge of the rock quarry to collect that sediment. This is a shallow sediment basin that he constructed using some topsoil from elsewhere on the property. The flow is all from the top of the berm to the northwest, down southeast, to that basin. The remainder of the quarry, the only water gain or loss, is by direct rainfall or evaporation.

Again, the stream on the east side does not have any flow into it. There is if it gets additional water, there is an out flow from it that joins back to the creek, but south of that property. Again, an area he showed in an aerial photograph where there is a slope actually away from the rock quarry itself also gathers to some part of that.

Mr. Marshall said this has all been used as agricultural purposes and if this were a farm and we were looking at it he would say that exemption that we show in our intent is valid. But this is not part of the overall drainage system.

There is some concern that Ms. Morris has expressed to him, that the waterbody buffer itself, is a part of our ordinance that came about when we created the Coddle Creek Reservoir. It was in the

mid 1990's when we enacted our first waterbody buffer. This parcel has been used as a rock quarry since the mid 1940's. It was closed in the 1950's, and has had water as the Board saw from the aerial photographs, since at least those mid 1950's and on. He would say that it clearly predates the imposition of that ordinance.

In addition, we are not looking at an area that causes any detriment to the streams, because the real waterbody that we are intruding upon is for the rock quarry itself which is not part of the overall stream system.

The final finding that Mr. Marshall would offer is that because the gravel road always existed, there is not any greater affect or detrimental affect even if it does or where it does flow to the creek has already existed. The same is going to be true for where we intrude upon the strict buffer of 60 feet on this northwestern edge, you have the berm at the top that separates the creek from the rock quarry. We are actually down slope from the crown of that berm. So any water flowing off of the trail in that location does not go to Muddy Creek it goes towards that sediment basin and flows through what is now an open and grassed field for filtration.

Mr. Marshall said the second area with the walk and bike trail where we are requesting the variance, is from the Landscaping and Distance Standards of Chapter 9.

We had an old homestead that was located on the property as well as access roads as this was used for farming and those access roads continue to exist. The intent statements for landscaping and bufferyards is to maintain natural landscape, provide screening, prevent or lessen erosion and sediment pollution and to maintain or enhance the benefits of natural areas.

What he will offer for findings is that the natural landscape remains as it has since before the County purchased the property. Although we do not own the heavily wooded area, it does act as a buffer and that is a vacant parcel including all of that floodplain all the way to Bethel School Road. By locating where the trail of the road actually exists, we will not be disturbing any additional area, we will be using the existing road along that property line enhancing it with gravel and stone fines to give it some solidity.

The overall development of this property he thinks lends credence to what they are asking. This will be a passive park that enhances the natural landscape and more than meets the intent statements of this chapter. This is not a park where we will be developing ball fields. There will be an educational center that is built in a future phase, so the open area will be used primarily for classes and will remain as it is. Currently, we actually have a person who cuts hay on this property and he believes just finished doing that for this year.

Mr. Marshall said they will continue to maintain the existing tree stands, particularly as we get to this western edge. That is what he was saying, although in some cases on the map it showed the meanders might get into that 75 foot landscape, we will by note and by flagging of the trail itself in the field, make sure that the contractor meets that requirement to ordinance.



He also went through and they are listed and he will not read through all of them. He went back through the findings of fact and offered based on the information he just provided how they feel they meet findings for each one of these. We have some facts that support each one of the findings that the Board will need to make.

One other area he wants to address is the Soil and Water Division comments. One of them is when constructing the mountain bike trails, they recommend following the contours, especially in the areas nearest the streams, in order to reduce erosion off the trail into the stream.

Mr. Byron Haigler will address this better, but that is also the intent of the construction of the trails, to follow the contours. Other than having to go up and down in places, they will bench those in to provide as much stability for those so that they are easier for us to maintain and will not increase erosion in those areas.

Mr. Marshall said Soil and Water recommended keeping the walking trail entirely out of the buffer since the eight foot trail would require more clearing than the bike trail and will not be covered with gravel. Again, the areas where we are asking to get within the buffer are already a gravel road or have been used historically as roads. We will not be disturbing any area outside of what already has been traditionally disturbed.

The Chair asked Mr. Marshall if he is on the portion that is adjacent to the single family with what he just described.

Mr. Marshall said no. On that part, there is not an existing road, there we will hold the 75 feet and there is not a waterbody buffer issue, so there they are not requesting a variance.

Mr. Marshall said the third issue Soil and Water brought fourth is that it looks like the biking trail and even some of the walking trails may enter into jurisdictional wetlands along the southern edge. We recommend moving the trail outside of this area as it will make maintenance difficult.

Mr. Marshall said we do not disagree with this at all. We will hold that buffer for the walk/bike path along that southern edge to stay out of any wetlands, which are primarily the floodplain along Muddy Creek. There had been a sewer line constructed there and we were not terribly happy with some of the way they restored the land. We actually feel like if we put this trail in, we will be able to do a better job of stabilizing some of those areas and restoring that.

We do have a 90 degree crossing, that particular sewer line is both a utility, as well as pedestrian easement. It provides the access so when the Town of Midland bought that they actually extended it to the road network of the single family development next to this. We will actually go 90 degrees across the landscape buffer, but only to provide access to that neighborhood into the park.

Finally, Soil and Water noted that the center section of the property has a shallow water table which would cause issues with standing water and they referenced the soil map. That is an area that they are leaving open for education. It is possible in future phases that we will do things like we have at Frank Liske Park. There will be disc golf or something a little less passive. But, there

will not be ball fields in there, those will be maintained in their natural state. But certainly if we did anything there we would be cognizant of the conditions and the soil characteristics.

Mr. Marshall said the two areas in which they are requesting a variance for the walk and bike path, the landscape buffer along what is the western edge of the private property and the eastern edge where the existing road is and those two areas he discussed extensively around the rock quarry itself.

Mr. Marshall said the next part of this he will ask Mr. Byron Haigler to come forth and give his background and expertise as well as explain how they intend to construct the bike trails.

Mr. Byron Haigler, Parks Program Manager, Active Living and Parks Department, addressed the Board. He has worked for Cabarrus County since 2009. He came in as a part-time Park Ranger and has moved up to the Program Manager and will be on this wonderful piece of property once it opens. He is a graduate of Appalachian State University with a Bachelor of Science in Ecology and Environmental Biology with a concentration in Geography and Landscape Ecology.

Since that time, he has earned multiple certifications in just trail maintenance, trail design and trail planning. One of the ones he has worked heavily with is the Trail Masters certification with the Carolina Thread Trail. That is a week-long, very intensive training, hands on going over the overall plan design implementation of trails systems and what it takes to make a sustainable natural surface trail. That is our goal with the mountain bike trail.

The contractor that is going to be in place for the installation of mountain bike trail sees our vision for what we would like to see for this park. They have talked with Mr. Haigler and have agreed to not cut or remove any substantial trees to have this trail system go in place. It made him very happy. Pretty much the only thing that will be remove are the lower lying shrubs or vegetation in a 36 inch window to make this trails system to go through. The only thing that will be removed is a clearing above head. Obviously we have to clear about eight feet high to make sure that the bike riders do not encounter any limbs or anything else like that. Very minor clearing going through that system.

He said this is going to be a meandering trail where it is going to be fun to enjoy and go through this park. It will very much follow the land itself. It will follow the contours of that property. It is not going to drop down fall lines or anything along those line so that it would encourage erosion or anything along those lines.

As far as the trail system itself, it will be a natural surface trail itself, so we are going to remove the duff layer for that just to get to a more compacted soil surface, so it will not be dispersed as easy and can be compacted for that. We are going to leave all the vegetation and duff layer on the out skirts of that 36 inch wide window so it will help ease any type of erosion for that activity on top it. One of the main things we have learned going through the trail system is controlling the user and controlling the water. If we do those two things, we have very very minor maintenance issues with our trail systems. Trail systems in the past have slowly, but they are evolving to being more maintainable. Actually, not following existing logging roads or following the easier or



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more cost effective avenues of building trails; to now let's plan it right and let's do it right the first time.

We are really going to be able to show case this with this trail system. We have some people in place and he and many others will be there flagging these trails and moving these trails, to make sure that the users are going to be able to go where they are going to go, period. We have to know that users are going where they want to go, but also pull them away and protect areas that we want to protect as well; to have that and to justify that.

Mr. Jeff Corley asked if what they are looking at is a planned design of where those things are really going to go or is this a conceptual, we want to go in and out and in and out.

Mr. Haigler said it is a conceptual design that will for the most part that is where the trail system will go but obviously it is going to be able to move as needed based on the topography of the land, the grade of the land, the vegetation of the land. It is not going to be locked in place, we need to remove this section of vegetation to make this trail go through this particular spot.

Mr. Jeff Griffin asked if the trails will be created to accommodate horseback riding. He noticed there was a notation on one of these about horseback riding.

Mr. Haigler said they will not be utilized for equestrian use. Equestrian is not a high of demand as just general hiking and biking right now and they are not sustainable. He would love to offer those but this property is not the right property for equestrian use.

The Chair has a question about the water buffer impact. Have you looked at any opportunity to maybe stay out of that in areas where you are not following that existing road bed to maybe go to 20 feet? In Charlotte we use 20 feet for the Cross Charlotte Trails.

She understands that you are doing a bike and walking trail, but if there is any opportunity to go to a joint shared use facility that keeps you out of that buffer, just the analysis on that being a solution over doing a variance and having the environmental impact. She is trying to understand that scenario.

Mr. Haigler said the reason for the location of that shared use, that trail system there, is really to not impact honestly, anymore vegetation removal. But also in the other areas that are more just open field. They are more low lying flat topography that are not sustainable trails. They are very hard to build but also to maintain. Where the trail systems are, they actually follow the topography of the crowns of the land to really help with the actual move of the water itself to get it off of the trail system. To help that impact, to where we are not going to create these gullies, these low lying impact areas and to make it as flowing in design as possible for ease of users as well. To make this trail system make sense and ease of users as well had to come into play, of why it all came in the way it is and also looking at the vegetation itself. Having shade on the trails system is definitely desirable.

Mr. Marshall said Ms. Morris asked him a question and he thinks we do need to clear up some confusion. Mr. Earliwine has gone through with the conceptual plans that we created and shown you areas where really looking at a worst case scenario all those areas where we would intrude into either a landscape or waterbody buffer. Other than the areas that we have highlighted though, we will use, based on the notes and the requirements, the instructions for the contractor we will use all of that in order to flag it and construct it outside those areas. He noted the areas that they cannot avoid that, particularly with the walk/bike path. The trail itself, the bike trail, there are some areas within the landscape buffer on the western edge where he shows some meanders going into that buffer. But those again, we are limbing up trees but not removing vegetation. The meanders they are showing there and why it is an exact is because we are going to move around those trees so we can maintain that landscape buffer but have the bike path that can meander in and out of that, staying off of the walking path. We do have them in separate locations to avoid some of those conflicts between the users.

As you get to the creek where the creek forms a border between us and the IPG property, we will hold the required buffer staying outside the floodplain with our walk and bike path. We will also hold the 60 feet required distance for the bike trail itself, because of the sensitive nature of those areas.

We are asking for a variance in some areas from the waterbody buffer where we do not feel that it really comes into play. He has gone through those reasons. We are also asking for that variance from the landscaping along that one property line, again, because we are trying to stay in the location that has already been disturbed and feel like that is a traditional part of the property.

He said all of this is movable, so based on the Board's decision, we will finalize those trails before we actually construct them. Mr. Haigler will be going with both of the trails and will be very busy flagging those with the contractor. The property lines are very clearly marked and again, the contractor in this case will be the previous property owner. So he knows those property lines very well.

We actually feel, pulling those distances from the stream banks, to make sure we are staying outside that buffer, as well as from the property line, staying the proper distance off those property lines; with the exception of those areas that we have noted.

Mr. Marshall said hopes that clears up some of the confusion. He said Mr. Earliwine went through a very detailed mapping of that, based on what we had shown him. Some of that pointed out to us areas where we know we need to make adjustments because we can move outside those buffers, adhere to the ordinance in those locations. The ones we have highlighted, we do not feel that we can do that and use the property the way we would like too.

The Chair said to restate back what she heard. For instance, the landscape buffer that would be applicable adjacent to that single family on the western side. She is understanding that you are just doing minor, underbrush clearing, to create the trail with really no tree removal or grading that takes the buffer away, as much as just the disturbance to create a path.



Mr. Marshall said that is right. The walk/bike path will actually meet the 75 foot or greater. We will not get into that landscape buffer. There is enough existing landscaping we feel to meet the ordinance standards. The bike trail itself will meander in some cases into that 75 feet but all they will be doing there is going around existing vegetation and up limbing it so we are not knocking bike riders off.

There being no further discussion or any one speaking for or against the variance, the Chair closed the Public Hearing.

The Chair said at this time the Board will discuss what has been presented.

The Chair read the standards for a variance:

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.

The Chair said there are five separate variances that are being sought and it is proposed that we will take them one section at a time. The other consideration that we need to think about is tradeoffs that may be provided with our recommendation for approval of a variance. When she says tradeoff does that mean a condition or consideration that would follow our approval of that; is she understanding that correctly?

Ms. Morris said that is correct. In the past, the Board sometimes has requested, if we allow X then we would like you to do Y or we prefer that this landscaping stays, but we are okay with you doing this over here.

So, as presented to our Chair and Vice-Chair some of those potential motions may need to be tweaked based on the applicant's presentation. Because they have found, based on field conditions, that they may not necessarily need some of those variances for both types of trails. It may only be the one type of trail now, that would extend into, for example, the landscape buffer area and into the 60 foot waterbody buffer area.

Our ordinance does allow trails to be located in a buffer in waterbody buffer, but they are supposed to be located a minimum of that 60 foot off of the stream bank; preferably outside of it so that there is not clearing. But in this case, they are asking to go inside of that 60 foot buffer. She believes with some of the combined trails, where they would be up on the berm.

Ms. Morris asked Mr. Marshall if that is correct.

Mr. Marshal said between the rock quarry and the creek beds.

The Chair said right, you can see where the rock quarry exists, where that overlap is occurring in that buffer, based on the berm in the quarry, that it is pushing it into it.

Ms. Morris said that is correct.

The Chair said the other thing she understood also, was that it is a portion where you have existing road bed. That you are going within not to create any additional grading or clearing. You are using existing condition to locate the trail in that portion where you are encroaching.

Ms. Morris said right, so based on the question about where do the lines fall, at this point the lines will fall somewhere within there and that is the anticipated placement. So, you have very general variances in front of you, as the proposal. Some of those maybe could be split out or reworded, but in reality it is only the mountain bike type trail that would be going there not the shared walking/biking trail, if you wanted to clarify what you are actually considering or what you consider approving since it sounds like they now have a better idea of what they can accommodate or not accommodate on the site based on the topography.

Mr. Corley said the landscape buffer that we are talking about, if we denied that and thinking ahead they would move the trail further over outside of that zone. What happens to that existing path? Can that be mowed and maintained just as it is today; are plantings required? What happens to that existing landscape buffer if they move that trail?

Ms. Morris said at this point, they would get credit for any existing vegetation that is there. But they may need to supplement into that. If the path was not allowed there; if they were not granted the variance, the expectation would be that it would kind of stay as is, but it would grow up or if those additional plantings needed to fall within that area that they would plant them.

The Chair said for more clarification, Ms. Morris said that the ordinance does provide for trails in landscape buffers?

Ms. Morris said it does apply in the waterbody overlay. But typically, it would run concurrent with say a sewer easement or something that is already there; the easement is coming through, it is already there and it has already been disturbed.



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In this case, they are trying to use some areas that have previously been disturbed; not necessarily for what we would typically see, like a sewer easement, to do the multi-purpose easement coming through, but to use something that is already there and to not have to go back in.

Typically, if you are coming in with a trail you would only get approval for whatever that amount is; if it is ten feet, it is ten feet.

The Chair said limited dimension.

Ms. Morris said in this case they may have some areas that are wider. But typically, when that area is disturbed or if you go past what that is you are required to replant. That one is proposed that they could use the existing and not have to replant if it is wider than what the trail system ends up being.

The Chair said just for clarification, the landscape and the waterbody buffers, she guess it is for the Board to determine. But are we making it for the overall site or are we going to tailor possibly a certain condition around the landscape buffer for the portion that is the quarry and that property line that is adjacent to the area that has floodplain and then go back over to the landscape buffer? Are we holistically looking at this or are we taking it in pieces; those are the options that we have to decide?

Ms. Morris said yes, the site plan is a little misleading at this point, because they both encroach in to it. It was kind of proposed as a blanket; if you allow it, you allow it. But, if there are certain areas where the Board does not particularly feel that you want to permit that, then you can always break it down; on the western side we will allow this and on the eastern side, based on these findings we will permit this. Permit it to be there or not be there, that is completely up to the Board. These are kind of broad brush and she thinks based on the presentation, some of those have somewhat been determine in the field now, which was undetermined at the time that the application was submitted.

She asked Mr. Marshall if he thought that was accurate. Mr. Marshall responded yes.

The Chair said her proposal it to go with the general and if there are concerns, the Board discuss those and then tailor it to what they may need to be.

Request for variance from the required Level#2 landscape buffer to permit walking and biking trails to be located in the required 75 foot wide planting buffer yard area.

The Chair asked if there was any discussion or modification to this or a motion to approve or deny.

Mr. Adam Dagenhart said his concern is that that existing vegetation is not controlled by the property owner. So, if we allow them to put it in there, in that landscape buffer and that adjacent property timbers, develops, or whatever, there is no buffer.

The Chair said her understanding during the presentation was that portion that we are talking about is where they are proposing to use the existing road bed.

Mr. Dagenhart said yes, he thinks that was Mr. Marshall's picture, it had the fence line of cedar trees. That is some buffer, but it is showing 25 feet off the property line, that is not much of a buffer. It is less than half of what is required.

Mr. Earliwine thinks what they are referring to the buffer on the site plan Page 2.2 and it is a combined walking/biking trail along existing gravel dirt road.

Mr. Dagenhart understands trying to utilize the existing road bed. But, we also have to remember that we sit up here and make decisions that the next applicant could come in and say well, you let them to do this; would we let anyone else do this?

Mr. Aaron Ritchie said the way he sees it, the property next door has floodplain. It is very limited what you will be able to do with that piece of property.

Mr. Dagenhart said you can timber it and you can cut every tree down that you want.

Mr. Ritchie understands that and you will plant trees back. That is part of the program, you cut trees and then plant them back.

The Chair thinks another consideration she has about the buffer, is that this is a passive recreational use and not one of intensity or land use. It is a land use, but the relationship between a buffer being present for provisional protection and separation and the uniqueness of this bed being in place that is not creating excessive grading or clearing, than what would be required for them to offset it or recreate it. That is what she sees is kind of situational and unique about it; separate from a repeat of someone comes in and we have granted a buffer exception. Then we are saying, well you had this use or this is what is different about that one, versus kind of being put to the mat on why we are doing this here. She sees kind of that separability with these facts, but that is her perspective.

Mr. Dagenhart said it will take 20 to 30 years to re-establish that buffer once it is timbered.

The Chair honestly thinks that nobody is going to go through the expense of constructing a bridge across a regulated floodplain for what the yield of development would be. She said that is only speculation.

Mr. Dagenhart said unfortunately, they do not make more land.

Mr. Ritchie said the only thing it is going to buffer is people riding bicycles and walking. It is not like we are going to build buildings or other stuff.

Mr. Dagenhart understands that, but again you are giving a variance. You need to be able to justify it to any developer or anybody from the public. It has to be justifiable and be able to defend it.



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Mr. Corley thinks the conditions are that we have a maximum with the trail like they have proposed. We have a type of surface treatment at an existing location. He thinks the alternative is worse than utilizing an existing, in that specific location. He had some concerns about the west side and he is glad we got past that one. From practicality, he thinks it would be ridiculous not to allow the use of an existing trail to be used as trail.

The Chair concurs with what was just said and sort of thinks that they can get to what is unusual about this condition; that it is peculiar to the property. What those facts will be, she feels satisfied that the Board recommending a variance is not doing anything that is discretionary, but is very specific to existing conditions. Especially again, what we said about what is a trail and what we have seen was existing on the property for over 50 plus years and just the consideration and the facts about the property.

That piece of property that we are talking about was going to be purchased but even in the presentation, why it was not purchased. She thinks that all leads into when it is redeveloped or being developed in the future that is all information relevant to how we are evaluating letting them have some relief from the buffer.

Ms. Morris said in light of Mr. Corley's comments about the other side kind of being handled, just so everyone is clear, the mountain biking trail is still going to go into that particular area. Just so we are all on the same page about what the motion is and what it will mean to us for site plan review.

The Chair asked that the picture be shown on the screen. She is looking at page 17 in the packet. She is really saying for what she is speaking to for the impact for this portion of the buffer and she has no objection if we want to look at this as one and this two. Not to make it blanket but take each area.

The Chair **MOTIONED**, that a variance be granted for the portion of the trail that would be made on the eastern portion of the site.

Mr. Earliwine said we are talking about Page 2.2 on the site plan, the eastern portion along the property that we were discussing that has all of the trees and the floodplain.

Mr. Dagenhart said that is a joint trail, correct?

Mr. Marshall said it is.

Mr. Dagenhart asked if they were going to grade that out and get rid of the fluff in that section.

Mr. Marshall said it is actually going to share the path. It is going to be the combined path and trail in that particular location.

Mr. Haigler said that is for the bike trail

Mr. Dagenhart said when Mr. Haigler was giving the details about the bike trail, he said he was going to go in there and grade it and fluff it out. So you are going to disturb that existing road bed.

Mr. Haigler said that is for the mountain bike specific trail, this is going to be the shared trail.

Mr. Dagenhart said that was his question.

Mr. Marshall said on this one we will not, but yes, on the western part you were talking about he would be doing that.

The Chair said lets handle that one to Mr. Dagenharts' point. That portion that we just made the exception for is exclusive of a shared use trail, not a separate bike/walking trail, but one single trail that is joint use and the exception is being granted for that.

The Chair MOTIONED to approve the request for a variance from the required level 2 landscape buffer to permit a joint use trail to be located in the required 75 foot wide planted bufferyard area for the portion to that is adjacent to the eastern side of the site as depicted on area 5.

The Chair asked if anyone besides her that understands before she takes a vote.

Mr. Koch suggested that Mr. Marshall come up and help go through this since he is the applicant.

Mr. Marshall said you want this to be an exclusive shared trail, but you are offering a variance on this particular property line, the Area 5.

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

Ms. Mary Blakeney **MOTIONED, SECONDED** by Mr. Aaron Ritchie to **APPROVE** the request for a variance from the required Level 2 Landscape Buffer to permit a joint use trail to be located in the required 75 foot wide planting bufferyard area for Area 5 on the site plan. The vote was unanimous.

The Chair said moving to Area 2 for the landscape buffer. This would be the same request. Are there any conditions that would be proposed to be added to this portion of the variance?

Mr. Koch said this one is just the bike trail.

The Chair said it is in the landscape buffer for the entire property line.

Mr. Ritchie said they are just going around existing trees and are not tearing anything down.

The Chair said that is what we heard in the presentation. The Chair asked if there was a motion to approve or deny this variance.



Mr. Aaron Ritchie **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the request for a variance from the required Level 2 Landscape Buffer to permit a mountain bike trail to be located in the required 75 foot wide planting bufferyard area for Area 2 on the site plan. The vote was unanimous.

The Chair this is a request for a variance from the Muddy Creek and quarry pond water body buffer requirement to use the existing dirt roads located in the required buffer area as part of the proposed trail system with no replanting or replacement of buffer for already cleared areas.

The Chair said the water buffer area goes all the way around the quarry back around and then down the property on the western side.

Mr. Dagenhart said are we looking at Area 13?

The Chair said Area 13. She asked if there was any concern before we break it out. Do we look at the entire water body buffer, is there a preference that we look at area 12 and 13 separate and apart from the other area?

Mr. Ritchie said do the whole thing.

Mr. Corley said just to confirm, the areas bordering the industrial site 6 and 7, remind him what the intent is there.

Mr. Marshall said that we will hold the required 60 foot buffer there, this was conceptual in field and they will pull out of that.

Mr. Morris asked if that was for both trails.

Mr. Marshall said yes, both.

The Chair said does that mean we do not need to do a variance on this portion.

Mr. Dagenhart said that is correct. The only areas that he is asking for a variance now is around the quarry pond.

The Chair asked if there was a motion to approve the variance request for the waterbody buffer that is adjacent to the quarry, referenced as Areas 12 and 13.

Mr. Aaron Ritchie **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE** the request for a variance from for the Waterbody Buffer that is adjacent to the quarry, referenced as Areas 12 and 13. The vote was unanimous

Mr. Earliwine said we had another section of the waterbody buffer that was not addressed. We had three individual sections, one was the western portion which they have agreed to keep out of

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the waterbody buffer, one was around the quarry pond and the third section was in the center of the property along the berm on Muddy Creek that separates the property.

The Chair said Areas 9 and 10.

Mr. Earliwine said yes.

Mr. Marshall hopes to offer some clarity here. On what is the southeastern edge, where number 8 is, both the path and the trail he believes is outside of that buffer. We would ask for a variance although they do not believe it is really a variance. We will make sure we are below the crown of the berm, so water does not flow back to Muddy Creek. He does not believe there really is a buffer there and thinks they have proven that factually.

On the northwestern edge, where number 9 is, we would move that outside the 60 foot buffer. We would not request a variance there, we would adjust and get outside the 60 foot requirement for Muddy Creek.

The Chair said one point of clarification, she follows what Mr. Marshall said about modifications outside the waterbody, but back to it being a waterbody that required a buffer is there not a way just to get an interpretation that the buffer requirements would not be applicable since this existed prior to the adoption of that buffer?

Mr. Marshall said actually in this case, he feels factually, the berm itself by the time you get to the edge of creek bank to the top of the berm, there is not 60 feet of separation there.

The Chair said that you could establish based on that distance.

Mr. Marshall said yes that distance, whatever that is, whether it is 40 feet, 30 feet from top of bank to the top of the berm we will not disturb. Anything that we disturb will be over the crown of that berm and actually the water, that sheet that flows off of that will go back to that sediment basin north of the rock quarry will not go to Muddy Creek. We will locate below the crown of the berm so that we are not violating a waterbody buffer.

He wishes he could have taken the Board on the field trip to see it. It is a lot easier to see where the crown of that berm is and that our trails will be below that. Any water hitting them will then flow back toward the rock quarry, through an open field and ultimately to a sediment collection area before it gets to the rock quarry.

He said on the other side they will adjust this trail to be outside the 60 foot required buffer. On the other side where it is labeled #9 they will not request a variance. They will change the trail design there.

Mr. Corley said what we have left is a variance on the southeast side, which is really just a formality to let you in that 60 feet with maybe a condition that it is just below the crown.



Mr. Marshall said yes.

Mr. Jeffrey Corley **MOTIONED, SECONDED** by Mr. Aaron Ritchie to **APPROVE** the bike trail encroaching in the waterbody buffer on the southeast side with the condition that the path be constructed on the downhill side of the berm opposite the stream. The vote was unanimous.

The Chair asked for staff clarification based on what is before her. Where she had a vote 3 and a vote 4, one of those was eliminated when there was submission to take it out of the stream for what is Area 9, such that we do not need to do?

Ms. Morris said these were set up as kind of general conditions. One was to allow additional clearing in the waterbody buffer inside of the 60 feet and the other would be to actually allow the trails to be located inside of that 60 feet as well. Which could be combined into one if you wanted too. But there are still areas where the trails, be it the walking trail or the bike trail, are going to encroach into that 60 feet; overall on the project.

The Chair said we have just be going around the box and so now based on what you said Area 6 and 7.

Mr. Earliwine said we have maps with the 60 foot waterbody setback if you would like to refer to those.

Ms. Morris said it meanders in and out of it.

Mr. Dagenhart thought that Mr. Marshall said that those areas would be outside the 60 foot.

Ms. Morris said unless everything is located out of that 60, they are going to need that encroachment. It would all have to be out of the 60, but in some places it is still within that 60 and there might be new trail going in that 60.

Mr. Marshall thinks that all of the variances that the Board has addressed have addressed there concerns. Otherwise, they can adjust and get outside the 60 foot buffer. He does not see any other areas where they would need a variance. He said they do have one 90 degree crossing that they would make.

The Chair said to the neighborhood?

Mr. Marshall said the 90 degree crossing to the neighborhood and there is one 90 degree crossing of Muddy Creek. He thinks those are permitted. He does not think there is anywhere else they would need a variance we would just make the adjustment to the design to get outside the 60 foot buffer.

The Chair said compliance without needed exception.

Mr. Marshall said they would make adjustments based on what they are granted.

Mr. Koch said the only other thing he thinks the Board needs to do that he can see is vote on the general conditions at were in the staff report that apply to all the variances you just approved.

Ms. Morris said the last condition was one that the applicant had proposed. She does not know if the Board would like for them to address what their condition was, as far as, where they plan to put that landscaping back in; so that it is on the record. They themselves have proposed, that once they were done and when the new road was constructed they would go back in and put some landscape in.

The Chair asked if they incorporate that as a condition.

Mr. Koch thinks the condition would be to require those conditions for all the variances that have been approved; they are general to all the variances.

Mr. Marshall said Ms. Morris asked that they acknowledge the condition where you granted a variance in Area #5. We will be constructing an access road in future phases that will be outside that 75 feet, but we will add landscaping (He showed on the map where they will add the landscaping). Where we construct the access road, they will add landscaping and they do agree to the condition to add landscaping to the side of the access road, between it and the trail itself and between it and the adjacent property.

The Chair said we need a motion to accept the applicant's request to establish planted material to supplement what is graded or cleared.

Ms. Morris said it was already proposed as one of the conditions of approval. So that the Board is aware of where they are talking about that trade off. In this particular area, once that final road is constructed they will come back in and replant.

The Chair said we have that as a condition and we also need to go back into the staff report and pick up the conditions that were provided by soil and water conservation review?

Ms. Morris believes that based on the fact that the trails have been moved, their comments have been cleared at this point. She does not think that they are requesting any conditions of approval at this time. It would be just those general conditions that we had for approval, which are standard conditions. Plus, the one condition where the applicant proposed in the application that they would put landscaping back once that final road is built, because that would be something specific to the granting of the variance.

Mr. Koch said the page is not numbered but it is the last page of the staff report.

The Chair said it is page 10 on the pdf document.

Mr. Koch said there are four and Mr. Marshall just addressed the last one.

The Chair said the conditions in the staff report are part of the variances that we have granted.



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Mr. Koch said they were not articulated in the motion. That is why he is saying you can do that as a separate motion generally and say that it applies to all of the variances you just approved. You do not have to do it separately.

The Chair **MOTIONED, SECONDED** by Mr. James Litaker, that the conditions included in the staff report are also applied with the granting of the variances. The vote was unanimous.

It was the consensus of the Board to have Mr. Koch prepare the Findings of Fact. (See attached Finding of Fact)

## **FINDINGS OF FACT**

1. The County is the owner of the Property, which is an approximate 111.8 acre parcel that is presently undeveloped, except for the remains of an old quarry operation.

2. The County desires to develop the Property as a public park, already named Rob Wallace. The County owns some adjacent property along Bethel School Road, which is currently being developed as the entrance and first phase of the Park.

3. The general plan for development of Rob Wallace Park calls for it to be developed as a passive park, taking advantage of the natural viewscales existing on the Property and of the changes made to the Property by the former quarry operation.

4. Some of those changes consist of an excavation pit that has partially filled with water, creating a quarry pond; an earthen berm around one side of the pond with an old roadbed still existing; and another berm that directs surface water away from Muddy Creek, which runs through the Property.

5. The County has developed plans for a walking trail and a bike trail that generally would course along the perimeter of the Property. The proposed location of the walking trail and the bike trail in places impacts the landscape buffer and the Waterbody Zone buffer requirements for the Cabarrus County Zoning Ordinance (the "Ordinance").

6. The Property is zoned Office/Institutional ("OI"), which is the zoning district the Ordinance requires for a public park.

7. The Ordinance requires a Level #2 landscape buffer on the western, northern and part of the eastern borders of the Property where the Property abuts residential uses.

8. The Ordinance requires a minimum sixty (60) foot setback from the top of stream banks for all proposed pedestrian, hiking or biking trails.

9. For the proposed location of the walking trail and the bike trail, the County is unable to fully meet the requirements of the Level #2 landscape buffer and the Waterbody Zone buffer.

10. Since the application for the variance was submitted, the County has been able to reconfigure the location of the walking trail and the bike trail so as to eliminate the need for a variance in some of the areas for which a variance was originally requested. These areas are along the western and southern boundaries of the Property.

11. The existence of the quarry pond predates the Waterbody Zone requirements, which were enacted in connection with the creation of the County's Coddle Creek Reservoir.

12. Immediately adjacent to the quarry pond is a sediment basin that was created by the prior owners to capture surface water runoff so as not to flow into the quarry pond or Muddy Creek.



13. Both the walking trail and the bike trail are to be constructed of natural permeable materials and are to follow the existing contours of the Property. They also are designed to follow the existing roads constructed in connection with the quarrying operation, which are of dirt and gravel.

14. To the extent that either trail is within the landscape buffer or Waterbody Zone buffer, a trail will be routed around existing trees, which will be "limbed up" for the safety of users of the two trails.

15. Part of the northern side of the Property abuts a vacant parcel which is heavily forested on the other side of the boundary line. There is also a row of trees on the Property along that boundary line. That other parcel has a significant amount of flood plain and because of these considerations the parcel was rejected by the County as suitable additional property for the Rob Wallace Park. This is one area where the County still requests a variance as the walking and bike trails are combined as a single trail in that location, which is within the required landscape buffer.

16. In the center of the Property where Muddy Creek crosses the Property the bike trail and walking trail will be located on the side of the existing berm opposite from Muddy Creek, so that any sediment or runoff from either trail will flow to the existing sedimentation basin and not into the Creek. Notwithstanding, the trails will be located within the sixty (60) foot required setback in that area.

17. In order to utilize the existing roadbed and the berm adjacent to the quarry road for the walking and bike trails, the trails will be located within the sixty (60) foot required setbacks in that area.

18. Utilization of the existing conditions of the Property, where available, for location of the bike trail and the walking trail creates no greater detriment to the Property than the existing circumstances without the trails.

19. In its application, the County indicates that it will replace or augment vegetation in the areas in which variances are requested.

20. There is no evidence that any variance requested by the County will result in a detriment to the Property or to adjacent parcels.

Based on the foregoing Findings of Fact, the Board makes the following

**CONCLUSIONS OF LAW  
(For Each Variance Element)**

A. Unnecessary hardship would result from the strict application of the Ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the Property.

1. The Board adopts and incorporates by reference the above Findings of Fact.
2. The County has proved by substantial, material and competent evidence that unnecessary hardship would result from the strict application of the Ordinance.
3. The present condition of the Property, with its contours and vistas and remaining elements of the old quarrying operation, lends itself to the creation of a passive park with a bike trail and a walking trail.
4. Location of the bike trail and the walking trail in the selected places within the Level #2 landscape buffer and within the Waterbody Zone buffer will not adversely impact the immediate environment or adversely impact any of the neighboring properties.

B. 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.

1. The Board adopts and incorporates by reference the above Findings of Fact.
2. The County has proved by substantial, material and competent evidence that unnecessary hardship would result from the strict application of the Ordinance.
3. The present condition of the Property, with its contours and vistas and remaining elements of the old quarrying operation, lends itself to the creation of a passive park with a bike trail and a walking trail.
4. Location of the bike trail and the walking trail in the selected places within the Level #2 landscape buffer and within the Waterbody Zone buffer will not adversely impact the immediate environment or adversely impact any of the neighboring properties.

C. 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.

1. The Board adopts and incorporates by reference the above Findings of Fact.
2. The County has proved by substantial, material and competent evidence that unnecessary hardship would result from the strict application of the Ordinance.
3. The present condition of the Property, with its contours and vistas and remaining elements of the old quarrying operation, lends itself to the creation of a passive park with a bike trail and a walking trail.
4. Location of the bike trail and the walking trail in the selected places within the Level



#2 landscape buffer and within the Waterbody Zone buffer will not adversely impact the immediate environment or adversely impact any of the neighboring properties.

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.

1. The Board adopts and incorporates by reference the above Findings of Fact.
2. The County has proved by substantial, material and competent evidence that unnecessary hardship would result from the strict application of the Ordinance.
3. The present condition of the Property, with its contours and vistas and remaining elements of the old quarrying operation, lends itself to the creation of a passive park with a bike trail and a walking trail.
4. Location of the bike trail and the walking trail in the selected places within the Level #2 landscape buffer and within the Waterbody Zone buffer will not adversely impact the immediate environment or adversely impact any of the neighboring properties.

**New Business – Planning Board Function:**

The Chair introduced proposed text amendments to Zoning Ordinance.

**Proposed Text Amendment to Zoning Ordinance Text2016-00008 – Chapter 9, Landscape and Buffering**

Ms. Susie Morris, Planning and Zoning Manager addressed the Board presenting Text2016-00008, Chapter 9, Landscape and Buffering.

The proposed changes clarify the requirements and make the tables easier for the general public to understand and they also reduce the number of required plantings.

As we are working through these chapters, we are trying to make it easier for the general public to use and to understand. If I pick up this book and I want to build a parking lot, do I understand what I need to do?

As you can see there are a lot of changes, clarifications and hopefully now it is clear that we have something called a perimeter bufferyard. Which is essentially the one that the Board was just talking about. We have a thoroughfare bufferyard or a streetyard that would be required and then we have a parking area. An exterior perimeter buffer for the parking area and then some interior landscape.

If the Board remembers, a long time ago, we had some feedback coming back from the Sustainable Local Economy Committee, as well as our Text Amendment Committee/PZ. We had members from both those groups working on text amendments. One of the things that came out of that was that this was a pretty big business expense for people when they come in and that we needed to look at doing something about this. A lot of times people tend to get city regulations and county regulations confused; our Ordinances are different.

One of the things that was recommended was to take a look at the parking lot landscape, because people build these parking lots and then people are walking through the shrubs or the shrubs die and are not replaced. If they do make it, they end up being tall and when people are trying to pull out they cannot see in the parking area and it ends up being a hazard or females walking at night, it is something for someone to hide behind.

We tried to address those concerns. If it is a new use you will have to put the landscape in. We already had an allowance in there that if you were doing a new project, buffers were only installed at a 90 degree angle to where the new area is. She said that is still in here and it would stay the same. It then clarifies, that if you are adding a new building or new parking area that kind of loops you back to number one, as a new use.

We also took a look at the Table, to try to figure out how we can make this easier for people to understand. We also added some diagrams to show people that this is what an exterior bufferyard looks like, this is what a parking lot looks like, and this is what a large landscape island looks like



and clarified, because some of the stuff was tucked away in other chapters; that if you are going to do an island you need 300 or 600 or whatever the square footage is to support a tree actually growing there, not some little strip where you are going to put a tree in there and it is going to die anyway. All of that was clarified, adding in the illustrations.

We did not change anything about the plant list. If the Board remembers, in about 2008, we were having a drought. We went in and revamped the landscape to try to get people to do little bit of the zero-scaping or use species that would be more drought tolerant and also things that were known to also thrive in this area. It was also clarified that if you are doing a planting plan that you probably need to use more than one type of tree or more than one type of shrub so that you do not lose everything if they end up with disease.

We had talked about fences. The fence standard was something that some of our previous members felt very adamant about. Why are we telling someone what kind of fence they need to have, now there are so many options; you have wood, trex, decking and plastic, let's get out of the fence business. This proposes that we would no longer regulate that.

The current Table would actually be deleted and it would be replaced with the Table the Board received that was the Excel table (show Excel table). The table does a couple of things:

It takes the amount of landscaping that is required and it pretty much cuts IT in some cases in half. The trees would still be there but the shrubs for example on a bufferyard type 1, originally you would have been looking at 40 shrubs for every 100 linear feet. That number is now 15 for every 50 feet, which equates to 30; so we are roughly at half of where we were.

Ours operates a little differently. If you are looking at the UDO's that a lot of the jurisdictions use, if your X next to Y, there is a set buffer period. It does not matter if your property is .5 acres or if you have 100 acres; that is the buffer that you put in.

Our Ordinance is a little bit different whereas, the property gets bigger, the setback gets bigger. It also was previous that as that setback widened, the amount of plantings required in there also widened. So what the text amendment committee talked about was do we really need this amount of plantings in this buffer.

Table 4 landscape perimeter bufferyards, proposes to keep that width of the yard, but THE amount of plantings that have to go in that yard would be a lot less. Everything will be based on 50 and there is a note at the bottom that states that you can count existing vegetation and that if there is existing vegetation you are encouraged to keep it and supplement. Do not go in there and clear cut. Keep what you have and count it toward your buffer.

Table 5 clarifies that if you are this type of use and you are next to this type of zoning or if you are this type of use next to this type of use adjacent to you, either way it tells you what your buffer is. For example, if I am developing a gas station and I am next to an AO zoning district, then I am going to have to do a Level 2 type buffer. Keep in mind that we allow some commercial in

residential districts. Or if I am that gas station coming in next to a residential use, I am going to have to do that type 2 buffer.

Hopefully, this will clarify it. She said it had one word there and it was not clear. Again, trying to relate things, as we have been doing, as we work through this, back to the Table in Chapter 3, so back to the Permitted Use Table. So, if someone looks at that list, they want to propose something, they can look at what they need for their landscaping and then one of the next amendments that the Board will see they will be able to look at what they will need for their parking. Hopefully everything now relates back to the Permitted Use Table and those categories. It clarifies that you do not have to have anything if you are industrial next to industrial. The ordinance did not speak to any of that it was just not in there.

You will see any type of use next to residential they will have a bigger buffer versus commercial next to commercial or industrial next to commercial. So hopefully, in the end it evens out, because you are still going to have that width, but you are not necessarily going to have that intensity of plantings. She said like the solar farm that we did, you would not have that intensity of plantings any more adjacent to that property. You would still have the distance but not all of the plantings.

The Chair said when we had the joint meeting, this was a specific area of concern that was articulated, about if we were looking at zoning changes, about how the economic impact was being an area of concern because of this.

She said highlight, what you said tonight, that it has been substantially reduced so that that cost should be less. Just to let the Commissioners see and connect. She does not know how they hear this, when it is presented to them or if they just say that the Planning Commission sent this to you and they support it; vote on the change. She thinks that because that was part of our discussion it might be relevant for them to understand that it just happened a month after they discussed it and it is right here, going to change.

Ms. Morris said a lot of this we have been working on. She asked Mr. Pinto how long it had been, two or three years.

Mr. Pinto said yes.

Ms. Morris said getting the feedback, figuring out where we need to go, what is the happy medium, because you cannot just say okay, we just want to be business friendly and take everything away you have to figure out where the happy medium is. She thinks a lot of the comments that people hear is that it takes so long or why do I have to do this or why do I have to do that. It is not the coming through the County.

This past year, this Board has seen probably 80 percent of what has come through the County. We are not over run with new commercial sites coming in because we have had the discussions before and it goes back to water and sewer. So the things that we are getting are the Mom and Pop's that are potentially going into existing facilities, moving in, doing upgrades and those types of things.



We will give it a try, you never know. Just like with the solar farm, we did not know what it would look like until somebody built one. So we will not know what it looks like and at that point somebody might say why you are not requiring enough landscape. The pendulum can go either way.

She said this would keep the width, at least hopefully the separation, but it would reduce the number of plantings.

There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to recommend **APPROVAL** of Text2016-00008– Chapter 9, Landscape and Buffering to the Board of Commissioners. The vote was unanimous.

### **Proposed Text Amendment to Zoning Ordinance Text2016-00009 – Chapter 10, Parking and Loading**

Ms. Morris said these changes will clarify the parking requirements. The Table is easier for the general public to understand since the proposed parking table more closely corresponds back to that Chapter 3.

There were some changes to the text and some minor clarifications, but again the bulk of the change to this section is to the Table. The word Table would be replaced with an excel Table that relates back to, here is your residential use, here is your commercial, here is your institutional; so that it is more clear. Some of this was the same standards that were already in the Ordinance. Some of it is proposed for things that maybe different, instead of saying we are going to base it on one for every 3,000 or every 300 square feet of the building there are things that did not have a building for example the golf course or the automobile and boat sales. Things where the expectation is you have a display area and probably minimum parking for patrons coming to look at the boat or the cars or what have you. It lines up the proposed parking with Chapter 3, so she can look in 3 and I know that if I am an institutional and civic use and I am not specifically listed here then I go with that general standard.

She said a lot of these uses, unless the policies change related to water and sewer, or if it is an economic development project where there can be that exception, we probably will not see the bigger projects. It is going to be the ones and twos and the reuse and the upgrading and potentially some new industrial. We still have some industrial properties in Midland. If somebody comes in with a convention center they are probably going to need utilities.

There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Mr. Adam Dagenhart to recommend **APPROVAL** of Text2016-00009– Chapter 10, Parking and Loading to the Board of Commissioners. The vote was unanimous.

**Proposed Text Amendment to Zoning Ordinance - Text2016-000010, Appendix D, Lighting Standards**

Ms. Morris said the proposal is to add an Appendix D to the Ordinance. It would cover lighting standards and currently we do not have anything in our Ordinance that covers lighting.

We go with industry standards; for example they did an upgrade to the lighting in Frank Liske Park and they extended some of the fields and we used the industry standard. If the lights are actually cut off at night they can have a 1.5. If there is any kind of lighting that is going to stay on it needs to be a .4 preferably at a zero by the time they get to the property line; this kind of codifies that.

The Musco systems that are just so bright and you can see it from a mile away as you are driving down the road, those get cut off at 11 or 12 o'clock. If it were for security lighting or something like that we would be looking for that .4.

If it is outdoor recreation it would not necessarily be subject to the height restriction of the 40 feet that is proposed. They actually have to turn in a photometric plan, so that we can see as they move from that parking lot out to the property line what that projection is.

The Text Amendment Committee had some discussion about trying to make sure that when someone is putting in lighting that their landscape is not then growing up into the lighting and now the path is not lit or the parking area is not lit because the trees are blocking the light. It also talks about it in Chapter 9, use avoidance conflict, to let enough room for the trees to grow in between the light fixtures.

She said again this is all pretty much industry standard. If you do a general search on the internet you are going to find that most people use that 1.5 and the .4. She said it kind of codifies what we have been telling people.

There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Mr. James Litaker to recommend **APPROVAL of Text2016-000010– Appendix D, Lighting Standards** to the Board of Commissioners. The vote was unanimous.

**Proposed Text Amendment to the Zoning Ordinance –Text2016-00011, Chapter 14, Nonconformities**

Ms. Morris said the next amendment is an amendment to Chapter 14. We currently have what we as staff call the over 10,000 under 10,000 rule; it is very confusing. If you have a parcel currently that is over 10,000 square feet you can use the MDR open space standard to develop. If it is under 10,000 square feet you are supposed to combine them together or figure out a way to make it work.

What we are finding is that there are a lot of nonconforming lots out in the County. Whether somebody went out and did a one acre subdivision back in the 1950's or like currently, the Cedardale Project is actually still in Unincorporated County. The City ran utilities to it and it



developed under county standards, but they were part of the mass rezoning. It is a CR lot now which is a two acre lot and they are not two acre lots. So we do have a lot of nonconformities out there. Our fall back typically is the MDR Open Space district.

The amendment is proposing to remove the over 10,000 under 10,000 language and to replace it with if you are in AO, CR or LDR and you do not meet the width requirement or you do not meet the acreage requirement for that particular district, we can then apply that MDR setback and also the impervious area.

To us it is pretty straight forward, so that people understand this is how it works and it would allow us to use that section. If we issue a permit, we always note that they are nonconforming. We also have the conversation with them about what it means to be nonconforming as far as what the banks look for in a mortgage or things like that and that sometimes they do not like that. So that they can be informed as they move through the process. If they want to continue with that project and they are okay with being classified as nonconforming or if they are trying to get a loan document or something and it becomes a problem, they do not end up moving forward with something and then having problems later.

She said it boils down to allowing them to use the MDR standards; simplifying it.

There being no further discussion, Ms. Mary Blakeney, **MOTIONED, SECONDED** by Mr. Aaron Ritchie to recommend **APPROVAL of Text2016-000011 Chapter 14, Nonconformities** to the Board of Commissioners. The vote was unanimous.

**Proposed Text Amendment to Zoning Ordinance - Text2016-00012,  
Chapter 13, Amendments and Changes**

Ms. Morris said this amendment is to Chapter 13. This amendment talks about rezonings and vested rights and some administrative actions. This would remove the CD Conditional District rezoning option. This is the option that Charlotte has used for years and the State approved it as an option for us.

When it came down the pike, Cabarrus County added all three options into the Ordinance. The School of Government advises that you pick one or the other. Either you do the conditional district or you do the conditional use rezoning process.

Conditional district stays within the legislative hearing parameters. Conditional use is where as long as they meet the site plan the Planning Commission is the extra level of review and it allows you to add those conditions to it. With the conditional district, there is a lot more room for negotiation, but there is also a lot more room for uncertainty for the applicant. Most of our applicants have chosen to use the conditional use rezoning process. We had one project that tried the conditional district when we first adopted it and it did not work our well and no one has tried it since then. The proposal is to remove that and it would also clarify that the SU rezoning process is our conditional use process.

She said the pending legislation that is out there for the revamp of the planning and zoning enabling statutes, proposes that it be called a special use rezoning and if they need a special use permit, you call it a special use permit instead of conditional like we do now. This is kind of getting ahead of that because that is probably coming down the pike in the next session.

It also speaks to the vesting of the development rights versus common law vested rights and adds some language to address that Session Law 2016-111. She said the Board had that definition at the last meeting for the multi-phase development. The part of the language talking about the multi-phase development came directly from the Statute.

As far as the vesting of the development rights, we need to explain because a court case came down two years ago maybe that said Planning and Zoning Boards no longer had the authority to decide if somebody had common law vested rights.

She said the Board considered the Mill Bridge project. If you remember the developer came in and he wanted an extension but he was basing it on common law vested rights more so because the plat was expired and not vested rights under our Ordinance. This clarifies, if they are asking for a site specific development plan, vested rights under the Ordinance, you can to that. But if you are asking for common law vested rights you have to go to a Judge and the Judge decides that now.

This is clarifying and addressing the statute changes that have happened and addressing some of these court cases that have come down the pike. We might as well put it in the book that we cannot help you out with common law vested rights; that goes to court.

We tried to simplify so that people understand; here is how the rezoning process works, here is the conditional use process and lay it out. This follows pretty much verbatim. We have a little description on our applications for people to walk them through the process. This very closely mimics what is on application. The do a pre-application meeting, they submit a complete application, we schedule it, the Board hears it, and they take action on it.

There being no further discussion, Ms. Shannon Frye, **MOTIONED, SECONDED** by Mr. James Litaker to recommend **APPROVAL of Text2016-000012 Chapter 13, Amendments and Changes** to the Board of Commissioners. The vote was unanimous.

**Proposed Text Amendment to Zoning Ordinance - Text2016-00013,  
Chapter 4, Overlay Districts and Zones**

Ms. Morris said we had two people asking us questions about things they wanted to do on existing properties in the watershed. When she approached the State with the questions they said that our Ordinance needs to be fixed because we are not in compliance with the model ordinance.

She worked with the State to try to get the sections in there that we needed to add. For example one of the things that their model ordinance says is that you are supposed to have a watershed board that hears variances on the watershed. Her proposal was to keep it the same and that the Board would still consider those variances since you would have the technical expertise and you



are going to be more familiar with how those things kind of work. But there is a different set of standards that you have to use for that type variance.

Our process that we had in the ordinance is a process that does not exist anymore. She sent it off to the State, she gave her blessing and we are good to move forward. She thinks everything that needed to be addressed, for now, until the model ordinance changes again has been addressed.

Once the board of Commissioners approves it, then we have to send it back to the State and they will send us a letter saying okay, your changes are good and we have this on file. They field citizen inquiries so they keep copies of our ordinances on file.

It would also make an allowance for people who had properties that existed and were developed prior to the adoption of the Ordinance. If you had a chance to kind of look at the details of the different sections. It would make an allowance for them, kind of like how we are tipped in with the State for stormwater, that magic date we have of July 1, 2007, the magic date for our watershed would be December 20, 1993 or whatever it was. Anything before that would not count against them for that 12 percent. We would start looking at it after that for permitting.

Ms. Morris said no one has asked for a mobile home park since new ordinance was adopted and so the language was carried over from the original mobile home park ordinance that we had which was a separate ordinance. It allowed community systems for well and septic and we do not permit that anymore. Either you do well or septic on individual lots or you would have City water and sewer service. It just clarifies and takes the community option out.

There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Mr. James Litaker to recommend **APPROVAL of Text2016-000013 Chapter 4, Overlay District and Zones** to the Board of Commissioners. The vote was unanimous.

### **Directors Report**

Ms. Morris said the School of Government is going to be offering a Subdivision Workshop on November 16, 2016, in Mt. Holly. We do not see a lot of subdivisions of a large scale, but if that it is something you would like to have in your toolbox as far as when something does come to you, you know kind of what the State Statute say and how we look those, your are more than welcome to attend. If any of you are interested let Ms. Morris know and she will send the information.

It is based on a subdivision book that the School of Government put out and she thinks they simplify that and break it down for the training. It is a half day workshop.

We are currently working on the Morehead Road Small Area Plan. As we were going through the process we had discussion about do we have a joint planning meeting and try to get both of the Boards together. Do we have Chair, Vice-Chair, so we can get feedback and they know what is going on and it is on the radar? Nothing has been schedule yet. She plans on next month doing a presentation for the Board so that you are up to speed on where we are and what is happening

because the goal she thinks is either January or February that the plan would come to you and then go to the Board of Commissioners.

There has been two public meetings so far. The last one was a week ago, about 30 people showed up. Every single recurring theme, like what do you want? Everybody says restaurants. The roof tops are not there to support the restaurants and they do not want any more houses.

It is interesting as far as what the citizens are saying and what the consultants are saying and what planning staff knows has been approved out there and what can move forward; knowing the topography out there.

She thinks that might be the best way for us to handle it. She can get some feedback from you and pass it along to the consultants. It is the area from Highway 29, south down to Highway 49 and it extends down to Caldwell Business Park.

At this point there are big bubble areas with part of it where it would make sense to be residential and connect through projects that have happened in Mecklenburg.

We need another north south connector over there, so how does that all happen and shake out, knowing that it is going to cost a lot of money. Because no matter which way you go you will have to cross a creek and one of them is Mallard Creek and it is very wide.

It includes a lot of Speedway property that they own now. It also includes if you have been down Morehead, the borrow pit area.

It is kind of shaking out to be the large areas where one says motorsports related, one says recreation related; is it an ATV path. A lot of these borrow pits are recreation sites, so is it mountain biking, bike trails or does the Speedway even want to do something like that? Then some commercial down towards Highway 49 and then back up towards Highway 29 more of what would be motorsports related but probably a light industrial district.

She may give the board the whole 160 slides but we will not go through all of them. Just so it is on your radar because you will be asked to make a recommendation or not recommend it. It is a 30 year plan but some of it could happen sooner rather than later when we are talking about Highway 49 and 29, Hudspeth Road. Because the topography does not start to get bad until you start getting back behind Eldorado Hills.

If they decide to move forward with a Chair, Vic-Chair meeting she will contact you to see when you will be available. Do we try to get everybody together with their schedules, do we go a separate path and bring the comments back? At this point she thinks it is just going to be more beneficial for us to have a discussion and then take it back to the consultants.



### Legal Update

Mr. Koch said not much has happened. He wants to ask Mr. Dagenhart if he has been by the DeComo residence lately.

Mr. Adam Dagenhart said yes, he is moving along pretty good.

Mr. Koch asked if there was a roof on it yet.

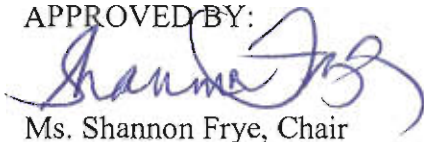
Mr. Dagenhart said he had not been by in a week or so but he was close.

Mr. Koch said it is back in court on September 26<sup>th</sup> for status. He will take a look a day before to see how far along they are. Their deadline is the end of the year. It is not that big of a house, so they should be able to still meet it. They have not been very forth coming with the interior deadlines that they were supposed to provide to us as to the benchmarks they would reach with certain amount of completion.

The other thing is on Mr. Phillip Little, some of you may have noticed going down either Morehead Road or Highway 29 that he moved that trailer back to sort of the back end of his property close to the Morehead side, but you can still see the sign. He wrote his Lawyer a letter at the end of last week and told him since Mr. Koch is out of town a good bit of this week that if something is not done on it by next Monday, he is going to file a motion for contempt.


There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 8:45 p.m.

APPROVED BY:




Ms. Shannon Frye, Chair

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:



Susie Morris, Planning and Zoning Manager

# Memo

**To:** Mr. Jonathan Marshall  
**Cc:** Jason Earliwine, Sr. Planner  
**From:** Lynn Roberts, Clerk to the Planning and Zoning Commission  
**Date:** November 10, 2016  
**Re:** Granting Order for Variance – VARN2016-00003

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Attached please find the recorded Granting Order for Variance - VARN2016-00003 – Request for multiple variances on the County Property located off Bethel School Road near Midland, Cabarrus County, North Carolina and identified as PIN 5544-72-3955. Cabarrus County, applicant and homeowner. Property located at 13800 Bill McGee Road (PIN#5544723955)

The Granting Order, stating restrictions and applicable conditions of approval, must be recorded with the deed to the property so that it appears during a due diligence search.

If you have any questions, please call our office at 704-920-2141.



FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS

FILED Nov 10, 2016  
AT 12:36 pm  
BOOK 12221  
START PAGE 0241  
END PAGE 0245  
INSTRUMENT # 29881  
EXCISE TAX \$0.00  
SMS

STATE OF NORTH CAROLINA

CABARRUS COUNTY PLANNING  
AND ZONING COMMISSION  
BOARD OF ADJUSTMENT  
VARN 2016-00003

COUNTY OF CABARRUS

In re

CABARRUS COUNTY )  
VARIANCE APPLICATION ) ORDER GRANTING  
(Jonathan Marshall, Agent-Applicant), ) VARIANCES

THIS MATTER came before the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, on September 13, 2016, on the application of Cabarrus County ("County") for multiple variances on the County "Property" located off Bethel School Road near Midland, Cabarrus County, North Carolina and identified as PIN 5544-72-3955.

Notice was given to adjacent property owners and the public as required by law, including the posting of signs, notification letters and newspaper notification.

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 were no witnesses in opposition to the variance application.

After hearing and receiving the evidence, the Board makes the following

**FINDINGS OF FACT**

1. The County is the owner of the Property, which is an approximate 111.8 acre parcel that is presently undeveloped, except for the remains of an old quarry operation.

2. The County desires to develop the Property as a public park, already named Rob Wallace. The County owns some adjacent property along Bethel School Road, which is currently being developed as the entrance and first phase of the Park.

3. The general plan for development of Rob Wallace Park calls for it to be developed as a passive park, taking advantage of the natural viewscales existing on the Property and of the changes made to the Property by the former quarry operation.

4. Some of those changes consist of an excavation pit that has partially filled with water, creating a quarry pond; an earthen berm around one side of the pond with an old roadbed still existing; and another berm that directs surface water away from Muddy Creek, which runs through the Property.

5. The County has developed plans for a walking trail and a bike trail that generally would course along the perimeter of the Property. The proposed location of the walking trail and the bike trail in places impacts the landscape buffer and the Waterbody Zone buffer requirements for the Cabarrus County Zoning Ordinance (the "Ordinance").

6. The Property is zoned Office/Institutional ("OI"), which is the zoning district the Ordinance requires for a public park.

7. The Ordinance requires a Level #2 landscape buffer on the western, northern and part of the eastern borders of the Property where the Property abuts residential uses.

8. The Ordinance requires a minimum sixty (60) foot setback from the top of stream banks for all proposed pedestrian, hiking or biking trails.

9. For the proposed location of the walking trail and the bike trail, the County is unable to fully meet the requirements of the Level #2 landscape buffer and the Waterbody Zone buffer.

10. Since the application for the variance was submitted, the County has been able to reconfigure the location of the walking trail and the bike trail so as to eliminate the need for a variance in some of the areas for which a variance was originally requested. These areas are along the western and southern boundaries of the Property.

11. The existence of the quarry pond predates the Waterbody Zone requirements, which were enacted in connection with the creation of the County's Coddle Creek Reservoir.

12. Immediately adjacent to the quarry pond is a sediment basin that was created by the prior owners to capture surface water runoff so as not to flow into the quarry pond or Muddy Creek.

13. Both the walking trail and the bike trail are to be constructed of natural permeable materials and are to follow the existing contours of the Property. They also are designed to follow the existing roads constructed in connection with the quarrying operation, which are of dirt and gravel.

14. To the extent that either trail is within the landscape buffer or Waterbody Zone buffer, a trail will be routed around existing trees, which will be "limbed up" for the safety of users of the two trails.



15. Part of the northern side of the Property abuts a vacant parcel which is heavily forested on the other side of the boundary line. There is also a row of trees on the Property along that boundary line. That other parcel has a significant amount of flood plain and because of these considerations the parcel was rejected by the County as suitable additional property for the Rob Wallace Park. This is one area where the County still requests a variance as the walking and bike trails are combined as a single trail in that location, which is within the required landscape buffer.

16. In the center of the Property where Muddy Creek crosses the Property the bike trail and walking trail will be located on the side of the existing berm opposite from Muddy Creek, so that any sediment or runoff from either trail will flow to the existing sedimentation basin and not into the Creek. Notwithstanding, the trails will be located within the sixty (60) foot required setback in that area.

17. In order to utilize the existing roadbed and the berm adjacent to the quarry road for the walking and bike trails, the trails will be located within the sixty (60) foot required setbacks in that area.

18. Utilization of the existing conditions of the Property, where available, for location of the bike trail and the walking trail creates no greater detriment to the Property than the existing circumstances without the trails.

19. In its application, the County indicates that it will replace or augment vegetation in the areas in which variances are requested.

20. There is no evidence that any variance requested by the County will result in a detriment to the Property or to adjacent parcels.

Based on the foregoing Findings of Fact, the Board makes the following

**CONCLUSIONS OF LAW  
(For Each Variance Element)**

A. Unnecessary hardship would result from the strict application of the Ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the Property.

1. The Board adopts and incorporates by reference the above Findings of Fact.
2. The County has proved by substantial, material and competent evidence that unnecessary hardship would result from the strict application of the Ordinance.
3. The present condition of the Property, with its contours and vistas and remaining elements of the old quarrying operation, lends itself to the creation of a passive park with a bike trail and a walking trail.
4. Location of the bike trail and the walking trail in the selected places within the Level

#2 landscape buffer and within the Waterbody Zone buffer will not adversely impact the immediate environment or adversely impact any of the neighboring properties.

B. 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.

1. The Board adopts and incorporates by reference the above Findings of Fact.

2. The County has proved by substantial, material and competent evidence that unnecessary hardship would result from the strict application of the Ordinance.

3. The present condition of the Property, with its contours and vistas and remaining elements of the old quarrying operation, lends itself to the creation of a passive park with a bike trail and a walking trail.

4. Location of the bike trail and the walking trail in the selected places within the Level #2 landscape buffer and within the Waterbody Zone buffer will not adversely impact the immediate environment or adversely impact any of the neighboring properties.

C. 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.

1. The Board adopts and incorporates by reference the above Findings of Fact.

2. The County has proved by substantial, material and competent evidence that unnecessary hardship would result from the strict application of the Ordinance.

3. The present condition of the Property, with its contours and vistas and remaining elements of the old quarrying operation, lends itself to the creation of a passive park with a bike trail and a walking trail.

4. Location of the bike trail and the walking trail in the selected places within the Level #2 landscape buffer and within the Waterbody Zone buffer will not adversely impact the immediate environment or adversely impact any of the neighboring properties.

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.

1. The Board adopts and incorporates by reference the above Findings of Fact.

2. The County has proved by substantial, material and competent evidence that unnecessary hardship would result from the strict application of the Ordinance.

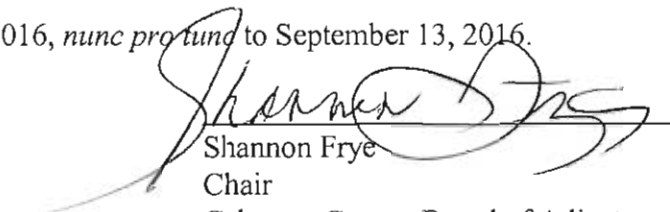


3. The present condition of the Property, with its contours and vistas and remaining elements of the old quarrying operation, lends itself to the creation of a passive park with a bike trail and a walking trail.

4. Location of the bike trail and the walking trail in the selected places within the Level #2 landscape buffer and within the Waterbody Zone buffer will not adversely impact the immediate environment or adversely impact any of the neighboring properties.

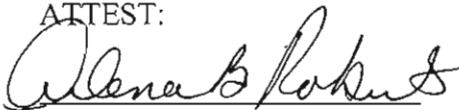
Based on the foregoing Findings of Fact and Conclusions of Law, the Cabarrus County Planning and Zoning Commission sitting as the Board of Adjustment hereby grants the variances consistent with and limited to the revised variances as requested in the hearing. The special conditions for approval of these variances 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 8 day of November, 2016, *nunc pro tunc* to September 13, 2016.

  
Shannon Frye  
Chair

Cabarrus County Board of Adjustment

ATTEST:

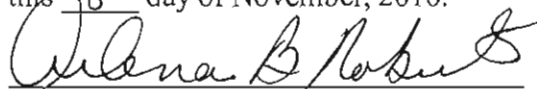


Arlena Roberts,  
Clerk to the Board of  
Adjustment

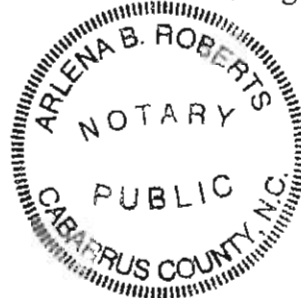
STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

I, Arlena B. Roberts, a Notary Public in and for the said State and County do hereby certify that Shannon Frye as Chair of the Cabarrus County 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 8 day of November, 2016.



Notary Public



My Commission Expires: March 21, 2017

# Memo

**To:** Cabarrus County Planning and Zoning Commission, Acting as Board of Adjustment  
**From:** Susie Morris, AICP, CZO, Planning and Zoning Manager  
**CC:** File  
**Date:** 6/5/2018  
**Re:** McBride Solar Farm CUSE2017-0001, ZNC2018-00216, ZNC2018-00074 and ZNC2018-00217 Guidance/Interpretation

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- As you may remember, the Board of Adjustment considered a Conditional Use Permit request in May of 2017 for a new solar farm located near the intersections of Highway 601, Joyner Road and Mount Pleasant Road South.
- The request for the Conditional Use Permit was approved with several conditions. A copy of minutes and Granting Order from May 9, 2017 meeting are included for reference.
- There have been several severe violations identified on the site which include:
  - Landscape buffer encroachments (clearing of existing vegetation)
  - Setback requirement encroachments (arrays/racking in or close to the 100 foot setback.)
  - Waterbody Buffer Zone Encroachments (road through stream and buffer encroachments)
  - Addresses not posted on site as required
- Staff has issued formal Notice of Violations for all of these items but for the posting of the addresses. Staff continues to work with applicant and this issue and it should be resolved no later than June 18<sup>th</sup>.
- Per the standards established in Chapter 8 for Public Service Facilities, the required setback for the overall project is 100 feet. The required landscape buffer is also 100 feet.
- As part of the approval, the applicant agreed to maintain the 100 foot setback. The applicant also agreed to maintain the existing vegetation located in the 100 foot setback/required landscape buffer at the perimeter of the site and to supplement the existing vegetation as needed to meet the ordinance. Maintaining the required Waterbody Buffer Zone around the streams and wetlands was also a condition of approval. These items were shown on the site plan that was presented to the BOA.
- The current Lessee is asking Staff how to proceed with rectifying the violations in light of the conditions placed on the project by the Board of Adjustment.





## **Cabarrus County Government**

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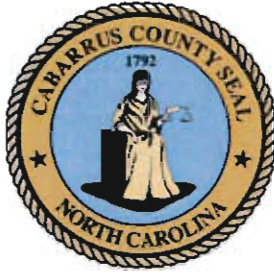
Cabarrus County Planning and Zoning Commission Meeting  
May 9, 2017 @ 7:00 P.M.  
Board of Commissioners Meeting Room  
Cabarrus County Governmental Center

### **Agenda**

1. **Roll Call**
2. **Approval of April 11, 2017, Planning and Zoning Commission Meeting Minutes**
3. **Old Business – Board of Adjustment:**

**Petition CUSE2017-00001-** Request for Conditional Use Permit for Public Service Facility (Alternate Power Generation-Solar Farm). Agent is McBride Place Energy, LLC. +/- 627.55 acres located between Joyner Rd, Mt. Pleasant Rd S, and US 601S. (PIN#s 5556-24-4136, 5557-23-9335, 5557-30-6731, 5556-46-9765, 5556-48-2132, 5557-13-4338).

4. **Directors Report**
5. **Legal Update**



## Cabarrus County Government

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### Planning and Zoning Commission Minutes May 9, 2017

Ms. Shannon Frye, Chair, called the meeting to order at 7:18 p.m. Members present in addition to the Chair, were Ms. Mary Blakeney, Mr. Jeffrey Corley, Mr. Chris Pinto, Mr. Richard Price, Mr. Aaron Ritchie and Mr. Steve Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Jason Earliwine, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

#### Roll Call

Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the April 11, 2017, meeting minutes. The Vote was unanimous.

The Chair said all persons speaking for the Board of Adjustment case or who plan to testify during the public hearing need to complete a blue card and will need to stand to be sworn in. The Chair administered the oath.

The Chair read the following suggested rules of procedures for the Cabarrus County Planning and Zoning Commission May 9, 2017 meeting:

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer any questions from the Commission. There will be no time limit on these presentations. After staff presents, the applicant will have the opportunity to make a presentation and also answer questions from the Commission. There will be a 20 minute time limit on this presentation.
2. After the Staff report and questions, the proponents (those speaking generally in favor of the case) will have a total of 20 minutes to speak and/or present documents in support of their position. At the conclusion of the presentation, the Commission has the option to ask questions of the proponents.
3. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak and/or present documents in support of their position. At the conclusion of the presentation, the Commission has the option to ask questions of the opponents.
4. Each side will then have 5 minutes for rebuttal, with the proponents going first. Again the Commission may direct questions to the speaker. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.



5. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have equal time to do so.
6. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
7. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
8. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Mr. Steve Wise to **APPROVE** the Rules of Procedures. The vote was unanimous.

**Old Business Board of Adjustment Function:**

The Chair introduced Petition CUSE2017-00001 – Request for Conditional Use Permit for a Public Service Facility (Alternate Power Generation-Solar Farm). Agent is McBride Place Energy, LLC.

Mr. Rick Price is very familiar with one of the properties being considered and familiar with the applicant. Based on that he asked that the Board recuse him from any consideration on this matter.

Ms. Mary Blakeney **MOTIONED, SECONDED** by Mr. Aaron Ritchie to recuse Mr. Rick Price from this case. The vote was unanimous.

Mr. Jason Earliwine, Sr. Planner addressed the Board presenting the staff report for CUSE2017-00001 – Request for Conditional Use Permit for a Public Service Facility (Alternate Power Generation-Solar Farm).

Staff has entered the staff report as evidence that the site plan submitted meets the requirements of the Ordinance. The Applicant is McBride Place Energy, LLC. There are four property owners involved in this site plan; Five M's LLC, Bost ET, III, John P. and Adelaide Young McNeill and JAB Farms, LLC.

The site consists of 627.55 +/- acres, which is currently vacant. The applicant is proposing to develop the subject properties with a Public Service Facility (Solar Farm). Public Service Facilities are permitted in Countryside Residential (CR) and Agriculture/Open Space (AO) as a

conditional use and is the existing zoning designation for this property. Currently, the land is vacant and agricultural, but mostly vacant. The adjacent land uses are all residential, agricultural and wooded. The southern side also has the Bible College that we talked about several months ago.

The surrounding zoning is AO and CR, agriculture open space and countryside residential on the north, east and Western sides. The southern side also contains (LC) Limited Commercial where the Bible College is and Midland has an agricultural property there as well.

For the record, signs were posted for the site on March 29, 2017, at three different locations: Joyner Road, Mt. Pleasant Road South and Highway 601 South. We posted two newspaper notifications: the first one on March 29, 2017 and the second one on April 5, 2017. Notification letters were mailed to 78 adjacent property owners on March 28, 2017.

The applicant provided documentation compliant with Section 8-3 of the Cabarrus County Zoning Ordinance petitioning for a Conditional Use.

The applicant submitted a complete application which includes the "Findings of Fact" sheet along with a site plan and applicable supporting documentation.

The applicant is proposing to construct a public service facility (solar farm) on the subject property. The application states the site will be comprised of approximately 50 inverters, 50 transformers, and 50 arrays for the site.

The height of the proposed structures, as shown on Page 2 of the site plan, is 7'10". The application states that the panels are expected to be between seven and nine feet above grade at the highest point. The Ordinance allows up to ten feet for these types of structures.

The map analysis for airport operations was submitted. The proposed subject property does not include any federal airport operations. One local airstrip is located within 5 nautical miles of the site, as shown in Exhibit O.

A copy of the executed decommissioning plan was submitted.

The applicant is proposing to use existing vegetation and supplement as needed on the landscape plan.

Landscape easements will be acquired in multiple areas, as shown on the site plan, to act as the required Landscape Buffer Yards.

Applicant has provided documentation from a private environmental surveying company, Pilot Environmental Inc., and subsequent documentation from the US Army Corp of Engineers, showing that the existing wetlands on the current GIS system are not wetlands, but are considered intermittent streams.



The project will be completed in two Phases. The southern half of the site (Phase 1) contains properties owned, or that will be purchased, by McBride Place Energy. The northern half of the site (Phase 2) is comprised of the Bost family property, which will not be purchased by McBride Place Energy.

The applicant has submitted documentation from NCDOT for five proposed driveways to access the site.

The application states that the project will take approximately seven months from the time of permitting to construct.

The application states that sound levels generated by the solar arrays, as measured at the property lines, shall not exceed 35dba. The nearest inverters will be at least 300 feet from any property line.

The Applicant has submitted the required glare study. They are prepared to answer questions about it. They also have someone here to speak to that if the Board has any specific questions about it. The conclusion of it is that there are no damaging levels, they are far below hazardous levels of glare.

The addresses were assigned to each of the five entrances to the site. Each entrance is to display a sign with a street address. Each entrance will also utilize a Knox Box for security, per the Fire Marshal's request.

Should the Board of Adjustment grant approval of the Conditional Use Permit, Staff requests the following conditions become part of the approval and case record:

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions.
2. The Granting Order stating restrictions and applicable conditions of approval, shall be recorded with the deed for the property.
3. The applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting.
4. Any proposed future expansion of property, as well as modifications or changes to approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
5. The applicant shall provide copies of all state, local, and federal permits for the permanent project file prior to zoning permitting.
6. The applicant is proposing that existing landscaping will be used to meet the buffer requirements. In the event the buffer does not meet the intent of the ordinance the applicant agrees to install the buffer as required by the Ordinance.

7. Deed Restrictions as outlined in the Storm Water Permit (SW3170403) Schedule of Compliance must be recorded in the Cabarrus County Office of the Register of Deeds and a copy provided to NCDENR and to Cabarrus County Planning after recordation and prior to zoning permitting.
8. Site must meet all conditions set forth in the Soil and Erosion Control Permit #CABAR-2017-050.
9. Per Stormwater Permit #SW3170403, the overall tract built-upon area percentage for the project must be maintained below 24%, as required by 15A NCAC 2H.1017 of the stormwater rules.
10. The Decommissioning Plan must be recorded prior to the zoning permit being issued and a copy provided to Cabarrus County Planning.
11. Phase 1 parcels must be combined into one parcel prior to zoning permitting.
12. Phase 2 parcels must be combined into one parcel prior to zoning permitting.
13. Any proposed landscape easement documents must be recorded prior to zoning permitting. If these documents are not recorded, the applicant must redesign the plan in accordance with the Ordinance or seek a variance, both of which require consideration and/or approval by the Board of Adjustment.
14. Stream and wetland buffers, as required by Chapter 4 of the Cabarrus County Development Ordinance, and as shown on the submitted site plan, shall be delineated in the field prior to the start of any land clearing and/or grading.
15. Addresses shall be clearly posted at each entrance to the site. Knox Boxes shall also be installed at each entrance.
16. The applicant has proposed a chain link fence that will cross the waterbody buffer of Bost Creek near the southern portion of the site, as shown in the site plan. Fences are permitted within the buffer area, provided the design does not interfere with the flow of water through the buffer area to the waterbody.
17. Applicant must adhere to the Special Provisions, listed in each of the five driveway permits issued by the NC Department of Transportation.

Mr. Earliwine said that is the end of the conditions and concludes his staff report. He asked if there were any questions for him. There being no questions for Mr. Earliwine, he stated that the applicant has prepared a presentation.



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Ms. Suzanne Todd, Attorney, Johnston Allison and Hord, PA; 1065 East Morehead Street, Charlotte NC 28204, addressed the Board on behalf of the applicant, McBride Place Energy, LLC.

We appreciate the Board's time and we want to thank Staff. We have been through this extensively and Staff has worked really hard, as we all have, in bringing this matter to fruition. We really appreciate the time that Staff has put into this, evaluating it and making sure we had everything we needed.

She introduced the development team. Mr. Tal McBride, Developer, Mr. Ed Blackwell, Civil Engineer, Mr. Bob Messerich, Site Layout Solar Farm Design, Mr. Ted McGavran, Electrical Engineer, Mr. Evan Merkel, Antares Group (Solar Ocular Glare study) and Mr. Damon Bidencope, MAI Appraiser.

We have provided this information as well as affidavit summaries for all the people who will be testifying today. You have that information and can look at it and hopefully, that will make things go a little faster as well.

We have a court reporter here today. We are having to create a record just in case we need it. You have great legal advice and knowledge about this being a Quasi-Judicial proceeding and what needs to be shown. If there are any questions please feel free to ask her or Mr. Koch.

She said they had a community meeting on March 9, 2107, with approximately 30 to 40 folks appearing. We had everyone there to answer questions and feels like it went really well.

Ms. Todd said that Mr. Bost is in the audience today, as well as other property members. Mr. McBride's family owns some of the acreage as well that is part of the solar farm project. She thinks that sometimes we get so involved in the development that we forget that there is actually a property owner involved and these property owners have the right to use their property in any lawful manner. Again, this is a permitted use subject to a conditional use permit.

Mr. Tal McBride, Owner, McBride Place Energy, addressed the Board stating that he is a Renewable Energy Project Developer. He lives at 202 Johnson Street, Bristol, Virginia. His father, who Mr. Price knows, was born here in Concord.

He has been working on McBride Place Energy for almost six years. It includes four parcels; the McNeill's, Les Young with JAB Farms and Jean Bost, they are all here tonight. The Five M's parcel that his father and grandfather bought in 1954, is the larger portion of the project right at 300 acres. This is the seventh utility scale solar project that he has developed. It is the first one on land that his family actually owns.

It is 74.9 megawatts, the project will provide annually power for about 12,000 homes and the capital cost of the project is approximately \$130 million. Based on Cabarrus County's current tax rate and based on his conversations with Steve Morehouse, it will generate about \$190,000, in taxes in 2018. The bullet back taxes are about \$25,000 per year for the last three years.

We have an executed power purchase agreement with Duke Energy to purchase the power from the project in place.

He showed the Five M's 300 acre parcel, the McNeill parcel, JB Farms parcel and Jean Bost parcel on either side of Joyner Road on the site plan. He showed the property lines that are going to need to be dissolved. He also showed the Stewarts parcel and said that they are here tonight as well.

There being no questions for Mr. McBride, Ms. Todd called Mr. Ed Blackwell, Engineer to address the Board.

Mr. Koch said before Mr. Blackwell comes forward he asked if the Chair wanted to ask if anyone in the audience had questions for Mr. McBride.

The Chair asked if there was anyone who would like to ask Mr. McBride any questions for what he has stated and shared, they could do so at this time.

Mr. Ed Blackwell, Civil Engineer for the project addressed the Board. He has been doing civil engineering site plans for about thirty years. We grew up with Mr. McBride and his family. He had us come in and do the site plan for this and we worked with North Carolina Department of Environmental Quality and got our stormwater permits and erosion control permits.

We worked with the County Planning and Zoning Staff extensively, to make sure the plan itself meets all the regulations.

Ms. Todd asked Mr. Blackwell if he was a licensed engineer.

Mr. Blackwell said yes. He is a Licensed Civil Engineer in the State of North Carolina. He has professional certifications.

Ms. Todd asked how long he has been licensed.

Mr. Blackwell said he has been licensed as a professional Engineer since 1991. He has had a North Carolina license for a year or two.

Ms. Todd would like to enter Mr. Blackwell as an expert in civil engineering.

The Chair asked if anyone had any questions about Mr. Blackwell's credentials. There being no questions about Mr. Blackwell's credentials, he was entered as an expert in civil engineering.

Mr. Blackwell has been working with the County staff back and forth to get the NCDOT permits for the road connections from EMS for access during site construction and after construction if need be.



The site plan was prepared to meet all of the local and state ordinances to ensure that it meets all of the requirements. As part of being a professional engineer, we are supposed to look for the public safety and welfare of the citizens of the state. We feel that this project meets the criteria of the local ordinances and the state ordinances and we meet the state criteria for the public health, safety and welfare. It is his opinion that they do that.

Mr. Blackwell said when you get into the site, there is a lot of real details. He would be happy to answer any questions. He said the access, the fencing and landscape buffers are all the issues they worked with Staff on.

Ms. Todd said behind Tab #2 in their application is a copy of the site plan layout and also the landscape buffer layout.

Mr. Pinto said he went down Joyner Road today and noticed the property on the left side of Joyner was cleared. He asked if that was part of the property. It has been cleared within the last six months maybe.

Mr. McBride said that property belongs to Whispering Pines, LLC. He showed on the site plan where the Whispering Pines property runs.

There were no questions from the Board or the audience for Mr. Blackwell.

Ms. Todd asked Mr. McGavran, Electrical Engineer, to come forward.

Mr. Ted McGavran, Electrical Engineer, 422 Ashworth Road, Charlotte, NC 28202 addressed the Board. He is a Licensed, Professional Engineer, in the State of North Carolina and a number of other states.

He grew up in Cabarrus County and attended Northwest Cabarrus High School. He attended North Carolina State University and obtain a Bachelor of Science in Electrical Engineering. He has been a professional engineer since 1989.

Ms. Todd asked to admit Mr. McGavren as an expert in Electrical Engineering.

The Chair asked if anyone had any questions about Mr. McGauran's' credentials. There being no questions about Mr. McGaverns' credentials, he was entered as an expert in civil engineering.

Mr. McGavren has worked on a number of projects in the power delivery world and generation world, including electric co-ops. Union Power has been a client who they are interconnecting with, as well as a number of generation electrical producers, utilities and independent power producers; things of that nature. We have worked in hydro, wind and solar.

He said Solar PV is a very benign source of electricity. The panels themselves are essentially silicon chips. They have no hazardous waste. The only thing that would even approximate

anything hazardous on the site would be the mineral oil in the main power transformer and in the various transformers out on the site. Again, that is mineral oil and there will be a spill prevention measure counter control plan to handle that.

He said one of the things that comes up is the question of EMF and that tends to come from electric lines. Two things you need to know about that is: we will be adding no external electric lines to this project. We will be utilizing the Union Power 100 KD transmission line as our source to Duke Energy, that we will power through back to their Locust delivery. He said no additional lines will be built.

As far as EMF in the field itself, there is almost none in there. There are two reasons for that: solar radiation in and of itself, is an electric magnetic field and all we are doing is converting solar light energy into electric energy. There will be no actual increase in EMF energy there. Also, the way those fields are wired, you have electric currents coming from different directions, so the fields cancel themselves out.

Hence, the US Department of Energy study looked at this and measured fields all around the country on various solar fields found that any EMF out there was of negligible, if not immeasurable level.

He said the electric facilities around the Duke Energy facility and the Union Power facilities will have a lot more EMF associated with it. Even in those cases they are minute, when actually compared to the EMF that is given off by household appliances. The EMF situation is such that it is almost immeasurable there.

Based on his experience, research, and training, he can say confidently, that this will pose no threat to any public health, safety or welfare in the area.

The Chair asked if there were any questions from the Board or the audience for Mr. McGavran.

Ms. June Deas, 4380 Joyner Road, Concord, NC, property owner adjacent to the proposed site, addressed the Board. We currently have high voltage wires running across the front of our property. She asked if they will be the lines that will be used to transmit this power.

Mr. McGavran said if that is Union Power lines then that is exactly what they will use.

Ms. Susanne Todd called Mr. Robert Messerich to come forward.

Mr. Robert Messerich, 4676 Traverse Pt. Egan, MN, addressed the Board stating that he is a certified PVN installer and he has spent the last eight years mainly designing solar energy projects from the solar perspective.

Ms. Todd asked to admit Mr. Messerich as an expert in solar site design.



The Chair asked if anyone had any questions about Mr. Messerich's credentials. There being no questions about Mr. Messerich's credentials, he was entered as an expert in solar site design.

Mr. Messerich said his primary involvement here was to work with the civil engineering team. They established all of the parameters for the build, no build zone, landscape buffers and everything to do with the physical part of the site and the erosion controls. Then he worked to set the solar equipment inside those parameters and help to specify the equipment that would work best within that.

He said solar is a very passive neighbor once it is built. He thinks they are saying it will take seven months to build. They do not emit any gases, there is no hazardous substances or fumes, and there are no odors. All of the equipment is enclosed within a six foot fence and that site is remotely monitored 24/7, 365 days a year and he believes an emergency plan has also been submitted. There is no onsite staff at all. There is occasional maintenance to maintain the landscaping. The panels do not need to be cleaned very often; a rain typically takes care of that. If they do, there would be a site visit or there would be some service to other portions of the equipment; other than that, it is basically quiet.

Because there is no staff, there is no additional burden on the transportation system. There is not a bunch of cars coming in and out of it. There are no extra citizens to worry about to put in your schools that would put a strain on the water and sewer or emergency services. It is basically just passive.

He thinks the biggest thing about solar is that it reduces our reliance upon other not as clean forms of energy. He knows a lot of different forms of generation comes with some sort of built in pollution or waste to handle and solar has none of that. It is a nice thing for the State in general.

He said based on his knowledge of building solar farms and the facts that he has stated, it is his professional opinion, that the solar farm use will assure the adequacy of the sewage disposal facility, solid waste, water facilities, police, fire and reduce protection, transportation systems in and around the site and other public facilities.

Because of its limited reliance on public facilities and with the increase in tax revenue that Mr. McBride spoke too, generated because of this proposed project, it is his professional opinion that the proposed solar farm use will maintain or even enhance the value of the contiguous properties.

The Chair asked if there were any questions.

Ms. Deas said what about the converters that convert the solar from solar to electricity; does it put off radiation?

Mr. Messerich said no. He asked if she was speaking of the EMF.

Ms. Deas said she is referring to the conversion from solar to electric that takes place in the converter. Do they put off radiation?

Mr. Messerich said no. The panels themselves take the sunlight and it converts it into a movement of electrons. It does not involve any sort of mechanical operation other than knocking atoms off of one side of the panel and making them flow through the electric lines. That is DC energy, just similar to a battery, it is analogy to a car battery or an AA Eveready.

He said at one point they talked about the 50 inverter stations that takes the direct current and converts it to alternating current. That is done through a series of manipulation to the sine wave. It chops into smaller and smaller pieces until eventually it looks like a nice smooth line. There is really no radiation or any sort of process like that.

Mr. Ted McGavran, Professional Engineer said no radiation is put off by the invertors.

Mr. Pinto asked Mr. Messerich which way is south?

Mr. Messerich showed where south is on the site plan.

Mr. Pinto said what is the largest project Mr. Messerich has worked on before this one?

Mr. Messerich said he has done designs up to 50 megawatts; this is the largest.

There were no further questions.

Ms. Todd said in the Board packet, there was a glare study from the Antares Group. That study was performed by Heidi Alsbrook as well as Evan Merkel with Antares Group. Mr. Merkel is here and there is also an affidavit from Mr. Merkel in the notebook.

The Chair asked Mr. Merkel to come forward.

Mr. Evan Merkel, Electrical Engineer, Antares Group, 904 East 36<sup>th</sup> Street, Baltimore, MD came forward.

Mr. Pinto said when you came out and you did the site survey, there was one number that showed up on Figure 35 at 1800 hours between February and October. He asked if that is where the glare would come off of that spot for that short distance of time. He said that is the only one that stuck out. He asked if that was the worse glare one that he had when doing the survey.

Mr. Merkel said that is among the worst case scenarios.

Mr. Pinto is wondering if the glare would get into someone's eyes if they were driving a car.

Mr. Merkel said Figure 35 was on someone's parcel, not one of the one's in the road.



Ms. Todd would like to admit Mr. Merkel as an expert in Site Design Glare Analysis.

The Chair asked if anyone had any questions about Mr. Merkel's credentials. There being no questions about Mr. Merkel's credentials, he was entered as an expert in Site Design Glare Analysis.

Ms. Todd asked Mr. Damon Bidencope, Appraiser, to come forward.

Mr. Damon Bidencope, MAI, Appraiser, Bidencope & Associates, 224 South Caswell Road, Charlotte, North Carolina addressed the Board stating that he is a North Carolina State Certified General Appraiser and MAI. He is licensed under Statute 93E which gives the Appraisal Board the rule maker authority to create license certification in North Carolina. He has been practicing real estate appraisal for 25 years or more.

Ms. Todd would like to admit Mr. Damon Bidencope as an expert in Appraisal.

The Chair asked if anyone had any questions about Mr. Bidencope's credentials. There being no questions about Mr. Bidencope's credentials, he was entered as an expert Appraiser.

Mr. Bidencope was asked to perform a study and to look at the project particularly with reference to the adjoining properties and the impact it might have to value on adjoining properties.

In doing so, he performed a report which summarized that analysis and he believes has been provide to the Board. In doing that report, we looked and referenced other facilities that have been built from which we could gain measurable impact. Whether it be an appreciation of prices for properties that adjoin solar farms, ones in terms of the timing of when they are announced and then after post construction to actually track what the prices have been. Because we always know that is very much a consideration for people and their properties and one of the findings that the Board will need to deliberate on.

We do not believe that it would substantially injure the value of adjoining or abutting properties if developed, as far as the site plan that has been submitted that we have copies of in our report. It would not be injurious to the use and the enjoyment of the people adjacent and adjoining property and those uses in the immediate vicinity.

He does not believe and has formed a professional opinion that it would substantially diminish or impair property values within the neighborhood and it would be in harmony and be compatible. That does not mean similar too, but certainly a good neighbor which does not generate lights at night or trips or noise or odor or many other uses that possibly could become a neighboring use to properties there.

He thinks important in their analysis, is noting that the hours of operation are only during daylight. That is the only time that you can capture energy from the sun and so at night time it becomes a totally passive property.

One thing they also considered was the size of this property, because it is a large facility. But to the adjoining property owner that looks at it or the traffic that passes by it, firstly, with the landscape buffers and existing vegetation, even partial views will be relatively obscured. Maybe the only time when you would see a full image of what it is, is if you were flying over in a plane; over the top of it. So, the view for most of the adjoining parcels with the landscape buffers in place and the existing vegetation would be a fairly obscure thing. But when you look on a vertical plan it appears very different.

The Chair asked if there were any questions.

Mr. Richard Deas, Property Owner, addressed the Board. He heard at the first of this meeting that we were going to work on facts only and no opinions. He asked if that is what he heard.

The Chair said that is the criteria for a Quasi-Judicial procedure.

He said that was part of the criteria. But, he has heard three people get up and give an opinion. Such as the last gentleman; it is an opinion that it is not going to change the property values. This is a new entity; solar farms are. There has been no real time to find out what property values are going to fall or how they are going to be managed under this thing. He is citing the Internet as his source but, there has not been any studies to show that there is no impact on the environment.

The Chair said you had a question? Are you asking if it is Mr. Bidencepe's opinion?

Mr. Deas said yes, but are we going to use opinions or are we going to use facts?

The Chair said yes, it is his opinion and we have qualified him as an expert witness, so we are accepting his testimony based on his qualifications as an expert witness. The Board will then have to process it based on what we have heard.

Mr. Deas said he understands that.

Mr. Mark Allen Stewart, adjacent property owner, 8600 Mt. Pleasant Road, Midland, NC, addressed the Board. He showed where the property is located and stated that it is 48 to 49 hundred feet adjacent. He is a peninsula up into the solar farm. He asked Mr. Bidencepe if he has property values of a person in his situation where the property is up inside the solar farm. If he has inquired about properties values where the solar farm is on three sides of a piece of property?

Mr. Bidencepe said in considering and forming his opinion.

Mr. Deas said he needs facts not opinions.

The Chair said base on his qualifications as an expert witness, he is qualified.



Mr. Bidencepe said if I speak to the facts, he has qualified both in federal, local and superior court and he is a qualified expert. Those opinions are based on the collection of facts and analysis that form with scientific methodology; an opinion of things. It is not simply, oh I believe and my finger is the air sort of wondering which way it is blowing sort of thing.

He said in answer to the question specific to Mr. Deas house, you built that house within the past ten years he believes.

Mr. Deas said four years.

Mr. Bidencepe said quite recently and it is sitting back right towards the border. One of the things that Mr. Deas will benefit from, is the fact that there is going to be a buffer on adjoining property, not your property, which is going to provide you with a landscape shield.

Mr. Deas is asking property values not buffers.

Mr. Bidencepe said that is exactly what he is speaking too. The termination of property value leads a desirability. You are now going to have a neighboring use on your property that is going to be quiet and that is going to generate no trips, no neighbors and no housing tract development.

Mr. Deas understands all of that.

Mr. Bidencepe said these are factors that he would put in to considering whether the land value and your home is going to be impacted in terms of value. From the facilities that have been built, the home prices in fact have shown positive appreciation in line with general market levels. These are solar farms that have been built in the Goldsboro area particularly, where we have tracked sales post announcement of the property and then subsequent to that. Which has shown very solid appreciation. To do that we do matched-pairs analysis, where we calculate both sales and things.

He said your next question will be if we have a property with exactly the same acreage, sitting exactly like mine, that is going to be surrounded on three sides by the use. He understands that is a genuine concern that you have.

In speaking to that, when you are forming an appraisal and an analysis of that you are trying to identify impacts to use. You have a residential use on your property. In the instances that they were able to find facilities that had residential uses, there was no impairment to value over reasonable value range of properties. From that we would conclude, that it is his opinion, his professional opinion that your property will not suffer. In particular, because of the buffer and now you will be protected on three sides and you will not have neighbors probably beyond the foreseeable future because of the capital investment that is made that is securing the property that is around you. You are going to be very well protected.

Mr. Deas said he might be protected physically, but he will not be protected financially.

He asked if Mr. Bidentope had any other properties that abuts up into a solar farm with values that have increased or decreased. Do you have any other real estate with that? He understands what Mr. Bidentope is saying that with all of the facts stated, that it sort of stays the same.

Mr. Bidentope said yes he does. He has included, tabled within the reports probably 20 or 30 different sales, along with recording dates, times of when they were sold and calculations of the price appreciation between the dates of sale that are both prior to announcement, during announcement and post construction that you will find in the report. Also, interviews with real estate professionals involved with the selling and marketing of properties that have indicated also in their opinion, which we would use in conversation and interview, to gather information that there has been no damaging impact of value. In fact there has been very little.

Once built, a lot of the uncertainty and the assertions or the worry before it is constructed, then seem to be gone away. That is something you do not have the benefit of right now, but it is Mr. Bidentope's opinion that will be the case once constructed.

Ms. June Deas said you talk about the analysis that you have done; solar is new. How many properties did you use in this analysis to come up with this conclusion? Do you have specific tracts of land and homeowners that had appraisals before the solar farm came in and then sold and increased or decreased their value? What is your analysis based on?

Mr. Bidentope said in answering that question, even probably more substantial in having appraisals of property, we actually have properties that have sold and the sale price of those properties when they did sell, before and after a solar farm being installed and that showed a clear appreciation in value and not a diminishment of value. So probably, even one step further than not just his opinion of what is formed, but the data of the actual sales with buyers and sellers; a meeting of the minds.

Ms. Deas asked where the analysis is so they can view it.

Mr. Bidentope said there are copies of the report that he submitted would be available

The Chair said the Board has his report in the record. Which as he is testifying is included with what he is testifying too.

Ms. Deas asked if they were Cabarrus County home sites or just wooded areas. She asked what they were; are they Virginia? You said that you worked out of Charlotte.

Mr. Bidentope said yes he does work out of Charlotte. Some of the best indications for what they have seen is in the Goldsboro area. A lot of solar farms being built there with homes that are selling roughly in the two and three hundred thousand dollar bracket. The reason why that is being such a good property to look to is that it has property where development has established before the announcement and now we have sales subsequent to that.



He said because solar is fairly new, you do not have a huge data set from which to go to. That is why we would go where ever in the state we could to find that. We have looked at different installations, whether they be east in the state or west toward the mountains in different places.

Ms. Deas said were these analysis of homes in view of the solar farm or just adjacent to it.

Mr. Bidencepe said yes. In the report you will be able to see that they back right up to the fence of the solar farm.

Ms. Deas said what about the front yard? Where any of them looking straight ahead?

Mr. Bidencepe said yes. There are other properties that are across the road that look straight through at it the other way.

Ms. Deas said but none of it actually adjoin or have it right there where you could throw a ball at the solar panel.

Mr. Bidencepe understands Ms. Deas concern, but he believes if you scrutinize the site plan and the 100 foot and the landscape buffer and the existing vegetation that is being place there, it is why these people impose and demand that level of separation and that level of vegetation buffer.

Ms. Deas said once these buffers are set out, who maintains that? She has seen dead ones all over the state.

Mr. Bidencepe that is a question that is not his expertise.

The Chair said we will let Staff answer that question.

Ms. Todd asked Mr. Bidencepe if his opinion is based on an analysis, is that correct?

Mr. Bidencepe said yes it is.

Ms. Todd said you performed that analysis and it is attached to your affidavit?

Mr. Bidencepe said yes.

Ms. Todd said that concludes their presentation in chief. She asked to reserve some time for rebuttal if necessary. We have also submitted as Exhibit 10 in the notebook sort of a statement of justification and support, which lists out basically potential findings of fact. We have four standards that we need to prove today to make a *Prima Facie* case to receive the permit.

1. The use will maintain or enhance the public health, safety and welfare if located where proposed and developed and operated according to the plan.

Mr. Blackwell has testified to that as well as Mr. Blackwell saying as well as Staff saying that this meets all the Ordinance requirements. Both the specific ones for solar farm use, as well as general requirements.

Mr. McGavran testified about nonhazardous materials that comprise a solar farm panel and the equipment; as well as the transformers containing mineral oil. He explained that the EMF has not increased as a result of solar farm use and that we will be using existing tension lines, existing voltage lines that are already on the property and not increasing any lines through this project. He also testified that the equipment is UL (Underwriters Laboratory) tested and approved and the equipment is safe and will be installed by electrical contractors who are qualified to do so.

Mr. Merkel in his affidavit and statement said there was glare potential, but in the whole there is very little. There might be a potential for glare but as a whole there is less harm or damage than looking at the sun.

2. Maintain or enhance the value of contiguous property.

Mr. Damien Bidence spoke to that affect saying that based on matched pair sales and the characteristic that they look at in determining whether a use is harmful to surrounding properties, that he could find none. It was his professional opinion and is substantiated by his report that this will not reduce property values or somehow harm them.

3. The use will comply with the general plans for physical development of the County as embodied in the Zoning Ordinance or in the Comprehensive Plans or portions thereof adopted by the Cabarrus County Board of Commissioners.

Ms. Todd said this project and this site plan as testified by Staff, does meet the Ordinance requirements. So, it is in compliance with your regulations. It is a permitted use in AO (Agriculture Open Space) and CR (Countryside Residential) zoning.

That is something that the County amended their ordinance for a couple of years ago to allow solar farm use as a permitted use in those zoning districts and that there is a legislative presumption that that is a use that is harmonious in these districts and obviously is in compliance with the plans for physical development of the County.

Ms. Todd admitted the notebook with Exhibits 1 – 10 into evidence. She asked if there were any further questions.

Mr. Koch said the Board may want to see if there are any objections to the introduction of those exhibits from anyone.

The Chair said Counsel has requested we take this notebook into evidence and the Exhibits that are contained within it and the affidavits. The Chair asked if there were any objections.



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There being no objections, they will be deemed admitted into the record.

The Chair asked if there were any other attendees that wish to speak in favor of the conditional use.

Mr. Dalton McCoy, 14280 Bethel Avenue Ext. Midland, NC addressed the Board stating that he knows these people. In the last two years, a solar farm was built adjoining his property. He just wanted to tell them (opponents) that it is the best neighbor he has ever had. It is quiet, his values have not gone down, he likes it and he does not have any objections to it.

He is friends with these people and he wanted them to know that it was built and adjoined his property. He owns a house on Bethel Avenue Extension. He was worried just like they were about the glare and everything else, but now that it is done and has been in operation a year he has no complaints. This is fact, he lives there and has been there for 25 years and he likes it better now.

The Chair asked if there were any questions from the opponents' side for this gentleman.

Mr. McCoy said it joins him on one side. Mr. Marty Stewart was asking about his piece of property, his piece has three sides. It joins his property on one side, on the north side of the entire piece of his property. In the summertime he cannot see it, but in the winter when the leaves are gone he can see it.

Mr. Mark Stewart Jr. said he owns about 48 or 49 hundred feet of property. He asked Mr. McCoy how much property he owns.

Mr. McCoy said he owns 30 acres. It joins him on the north side

Mr. Stewart asked Mr. McCoy how many feet, yards or miles.

The Chair does not think Mr. McCoy knows the dimensions of his property, he only knows the acreage.

Mr. McCoy said it is 15 acres where it joins him on the north side.

Mr. Stewart asked how long was the property line; the distance.

Mr. McCoy said that is something he cannot answer.

Ms. Erica Massey, 8767 Hayden's Way, Concord, NC addressed the Board stating that she is against this solar farm and she has seen the solar farm that is adjacent to Mr. McCoy's house. She asked how large the solar farm is next to Mr. McCoy.

Mr. McCoy said it was 95 acres.

Ms. Massey said this one is 675 acres that is being proposed.

Mr. McCoy said the one next to him is 95 acres and he believes that the actual solar panels were 65 acres of it.

Ms. Massey asked if he was happy with the buffering that was there, because right now it is dead. There is no buffering around.

Mr. McCoy said he is beside it. He has asked several of his neighbors about glare and they said they do not notice anything. He said as far as the buffering he does not know.

Ms. Massey said because there isn't any.

The Chair swore in Ms. Massey because she did not stand to be sworn in at the beginning of the meeting.

Mr. Butch McCoy, P.O. 84, Midland, NC address the Board. He is Dalton McCoy's brother. He does not live beside this property, but being at Dalton's place he does not see any problem with it.

He said the people who are doing this are first class people. This is not somebody who is going in and doing it halfway. They are going to do it right. He has known Mr. McBride's dad for years. They will do this thing right. If you let it get done, they will do it right.

Mr. Kevin Little, 9825 Highway 601, Midland, NC addressed the Board. He has 12 acres that borders the McBride property on the south side at the bottom. To him, it has made his land worth more knowing this was coming. We have rental property beside us where we had horrible neighbors. When he heard about this coming he was excited about it. He said not having any neighbors for 25 years or so made his property value go up.

He knew the McBride's and has leased property from Tal's father for over 15 years. He has watched after the property for them. He probably has spent more time on the McBride property than anybody; it is a special place to him. They have owned it for a long time and he thinks it should pass. It is there land and they have let a lot of people enjoy it and he thinks it is time that they do what they want to do with it. He is in favor of it.

The Chair asked if there were any questions or if there was anyone else wishing to speak in favor of this case.

The Chair said now that the proponents have concluded their statements, she asked if there are any opponents who would like to speak. She reminded them that there is a total of 15 minutes to speak and present your documents that are in support of your presentation.

Mr. Chris Massey, 8767 Hayden's Way, Concord, NC addressed the Board. He lives in Vanderburgh Estates beside the proposed construction site for the solar farm project. He is in



opposition of the solar farm project in his neighborhood. While he generally appreciates, values and encourages renewable energy, he has grave concerns about the proposed project, given its locality, unknown and known risk and the potential economic impact of such a project.

#### Impact on Property Value:

When one buys a home, the price of the property is based largely on zoning. If he is not mistaken, the area proposed for the project is zoned for countryside residential. Now there is an application to permit a solar farm.

If you were to invest a substantial amount of money into a piece of property and you had two choices; one was being beside an open field of crops or countryside residential and one was being beside a solar farm, which one would you choose? If you genuinely and honestly admit to yourself that a 675 acres solar farm would not be your first choice, then you have necessarily established, given the capitalist nature of the real estate market, that the solar farm is going to affect the value of my home and that as well as my neighbors. He has some signatures from as many of his neighbors that are adjoined to that property line that he was able to get too.

When he purchased his home this is not what he bargained for to be looking at. We knew it was countryside residential, there was no solar farm or anything going in that we knew of and the possibility of housing was an acceptable risk to them. Not to mention, although impressive from the sky, a solar farm will be an eye sore from the ground level given the fencing, and warnings signs that would be required for such a massive property.

#### Impact and Risk:

He is also concerned about the impact that the project will have on multiple levels; underground lines. As you know a solar farm must be connected to the main power grid. The proposed site for the project is rural in nature and begs to question through whose property the underground cable lines will be run through to connect to the power grid.

#### Power Outages:

If not maintained or managed properly, the solar farm could short circuit the main grid causing power outages on a grand scale.

#### Hazardous Materials:

Solar panels may contain hazardous materials and although are sealed under normal conditions, if they are damaged or improperly disposed of when decommissioned, oils or molten salt, hydraulic fluids, coolants, lubricants that may be hazardous could spill or leak.

Impacts to Soil and Water and Air Resource:

Construction of a solar farm is a large scale project and requires clearing and grading and result in soil compaction, potential alteration of drainage channels and increase runoff and erosion.

Additionally, a solar farm of this magnitude is likely to require a lot of cleaning, thus increasing the abandoned water which can strain available water resources and increase the cost of water for everyone else.

Furthermore, if the solar farm uses any chemicals such as dust suppressants, dielectric fluids or herbicides, cleaning the solar panels may result in runoff contaminating the surface or ground water, which in the long term can call terrible health issues.

EMF Sensitivity:

Finally, solar panels and inverters which are what converts solar energy into a useable alternate current, emit electromagnetic frequencies such as a cell phone would, and much like a cell phone can cause a headache from speaking on the phone to long, so to can a solar farm in one's home.

If electromagnetic frequencies were not of any concern, then why does every cell phone which emits such frequencies on a very small scale, including in every iPhone, have a disclosure and warning statement under its legal section? It is because they know that certain levels of exposure to these frequencies can be harmful.

Mr. Massey said admittedly, one solar panel from a distance will not create such an effect, but 695 acres worth of solar panels can and will, even more so for individuals who are sensitive to these frequencies. The effects of these frequencies include, but are not limited to headaches and restlessness to name a few. Moreover, the inverter which generates radio frequency radiation is connected by wires that act as antennae so that radiation may be picked up by hundreds of feet away by the inverter.

In conclusion, while he support and encourage the idea of a solar farm, he is opposed to such a project anywhere near any residential area and ask that the Planning and Zoning Commission reject this project and encourage the developers of the project to merely look for a location more removed from residential areas.

Mr. Massey also came across something out of Woodland, North Carolina, where similar farms of this size were not established by residential communities. There have been several communities where solar farms on smaller scale, 20 acres or less, that have not been approved due to potential health risks, property devaluation, environmental concerns and esthetics.

He said quite frankly, when he comes out of his back door, that is what he is going to see. In the summer time it will be less visible or not visible but in the winter time it is going to be blatant and right there. He did not buy into that for his neighbor.



The Chair asked if there was any questions for Mr. Massey.

Mr. Richard Deas said these are good people and Mr. Bost is one of his best friends in the whole wide world. He is not arguing against what they are doing on their property, that is their business. But, what is the impact going to be on 600 plus acres on the wildlife in this area.

There is a lot of wildlife in that area and he has not heard anybody saying anything about that. He does not know if there is anyone here expert enough to say. He asked if anyone could answer that question.

Mr. Chris Massey said when he moved in, it was all wooded and he believes they were using it for a hunting preserve. There was a lot of deer running through there and then it was logged. When it was logged, that changed the complete dynamics of everything around his house. The sunlight changed, the wind comes through a lot faster and there is not that buffer with all the trees. The deer have made different routes and things like that and the increase in pollen that he has been fighting in his pool from all of that has cost him some economic grief at this point. He said it is a beautiful green but not the color he wants.

He said there is an ecological problem that is going to happen by the de-forestation number one. He cannot even imagine what the solar panels are going to do to change the dynamics of that area. That is another concern.

There being no further questions, the Chair asked if there were any one else who wanted to speak in opposition to this proposal.

Ms. June Deas addressed the Board showing pictures with different views of her property to show how close the solar farm will be to their property. She said it is not the same situation that Mr. Dalton McCoy has where his property is through woods. We have the whole thing open.

We had our home appraised last week because we were told by an appraiser that there is no statistics as to what a solar farm does to property in our area. So, he could not really tell us a dollar amount. He could tell us what our dollar amount for our home place is now. He said we would be a prime example for Cabarrus County if this passes and they are not able to sell their property or have to sell it at a reduced amount.

We are not talking about 95 acres like Mr. McCoy. We are talking about 627 acres; that is quite a difference. High power voltage lines go across their property already and those are the lines that are going to feed from the whole 600 plus acres of solar that is a stone throw from their home. She said it is written up on their appraisal that it is a health hazard or devaluation of their property because it has high powered electric lines on it already.

She said when they bought there in 1979, we bought there because this property of the Bost Family had been in their family for generation after generation; over hundreds of years. It was residential countryside and that is what they enjoy looking at. If you come to their property and

look out you think you are in paradise. But, if we have to sit and look at a solar panel for the rest of our days, we will want to sell our property. If anybody wants some property it is up for sale.

She said this thing about electromagnetic radiation; if you go on the Internet it talks about how solar farms emit solar electromagnetic radiation and they have electromagnetic fields (EMF and EMR). Then they talk about the potential for glare.

Well, if these solar panels are going to be aimed the way her satellite dish is, they are going to be aimed right at us and that has a potential for glare (627 acres). On the Internet it says that birds are dying and we do not know if it is from the heat when they fly over or if they are diving into the solar panels thinking it is bodies of water.

We have wild turkeys walking around in our yard and we have deer. Where are all of these things going to go when there is no countryside for them?

Ms. Deas went on the Cabarrus County website today, trying to find a number for somebody to pick up the phone. She was trying to find out if this meeting was going to be tonight. She saw something that really struck her. It said that Cabarrus County offers zoning and land use regulations to protect property investments. She said she cannot do anything about Mr. McBride or Mr. Bost or anyone else trying to do the solar farm; that is their land not hers. But, she is looking for the County to protect her investment. She is 70 years old and they have been there 30 years. It is not a crappy house, it is a very nice home.

Mr. Mark Stewart Jr., addressed the Board stating that zoning signs were put up six or eight weeks ago. He has called the number four times, left two messages for people to call him back about the zoning. He said to this second no one from the County has called him back; so what good are the zoning signs.

The Chair asked if anyone else would like to speak.

Mr. Koch said at this point if there is any rebuttal, now would be the appropriate time for that.

The Chair said if there is any rebuttal that it be done at this time.

Ms. Susanne Todd addressed the Board stating that it would be less of a rebuttal, maybe an explanation to perhaps provide some comfort. She wants to address three issues.

In regards to the power voltage lines on the Deas property. She asked Mr. McGavran to come forward.

Ms. Todd asked Mr. McGavran if this project will be using the lines on the Deas Property.

Mr. McGavran said the lines that we will be utilizing will be the Union Power 100KD line that is there today. He does not know if that is the line that crosses their property.



Mr. Tal McBride said the line runs down Mt. Pleasant Road. He showed where they were interconnected and he said it runs down and then turns on angle (he showed the power line right of way) and it runs over to Locust substation to Duke.

Mr. McGavran said we will not be utilizing that line.

Ms. Todd asked Mr. McGavran if they will be increasing any voltage on any lines as a result of this project.

Mr. McGavran said no.

Ms. Todd said there was mention of the birds dying. She asked Mr. McGavran to explain that.

Mr. McGavran said in the solar projects that he has worked on they have never had an issue with birds dying.

Ms. Todd believes that might be a reference to out West. Out West they have solar farms that basically have large mirrors and the mirrors then reflect light to a boiler in the center of it. The water in the boiler system heats up and creates steam which causes electricity. There have been occasions where she believes birds fly through the mirrors. There is a lot of heat between the boilers and the mirror that have caused birds to die. But, that is not the technology that we are using; these are simply PV solar panels that do not create that kind of heat.

Ms. Todd said she had a question for Mr. Blackwell. She said behind Tab 2 of the notebook, there is one sheet that shows the site plan layout and the second one shows the landscape buffer behind the Deas property. She asked Mr. Blackwell if he recalls what is being proposed.

Mr. Blackwell said on the common boundary between the Deas property and the solar farm we actually have to plant the 100 foot landscape buffer required by county.

Ms. Todd said the solid line indicates a full buffer will be planted there.

Mr. Blackwell said it will be a full tree buffer there. Since there are no trees, we actually will be planting trees there. (He showed where the buffer will be on the plan) we are going to plant the hundred foot required buffer with trees and shrubs. Right now she can kind of look across the property into a field. Where she now looks, we will have trees for one hundred feet.

The Chair asked if the trees will be evergreen.

Mr. Blackwell said it is a mixture of evergreen, deciduous and shrubbery.

Mr. Corley asked what size those plantings are initially going to be. If this project has a life span, is it going to take that long for those trees to even provide any sort of screening whatsoever?

Mr. Blackwell said we cannot plant trees that are thirty feet tall. We just can't with the sheer number of trees that we are doing.

Ms. Todd said it is an ordinance requirement as far as the caliper.

Mr. Blackwell said it is two inch caliper tree and the spacing is relatively tight, but there is a grow out of five year, ten year, twenty year grow out. He will admit there is some time to grow out. They are not little tiny trees, they are two inch caliper at planting.

Ms. Todd said they have nothing further.

Ms. June Deas addressed the Board stating that she and her husband are 70 years old. She does not expect this buffer to be anywhere where it would need to be in their life time.

Mr. Mark Stewart, Jr. addressed the Board stating that he has property around this. It is about 48 or 49 hundred feet. He wants to know if he could work with McBride exclusively on what kind of buffer he gets around that 48/49 hundred feet. Instead of him using the county's requirements, he would like the option to leave the existing vegetation, since it would be thicker then what they could plant and it would grow. There is already 15 foot pine trees there and there is a good buffer there. He does not see the expense of taking out 100 feet of existing trees, to plant a small tree, to let it get back to that size and take it 20 years to do it. He already has a buffer on his property, could he work with Mr. McBride on that 48/49 hundred feet?

The Chair asked to see an aerial of the property. Because she is noting placing on the site plan where the buffer is existing and she does not see that relationship.

Mr. Blackwell showed a photo and said it was a Google Earth type photo taken four or five years ago.

The Chair said because what she is looking at and the site plan, as she sees at array seven and eight where you have the existing buffer to remain and where you haven't called out the existing buffer to remain where it is adjacent to his property, even though she sees trees in that area. It seems too her that based on what is being requested here that the site plan could be modified to show where you have the existing canopy.

Mr. Blackwell said we prefer not to cut down mature trees just so we can replant them. We do have fill in. There are some areas that have existing trees that are not thick enough and we would do some infill, if we worked that out with the county. If he can keep hundreds of feet of trees, that is hundreds of feet of trees that he does not have to replant.

The Chair said respecting what you are saying that based on what is being asked here, it would be actually she guesses denoting on this plan, similar to where you have flagged that you will save the existing vegetation. She said that same commitment adjacent to this gentleman's property because it appears from the aerial that you submitted that you do have vegetation there and to the point where it needs to be supplemented.

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Mr. Blackwell said we have to add in other places, so we could.

Ms. Todd said we could make that modification to use the existing and that is something we previously asked for. Her concern is that it would then have to be bought back to the Board or the plan would have to be reapproved?

The Chair said let's reserve how we may facilitate the timing for that; with respect to if there is a commitment to do that and let staff help us understand what we may need to do to address that. Her purpose for asking this is that she feels like there have been a number of comments about being adjacent to this and glare. Again, where you have vegetation that can be preserved versus you have a site plan that really shows where you are landscaping. She is trying to have an open understanding about where there are trees adjacent to the property that can be saved, they will be saved. She understands that it is not the intent to remove it but as it is presented here there are areas where we see trees that would be updated to be saved.

Mr. Stewart said there is not going to be any glare the way his house sits and the way solar panels are going to sit. He is going to be on the backside. He is not worried about glare.

The Chair is trying to speak to everyone who has brought a concern for it.

Mr. McBride said he and Mr. Stewart have had numerous conversations about this. There are existing trees on either side of his property that if you and I were this far apart you could not see me and I could not see you. They satisfy those screening requirements now.

Mr. Stewart said why take all of that out?

The Chair said we are going to work through that.

Mr. Richard Deas noticed down on Mr. McBride's property off of Highway 601 there is a nice buffer of natural trees that was left from the logging. He said it is pretty substantial, but in a situation like he has and some of the others, these plantings that will happen will be probably Leyland Cypress or something like that.

He has toured two of these solar farms, one in Cabarrus County and one on the edge of Stanley County. Where the open areas were, where they set out the vegetation, it is all dead; none of it is alive. He does not know why that is but he speculate it is the heat and everything else. He does not know how it is going to be maintained or how they are going to keep it going.

There being no further comments, the Chair closed the Public Hearing.

Mr. Pinto does not think this facility will be detrimental to the health and general welfare of anybody, really in Cabarrus County. He likes the idea of solar far more than Plants. Whether it be McGuire or whether it is over there at the steam station. The further you get away from there, the more valuable solar is in providing neighbors with power, possibly through rolling blackouts or whatever.



He said in part of our Ordinance, solar energy facilities are classified as a public facility in AO and CR. That is one of the reasons why he feels it should be approved.

The Chair said a site plan has been prepared with the modifications that we discussed to possible condition, that the existing vegetation be maintained to meet the buffer requirement and they have submitted a site plan that does meet the Ordinance requirement.

The Chair thinks another point that was made was that the proposed use is using the existing lines and therefore limits any other impact to the infrastructure using public utilities. Additionally, the site has obtained the necessary emergency access from NCDOT.

Mr. Ritchie lives close to this, but he does not have any land backing up to it or anything. He would rather see 627 acres of solar panels verses five or six hundred houses. You have no cars coming into a solar farm, where you would have 12 to 15 hundred coming in if it were a housing development; just the impact that would have on everybody that is adverse.

Mr. Corley certainly appreciates and accepts the expert witness testimony on their specific subject areas. A hardship for him in his mind is still that visible barrier. He does not know that we have had much either way. He has heard some of the opponents' state that they are concerned about what they are going to see. He understands this plan may comply with the buffer requirement in the ordinance but, he would challenge the developer and everybody involved in the project to attempt to uniquely, allow that buffer to be as specific as possible in the field, in trying to satisfy each individual homeowners needs, as they are neighbors and you are neighbors. He thinks you have heard that loud and clear.

Mr. McBride said he intends to that.

Mr. Wise said this is a huge piece of property and with the earth being moved, he wants to make sure that the property is protected for erosion control. He has not had a chance to look at the topo and he is not sure how much grading has to be done but he wants to make sure that good erosion control measures are done. He assumes that this is being inspected by NC Erosion.

Mr. McBride said yes DEQ. We went through extensive consultation with them on that and we will do that.

Ms. Mary Blakeney said that she has no objections.

Mr. Koch said before the Board entertains a motion he wants to be clear. There was some talking about adding an additional condition concerning the landscaping. There is a landscaping condition already contained in the staffs list of 17 conditions.

The Chair thinks we are going to add or supplement that.

Mr. Koch said the motion will need to reflect that.

The Chair said understood. We will add an additional condition to Staffs' conditions to specifically address this landscaping provision if needed.

Mr. Koch is trying to understand. He said if there are going to be additional conditions they need to be part of the motion.

Mr. Corley asked if the easement that is going to be obtained, off of Mr. McBride's property.

Mr. McBride said yes. He indicated where the Nancy and Mike Kucera's property is located on the east, southeast side of the property (6811.33 feet along the boundary). We signed an agreement with them to acquire the 100 foot buffer easement along that boundary. There are existing trees there that are 30 feet tall that serve as a buffer and it is between a quarter and a half a mile from our boundary line over to Mt. Pleasant Road of mature pine trees.

The Chair said this is the easement that is being established off of your site onto their property to meet your buffer.

Mr. McBride said that is correct.

The Chair said where alternatively, we were talking about you all saving existing vegetation within you property limits abutting adjoining property lines.

Mr. McBride said yes. It is a combination of those two things that they will be doing.

The Chair said in compliance with the Ordinance.

Mr. McBride said yes.

The Chair said we will make a motion to approve the request with the conditions proposed by Staff and also establish a condition that where existing vegetation exists within the limits of the subject property, that vegetation will be saved and supplemented where not adequate to meet the landscape requirement of the zoning ordinance.

Mr. Koch said isn't that condition six in the staff report?

The Chair said the problem is there are parts on this site plan that do show the existing vegetation to remain on the site plan and is in conflict with that statement. Because when that gentlemen spoke and showed us trees that were on that portion of his property. That is why she is saying this site plan has areas where they are saving it, but they have not included that adjacent to his site. So when he asked if we could save this, she was asking to update the plan to save the existing vegetation. It is almost like yes, it is in the conditions but the picture is not matching the statement in all areas where she thinks the applicant has said he would save.

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating that the applicant was proposing to use a landscape easement in that particular section. It was not successful, so

that buffer had to be moved back onto the applicant's property. She does not know if that might be part of what is causing the confusing. The notes may have been missed. If the Chair is okay with it, she will take a look at the plan.

Ms. Morris looked at the plan and said there is a misrepresentation on that plan, as far as labeling. She thinks that is what may have happened. It does show that there will be the required 100 foot buffer. What it does not show, at this time, is that they will be using existing trees to meet that. She believes that Mr. McBride has said that he will maintain the existing trees to meet that buffer and would be okay with the Board placing that as an additional condition specific to Mr. Stewart's property.

Mr. McBride said that he would be okay with it.

There being no further discussion The Chair **MOTIONED, SECONDED** by Mr. Aaron Ritchie to **APPROVE** CUSE2017-00001, Conditional Use Permit for Public Service Facility (Alternate Power Generation-Solar Farm, McBride Place Energy) with the conditions recommended by Staff in the staff report and with the added condition to keep existing vegetation around the Stewart Property at 8600 Mt Pleasant Rd S and supplement the Landscape Buffer to meet the requirements of the Ordinance. The vote was unanimous.

It was the consensus of the Board to have Mr. Koch prepare the specific Findings of Fact, Conclusion of Law and the Granting Order. (See attached)

Mr. Koch said there has been a request from the applicant made to him outside of this hearing that they would like for that to occur sooner rather than later and hopefully, before the Board's next meeting, when you would typically approve that. He asked if the Commission would entertain allowing him and the Chair to work collaboratively on the Granting Order and Findings and Conclusion and if it is acceptable to the Chair and to him, to allow the Chair to enter that and sign it before the next meeting.

It was the consensus of the Board to allow Mr. Koch and the Chair to work collaboratively on the Granting Order and Findings and Conclusion and allow the Chair to sign it prior to the next Board meeting if needed.

### **Directors Report:**

Ms. Morris reminded the members (Mr. Pinto and Mr. Price) who signed up to attend the training that it is next Tuesday, May 16<sup>th</sup>. If anyone else is interested in attending the training to let us know immediately.

### **Legal Update**

Mr. Koch had an eventful day in court on May 1<sup>st</sup>, regarding the three cases that we had spoken about previously.



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The first one was the DeComo case involving the people living in the RV. They have now moved into their new home. We verified that and they have complied with the Order and we took a withdrawal of the Motion for Contempt for Noncompliance.

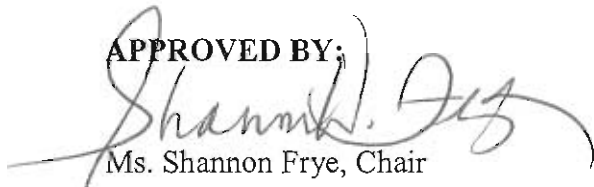
The second one was the Porter case and that was argued before Judge McGee. He took it under advisement and said he would review the whole record and that he would have a decision sometime within the next month.

Finally, the Little, case was the other Motion for Contempt. We verified that there still wasn't compliance with the order entered by the Judge and the Ordinance. The Judge directed Mr. Koch to draw up an order for his arrest, under violation of the Civil Contempt Substantive Law and Procedure, which we are in the process of doing. Since it is civil contempt, he basically holds the keys to the jail house, so to speak. Meaning, that he will be incarcerated until he complies, however long that may take for him to do. The Judge also ordered him to reimburse the County for almost \$5,000.00, in Attorney fees because of the noncompliance since the order was entered.

We are in the process of working on that and that will be the first one of those that we have had. It will be interesting to see how that plays out. Certainly, his ability to comply on his part would be very simple. But he has chosen up to this point not too and to attempt to avoid service and compliance.

There being no further discussion, the Ms. Mary Blakeney **MOTIONED, SECONDED** by Mr. Aaron Ritchie to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 9:30 p.m.

**APPROVED BY:**



Ms. Shannon Frye, Chair

**SUBMITTED BY:**



Arlena B. Roberts

**ATTEST BY:**



Susie Morris, Planning and Zoning Manager

MCBRIDE PLACE ENERGY, LLC — APPLICANT  
CUSE 2017-00001

**CONDITIONS OF APPROVAL**

Included in the approval of the Conditional Use Permit, the following conditions of the approval must be met:

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions. (Zoning)
2. The Granting Order stating restrictions and applicable conditions of approval, shall be recorded with the Register of Deeds of Cabarrus County. (Zoning)
3. The Applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting. (Zoning)
4. Any proposed future expansion of property, as well as modifications or changes to approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit. (Zoning)
5. The Applicant shall provide copies of all state, local, and federal permits for the permanent project file prior to zoning permitting. (Zoning)
6. The Applicant is proposing that existing landscaping will be used to meet the buffer requirements. In the event the buffer does not meet the intent of the ordinance the Applicant agrees to install the buffer as required by the Ordinance. (Zoning)
7. Deed Restrictions as outlined in the Storm Water Permit (SW3170403) Schedule of Compliance must be recorded in the Cabarrus County Office of the Register of Deeds and a copy provided to NCDENR and to Cabarrus County Planning after recordation and prior to zoning permitting. (NCDENR, Planning)
8. Site must meet all conditions set forth in the Soil and Erosion Control Permit #CABAR-2017-050.
9. Per Stormwater Permit #SW3170403, the overall tract built-upon area percentage for the project must be maintained below 24%, as required by 15A NCAC 2H.1017 of the stormwater rules.

10. The Decommissioning Plan must be recorded prior to the zoning permit being issued and a copy provided to Cabarrus County Planning. (Zoning)

11. Phase 1 parcels must be combined into one parcel prior to zoning permitting.

12. Phase 2 parcels must be combined into one parcel prior to zoning permitting.

13. Any proposed landscape easement documents must be recorded prior to zoning permitting. If these documents are not recorded, the Applicant must redesign the plan in accordance with the Ordinance or seek a variance, both of which require consideration and/or approval by the Board of Adjustment. (Planning)

14. Stream and wetland buffers, as required by Chapter 4 of the Cabarrus County Development Ordinance, and as shown on the submitted site plan, shall be delineated in the field prior to the start of any land clearing and/or grading. (Planning)

15. Addresses shall be clearly posted at each entrance to the site. Knox Boxes shall also be installed at each entrance. (Fire Marshal's Office)

16. The Applicant has proposed a chain link fence that will cross the waterbody buffer of Bost Creek near the southern portion of the site, as shown in the site plan. Fences are permitted within the buffer area, provided the design does not interfere with the flow of water through the buffer area to the waterbody. (Planning)

17. Applicant must adhere to the Special Provisions, listed in each of the five driveway permits issued by the NC Department of Transportation. (NCDOT)

18. Applicant agreed to keep existing vegetation around the Stewart Property at 8600 Mt Pleasant Rd S (PIN#5556-47-8315) and supplement the Landscape Buffer to meet the requirements of the Ordinance. (Planning)



# Memo

**To:** Ms. R. Susanne Todd  
**Cc:** Jason Earliwine, Sr. Planner,  
**From:** Lynn Roberts, Clerk to the Planning and Zoning Commission  
**Date:** June 1, 2017  
**Re:** Granting Order for Conditional Use Permit CUSE2017-00001

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Attached please find the recorded Granting Order for Conditional Use Permit CUSE2017-00001, McBride Place Energy, LLC approved at the May 9, 2017, Planning and Zoning Commission.

A condition of approval for your proposed project is that the Granting Order, stating restrictions and applicable conditions of approval, must be recorded with the deed to the property so that it appears during a due diligence search. The Granting Order has been submitted to the Register of Deeds Office for recordation. A bill from Cabarrus County Finance will be forwarded to the address you provided for the fees associated with recording documents with the Register of Deeds.

If you have any questions, please call our office at 704-920-2141.

*mailed on 6/1/17,  
to S Todd also emailed*

SCANNED AND RETURNED

FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS  
FILED Jun 01, 2017  
AT 09:20 am  
BOOK 12515  
START PAGE 0262  
END PAGE 0269  
INSTRUMENT # 13794  
EXCISE TAX \$0.00  
EBV

Prepared by and Return to:  
Richard M. KochCabarrus  
County Attorney  
ROD Box 74

Application Number CUSE 2017-00001

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A CONDITIONAL USE PERMIT

The Board of Adjustment for the County of Cabarrus, having held a public hearing on May 9, 2017 to consider application number CUSE 2017-00001 submitted by applicant McBride Place Energy, LLC, and having heard all of the evidence and arguments presented at the hearing, makes Findings of Fact and Conclusions of Law contained in the attached Exhibit A and makes the following additional Conclusions:

1. It is the Board's Conclusion that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.

2. It is the Board's Conclusion that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.

3. It is the Board's Conclusion that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, the use does not adversely affect the adequacy of sewage disposal facilities, solid waste and water facilities, police, fire and rescue squad protection, schools, transportation systems (in and around the site) and other public facilities.

4. It is the Board's Conclusion that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the

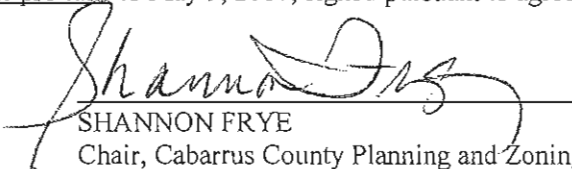
8/26

physical development of the County as embodied in the Ordinance or in the land use plan, or portion thereof, adopted by the Board of County Commissioners.

5. It is the Board's Conclusion that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Because the Board concludes that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT have been satisfied, IT IS ORDERED, by unanimous vote of the Board, that the application for the issuance of a CONDITIONAL USE PERMIT be GRANTED, subject to the conditions contained in the attached Exhibit B. The Applicant shall fully comply with all the applicable requirements in the Ordinance and must develop the property in accordance with the site plan submitted and approved. If any of the conditions shall be violated, this permit may become void and of no effect.

This 31<sup>st</sup> day of May 2017, nunc pro tunc to May 9, 2017, signed pursuant to agreement of the Board of Adjustment.

  
SHANNON FRYE  
Chair, Cabarrus County Planning and Zoning  
Commission, sitting as the Board of Adjustment

STATE OF NORTH CAROLINA

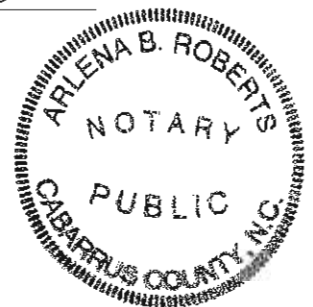
COUNTY OF CABARRUS

I, Arlena B Roberts, a notary public in and for said county and state, do hereby certify that Shannon Frye, Chair, Cabarrus County Planning and Zoning Commission, personally appeared before me this day and acknowledged the execution of the foregoing Order.

This 31 day of may 2017.

  
Notary Public

My commission expires: March 21, 2022



NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 12-25 of the Ordinance



## EXHIBIT A

MCBRIDE PLACE ENERGY, LLC — APPLICANT  
CUSE 2017-00001

### FINDINGS OF FACT

#### GENERAL FINDINGS

1. This application is for the construction of a public service facility (solar farm) by Applicant on +/- 627.55 acres owned by Five M's, LLC; Bost ET, III; John P. McNeill and Adelaide McNeill; and JAB Farms, LLC, which are described as all or portions of PINs 55562441360000, 55572393350000, 5557306731000, 55564697650000, 55564821320000, and 55571343380000 (collectively, the "Property"). The application was complete and duly filed.

2. Notice of the application by posting of the Property, notification in a newspaper of general circulation or electronically as permitted and notice to surrounding property owners was properly accomplished as required by North Carolina statute and the Cabarrus County Zoning Ordinance ("Ordinance").

3. A public hearing was held on May 9, 2017. All witnesses were placed under oath and all persons present were given an opportunity to present evidence and to cross-examine witnesses. All witnesses offered by the Applicant that were proffered as experts in their respective fields were so qualified by the Board, without objection.

4. The staff report of Cabarrus County Planning and Development Services was also admitted into evidence.

#### SPECIFIC FINDINGS

1. The use as proposed is not detrimental to and will maintain or enhance the public health, safety and general welfare.

- a) The Applicant provided evidence in the form of oral testimony and affidavit by civil engineer and expert Ed Blackwell, P.E. who testified that the solar farm has received North Carolina Department of Transportation permits for roadway connections to provide EMS and fire with access to the Property, and that the site plan meets all applicable Ordinance requirements for solar farm use.
- b) The Applicant provided evidence in the form of oral testimony and affidavit by professional engineer and expert Edward ("Ted") McGavran, P.E. that solar PV

is a very benign source of electricity, that the panels themselves are essentially silicon chips, and that the solar farm will produce no hazardous waste.

- c) Also, Mr. McGavran further testified that the solar farm will utilize existing Union Power KV transmission lines to distribute the electricity generated by the use.
- d) Also, Mr. McGavran testified that the use will not increase the amount of existing natural electromagnetic field ("EMF") energy, that surrounding Duke Energy and Union Electric electrical facilities have a lot more EMF associated with them, and even the amounts of EMF created by these facilities is minute when compared to the EMF generated by household appliances.
- e) The Applicant provided evidence in the form of oral testimony and affidavit by expert Evan Merkel, Electrical Engineer and Certified PV Installation Professional with Antares Group, Inc., who testified that based on the study he prepared, the potential for glare exists during certain times of the day and year along certain points of adjacent roadways where the panels are visible, but that any potential for glare could be mitigated through screening.
- f) Mr. Merkel further testified that the potential for ocular hazard resulting from the proposed use is far below the levels considered harmful or even hazardous.
- g) The Applicant provided testimony by Tal McBride, a member of the Applicant limited liability company, that his family has owned 300 acres of the Property since 1954, that this is the seventh utility scale project that he has developed, that at 74.9 MW in size, the solar farm will provide annual power for about 12,000 homes, that the capital cost of the solar farm is approximately \$130 million, and that based on Cabarrus County's current tax rate, he believes that the solar farm will generate around \$190,000 in annual ad valorem taxes and \$75,000 in back taxes. Mr. McBride further testified that there is an executed Power Purchase Agreement for Duke Energy to purchase the power generated by the solar farm.
- h) Mr. Belk McCoy testified that he has lived on property near Midland for the past 25 years and within the last two years has had a solar farm built adjacent to his property, that he had been worried about glare and other potential issues, but that he has no complaints.
- i) There was no credible testimony or evidence presented by any opponent to the application that the solar farm use would be detrimental to the public health, safety and general welfare.

2. The use as proposed will maintain or enhance the value of contiguous property.

- a) The applicant provided evidence in the form of oral testimony and affidavit by expert Damon Bidencepe, a licensed real estate appraiser with the MAI designation, who used sales comparisons of properties adjacent to other solar facilities to testify that such properties had comparable sales values in line with general market levels, even after the solar facility was constructed and operating.

- b) Mr. Bidencope used matched pair analysis from a developing subdivision adjacent to a solar farm in Goldsboro, North Carolina, where the prices of sold homes before, during and after the solar facility's construction were comparable and specifically showed no depreciation due to the solar farm.
- c) Mr. Bidencope researched sale prices for properties in other areas that sold both prior to and again after the construction of a solar farm that show clear appreciation in value.
- d) Also, Mr. Bidencope interviewed other real estate professionals with listings or sales in the area of the Property that did not reduce the sales prices because of the proposed solar farm use. He cited the facts that solar facilities are quiet, odorless, will be buffered, have an appearance similar to other uses commonly found in rural areas and produce very little traffic as among the reasons the solar farm use will not adversely affect adjoining property values.
- e) There was no credible testimony or evidence presented by any opponent to the application that the existence of this solar farm in its proposed location would be detrimental to the value of adjoining properties.

3. The use as proposed does not adversely affect the adequacy of sewage disposal facilities, solid waste and water facilities, police, fire and rescue squad protection, schools, transportation systems (in and around the site) and other public facilities.

- a) The Applicant provided evidence in the form of oral testimony and affidavit by expert Bob Messerich, Certified PV Installation Professional, who testified that the proposed use is a very passive neighbor, that it does not emit gases, that there are no hazardous substances, fumes or odors, that the equipment is enclosed within a six foot fence, that the site is remotely monitored 24/7, 365 days a year and that an emergency plan has been submitted.
- b) Mr. Messerich further testified that that the use will require no onsite staff, and have only occasional staff visits to maintain landscaping or service panels or other parts of equipment; and that due to lack of staff, the use creates no additional burden on the transportation systems, nor does solar farm use create any impact on the County's schools, water, sewer or emergency services.
- c) Also, Mr. Messerich testified that the use will not create pollution or waste and reduces reliance on other forms of energy that do generate such by- products.
- d) The solar farm will use existing external transmission lines, which limits further impacts to the infrastructure and existing public facilities.
- e) There was no credible testimony or evidence presented by any opponent to the application that solar farm use would burden any public utilities.

5. The use as proposed will comply with the general plans for the physical development of the County as embodied in the Ordinance or in the area development plans that have been adopted.



- a) County staff member Jason Earliwine testified that the subject property is zoned Agricultural Open ("AO") and Countryside Residential ("CR") and that solar farms are permitted as a conditional use in AO and CR zoning districts under the Ordinance. As such, the solar farm generally complies with the plans for physical development of the County as embodied in the Ordinance.
- b) Mr. Blackwell and Mr. Earliwine testified that the site plan for the solar farm use has been extensively reviewed and complies with the Ordinance.
- c) Mr. Earliwine also testified that the Applicant submitted a complete application and provided documentation compliant with Section 8-3 *et seq.* of the Ordinance for solar farm use.
- d) There was no credible testimony or evidence presented by any opponent to the application that solar farm use does not meet the requirements of the Ordinance.

Based on the foregoing Findings of Fact, the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, makes the following:

#### **CONCLUSIONS OF LAW**

1. The Applicant has presented competent, material and substantial evidence in its application, other written materials, and through witness testimony and affidavits, that the solar farm use as applied for meets the standards in the Ordinance precedent to the issuance of a conditional use permit.

2. The evidence presented by the opponents of the application was insufficient to rebut the presumption that the application, with the agreed conditions, was compliant with the Ordinance and should be granted.

3. The Applicant is entitled to the issuance of a conditional use permit based on the provisions of its application and the conditions contained in the County's staff report, plus the additional condition imposed by the Board, to wit: that the Applicant maintain and preserve the existing vegetation within the required 100 foot buffer area adjacent to the property owned by Mark A. Stewart, Jr., Trustee for the Revocable Trust Agreement of Mark A. Stewart, Jr., dated March 30, 2010, located at 8600 Mt. Pleasant Road, Midland (Cabarrus County) North Carolina and identified as Cabarrus County Parcel ID No. 55564783150000 and supplement the landscape buffer as necessary to meet the requirements of the Ordinance.

## EXHIBIT B

MCBRIDE PLACE ENERGY, LLC — APPLICANT  
CUSE 2017-00001

### CONDITIONS OF APPROVAL

Included in the approval of the Conditional Use Permit, the following conditions of the approval must be met:

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions. (Zoning)
2. The Granting Order stating restrictions and applicable conditions of approval, shall be recorded with the Register of Deeds of Cabarrus County. (Zoning)
3. The Applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting. (Zoning)
4. Any proposed future expansion of property, as well as modifications or changes to approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit. (Zoning)
5. The Applicant shall provide copies of all state, local, and federal permits for the permanent project file prior to zoning permitting. (Zoning)
6. The Applicant is proposing that existing landscaping will be used to meet the buffer requirements. In the event the buffer does not meet the intent of the ordinance the Applicant agrees to install the buffer as required by the Ordinance. (Zoning)
7. Deed Restrictions as outlined in the Storm Water Permit (SW3170403) Schedule of Compliance must be recorded in the Cabarrus County Office of the Register of Deeds and a copy provided to NCDENR and to Cabarrus County Planning after recordation and prior to zoning permitting. (NCDENR, Planning)
8. Site must meet all conditions set forth in the Soil and Erosion Control Permit #CABAR-2017-050.
9. Per Stormwater Permit #SW3170403, the overall tract built-upon area percentage for the project must be maintained below 24%, as required by 15A NCAC 2H.1017 of the stormwater rules.
10. The Decommissioning Plan must be recorded prior to the zoning permit being issued and a copy provided to Cabarrus County Planning. (Zoning)

11. Phase 1 parcels must be combined into one parcel prior to zoning permitting.

12. Phase 2 parcels must be combined into one parcel prior to zoning permitting.

13. Any proposed landscape easement documents must be recorded prior to zoning permitting. If these documents are not recorded, the Applicant must redesign the plan in accordance with the Ordinance or seek a variance, both of which require consideration and/or approval by the Board of Adjustment. (Planning)

14. Stream and wetland buffers, as required by Chapter 4 of the Cabarrus County Development Ordinance, and as shown on the submitted site plan, shall be delineated in the field prior to the start of any land clearing and/or grading. (Planning)

15. Addresses shall be clearly posted at each entrance to the site. Knox Boxes shall also be installed at each entrance. (Fire Marshal's Office)

16. The Applicant has proposed a chain link fence that will cross the waterbody buffer of Bost Creek near the southern portion of the site, as shown in the site plan. Fences are permitted within the buffer area, provided the design does not interfere with the flow of water through the buffer area to the waterbody. (Planning)

17. Applicant must adhere to the Special Provisions, listed in each of the five driveway permits issued by the NC Department of Transportation. (NCDOT)

18. Applicant agreed to keep existing vegetation around the Stewart Property at 8600 Mt Pleasant Rd S (PIN#5556-47-8315) and supplement the Landscape Buffer to meet the requirements of the Ordinance. (Planning)



Staff Use Only

## PLANNING STAFF REPORT

CABARRUS COUNTY PLANNING AND ZONING COMMISSION

05/01/2017

Approved	_____
Denied	_____
Tabled	_____

**Conditional Use Permit: CUSE2017-00001**

Applicant Information: McBride Place Energy, LLC  
2002 Lee Highway #16005  
Bristol, VA 24209

Owner(s) Information: Five M's LLC  
1583 Ridgedale Rd  
Harrisonburg, VA 22801

Bost ET, III  
4701 NC Hwy 200  
Concord, NC 28025

John P. and Adelaide Young McNeill  
PO Box 656  
Norwood, NC 28128

JAB Farms, LLC  
c/o Kermit Leslie Young, JR.  
PO Box 18  
Norwood, NC 28128

PIN#s:	5556-24-4136	5556-46-9765
	5557-23-9335	5556-48-2132
	5557-30-6731	5557-13-4338

Area in Acres: +/- 627.55 acres

Purpose of Request: The applicant is proposing to develop the subject properties with a public service facility (Solar Farm). Public service facilities are permitted in Countryside Residential (CR) and Agriculture/Open Space (AO) zoning as a conditional use.

Site Description: The site is approximately 627.55 acres in size and vacant.

Current Land Uses: Vacant/Agricultural/Silvaculture

Adjacent Land Uses: North: Residential/Agricultural/Wooded  
East: Residential/Agricultural/Wooded  
South: Residential/Wooded/Wetland/Bible College  
West: Residential/Agricultural/Wooded

Permitted Uses:	Any uses permitted in the CR and AO zoning districts
Existing Zoning:	CR (Countryside Residential) and AO (Agriculture/Open Space)
Surrounding Zoning:	North: CR (Countryside Residential) and AO (Agriculture/Open Space) East: CR (Countryside Residential) and AO (Agriculture/Open Space) South: CR (Countryside Residential), LC (Limited Commercial), and Midland AG (Agricultural) West: CR (Countryside Residential) and AO (Agriculture/Open Space)
Signs Posted:	03/29/2017
Newspaper Notification:	03/29/2017
Newspaper Notification 2:	04/05/2017
Notification Letters:	03/28/2017

#### **Exhibits**

Exhibit A – Staff Report  
 Exhibit B – Application  
 Exhibit C – Site Plan  
 Exhibit D – Aerial Map  
 Exhibit E – Zoning Map  
 Exhibit F – Future Land Use Map  
 Exhibit G – NCDEMLR Erosion Control Permit and NCDEMLR Stormwater Permit  
 Exhibit H – Solar Ocular Impact Analysis (Glare Study)  
 Exhibit I – Decommissioning Plan  
 Exhibit J – Certificate of Public Convenience  
 Exhibit K – Adjacent Parcel Letter and List  
 Exhibit L – Pilot Environmental Inc. Wetland Delineation Report  
 Exhibit M – US Army Corps of Engineers Wetland Confirmation Letter  
 Exhibit N – Emergency Plan  
 Exhibit O – Maps of Nearest Airports/Airstrips  
 Exhibit P – Midland Letter  
 Exhibit Q – Zoning Signs  
 Exhibit R – Landscape Easement Documents

#### **Agency Review Comments**

##### **Sheriff Review: Approved**

*No comments per Lieutenant Ray Gilleland (Cabarrus County Sheriff's Department)*

**Stormwater Review - State: Approved**

*No Comments per Michael Randall (Environmental Engineer, NCDEMLR)*

**Soil-Water Conservation Review: Approved**

*"I have no natural resource concerns. The water table is high and the soil is shallow on this site, however, I do not believe that would be disturbed by a solar farm. They have already stated that they would maintain good ground cover, minimize grading, use native grasses and shrubs where possible, and prioritize pollinator friendly varieties. I would just add that they should pay attention to the stream buffers on Bost Creek and Rocky River, as well as stay out of the jurisdictional wetland." Per Erin Lineberger (Resource Conservation Coordinator, Cabarrus Soil & Water)*

**NCDOT Review: Approved**

*No comments per Leah Wagner (Field Services Engineer, NCDOT)*

**Erosion Review: Approved**

*No comments per Zahid Khan (Regional Engineer, NCDEMLR)*

**Fire Review: Approved**

*Comments were addressed...no outstanding issues. Per Matthew Hopkins (Assistant Fire Marshal)*

**EMS Review: Approved**

*No comments per Alan Thompson (Cabarrus County EMS Director)*

**Midland Review:**

*PLEASE SEE EXHIBIT P – Letter from Town of Midland Planning*

**Zoning Review: Approved**

*Comments were addressed...no outstanding issues. Per Jason Earliwine*

**History / Other Information**

1. The applicant provided documentation compliant with Section 8-3 of the Cabarrus County Zoning Ordinance, petitioning for a Conditional Use.
2. The applicant submitted a complete application which includes the "Findings of Fact" sheet along with a site plan and applicable supporting documentation.
3. The subject property is approximately 627.55 acres in size.
4. The subject property is currently vacant and wooded.
5. The applicant is proposing to construct a public service facility (solar farm) on the subject property. The application states the site will be comprised of approximately 50 inverters, 50 transformers, and 50 arrays for the site.



6. The height of proposed structures, as shown on Page 2 of site plan, is 7'10". The application states that the panels are expected to be between seven and nine feet above grade at the highest point. The Ordinance allows up to ten feet for these types of structures.
7. The map analysis for airport operations was submitted. The proposed project search area does not include any federal airport operations. One local airstrip is located within 5 nautical miles of the site, as shown in EXHIBIT O.
8. A copy of the executed decommissioning plan was submitted.
9. The applicant is proposing to use existing vegetation to supplement as needed on the landscape plan.
10. Landscape easements will be acquired in multiple areas, as shown on the site plan, to act as the required Landscape Buffer Yards.
11. Applicant has provided documentation from a private environmental surveying company, Pilot Environmental Inc, and subsequent documentation from the US Army Corp of Engineers, showing that the existing wetlands in the current GIS system are not wetlands, but are considered intermittent streams.
12. The project will be completed in two Phases. The southern half of the site (Phase 1) contains properties owned or that will be purchased by McBride Place Energy. The northern half of the site (Phase 2) is comprised of the Bost family property, which will not be purchased by McBride Place Energy.
13. The applicant has submitted documentation from NCDOT for five proposed driveways to access the site.
14. The application states that the project will take approximately seven months from the time of permitting to construct.
15. The application states that sound levels generated by the solar arrays, as measured at the property lines, shall not exceed 35dba. The nearest inverters will be at least 300 feet from any property line.
16. Applicant has submitted the required glare study. Atares Group, Inc. performed a solar ocular impact analysis to evaluate glare potential for the solar farm project. After using the Solar Glare Hazard Analysis Tool, developed by the FAA, and a line-of-sight viewshed analysis, the results, shown in Exhibit H, found little concern for ocular hazard from the nearby roadways or adjacent parcels. Several of the observer points do have potential for low-level glare or potential for temporary after-image, but the levels are far below hazardous levels. For summary information and conclusions from the study, see Section 9 of the Application and EXHIBIT H.

17. Addresses have been assigned to each of the five entrances to the site. Each entrance is to display a sign with a street address. Each entrance will also utilize a Knox Box for security, per the Fire Marshal's request.

### **Conditions of Approval**

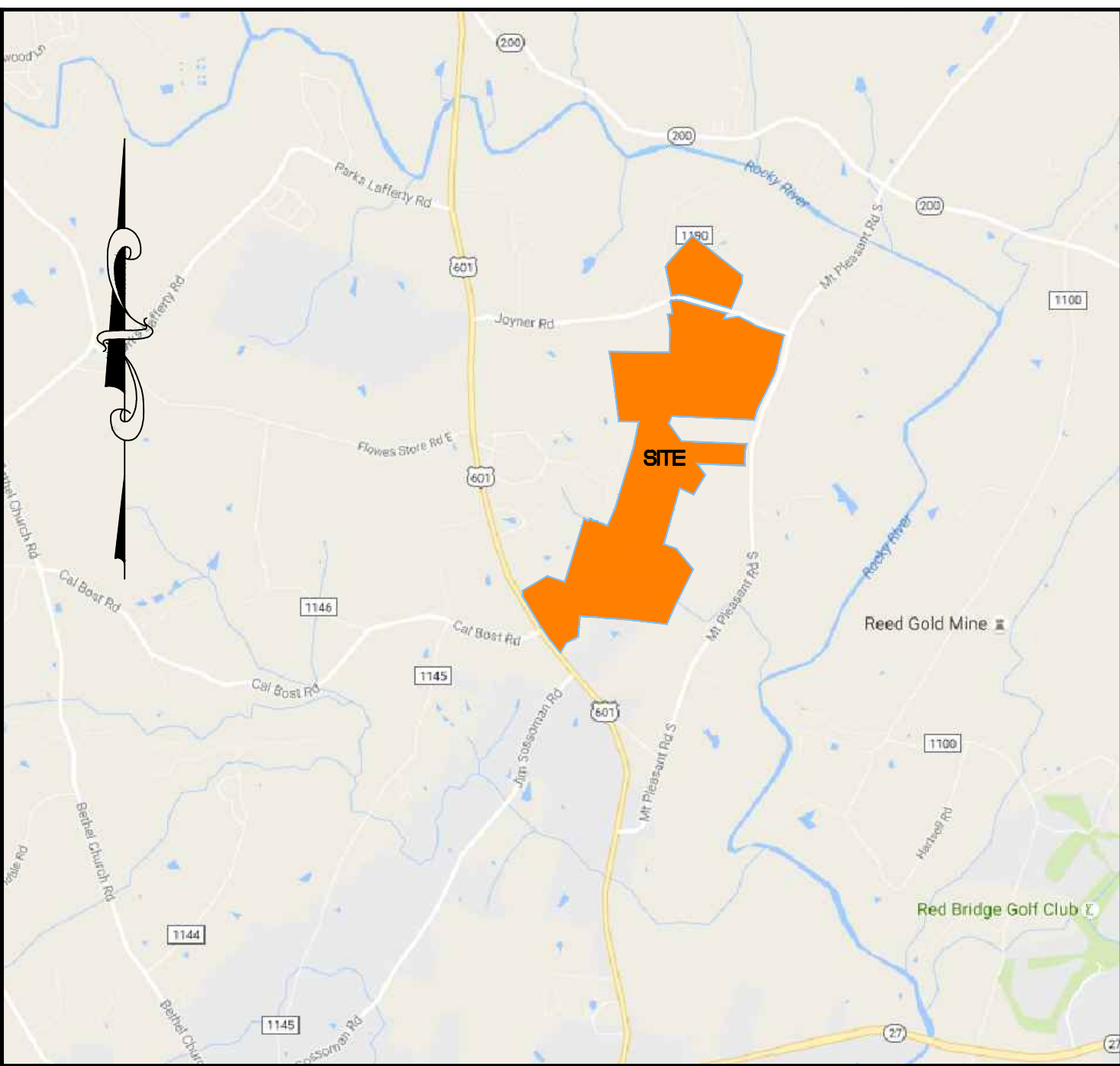
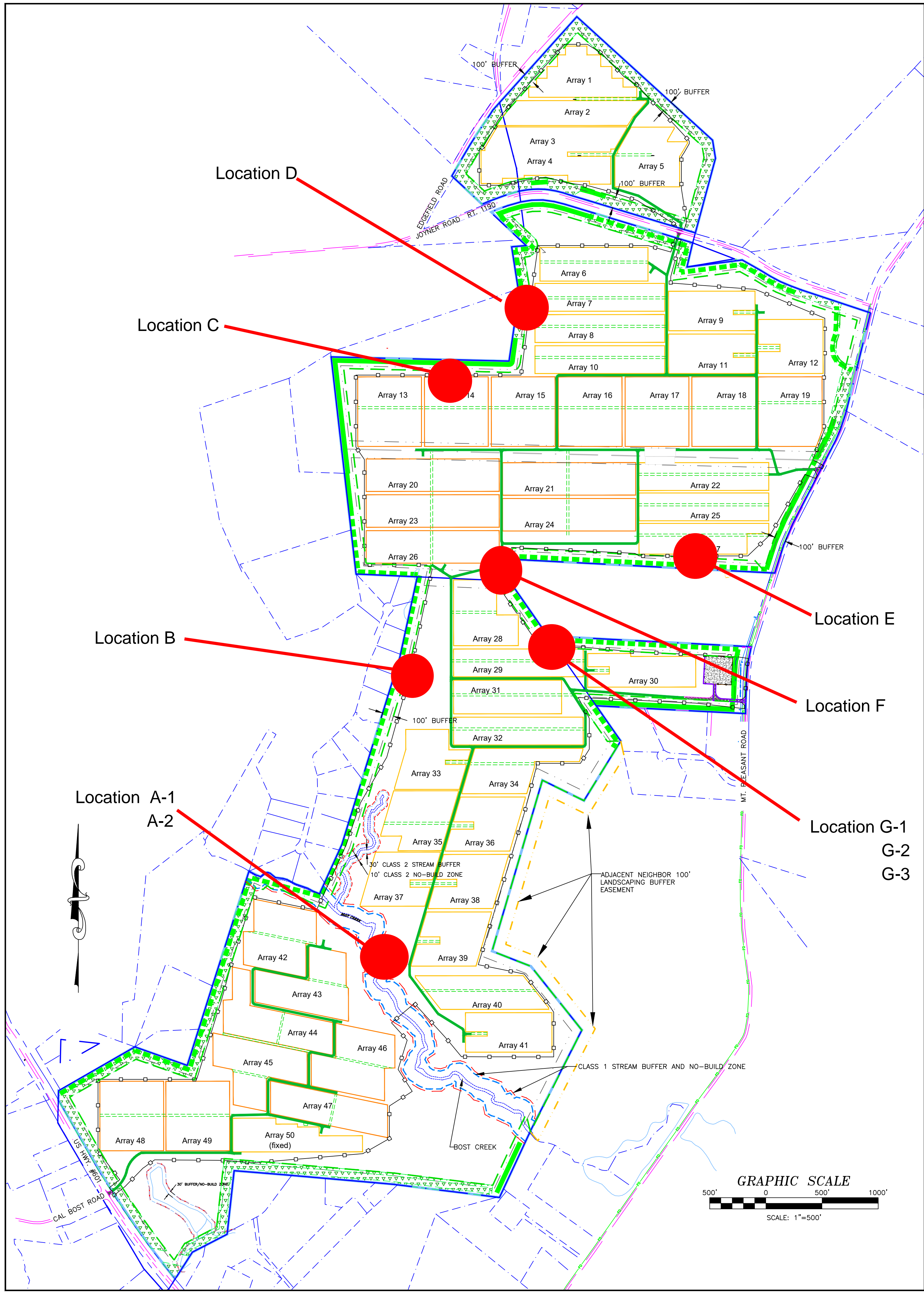
Should the Board of Adjustment grant approval of the Conditional Use Permit, Staff requests the following conditions become part of the approval and case record:

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions. (Zoning)
2. The Granting Order stating restrictions and applicable conditions of approval, shall be recorded with the deed for the property. (Zoning)
3. The applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting. (Zoning)
4. Any proposed future expansion of property, as well as modifications or changes to approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit. (Zoning)
5. The applicant shall provide copies of all state, local, and federal permits for the permanent project file prior to zoning permitting. (Zoning)
6. The applicant is proposing that existing landscaping will be used to meet the buffer requirements. In the event the buffer does not meet the intent of the ordinance the applicant agrees to install the buffer as required by the Ordinance. (Zoning)
7. Deed Restrictions as outlined in the Storm Water Permit (SW3170403) Schedule of Compliance must be recorded in the Cabarrus County Office of the Register of Deeds and a copy provided to NCDENR and to Cabarrus County Planning after recordation and prior to zoning permitting. (NCDENR, Planning)
8. Site must meet all conditions set forth in the Soil and Erosion Control Permit #CABAR-2017-050.
9. Per Stormwater Permit #SW3170403, the overall tract built-upon area percentage for the project must be maintained below 24%, as required by 15A NCAC 2H.1017 of the stormwater rules.
10. The Decommissioning Plan must be recorded prior to the zoning permit being issued and a copy provided to Cabarrus County Planning. (Zoning)
11. Phase 1 parcels must be combined into one parcel prior to zoning permitting.

12. Phase 2 parcels must be combined into one parcel prior to zoning permitting.
13. Any proposed landscape easement documents must be recorded prior to zoning permitting. If these documents are not recorded, the applicant must redesign the plan in accordance with the Ordinance or seek a variance, both of which require consideration and/or approval by the Board of Adjustment. (Planning)
14. Stream and wetland buffers, as required by Chapter 4 of the Cabarrus County Development Ordinance, and as shown on the submitted site plan, shall be delineated in the field prior to the start of any land clearing and/or grading. (Planning)
15. Addresses shall be clearly posted at each entrance to the site. Knox Boxes shall also be installed at each entrance. (Fire Marshal's Office)
16. The applicant has proposed a chain link fence that will cross the waterbody buffer of Bost Creek near the southern portion of the site, as shown in the site plan. Fences are permitted within the buffer area, provided the design does not interfere with the flow of water through the buffer area to the waterbody. (Planning)
17. Applicant must adhere to the Special Provisions, listed in each of the five driveway permits issued by the NC Department of Transportation. (NCDOT)



- Staff is seeking guidance from the Board of Adjustment to be able to advise the Lessee as to how the project comes into compliance from its current state of non-compliance.
- A copy of the plan that was approved by the BOA is included along with photos of the site illustrating the non-compliance. These photos were taken by Staff during a site visit on May 10, 2018.
- The Lessee provided a plan to Staff showing known encroachments on site. Staff concurs that there are encroachments in these areas. However, there may also be additional encroachments on the site beyond what was represented in the plan the Lessee provided because Staff was unable to determine the location of the 100 foot line because markers were not in place on May 10, 2018.
- Please be prepared to discuss the conditions of approval in relation to the approved plan and to provide guidance on how the BOA expects the Lessee to comply with the conditions of approval moving forward, including but not limited to, what the BOA expects to see on site.

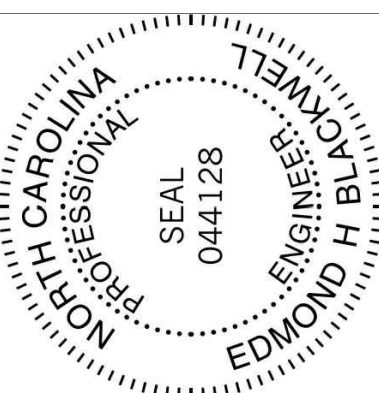


VICINITY MAP  
SCALE: 1" = 2000'

- LEGEND**
- CENTER LINE
  - SITE BOUNDARY
  - EXISTING PROPERTY LINE
  - SETBACK LINE
  - PROPOSED PAD
  - PROPOSED RACK PATH
  - PROPOSED SERVICE AISLE--SEE SHEET 5.11 FOR DETAIL
  - EXISTING ROAD
  - PROPOSED ROAD
  - PROPOSED FENCE
  - CONCRETE PAVING
  - HEAVY PAVEMENT
  - LIGHT PAVEMENT
  - GRAVEL AREA
  - FIXED SOLAR PANELS
  - TRACKING SOLAR PANELS
  - TOP OF STREAM BANK
  - PERENNIAL STREAM--50' MINIMUM CLASS 1 BUFFER
  - NO-BUILD SETBACK--CLASS 1--20'/CLASS 2--10'
  - INTERMITTENT STREAM--30' CLASS 2 BUFFER
  - PROPOSED BOUNDARY BUFFER
  - PROPOSED ADJACENT NEIGHBOR BUFFER
  - PROPOSED LANDSCAPING
  - PROPOSED SUPPLEMENTAL LANDSCAPING
  - EXISTING BUFFER

Date: 5-10-17  
Scale: AS NOTED  
Designed by: EHB  
Drawn by: RUJ  
Checked by: EHB

**BLACKWELL  
ENGINEERING, PLC**  
566 East Market Street  
Harrisonburg, Virginia 22801  
PHONE: (540)432-9555 FAX: (540)434-7604  
E-Mail: BE@BlackwellEngineering.com



Revision	Dates

**SITE LAYOUT**  
MCBRIDE PLACE ENERGY, LLC  
TAL MCBRIDE  
2002 LEE HIGHWAY, 16005  
BRISTOL, VA 24209

Drawing No.  
**1**  
of 1 Sheets

Job No. 2377



May 10, 2018 at 2:17:18 PM

Location A-1

A-1





May 10, 2018 at 2:16:07 PM

Location A-2

A-2





May 10, 2018 at 1:53:50 PM

Location B

B





May 10, 2018 at 1:49:25 PM

Location C





Location D





May 10, 2018 at 11:07:41 AM

Location E





Location F





Location G-1

G-1





Location G-2

G-2







G-3

Location G-3



# GENERAL EXAMPLE OF BUFFER ENCROACHMENT





# GENERAL EXAMPLE OF BUFFER ENCROACHMENT





VIEW FROM JOYNER ROAD

May 10, 2018 at 11:16:20 AM





## EXAMPLE OF EXISTING VEGETATION AND ENCROACHMENT





EXAMPLE AREA WHERE EXISTING VEGETATION WAS RETAINED

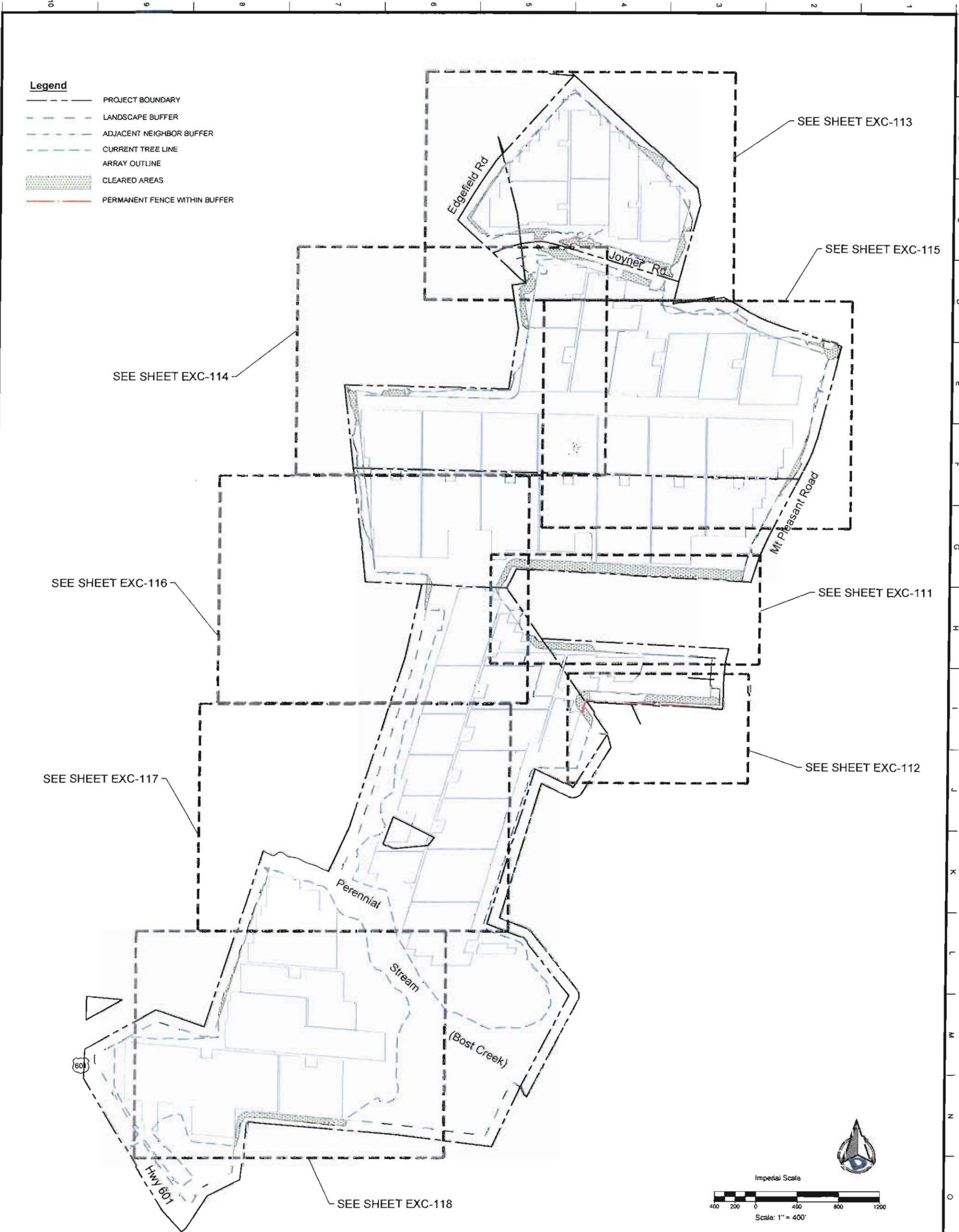




EXAMPLE OF RACKING IN RELATION TO 100 FOOT BUFFER/SETBACK







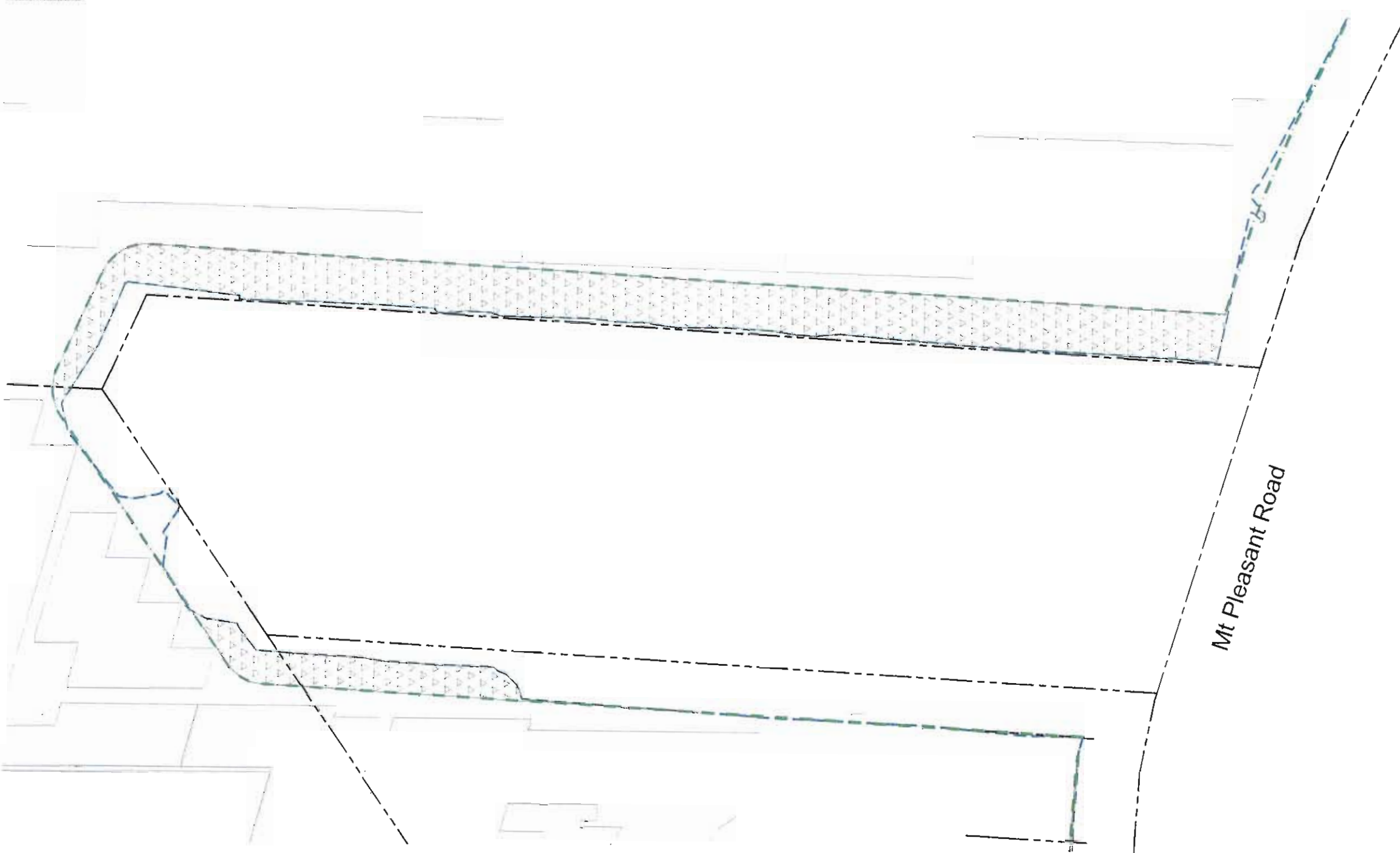
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DRAWING NUMBER: <b>EXC-110</b>		DEPCOM JOB NUMBER: 17-0004-00		PROJECT CODE: NUK32		PROJECT DIRECTOR: ---		PROJECT MANAGER: ---		SHEET TITLE: <b>ENCROACHMENT COVER</b>		THIS PRINT IS NOT TO BE USED FOR CONSTRUCTION UNLESS NOTED AND SIGNED FOR CONSTRUCTION ABOVE LAST REVISION		TITLE: <b>McBRIDE PLACE ENERGY SOLAR (74.9 MWac) MIDLAND, CABARRUS COUNTY NORTH CAROLINA, USA</b>		DEPCOM POWER 9200 E PIMA CENTER PARKWAY #180 SCOTTSDALE, AZ 85258 PHONE: (480) 270-6910 WWW.DEPCOMPOWER.COM	
SHEET 1 OF 5		REV		DATE		REVISION DESCRIPTION		BY		CHK		APP		SCALE: AS NOTED			
		0		05/02/16		ISSUED FOR REVIEW		J		00		00		DRAWN BY: ---			

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**Legend**

- PROJECT BOUNDARY
- LANDSCAPE BUFFER
- ADJACENT NEIGHBOR BUFFER
- TREE CLEARING LIMIT
- ARRAY OUTLINE
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**MCBRIDE PLACE ENERGY SOLAR**  
(74.9 MWac)  
MIDLAND,  
CABARRUS COUNTY  
NORTH CAROLINA, USA

TITLE:

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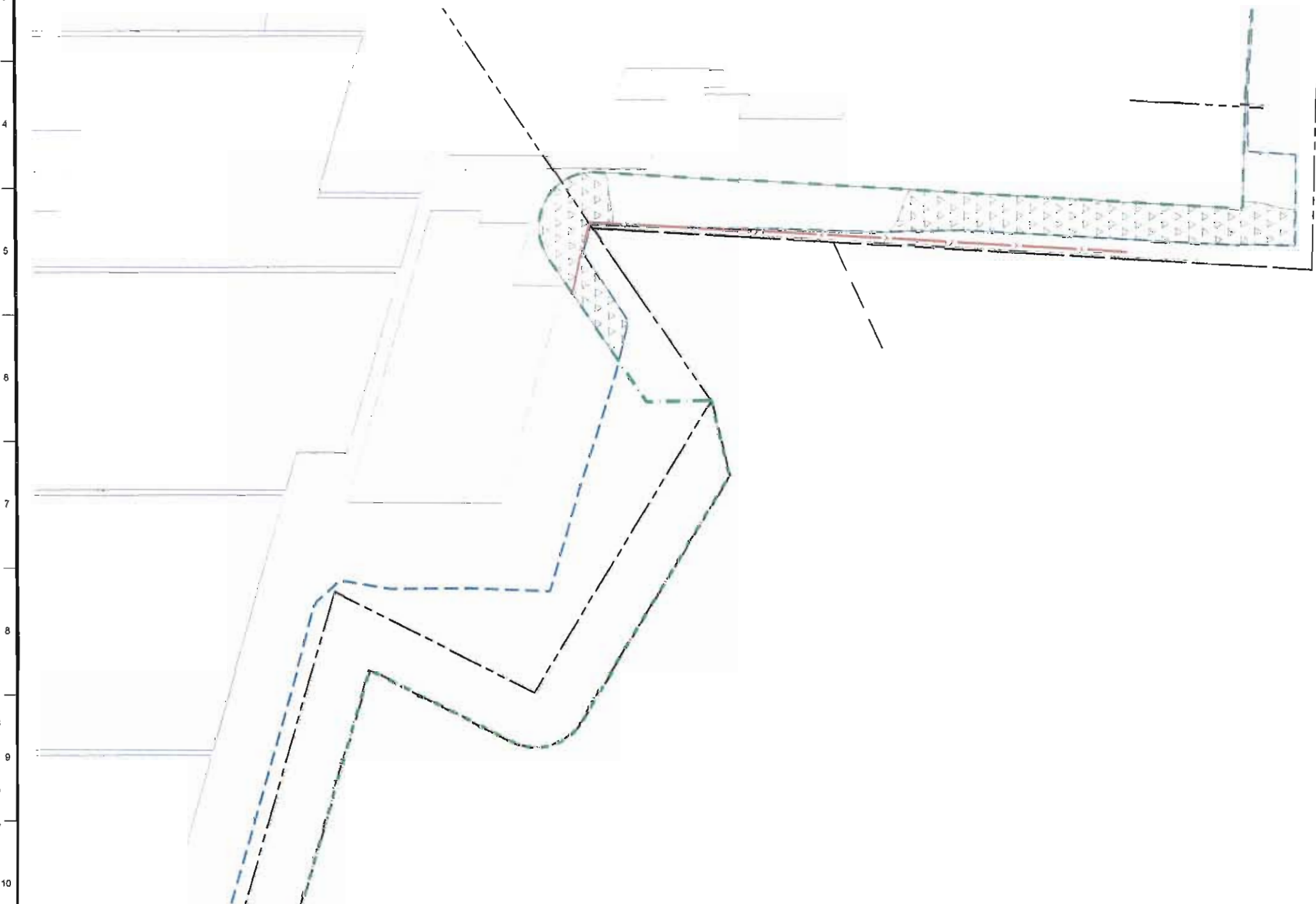
**ENCROACHMENT  
STEWART PARCEL**

ENGINEER:	DRL BY:	CDL BY:
DEPCOM JOB No. 17-0004-00	SCALE: AS NOTED	
DEPCOM PROJECT CODE: <b>NC102</b>	DRAWING NUMBER: <b>EXC-111</b>	REV: <b>0</b>
SHEET 2		OF 9

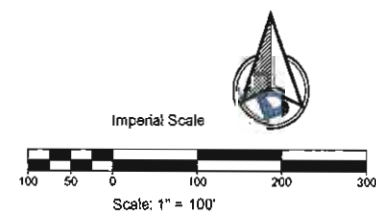


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- Legend**
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  - LANDSCAPE BUFFER
  - ADJACENT NEIGHBOR BUFFER
  - TREE CLEARING LIMIT
  - ARRAY OUTLINE
  - CLEARED AREAS
  - PERMANENT FENCE WITHIN BUFFER



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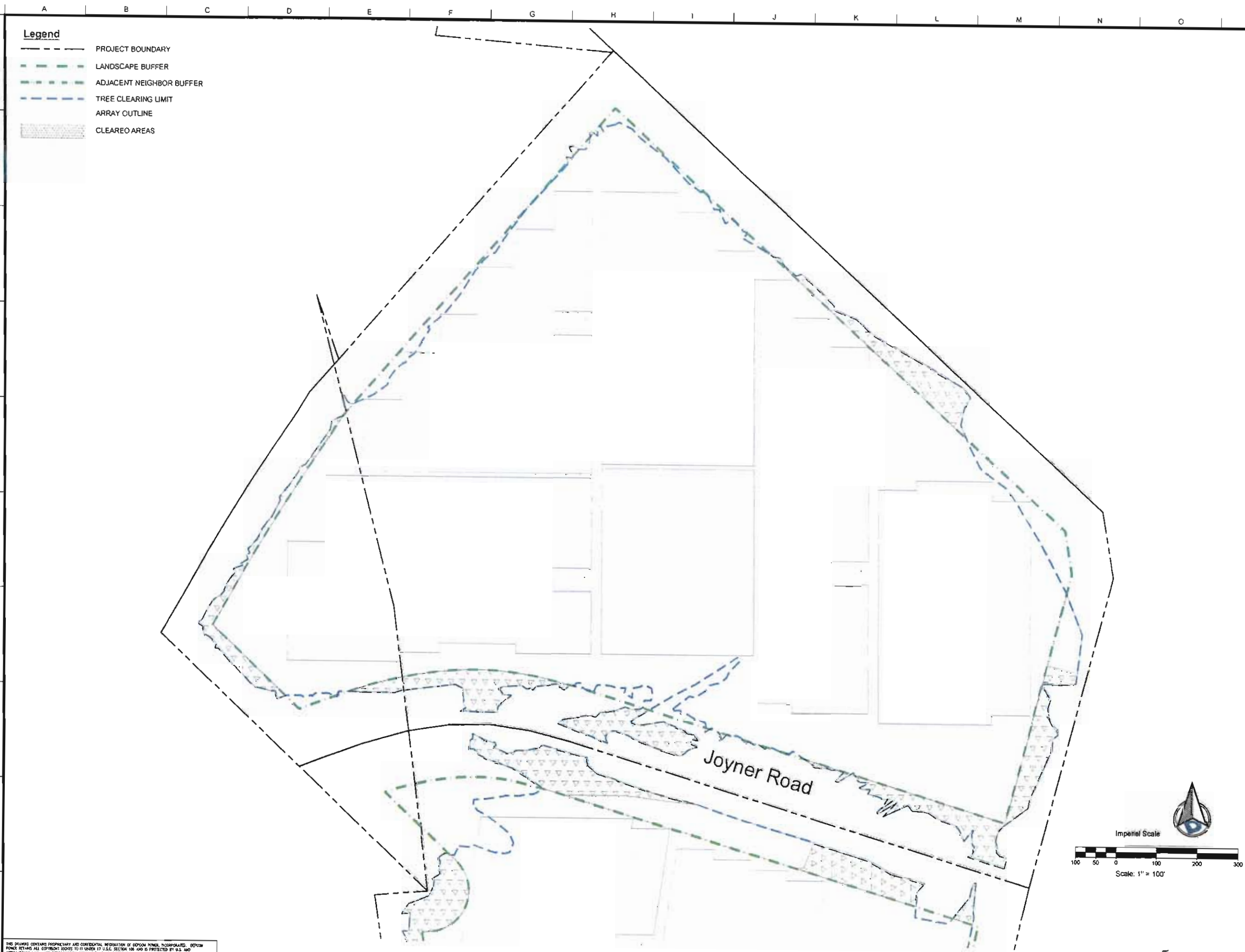
**MCBRIDE PLACE ENERGY SOLAR**  
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MIDLAND,  
CABARRUS COUNTY  
NORTH CAROLINA, USA

REV	DATE	REVISION DESCRIPTION	BY	CHK	APP
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**SHEET TITLE**  
ENCROACHMENT

**ENGINEER:** DR. B.T. CHK. B.T.  
**DEPCOM JOB No:** 17-0004-00 **SCALE:** AS NOTED  
**DEPCOM PROJECT CODE:** NC102  
**DRAWING NUMBER:** EXC-112 **REV:** 0  
**SHEET** 3 **OF** 9

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**MCBRIDE PLACE ENERGY SOLAR**  
(74.9 MWac)  
MIDLAND,  
CABARRUS COUNTY  
NORTH CAROLINA, USA

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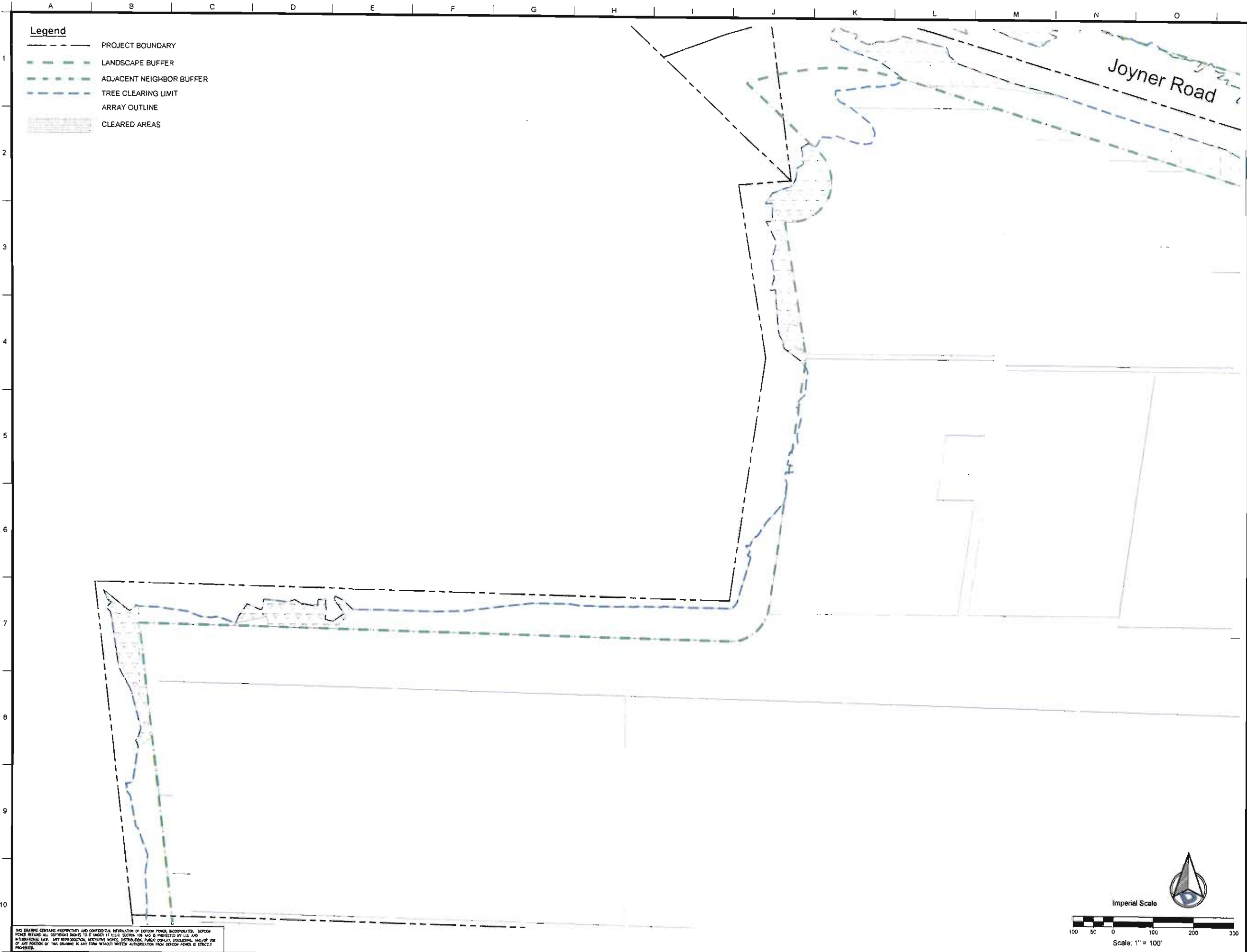
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DRAWING NUMBER	REV	
EXC-113	0	
SHEET 4	OF 9	





PROJECT BOUNDARY  
 LANDSCAPE BUFFER  
 ADJACENT NEIGHBOR BUFFER  
 TREE CLEARING LIMIT  
 ARRAY OUTLINE  
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*Restoring Energy Production and Keeping the Lights On*

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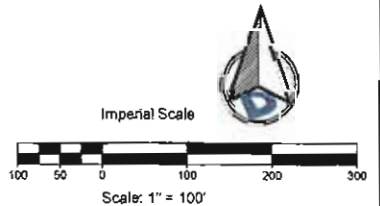
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DESIGNER:	DR. BY:	CHK. BY:
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DEPCOM PROJECT CODE: NC102	DRAWING NUMBER: EXC-115	REV: 0
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Sustainable Energy Solutions


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DRAWING NUMBER: <b>EXC-116</b>	REV: <b>0</b>	
SHEET 7 OF 9		

Imperial Scale  
  
100 50 0 100 200 300  
Scale: 1" = 100'

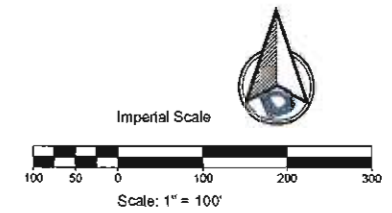
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Perennial Stream (Bost Creek)



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NORTH CAROLINA, USA

TITLE:

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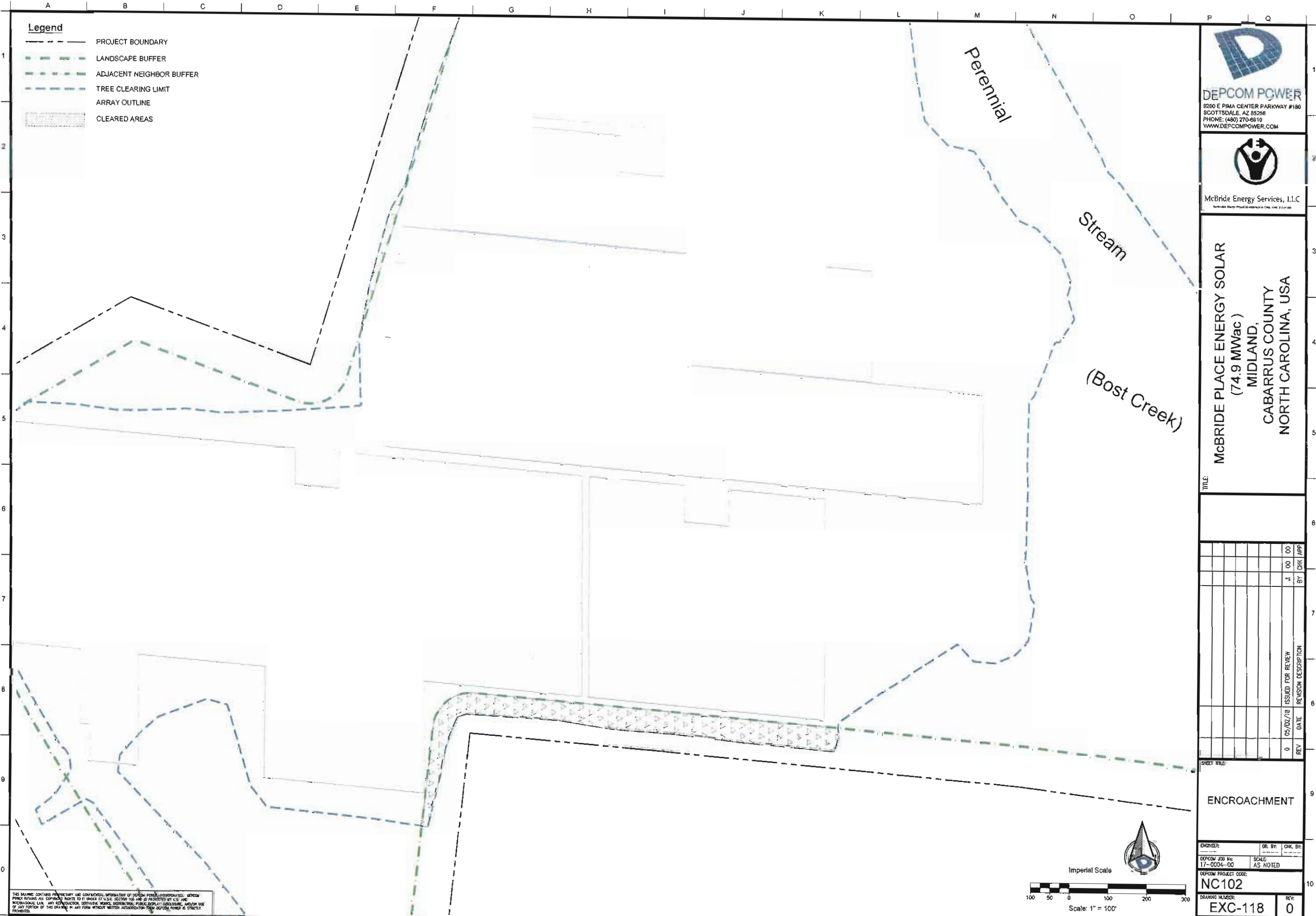
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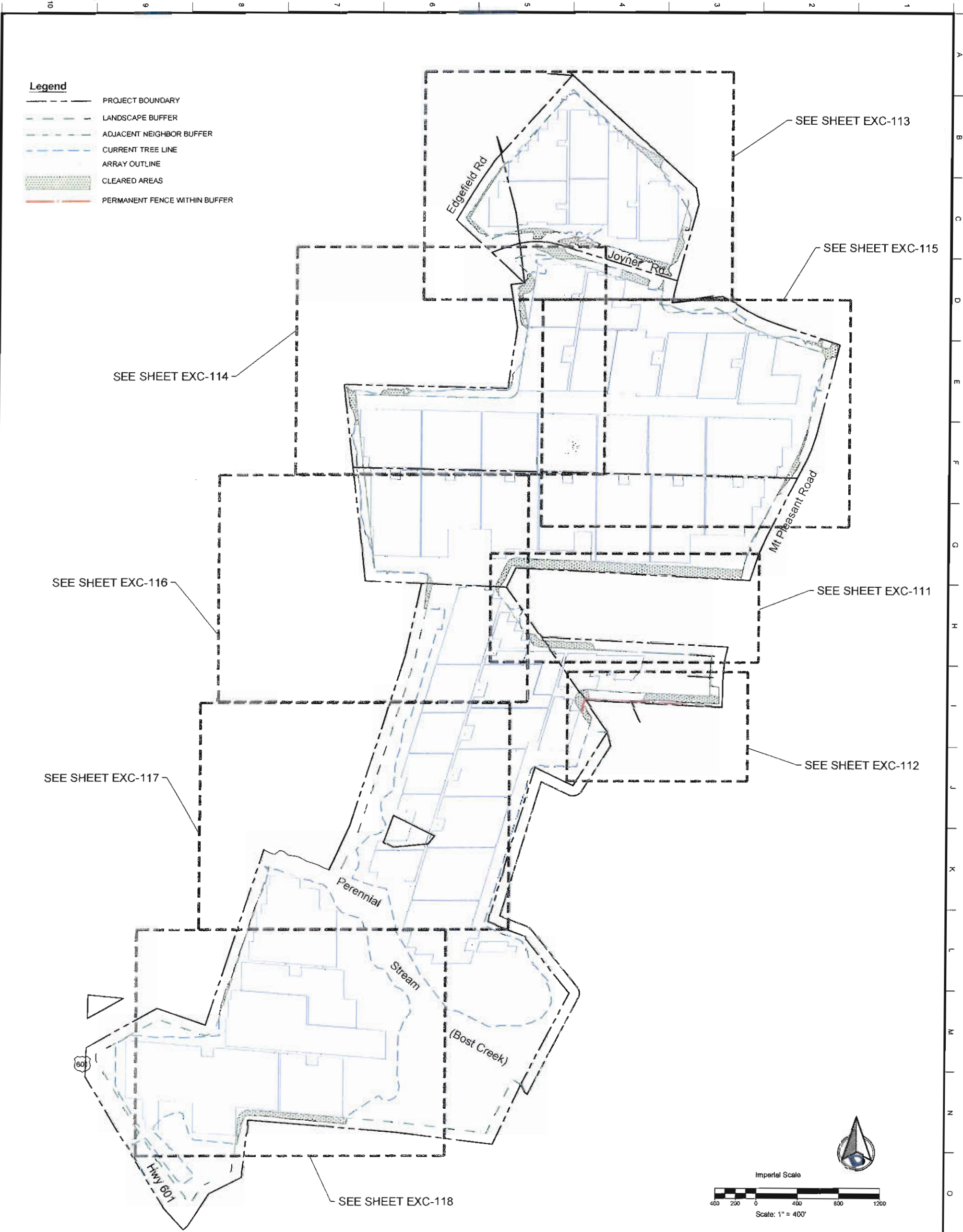
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DEPCOM JOB No: 17-0004-00	SCALE: AS NOTED	
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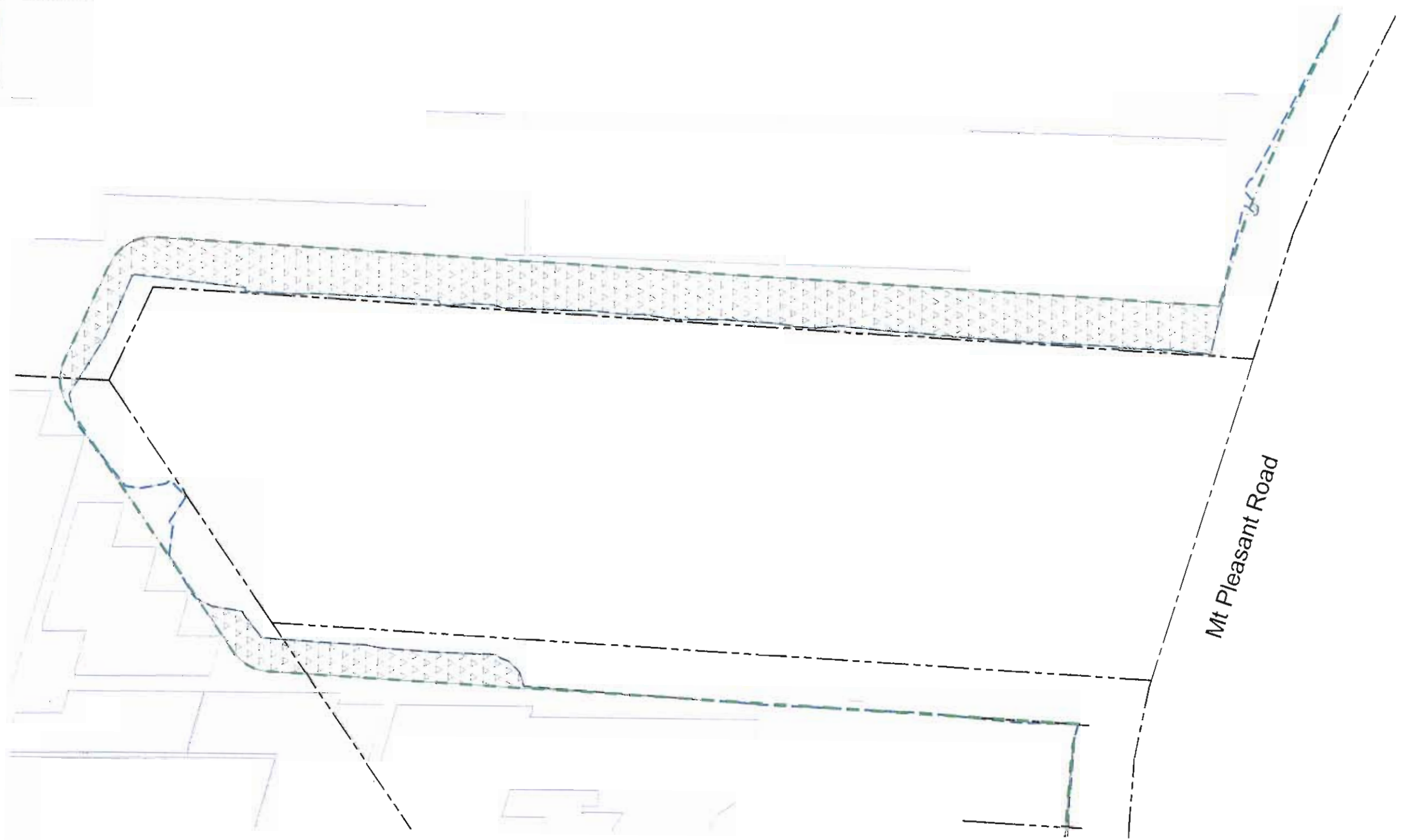
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- Legend**
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TITLE:

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**ENCROACHMENT  
STEWART PARCEL**

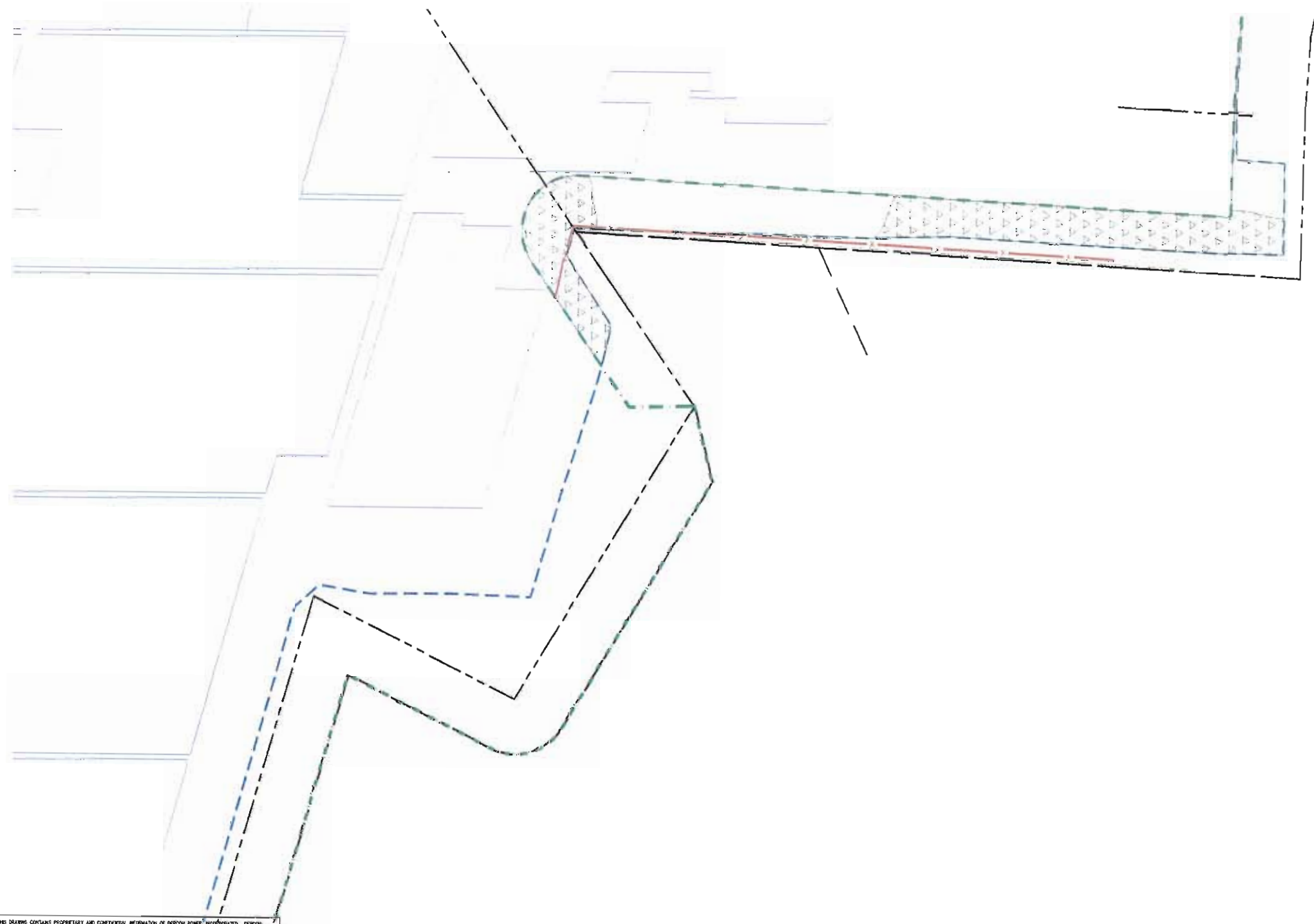
ENGINEER:	DR. BY:	CHK. BY:
DEPCOM JOB No. 17-0004-00	SCALE: AS NOTED	
DEPCOM PROJECT CODE: <b>NC102</b>		
DRAWING NUMBER: <b>EXC-111</b>	REV: <b>0</b>	

SHEET 2 OF 9

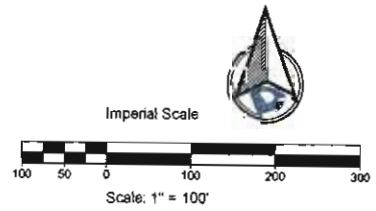
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Legend

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Mt Pleasant Road



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**ENCROACHMENT**

ENGINEER: DR. BY: CHK. BY:

DEPCOM JOB No. 17-0004-00 SCALE: AS NOTED

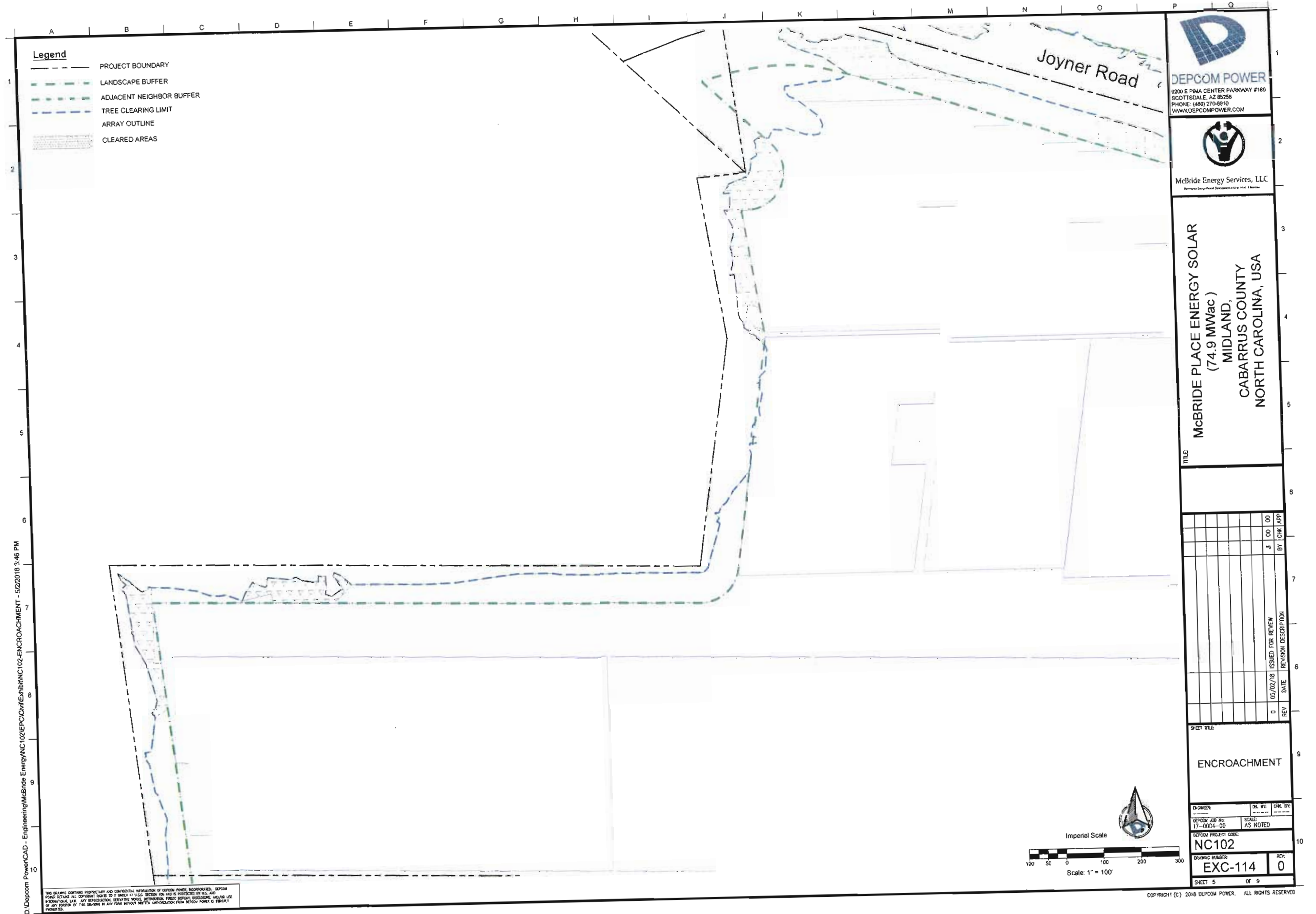
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DRAWING NUMBER: **EXC-112** REV: **0**

SHEET 3 OF 9





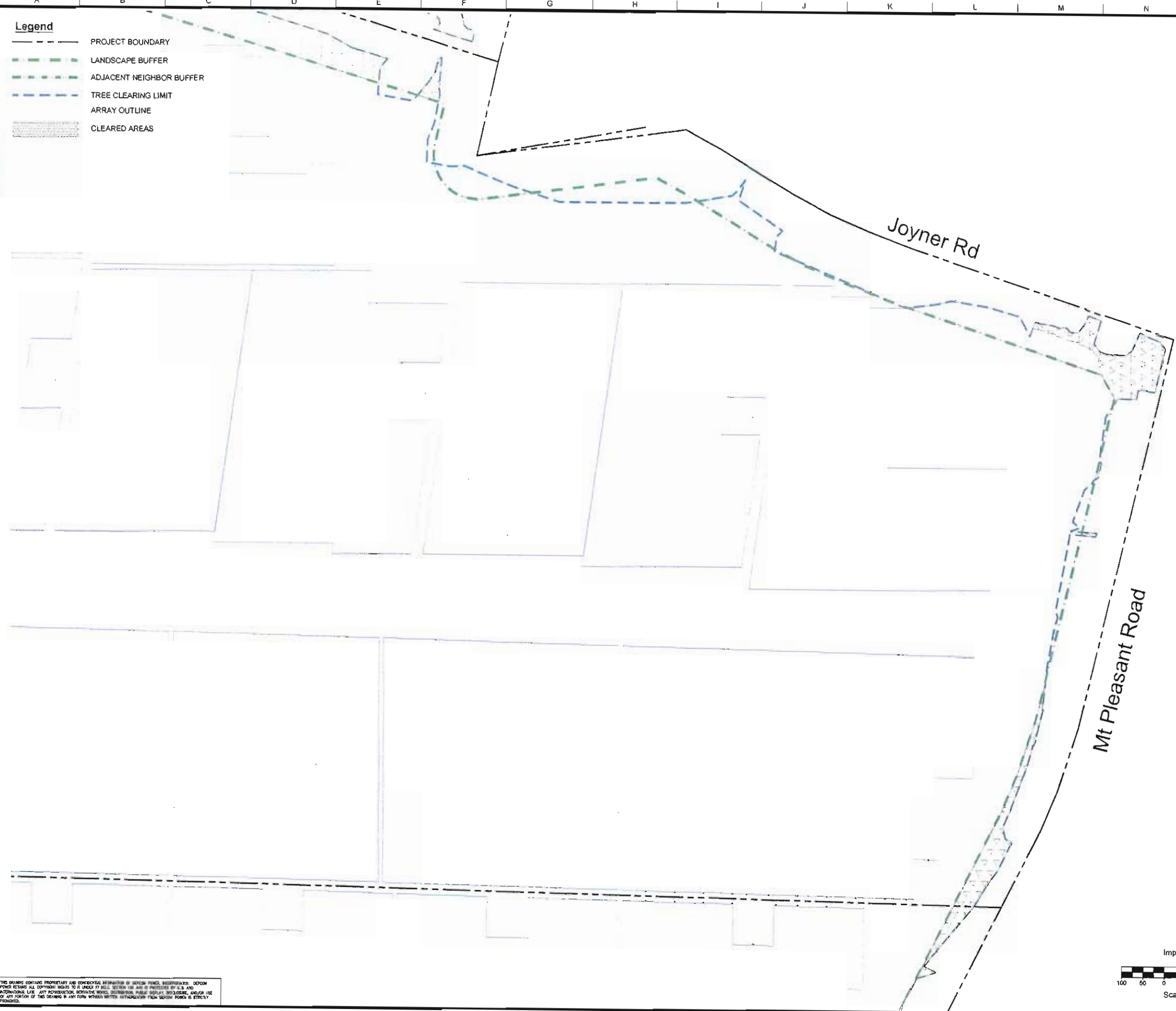




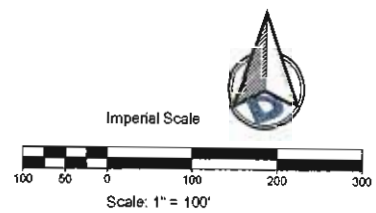
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DEPCOM JOB No. 17-0004-00	SCALE: AS NOTED	
DEPCOM PROJECT CODE: NC102		
DRAWING NUMBER: EXC-115	REV: 0	
SHEET 6 OF 9		

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# Legend

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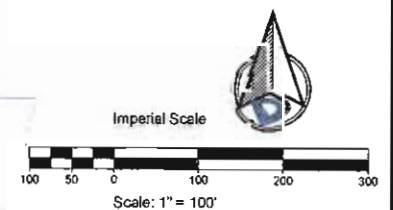
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SHEET TITLE:  
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ENGINEER:	DR. BY:	CHK. BY:
DEPCOM JOB NO: 17-0004-00	SCALE: AS NOTED	
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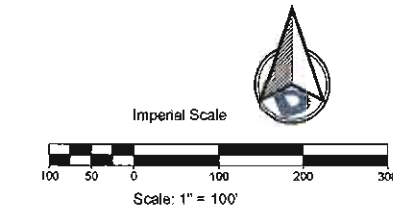
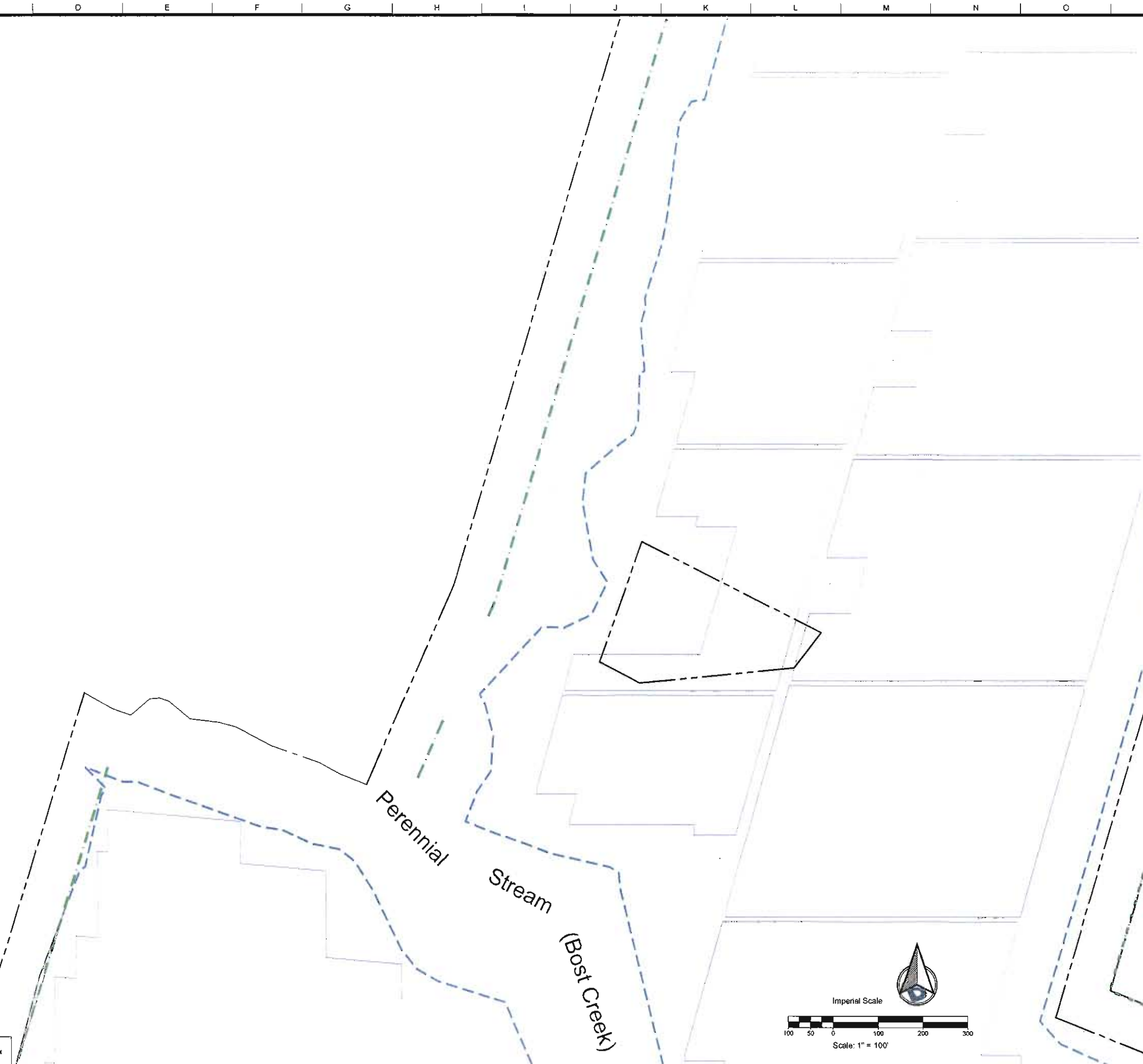
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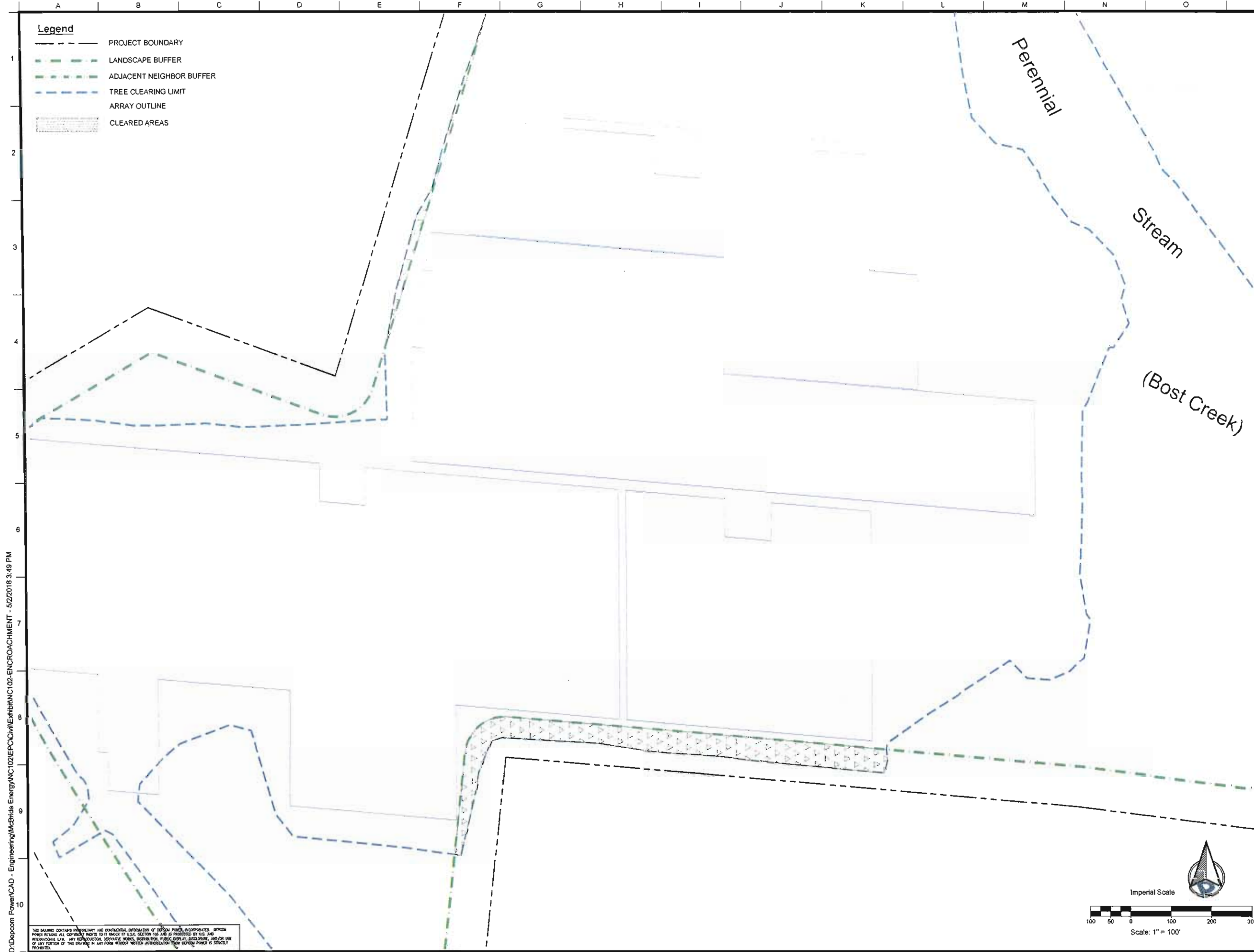
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  - ARRAY OUTLINE
  - CLEARED AREAS

**DEPCOM POWER**  
9200 E PIMA CENTER PARKWAY #180  
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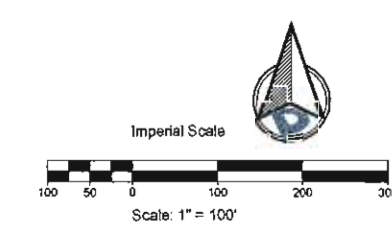
**McBride Energy Services, LLC**  
Renewable Energy Project Development, siting, design, construction

**McBRIDE PLACE ENERGY SOLAR**  
(74.9 MWac)  
MIDLAND,  
CABARRUS COUNTY  
NORTH CAROLINA, USA

REV	DATE	ISSUED FOR REVIEW	BY	CHK APP
0	05/02/18		J	00 00

**ENCROACHMENT**

ENGINEER: \_\_\_\_\_ OR. BY: \_\_\_\_\_ CHK. BY: \_\_\_\_\_  
DEPCOM JOB No: 17-0004-00 SCALE: AS NOTED  
DEPCOM PROJECT CODE: **NC102**  
DRAWING NUMBER: **EXC-118** REV: **0**  
SHEET 9 OF 9



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