



Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
July 10, 2018 @ 7:00 P.M.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval of June 12, 2018 Planning and Zoning Commission Meeting Minutes
3. **New Business – Board of Adjustment Function:**

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

4. Directors Report
5. Legal Update

Planning and Zoning Commission Minutes
June 12, 2018

Mr. Chris Pinto, Chair, called the meeting to order at 7:05 p.m. Members present in addition to the Chair, were Mr. Jeffrey Corley, Ms. Holly Grimsley, Mr. James Litaker, Mr. Andrew Nance, Mr. Charles Paxton, Mr. Brent Rockett, Mr. Stephen Wise and Mr. Jerry Wood. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Roll Call

Mr. James Litaker **MOTIONED, SECONDED** by Mr. Charles Paxton to **APPROVE** the May 8, 2018, meeting minutes. The Vote was unanimous.

Old Business – Planning Board Function:

Proposed Adoption of the Harrisburg Area Land Use Plan (PLOTHER2018-00001)

Ms. Susie Morris addressed the Board stating that last month we had the joint meeting with Harrisburg's Planning and Zoning Board. We did not have the information out early enough so we differed the vote until this month.

Last night the Harrisburg Town Council adopted this document. They adopted it without any changes. There are a few minor changes that she submitted to the consultants. They left off some of our folks in the listing of the names and they needed to correct some names; small things like that. She has not had the opportunity to go back through this plan with a fine tooth comb.

We will go back through the plan, compare the two plans and then if the Board has any comments or questions, we can always look for that to be changed in the plan before we start to move it forward. What the Board will see toward the end, is a lot of the recommendations are much more geared toward the Town of Harrisburg.

For those of you that have been on the Advisory Committee, you know that has been a challenge throughout this whole process, to make sure that the whole area was being recognized and analyzed and not just what was in the town limits. It is a joint plan and it includes more than the extraterritorial jurisdiction area in the town limits.

She showed the current adopted map. She said the yellow area is the very low density residential. That area corresponds to either our CR or our AO zoning. She showed Rocky River and Hickory Ridge Roads. She showed where the Blume project is and where the new elementary school will be located.

Planning and Zoning Commission
Minutes
June 12, 2018

She said this plan was started in late 2008 or early 2009 and that is when the economy tanked and there were some market conditions that were different at the time. There were also some different opportunities at that time; some of them have transpired, some of them have not.

She showed Highway 49, Caldwell Road and the Caldwell Road extension on the map. She said this is where the new Harris Teeter shopping center is located. She said closer to town is the area that is Town Center. Throughout this process, there was a lot of community support for the Town to step in and do something with the Town Center. To try to create that heart of the town where people can go and gather.

At the Harrisburg meeting last night, they were talking about the YMCA moving out and that they are going to be finishing out the rest of the space for staff because they are growing. With the approval of their budget last night, they are now going to have 101 positions in Harrisburg compared to 64 she thinks they had ten years ago. She said there is expedient growth with staffing and services, which some of this plan gets into; based on that population growth.

She said the Morehead West Plan took care of this whole entire area. Looking at the new plan, you can see that area was pretty much incorporated into this plan. There was no additional analysis and no additional transportation studies that were done because that was already handled as part of that Morehead West Plan; it came down to Caldwell Road. Moving east and toward the Town, it pretty much still represents the medium density; so you are not seeing much of a change there.

Where we do see some proposed changes, is as you move further east on Highway 49, over toward Blackwelder Road. That area is now proposed to be a somewhat mixed use area. When they created the new interchange from Highway 49 to Blackwelder and created the bridge, it had an impact on the properties there. To the south, the industrial character has been maintained and it will probably remain that industrial character. To the north, that is still scheduled to be light industrial and there are actually some businesses back in there. But the difficulty is that Lippert Lane is just a dirt road and there is no access.

What is recognized in this map is what is currently developed and used as the light industrial. The rest of it is recognized as an opportunity for mixed use, transitioning back into residential. As part of that, trying to maintain the rural kind of scenic view as you go down Blackwelder Road, using conservation type subdivisions in that area to get that type of density.

As you start to move south of Highway 49, there is some difference here. You will see this is still a light industrial area. As we come down Tom Query Road down to Rocky River Road, the Farmington Ridge development, which is kind of that Birkdale concept that is going to happen near 485, that is what is captured in this mixed use area. A lot of these are existing neighborhoods, but it is still that medium density residential, and intentional, because that medium density residential is what requires the utilities. It is a little bit more so, from the original plan, trying to push development back to where it needs be, back toward where the investment is and trying to preserve some of that rural land that is south of where the utilities are anyway.

She showed McKee Creek and said that is kind of the dividing line; the watershed, everything kind of drains this way. This is where that preservation, very low density residential area is proposed at this point. The reason that this kind of swings around compared to what was there before is because of the Measmer rezoning that was done there. Where they came in and asked for a down zoning of 125 acres. They asked for it to be taken out of the institutional (she showed that property and Pharr Mill Park). Again, recognizing lower densities where the utilities are not.

As you start to come down Hickory Ridge, she showed the Blume development and the school site. Essentially, stopping the development there with the utilities that will be there. Trying to maintain the lower densities and getting the development back to where the investment is, because there are no utilities in this area currently.

Ms. Morris asked if there were any questions as far as the changes to land use classifications from the old map to the new map.

There being no questions she moved to the different areas that were established.

She said this is different from what we had on the old plan. There really weren't any type of nodes established. For example, at Rocky River and Hickory Ridge, the parcel that is already zoned commercial that has been there, it is entitled and has been there for 20 years now. It was recognized, but not really supported by any other type of development.

She showed the area that was included in the Morehead West Plan and it would be intended to be the gateway into that western edge. Your arrival or destination point, knowing you are in Harrisburg.

Area A, is the Town Center. So you can see in size and scope if you look at the descriptions, a little bit more versatile with use.

Area B, probably is a really good place for some type of neighborhood to happen. They could potentially be able to support office, retail and medical. Where maybe a 55 and older development could happen or where a millennial development could happen, where people want to be close to those types of services and walk. Except for the Town Center and Brookdale right now, there is nowhere else you could do that in this entire area.

Area C, is the Farmington development and then with that component, the hospital is there; uses that will develop around the hospital, medical and small neighborhood service.

Area D was something that we talked about and the advisory committee talked about. What happens at that intersection? I may not want to go the whole way over to Brookdale to 485. So, if I want a loaf of bread or if I want to go pick up some Chinese food or get my haircut, where can I do that? This node seemed to make sense, especially with that current rezoning and that C2

designation that is on the books. Because that was an approval for a grocery and some support services.

You can see the node is there and expanding from that the mixed use, where that could be townhouses, patio homes, something to kind of support that and expand away from that intersection and then transition back to single family residential.

There were no questions about those areas.

2040 Vision

Ms. Morris said as we discussed in the joint meeting, the goals and objective of plan; we took a look at the 2010 plan to see what made sense and what did not and if anything needed to be removed or anything that needed to be tweaked.

The goals and objectives: the priorities and the things we were hearing, was to maintain small character, maintain open space, more recreational opportunities, and some economic development. The piece about the jobs and the people who live there, still is not matching up; so how does that work? To encourage a mix of land use and housing opportunities.

How can I age in place if I have lived there for 20 years, but I need to down size and my child went off to college and they would like to come back, but where do they live? She said none of those have really changed from our initial discussions; they have only been expanded.

So, working our way through again, the goals and objectives and the future land use; those focus areas. She showed a rendering of the first area in the mixed use commercial area; what that could look like. As you are coming in on Highway 49, that gateway (she showed the new Harris Teeter and Wood Brothers). Establishing that gateway and then also that proposed Caldwell Road extension.

If the Board remembers, in the Morehead Road Plan there was a lot of discussion about how that area is served. Because the typography is bad and who has the millions of dollars needed to try to make that road happen? It is going to have to be a P3, with public, private and whoever else putting some money into it to try to make that happen. It is the same thing with utilities because it is not served by utilities; no water and no sewer.

She said this was a rendering for Area 1 and it kind of expanded on that. But, seeing that there is a mix of uses, not only vertical but horizontal.

Area 2, Blackwelder Road area; this kind of gives an idea of how that maybe could happen, with some commercial in the front, transitioning to townhomes or cottage homes. Again, trying to get that mix of use and housing product type in and trying to maintain some of that pastoral field as you travel down Blackwelder Road. Keeping some of that open space at the front and then pushing the lots to the back.

Area 3 is the Shamrock Road area. For those of you that are familiar with Harrisburg, you will know that when the double tracking project came through, there were a lot of rail crossings closing (showed on map) and a lot of changes. She said there is a gate where you cannot go through.

You can come off of Highway 49, but you will only get to Saddle Creek. You can come in off of Shamrock, but you are only going to get to the gate at Saddle Creek; there is no through loop anymore. So, knowing that that is the case and will be the case for a while, how do we deal with that area or what makes sense there.

This was all previously scheduled as light industrial. Looking at shifting the residential to the east, the light industrial remaining to the west. This is a rendering showing the different product type that could be there. Also showing in this particular area, there is a beautiful historic house there that could be preserved there as a part of a project. The family is interested in maintaining that house or having it incorporated into a project if something happens. Again, creating some north/south connections and this would also be walkable to Pharr Mill Park.

Area 4, is that area that you see on the east side of Hickory Ridge. It is kind of a continuation of the Blume product. On the west side is maybe some townhomes or small single family lots to kind of support the school. If that was an age restricted community, there would be volunteer opportunities at the school and also maybe a park at some point. There is no funding on the table for a park it is just in the rendering. Then moving back into the traditional type product.

Ms. Morris said the top six priorities are:

1. Facilitating the completion of the Harrisburg Town Center
2. Creating value in key areas to attract investment (Morehead Road area, does the money go there to extend the Caldwell Road extension and open it up or does it go somewhere else?)
3. Amending the UDO

Ms. Morris said our ordinance currently supports the type of conservation design that is mentioned in here. Our ordinance would not be affected and we are not looking at any rezoning as part of adopting this land use plan.

4. Developing the greenway system (everybody wants greenways, but nobody wants to pay for them).
5. Renegotiating the water agreement with the City of Concord

She said that is huge with the Town of Harrisburg. Right now, when irrigation is happening, they are actually bumping up on their peak flow and their peak capacity with Concord. So, trying to figure out a strategy to handle that. A lot of that could come through education of citizens.

6. Developing a strategic mobility plan

Ms. Morris said not just cars. How do people walk, how do they bike, are there opportunities for public transportation and connections, especially now with the light rail. The train; they are talking about potentially, putting a station in Harrisburg. Are there other ways for people to get around, besides by car?

We have kind of talked about the conservation subdivision design. She thinks most of the Board is familiar with that. There are some pictures in here of the historic house in the Shamrock area.

Ms. Morris said from an economic development standpoint, mainly trying to create those areas where when businesses are looking at an area, does it have the services that their employees would like, would want; looking at schools.

When they do a request for information, they are asking questions like how hard is it to get permit in your county. How much does it cost, can I walk places, what is your mobility score, what is your walkability score. All of that comes into play with site selection.

There are opportunities to make connections with the greenways; as far as the Cross Charlotte Trail and then also with the Carolina Thread Trail. Some of you are already familiar with that because we have pieces of that here in Cabarrus County. Where can those connections be made and where does it make sense. Because, sometimes when you have a greenway, it then becomes a tourism opportunity. Opportunities to bring people there so that you have the opportunity to benefit from that sale tax base.

Ms. Morris said that is a summary of what is here; those primary goals. A lot of how do we grow but maintain the character. How do we deal with all the cars on the road? Are there alternate ways to deal with these cars? The transportation model; especially in light of those rail crossings. Opportunities and maybe missed opportunities, for a mix of housing choices and then recreation.

Those were really the top things. Doing all of that, while still maintaining the small town feel. Because, if I live on the south side of the area, I may not necessarily identify with Harrisburg. I may go to Mint Hill to do my grocery shopping or I may drive into Charlotte.

She said at some time in the future the area up to Lower Rocky River would be the Town of Harrisburg. She showed another section that is in the Concord service area and would more than likely ultimately, be a part of the City of Concord.

Looking at the overall area, looking at the growth; a lot of this is about trying to drive development back to where it needs to be and where the investment is for the kind of density that the developers are looking for.

Ms. Morris said we have not discussed and may or may not have any further discussions about an inter-local agreement, like we had with the last plan. It was really not part of the discussions that we had. It was mainly about trying to get development back to where it needs to be by using the densities.

Planning and Zoning Commission
Minutes
June 12, 2018

She said if the Board is comfortable with this plan, what we would be looking for is a recommendation to the Board of Commissioners to consider adopting it.

Mr. Charles Paxton thinks Harrisburg has studied land and land use for the past 30 years. It seems like every few years we redo it. This last revision appears to be what the people want and he will certainly support it.

Ms. Morris said there were close to 180 in person contacts, people who came to the meetings and we had 459 responses between the two surveys, which is a really good response. Even though the people were not there, they took the time to do the survey. The people really took time to think about and be thoughtful in their responses. Some of the participation we got from the survey may have actually been better than those in person contacts.

Mr. Pinto said the Town Center seems to stand out to him more than anything. That they cannot seem to get anything going on there. It seems to be like the whole linchpin. He does not know if you could put pressure on the owner/developer or who. We are not in a position to do that, they have to do that somehow. He thinks they need mixed use down there and get Novant to cough that land up. He thinks that would be the center hub for it right there.

He said everybody talked about parks. He thinks the trails are probably a more economic way to go. Try to get Soil and Water Conservation to get some easements or something like that to run down the creeks and so forth like that.

He remembers that the Leadership of Cabarrus built a kayak launch down there off of Rocky River. So there has got to be something to get that going down there towards Midland. That is what everybody wants; Creeper trails, 17 miles, one degree downhill and you can coast the whole way, it is over railroad trestles, it is over six or seven streams. It seems the way these trails are laid out it follows the Rocky River down there by the Measmer deal.

Seems to him that needs to be funded somehow if it is the Carolina Thread Trail that is what we go on. There is a trail also in Mount Pleasant, right off of Mount Pleasant Road. He and his wife walk that. He would rather do that than to go to Rob Wallace Park or Dan Nicholas Park which is out of the County.

He does not know when Farmington is going to happen with all of the DOT stuff going on out there. He would like to see that line in the sand remain the line in the sand, down there in the watershed. You got to have it; buffers for water; without buffers, you have big problems.

Mr. Jerry Wood wants to tag team on the comment about water. He said you do not build a house by starting with the window treatments; you have to have the foundation and a substructure first. He said where do we stand on the renegotiation of the water contract with Concord? Isn't this the month that they are working on that. Do we have status update?

Ms. Morris believes it is.

She was at the Harrisburg Town Council meeting last night. One of the things that came up when they were talking about the budget, was that Novant told the Town they could no longer use the lot in front of Town Hall for their Rockin the Burg concert series. They need to relocate that because they were getting ready to do something with that property.

She knows that the Town is in negotiation with Concord as part of that budget presentation. They did say that the City had added in a five percent increase in their water rate. But, that was not being passed on to the customers.

If the Town is incurring additional cost, but it is not being passed on to the customers, then they still may not understand the ramifications of using the water like they do. She thinks some of that is tied to the IBT. If they cannot up the gallons that were allotted, then ultimately, they would have to find water from somewhere else; whether it is Charlotte or a private company, if they wanted to continue to develop.

It is her understanding, that a lot of this is directly tied back to the irrigation piece of it. The water is there, but because people do not understand that you do not go out and put all of that water on your grass every day, all night; that that is what is causing a lot of this bumping up against the limits.

Mr. Wood appreciate that answer. He understands that was one of the concerns when we had the meeting back in May, but there were also some significant ones. Anyone who has driven Highway 49 and seeing the congestion when you go through Harrisburg and the result of all of that very quick growth, with maybe not properly placed priorities before, has created some problems and based off their numbers, in both the handouts they gave us there and in this updated one, it looks like they are going to have to do more than that. So, renegotiating and ensuring that they have that water source before we start building on the rest of this plan seems pretty significant to him.

Ms. Morris said in the zoning designation that the County has, there is well and septic. Again, pushing the density back into those areas where that investment is would be where the Town is going to have to make some decisions. If you continue to allow those types of densities and that type of behavior, it will have consequences.

She said Concord has a tiered structure, whereas, if you go to a certain tipping point, you are paying more and then you go to another tipping point and you are paying more and then your sewer and your storm water fees are also increased based on that. That is a potential tool for the Town.

She said at some point Concord may make them do some of that. It may not be optional because, Concord has it in place and they are meeting these goals and they take care of business when there is a drought, but you are our customer and you are not. She thinks that at some point Concord may force their hand and they may have to do some of that.

Mr. Stephen Wise said the traffic in Harrisburg is really busy sometimes with the new shopping centers on Highway 49; that concerns him a little bit. He is good with the overall plan and he thinks the greenways are great stuff. He thinks it has worked well for the City of Concord and he is all about it.

Ms. Morris said one of the recommendations is to look at the transportation multi-modal plan. She thinks probably tucked away in there as well, is looking at 49. It was previously classified as a freeway. She thinks that has since been downgraded to a highway. When they came and did the widening, the Town did not have an opportunity to come in and dress it up or put medians in or sidewalks to try to slow the traffic down or calm some of the traffic down. So, there might be a potential for them moving forward, now that that classification has changed. It is still limited access, as far as those entry points.

You have a parking lot that is completely adjacent to the road and people are just pulling out where ever. If they had the opportunity to come in and make some of those upgrades to that facility, she thinks that probably would be a little bit more controlled and there would be better traffic flow. But they would have to work with NCDOT on that and it would probably be a major project. With the budget last night she wants to say there was maybe \$400,000 of transportation improvements in there. But they did not get into details as far as what that was. Her guess is it is probably a lot of making the connections for sidewalks.

Mr. Jeff Corley thinks it is a good plan. Being on the advisory committee was an interesting process. He said to watch those really vague public comments at the beginning, kind of transform into actual things that could become a plan. He is glad there is the mention of the water issue in there. It is an issue that is near and dear to his heart. It is good to have a whole page included on the challenges there. He is ready to support the plan.

There being no further discussion Mr. James Litaker, **MOTIONED, SECONDED** by Mr. Stephen Wise to recommend consideration of the Harrisburg Area Land Use Plan update to the Board of Commissioners. The vote was 8 to 1 to recommend consideration with Mr. Jerry Wood voting against.

Ms. Morris said the motion does carry because it was a simple majority. So, we will be taking it to the Board of Commissioners. The vote will be duly noted in the memo that goes to the Commissioners.

New Business Board of Adjustment Function:

Wallace Park VARN2016-00003 Guidance/Interpretation (Withdrawn)

The Chair said VARN2016-00003 Guidance/Interpretation has been withdrawn by staff.

There being no further discussion Mr. Jeff Corley, **MOTIONED, SECONDED** by Mr. James Litaker to remove VARN2016-00003 Guidance/Interpretation from the agenda. The vote was unanimous.

McBride Solar Farm CUSE2017-00001- Guidance/Interpretation (Withdrawn)

The Chair said CUSE2017-00001 has been withdrawn by staff.

There being no further discussion Mr. Jeff Corley, **MOTIONED, SECONDED** by Mr. Brent Rockett to remove CUSE2017-00001 Guidance/Interpretation from the agenda. The vote was unanimous.

Directors Report

Ms. Morris said those two items were removed from the agenda. You will probably see both of them back in a different fashion at some point in the near future.

She said the Board of Adjustment no longer has the authority to be an advising board. There was some litigation that happened along the way. This is not something that we typically do; so you cannot do it anymore. The Board has to have an active case or a plan in front of you; something that you are making that decision on. An appeal of a staff decision has to go down that path. Ms. Morris thanked the members that had been on the advisory committee and those who came to the different meetings and attended the joint meeting.

She thinks it was helpful and hopefully you were able to put some names and faces together with your counter parts in Harrisburg. They actually have two boards down there; one that functions as Planning and Zoning and one that functions separately as the Board of Adjustment. The Board that was as the joint meeting was the Planning and Zoning Board.

Ms. Morris said Charlotte is going to be the host city in April of next year for the State MPO conference. If anyone has an interest in transportation and there is a day option we may be able to send you if that is something you are interested in.

We hired a new Planner and he will be on board by the end of the month.

Legal Update

Ms. Morris said we were schedule to go to court on the Philip Little, Contempt of Court case. We requested that that be postponed and it will be re-calendared.

The NOV's on the solar farm that we talked about, you will probably see that back in some form or fashion for them to try to handle that and work through those NOV's. Some of the terms of their conditional use permit at this point can no longer be met.

They missed the deadline for today, so you will probably see it back in August or September. That would be an amendment to their conditional use permit. It will be a completely new hearing.

Planning and Zoning Commission
Minutes
June 12, 2018

There being no further business, Mr. James Litaker, **MOTIONED, SECONDED** by Ms. Holly Grimsley to Adjourn the meeting. The vote was unanimous. Meeting adjourn at 7:45 p.m.

APPROVED BY:

Mr. Chris Pinto, Chair

SUBMITTED BY:

Arlena B. Roberts

ATTEST BY:

Susie Morris, Planning and Zoning Manager

DRAFT

PLANNING STAFF REPORT
 CABARRUS COUNTY PLANNING AND ZONING COMMISSION
 07/10/2018

Staff Use Only:
 Approved: _____
 Denied: _____
 Tabled: _____

Variance: VARN2018-00001

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

Owner Information: Cabarrus County
 PO Box 707
 Concord, NC 28026

PIN: 5544-72-3955

Area in Acres: +/- 181.15

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

Perimeter Landscape Buffer

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

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

Driveway

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

20 feet for the entire length of the access road (project located in unincorporated Cabarrus County.)

Site Description:	The subject property is approximately 181 acres and currently being developed as a Public Use Facility (County owned Rob Wallace Park). The first phase which is primarily located in the Town of Midland, is open to the public. The property has a network of bike and walking trails throughout. A large quarry pond is located in the southeast corner of the property. There is a 3,700 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:	Public Use Facility (Rob Wallace Park)
Adjacent Land Uses:	North – Single Family Residential & Vacant East – Industrial, Vacant, Single Family Residential South – Industrial (McGee Brothers Company & Intertape Polymer Group plant) & Vacant West – Single Family Residential
Permitted Uses:	All uses permitted within the Office Institutional zoning district are allowed on the subject property
Existing Zoning:	OI (Office Institutional)
Surrounding Zoning:	North: SFR (Midland Single Family Residential) East: SFR (Midland Single Family Residential), IND (Midland Industrial), GI (General Industrial) South: GI (General Industrial) West: GI (General Industrial), SFR (Midland Single Family Residential)
Signs Posted:	06/22/2018
Newspaper Notification 1:	06/27/2018
Newspaper Notification 2:	07/04/2018
Notification Letters:	06/22/2018

Exhibits

- Exhibit A – Staff Report
- Exhibit B – Application
- Exhibit C – Proposed Site Plan
- Exhibit D – Pictometry Photos
- Exhibit E – Property Maps
- Exhibit F – Adjacent Parcel Letter & List
- Exhibit G – Variance Signs

Agency Review Comments

Emergency Services Review:

I see no issues that would impact EMS response (per Justin Brines, EMS Assistant Director).

Fire Review: Approved

We have no issue with the reduction in driveway width from 24' to 20' and no issue with the encroachment of the landscape buffer. (per Steven Langer, Fire Marshal).

NCDOT Review: N/A

Request is internal and connection to Bethel School Road right of way is in the Town of Midland.

Sherriff's Department Review:

I don't see anything here that would disrupt our services here at the sheriff's office. (per Ray Gilleland, Lieutenant Sherriff).

Soil & Water Conservation Review:

I see no problem with the landscape buffer encroachment. Also, Muddy Creek that runs beside the proposed parking lot is a perennial stream that would require the buffer. (per Daniel McClellan, Sr. Resource Conservation Specialist)

Zoning Review: Approved

See staff report (per Phillip Collins, Sr. Planner)

History / Other Information

- The subject property was originally zoned General Industrial (GI). Cabarrus County submitted a rezoning request for the zoning of the property to be changed to Office/Institutional (OI) and it was approved by the Planning and Zoning Commission on August 9, 2016.
- The subject property is approximately 181 acres and is currently being developed as a Public Use Facility (County Park). Phase one of the park is currently open.

- The subject property contains several water features that are subject to the Waterbody Buffer Zone.
- The subject property is required to have a #2 level Perimeter Landscape Buffer on the western, northern, and part of the eastern borders of the property, each of which abut residential uses.
- The applicant contends that that the proposed access road will follow existing dirt pathways historically used on the park property.
- The Board of Adjustment approved a variance at its September 2016 meeting for the subject property. The request was for multiple variances and included relief to allow for walking and biking trails to encroach in to the required 75 foot perimeter buffer.
- Applicant is proposing to install landscape as shown in the typical submitted with the application with future road construction to mitigate variance requests if approved.

Conditions of Approval

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

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

Applicant proposed conditions:

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

CABARRUS COUNTY VARIANCE



STAFF USE ONLY:

APPLICATION

Application/Accela#: VAR2018-00001
 Received By: PEC
 Date Filed: 6-12-18
 Amount Paid: \$1618

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	Property Owner's Name
<u>Jonathan Marshall</u>	<u>Cabarrus County</u>
Applicant's Address	Property Owner's Address
<u>PO Box 707</u>	<u>Same</u>
<u>Concord, NC 28026</u>	
Applicant's Telephone Number	Property Owner's Telephone Number
<u>704.920.2100</u>	<u>Same</u>
Legal Relationship of Applicant to Property Owner	<u>Employee</u>
Existing Use of Property	<u>Institutional (Public Park)</u>
Existing Zoning	<u>O-I</u>
Property Location	<u>Bethel School Rd - Midland</u>
Tax Map and Parcel Identification Number (PIN)	<u>5544-72-3955</u>

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: 9-6.1.D & 10-5.D

-Perimeter landscape buffering requirement, and

-Driveway width requirement

2. Reason(s) for Seeking a Variance

-Requesting relief from installing the 75-foot perimeter buffering requirement along a portion of the eastern property line (Area #5 of VAR2016-00003) to allow for a paved interior access road to encroach into the buffer yard.

-Requesting a reduction in the required access road width from 24 feet to 20 feet.

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 proposed interior access road follows historic pathways used on the park property and the location allows the property owner to maximize use of the unique features of the property.

-The requirement of a 24-foot wide driveway could potentially encourage speeds that are not complementary to the type of pedestrian use that would be expected of a public park. A 20-foot driveway would encourage slower speeds for vehicular traffic using the facility.

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"?)

-A conceptual master plan is attached. The access road could be shifted to a new location outside of the perimeter landscape buffer. That location would move the access road from its existing/historic location and would shift all elements further into the property and reduce interior open space.

-The interior roadway width requirement of 24 feet is more characteristic of an urban environment. The reduced width is more characteristic of a rural road through a natural environment. Other parks throughout the County have used a similar design for interior access roads.

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 proposed location of the access road driveway is where gravel or dirt drives already exist.

-A wider driveway may encourage speeds that are less pedestrian friendly.

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 perimeter landscape buffer is requested in an area where a variance for the walking path has already been granted and where the access road has existed historically. The adjacent property is heavily wooded with access from Bethel

School road severely limited due to the creek crossing required, the width of the flood plain and soil conditions.

-The intent of the 24-foot driveway requirement is to safely allow the passage of vehicles traveling in opposite directions. A 20-foot driveway would allow for the passage of vehicles in a more controlled fashion and is the minimum requirement of the Fire Code.

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 the character would be maintained by locating the paved access road on the historic location of the dirt road.

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 encroachment and landscape variances are requested, the County is proposing to install a modified (8 foot) planting yard between the trails the and proposed paved access drive. An exhibit showing the proposed typical is included.

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

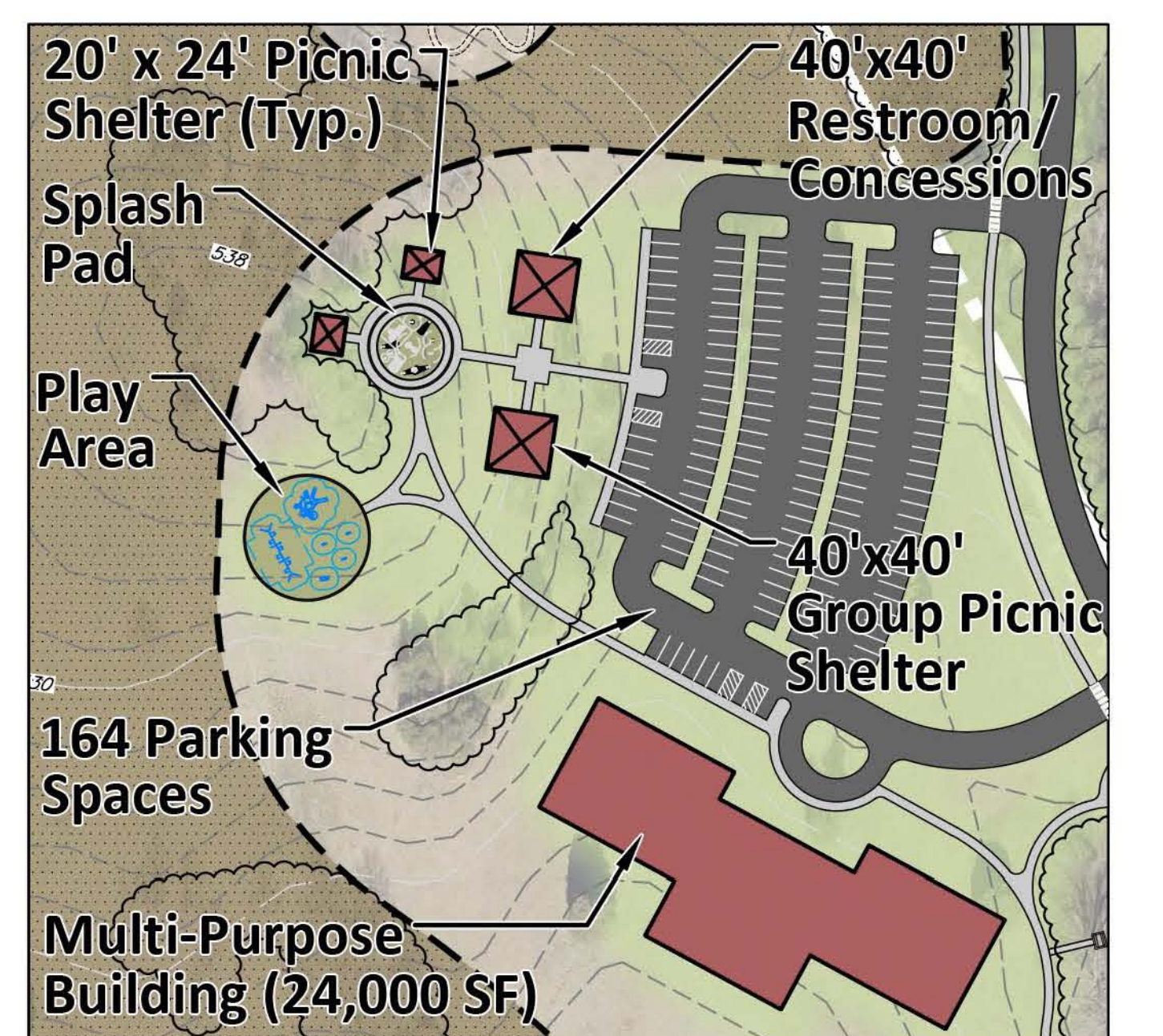
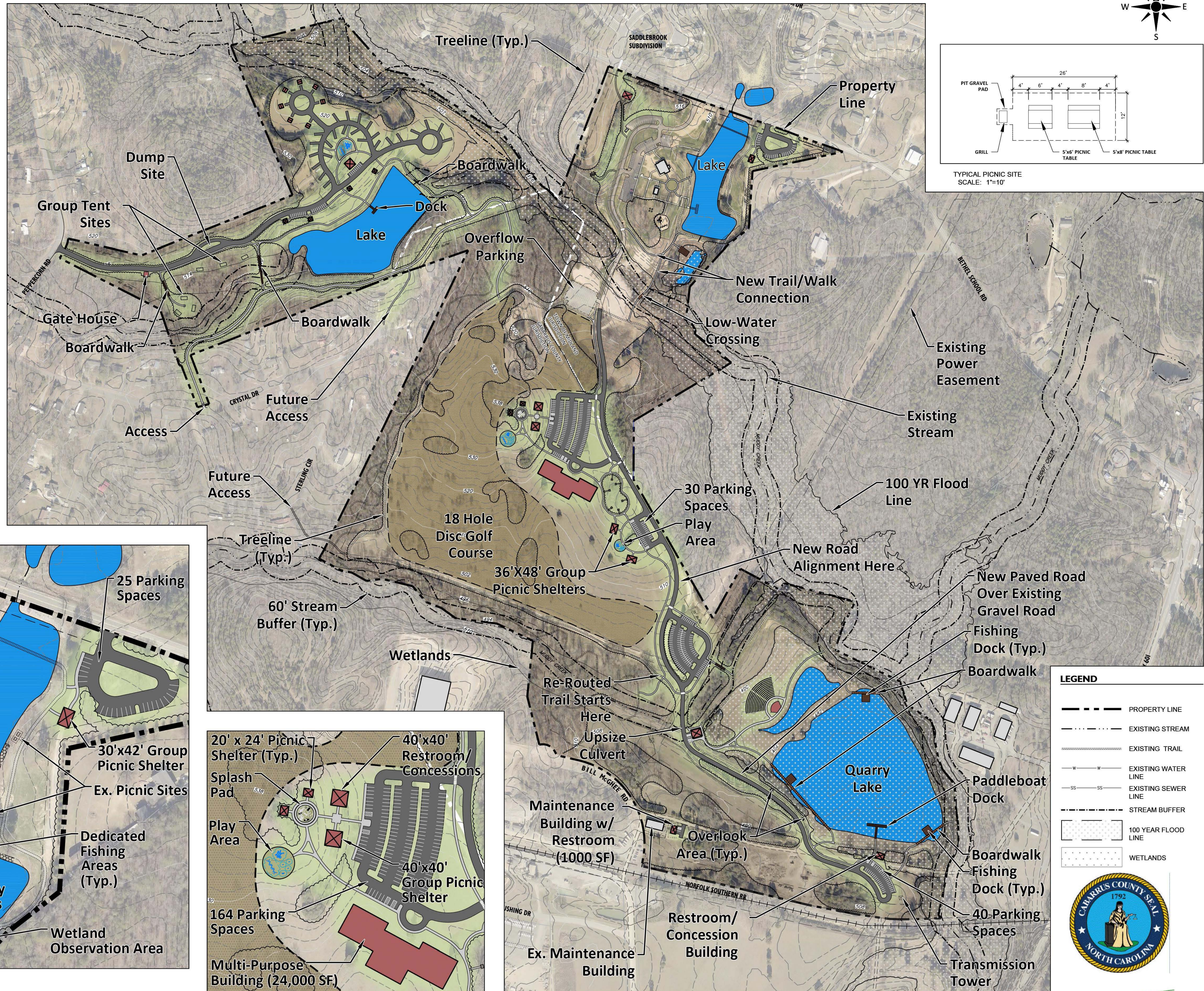
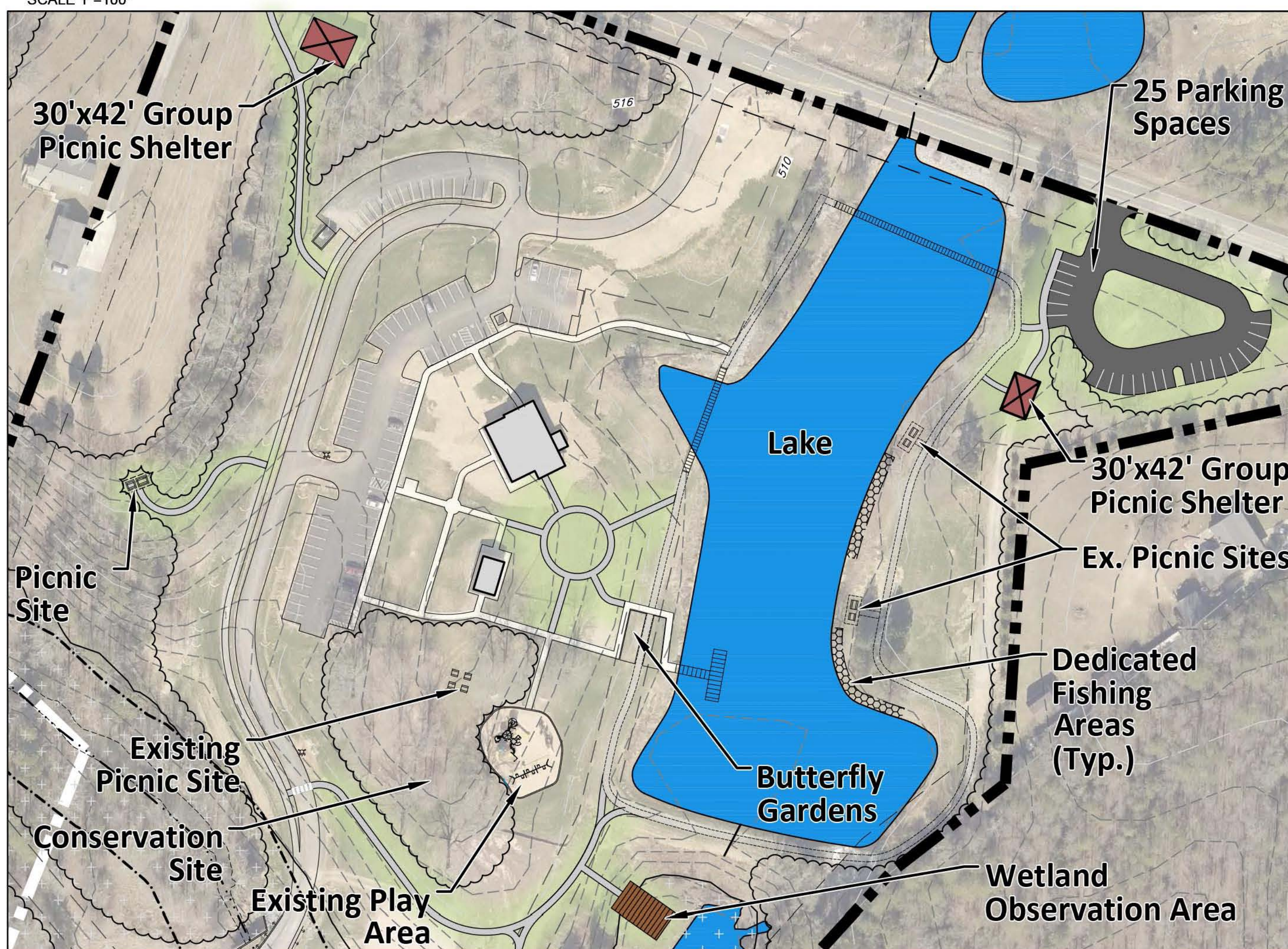
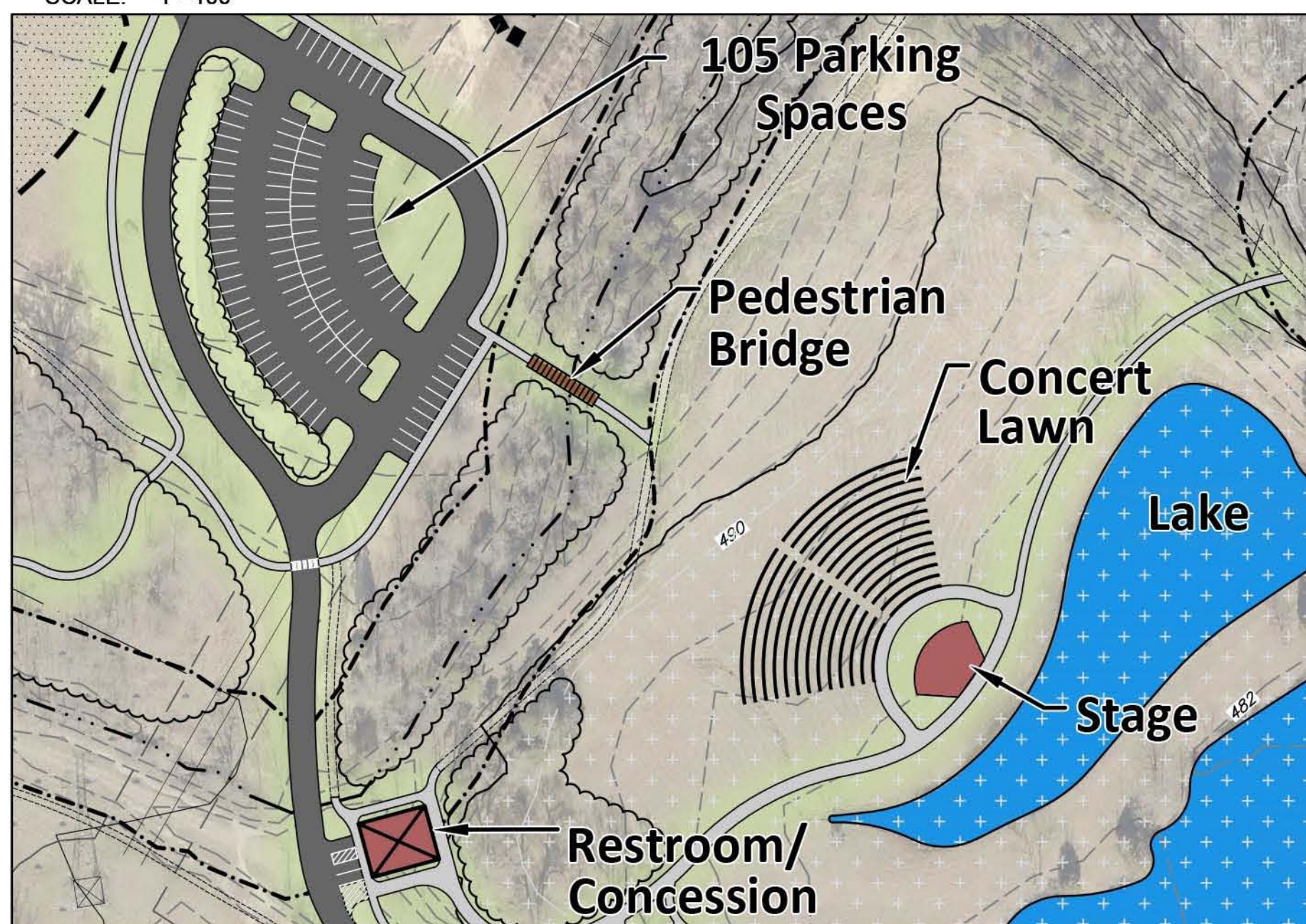
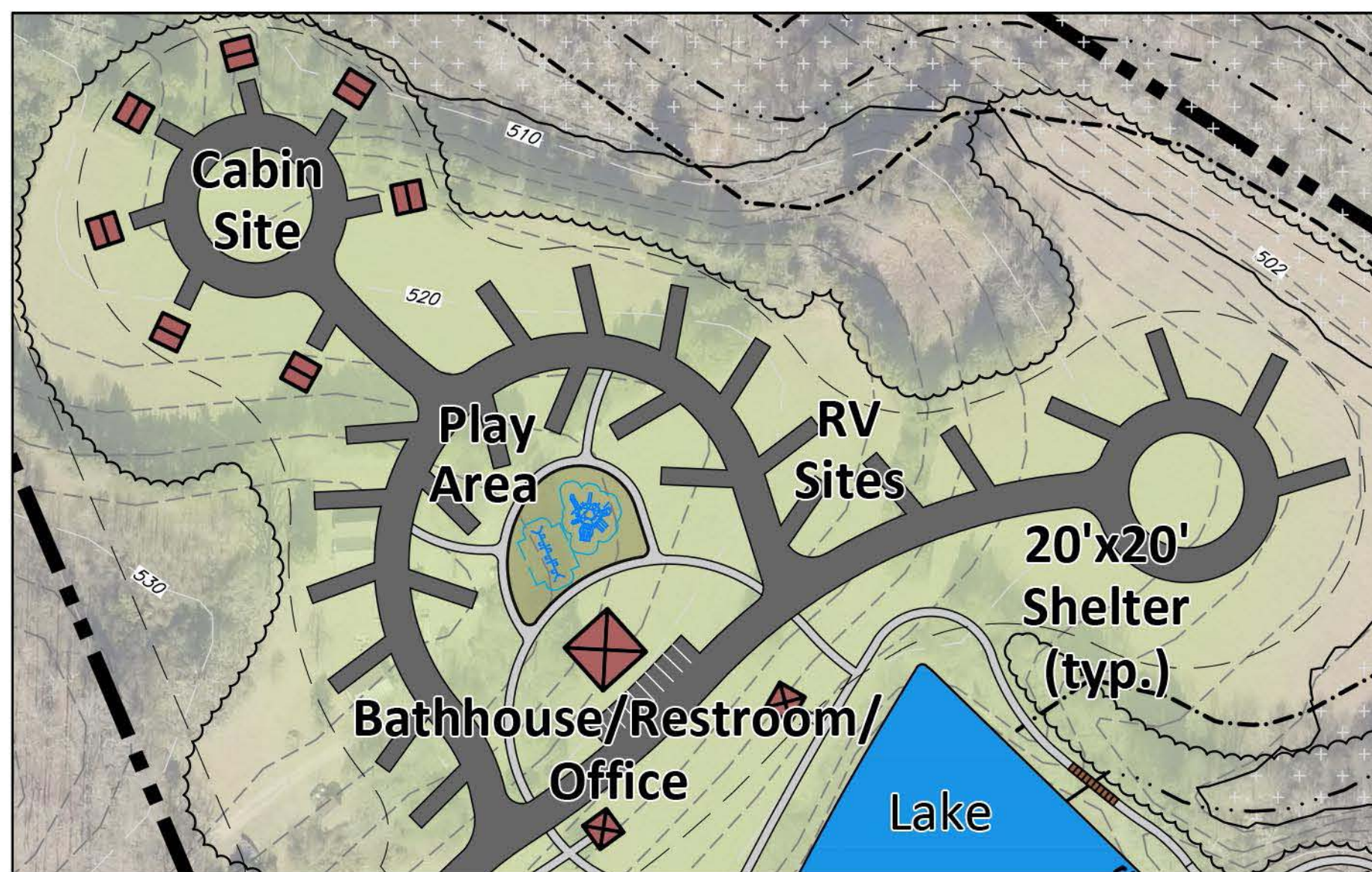
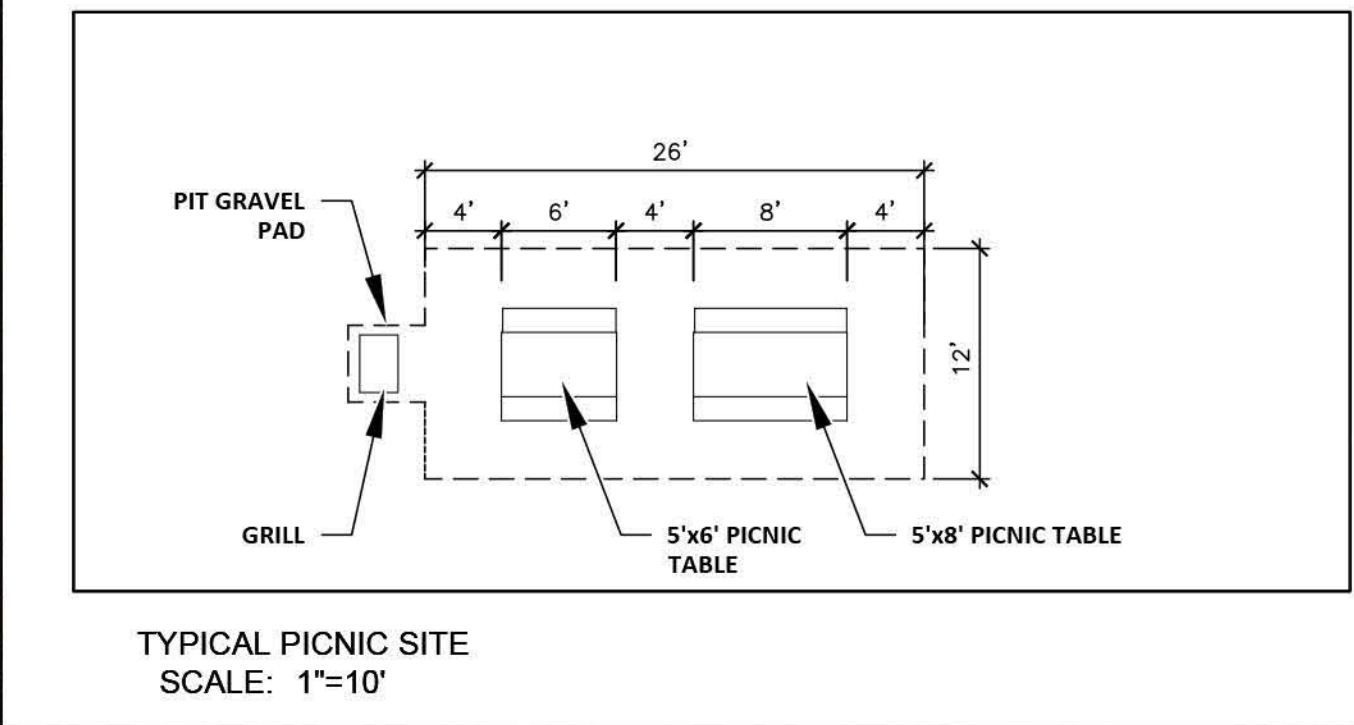
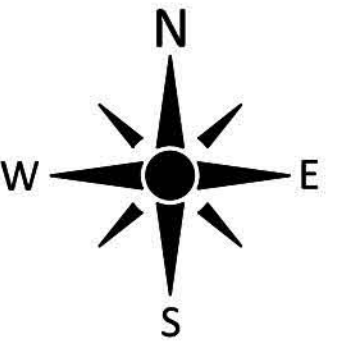
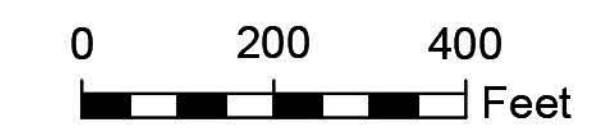
SIGNATURE OF OWNER: Justin B. Marshall DATE: 6.12.2018

SIGNATURE OF APPLICANT: _____ DATE: _____

Rob Wallace Park Master Plan

Midland, NC

Cabarrus County | 1.12.2018



LEGEND

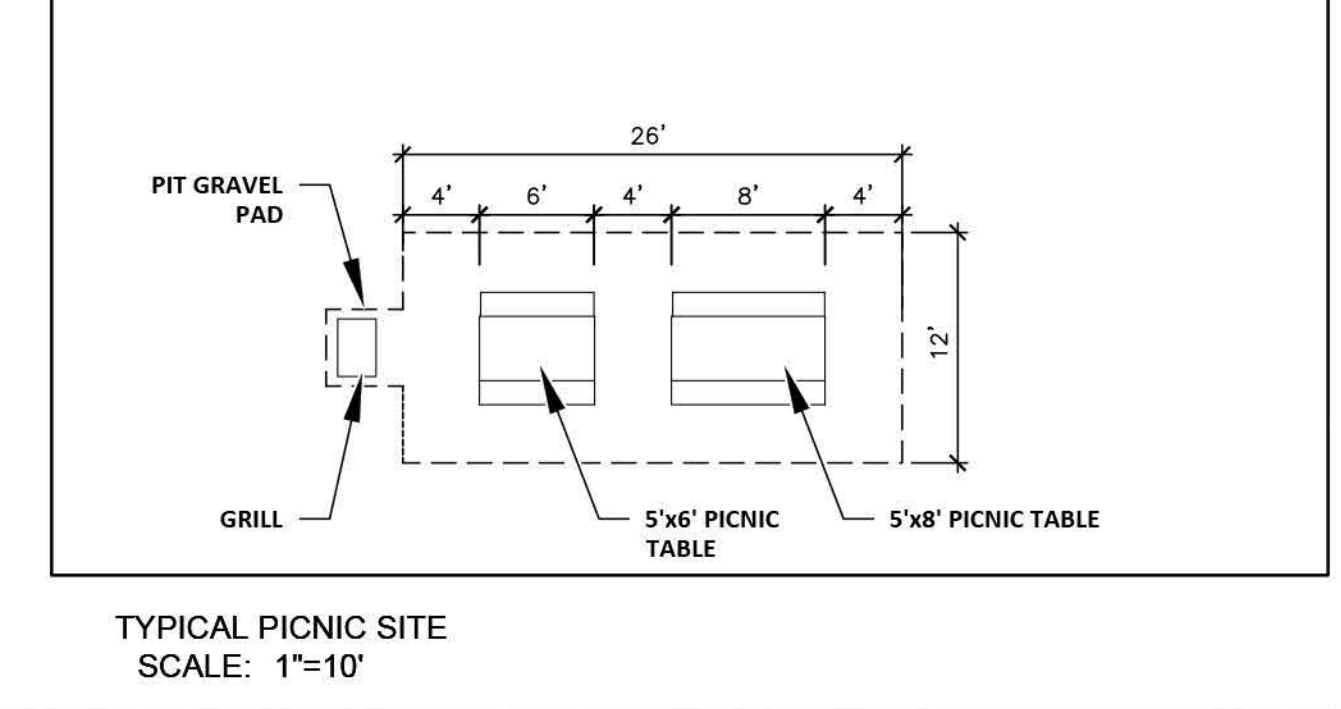
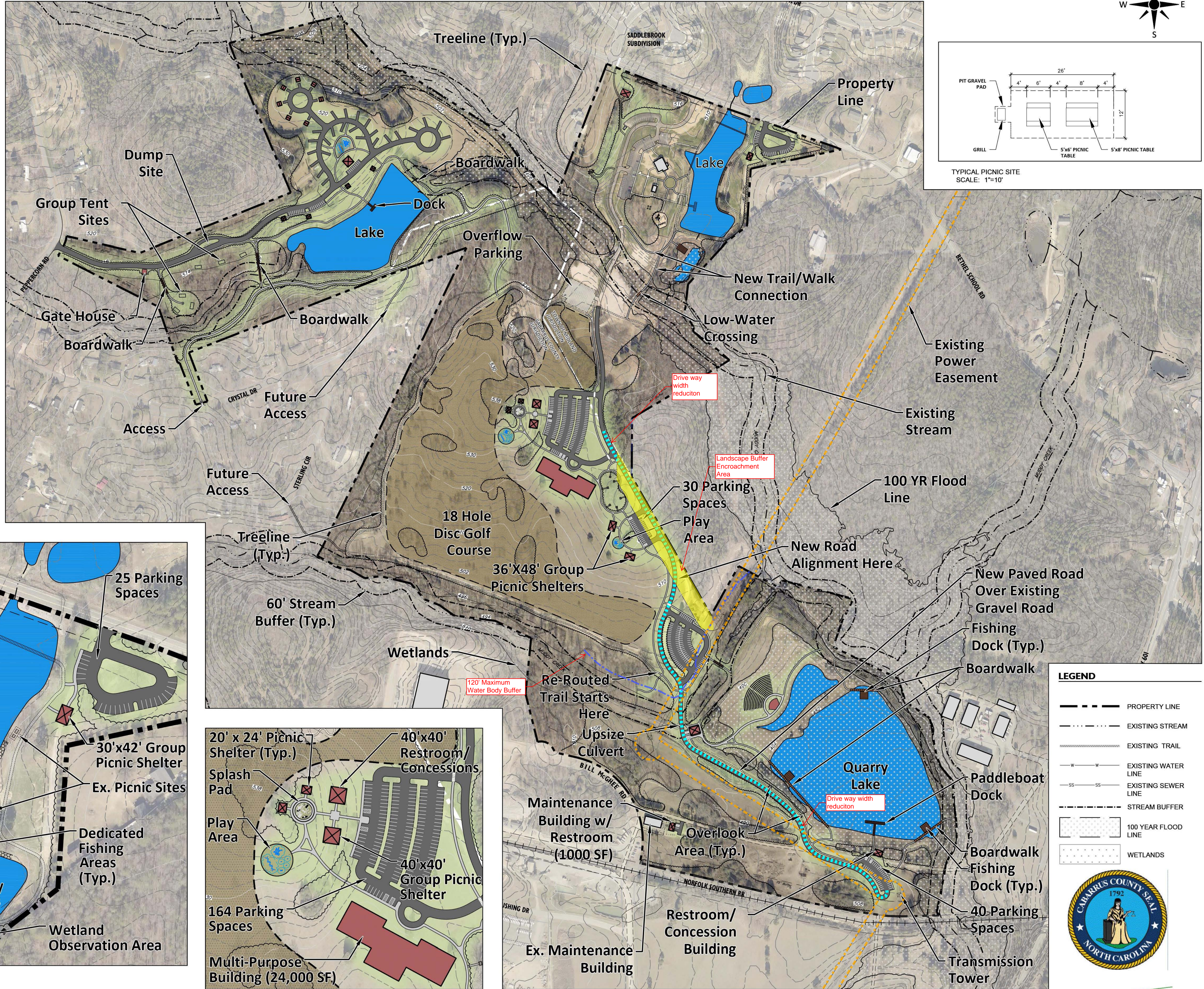
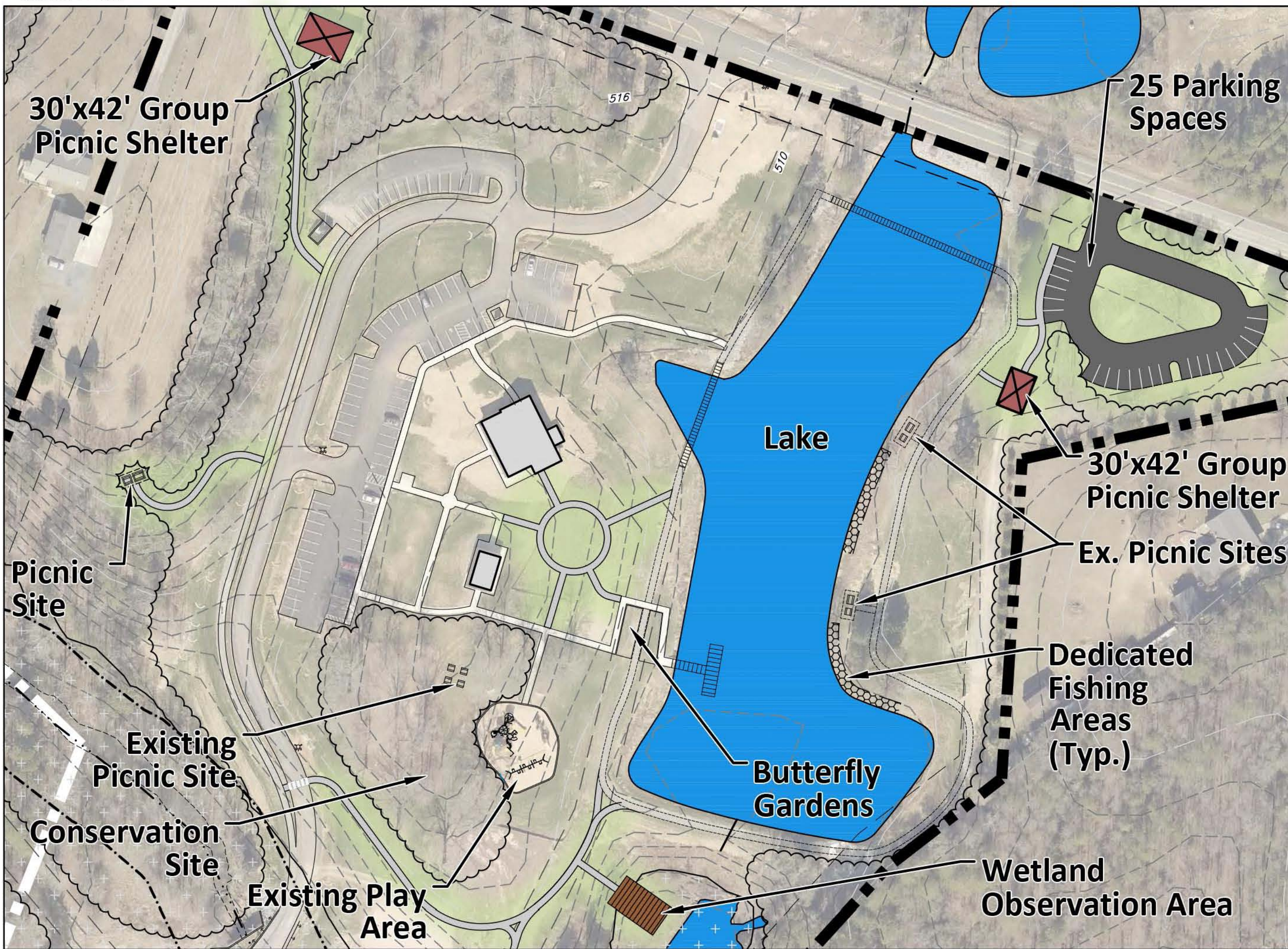
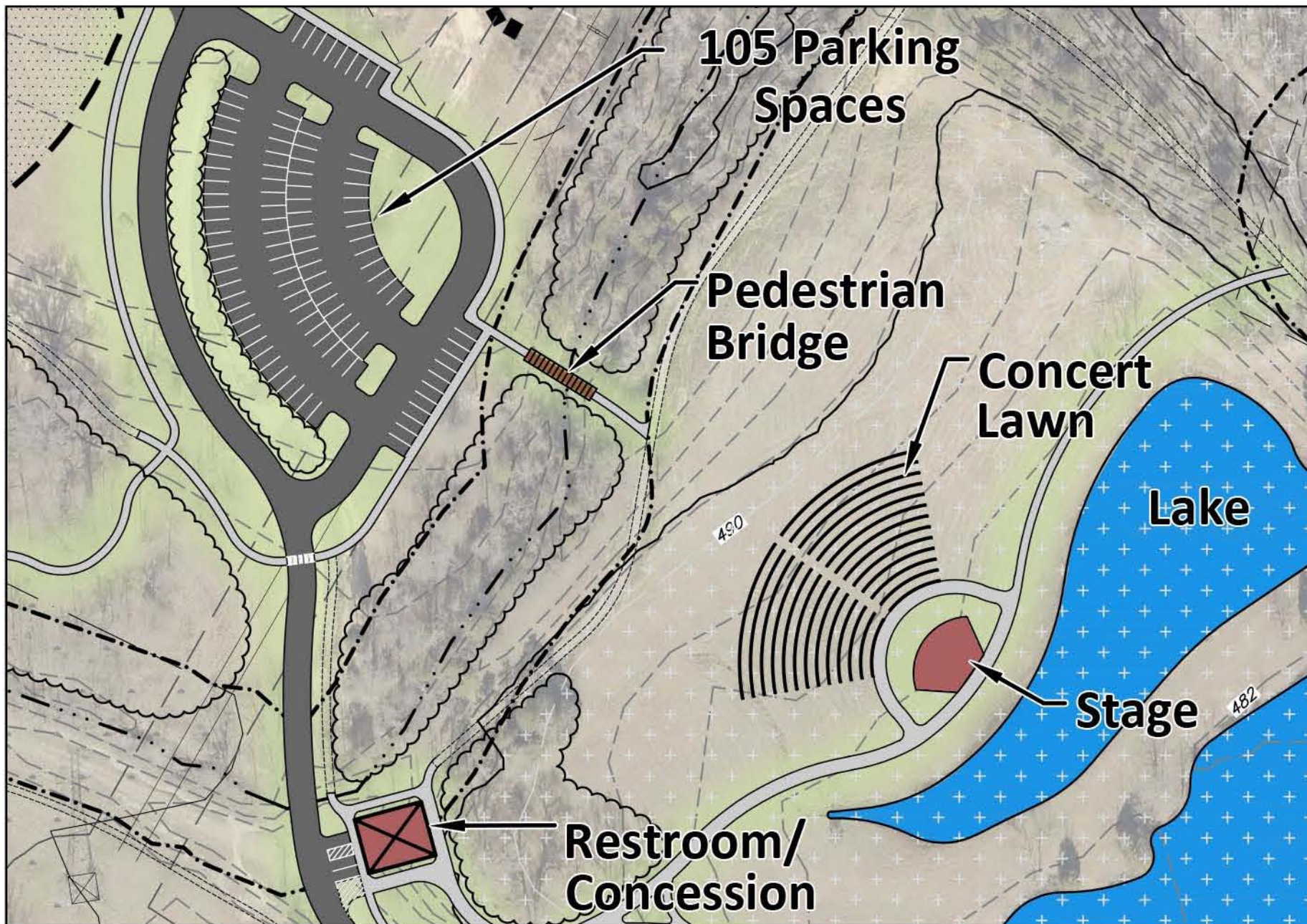
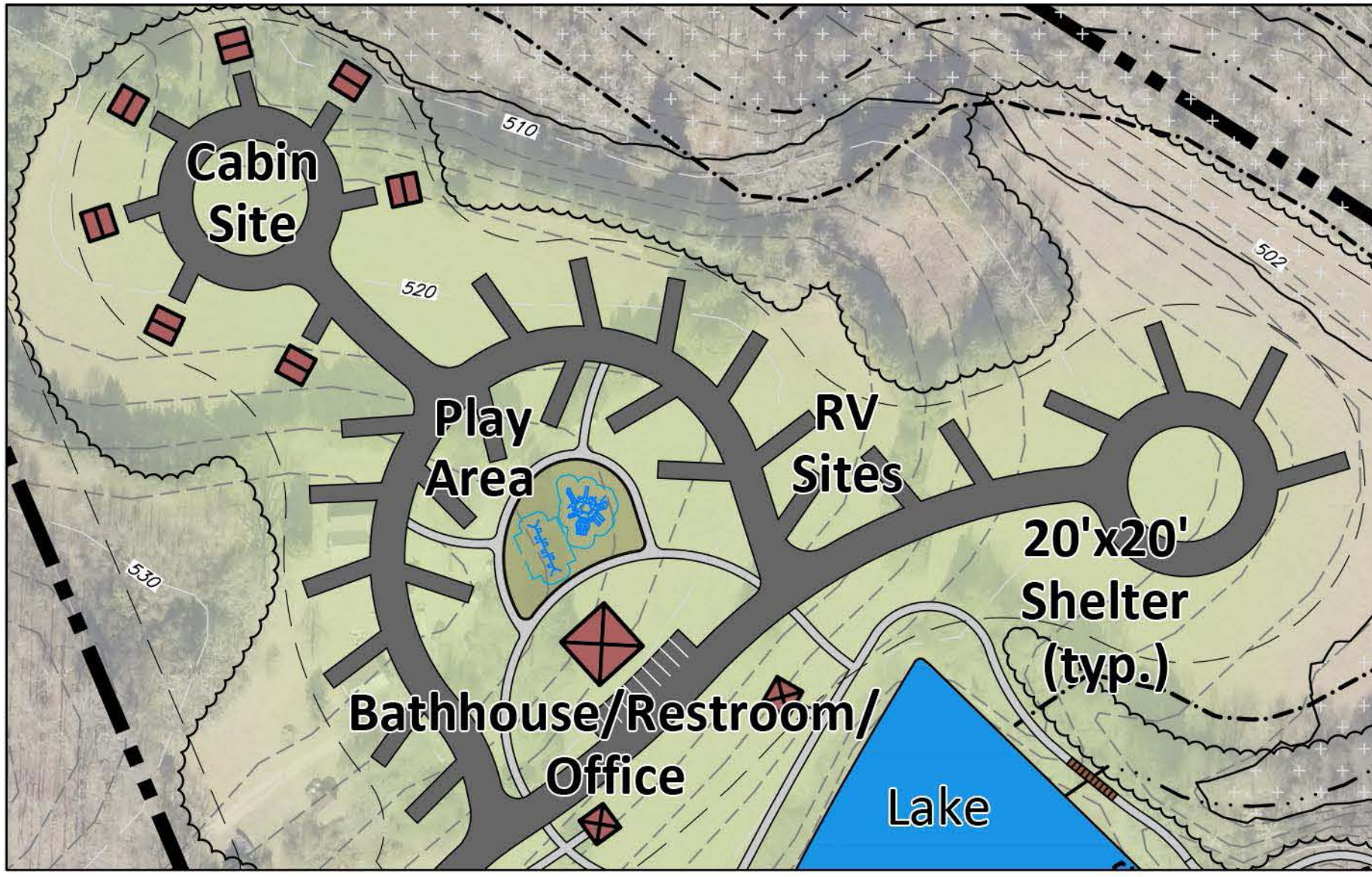
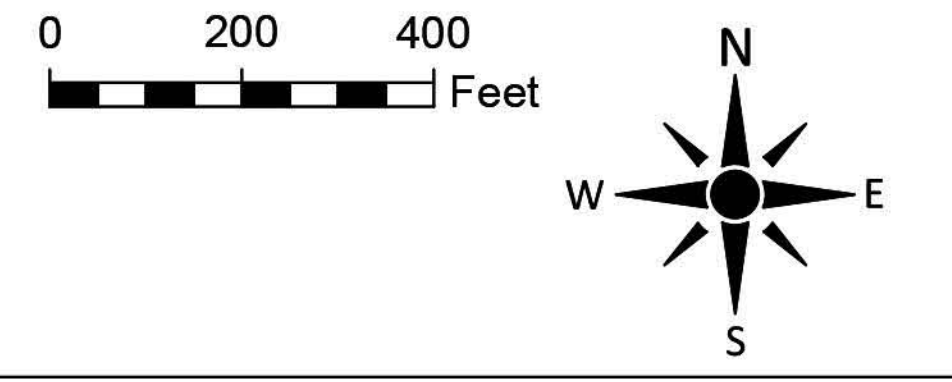
- PROPERTY LINE
- EXISTING STREAM
- EXISTING TRAIL
- EXISTING WATER LINE
- EXISTING SEWER LINE
- STREAM BUFFER
- 100 YEAR FLOOD LINE
- WETLANDS



Rob Wallace Park Master Plan

Midland, NC

Cabarrus County | 1.12.2018

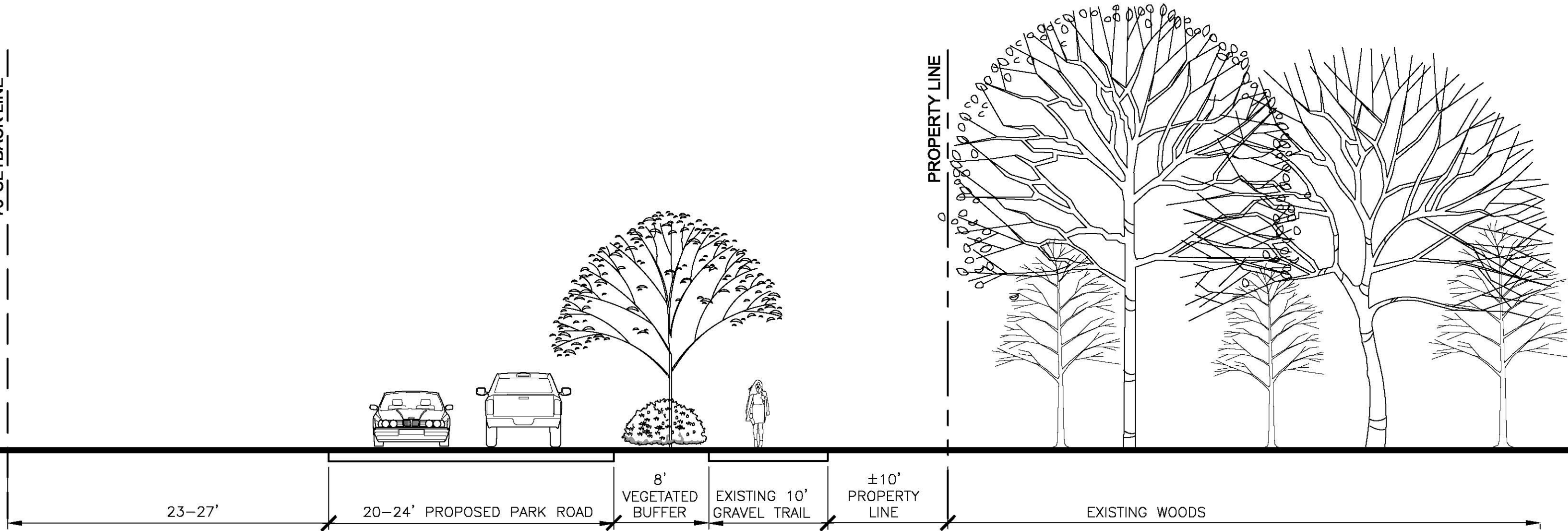


LEGEND

- PROPERTY LINE
- EXISTING STREAM
- EXISTING TRAIL
- EXISTING WATER LINE
- EXISTING SEWER LINE
- STREAM BUFFER
- 100 YEAR FLOOD LINE
- WETLANDS

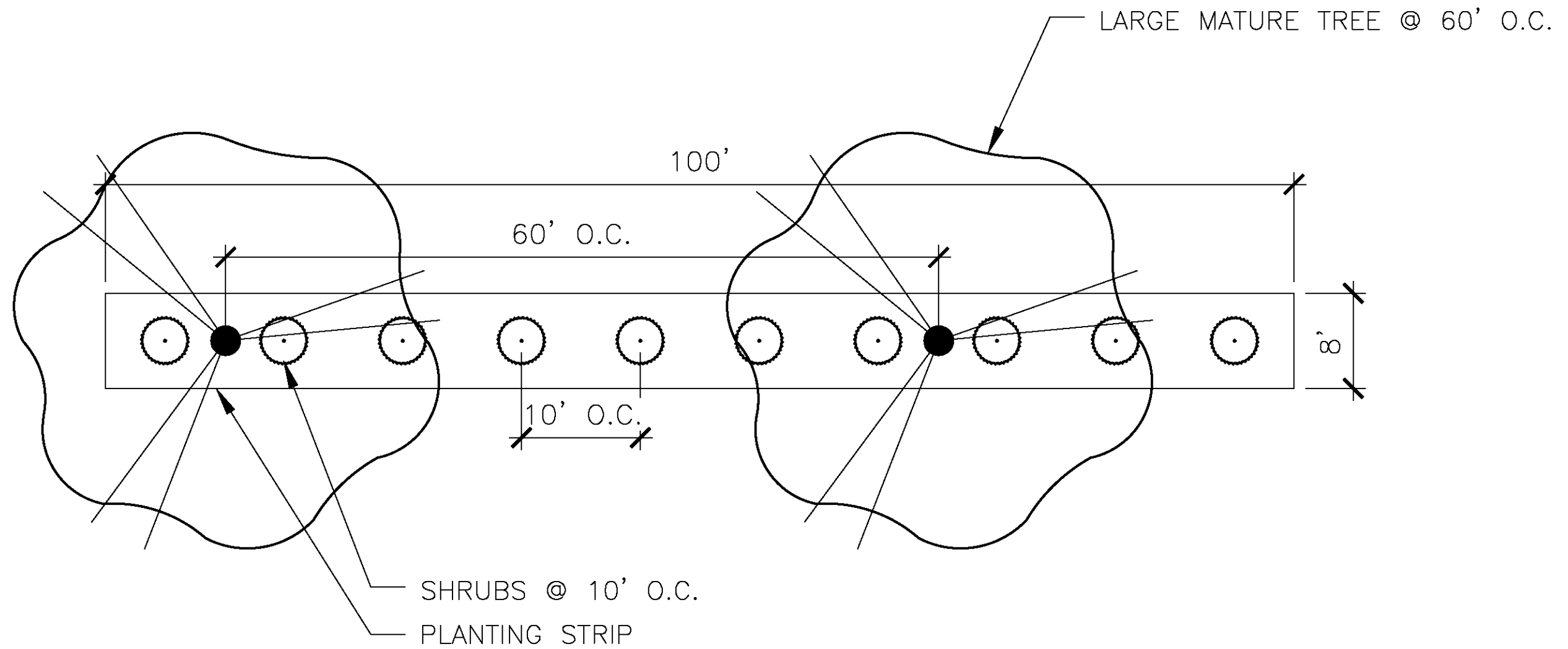


75' SETBACK LINE



ROB WALLACE PARK PHASE 2 SECTION

NTS



TYPICAL BUFFER STRIP PLANTING

SCALE 1"=10'

Exhibit D
Pictometry Images 1-26-2018









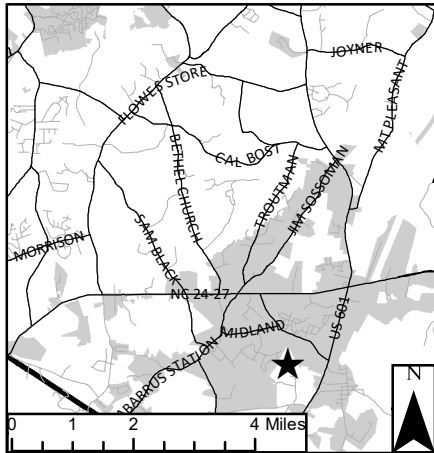


Existing Zoning



Applicant: Jonathan Marshall
 Owner: Cabarrus County
 Case: VARN2018-00001
 Address: 12922 Bethel School Road
 Purpose: Variance Request
 PIN: 5544-72-3955

- Parcels
- Municipal District
- Structures 2010
- Waterbodies
- Flood Way
- 100 Year Flood Plain
- 500 Year Flood Plain



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

Map Prepared by Cabarrus County Planning & Development - June 2018

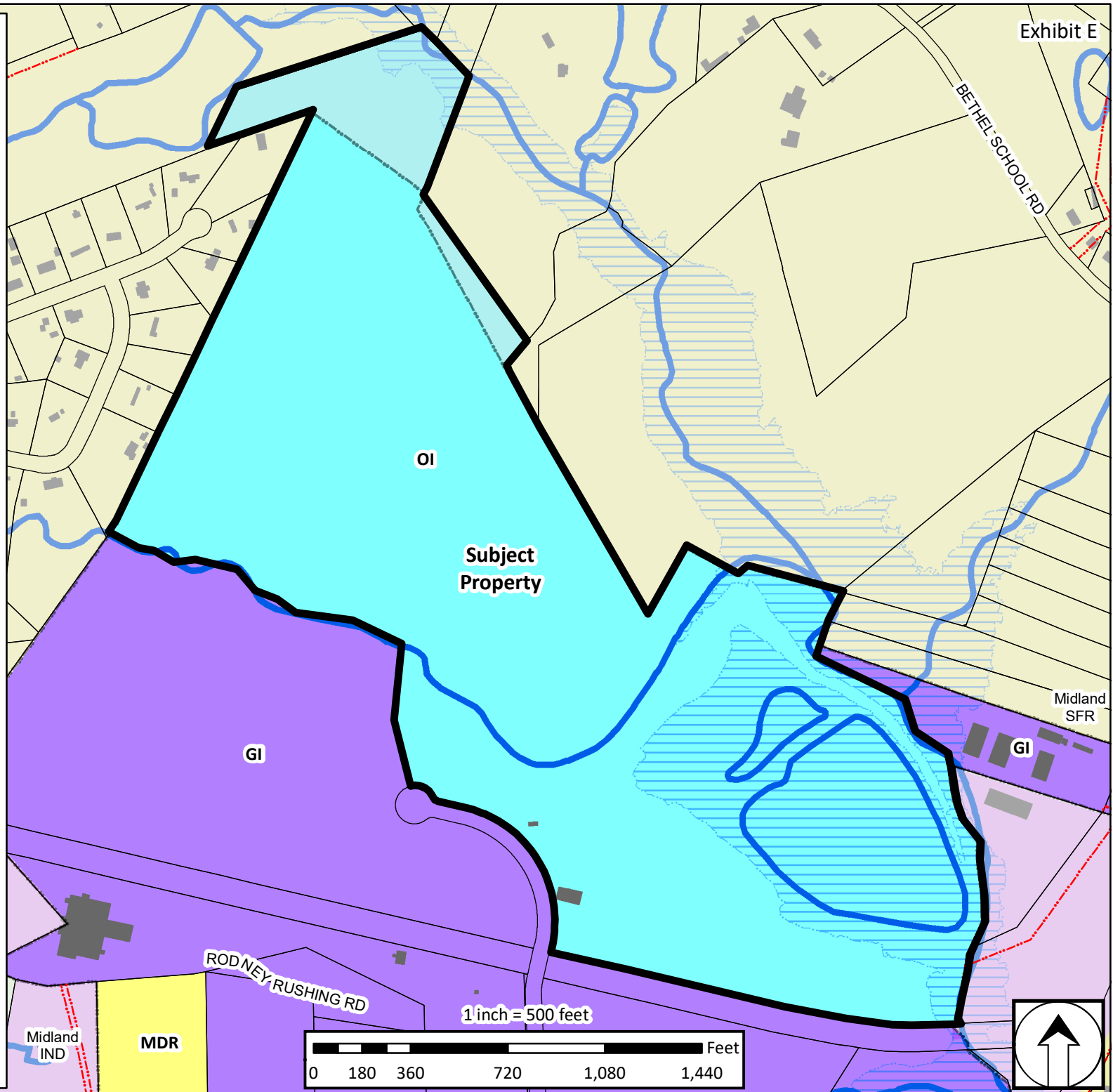


Exhibit E

Subject Property

OI

GI

GI

Midland SFR

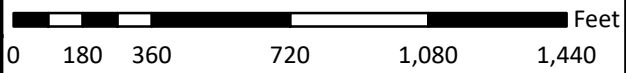
Midland IND

MDR

RODNEY RUSHING RD

BETHEL SCHOOL RD

1 inch = 500 feet

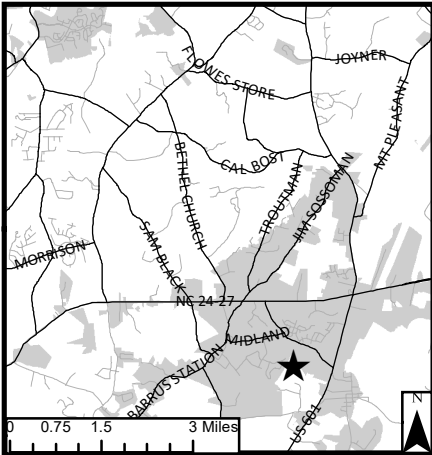


Aerial Map



Applicant: Jonathan Marshall
Owner: Cabarrus County
Case: VARN2018-00001
Address: 12922 Bethel School Road
Purpose: Variance Request
PIN: 5544-72-3955

- Cabarrus County
- Municipal District
- Parcels



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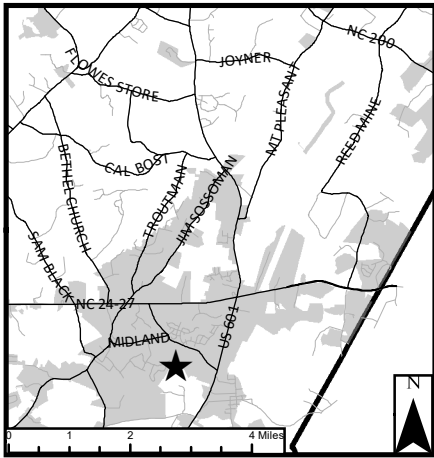
Map Prepared by Cabarrus County Planning & Development - June 2018



**Midland Plan Area
Future Land Use**

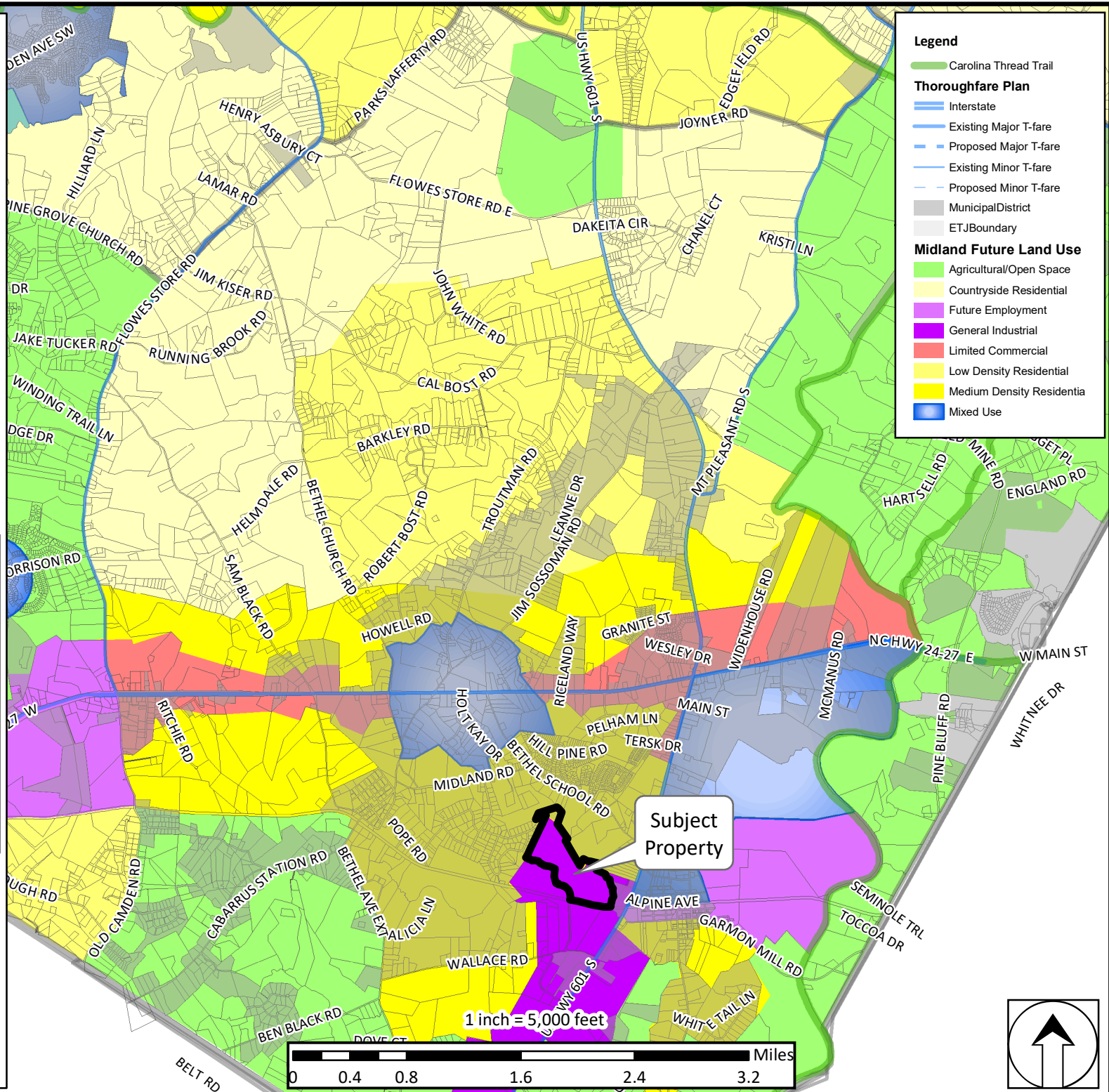


Applicant: Jonathan Marshall
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Map Prepared by Cabarrus County Planning & Development - June 2018



PIN	Name	Address	City	State	ZIP
Property Owner					
5544654208, 5544723955, 5544555362, 5544558412, 5544741458, 5544745140, 5544751348	CABARRUS COUNTY	P O BOX 707	CONCORD	NC	28026

Adjacent Property Owners					
5544920588	ANDERSON/GRIFFIN PROPERTIES	3322 OLD CAMDEN ROAD	MONROE	NC	28110
5544537585	ASHE RHONDA L	13572 STERLING CIR	MIDLAND	NC	28107
5544916017	BROOKS WILLIAM ERSKINE JR	3995 GARMON MILL ROAD/PO BOX 372	MIDLAND	NC	28107
5544833637	BROOME GAIL W & WILLIAM G TRUST	2525 KNOLLWOOD RD	CHARLOTTE	NC	28211
5544563163	CARPENTER SCOTT HOWARD & JESSICE TALLENT	3070 MIDLAND RD	MIDLAND	NC	28107
5544750403	FLEENER DON ET UXOR FLEENER MARCIA	PO BOX 397	MIDLAND	NC	28107
5544642563	FRANSSEN DAVID E	3201 CRYSTAL DR	MIDLAND	NC	28107
5544641391	FURR ANNIE E	3200 CRYSTAL DR	MIDLAND	NC	28107
5544446829	HARTIS HAROLD AUGUSTINE JR	13005 PEPPERCORN LN	MIDLAND	NC	28107
5544658517	HOUGH DIANE MORGAN LF EST	12790 BETHEL SCHOOL RD	MIDLAND	NC	28107
5544621379	INTERTAPE POLYMER CORP	100 PARAMOUNT DR STE 300	SRASOTA	FL	34232
5544448259	JAMARI LLC A NC LLC / PALMETTO PROPERTIES	10700 SAM BLACK ROAD	MIDLAND	NC	28107
5544920075	JC MARBLE GRANITE CUSTOM INC	13650 US 601 HWY	MIDLAND	NC	28107
5544533807	JOYNER STACY LEE	3004 CRYSTAL DRIVE	MIDLAND	NC	28107
5544852116	JOYNER WESLEY JAMES	12576 BARRIER STORE ROAD	LOCUST	NC	28097
5544459557	KELLIS KELLY DUANE & PATRICIA WALLACE	185 WYOMING DR	CONCORD	NC	28027
5544539801, 5544539966	KEPLEY SAMMY J	13590 STERLING CIRCLE	MIDLAND	NC	28107
5544660133	KEZIAH MICHAEL A & STEPHANIE L	131 WILLOW CREEK DR	STANFIELD	NC	28163
5544566296	KUNTZ CLYDE DANIEL & SHERON ROBERSON	3102 MIDLAND RD	MIDLAND	NC	28107
5544441685, 5544446542	LITTLE PROPERTIES/MIDLAND LLC	10700 SAM BLACK RD	MIDLAND	NC	28107
5544546206	LOVING BARRY JAMES	4810 ALBEMARLE RD	MIDLAND	NC	28107
5544536207	LYALL BRIAN P	13568 STERLING CIRCLE	MIDLAND	NC	28107
5544544281	MARSHBURN WILLIAM C & DIANE W	PO BOX 1471	DENVER	NC	28037
5544706790, 5544711147	MCGEE BROTHERS COMPANY INC	4608 CARRIKER ROAD	MONROE	NC	28110
5544651846	MCINTOSH ED & ANN	12760 BETHEL SCHOOL RD	MIDLAND	NC	28107
5544921669	MILEHAM JERRY L	P O BOX 245	MIDLAND	NC	28107
5544640196	MORRIS VICTOR ALAN	3112 CRYSTAL DR	MIDLAND	NC	28107
5544640448	ORTEGO ISMAEL VALDESPINO & MENDOZA YESENIA MORAN	3113 CRYSTAL DR	MIDLAND	NC	28107
5544442858	OTTOWAY CLYDE T & WIFE NANCY N	13002 PEPPERCORN LANE	MIDLAND	NC	28107
5544548389	PEREZ INOCENCIO & PATRICIA	13300 STERLING CIR	MIDLAND	NC	28107
5544538658	PEREZ LUIS REYNALDO SANCHEZ & MORALES NORMA V VILLANUEVA	13582 STERLING CIR	MIDLAND	NC	28107

PIN	Name	Address	City	State	ZIP
5544531851	PEREZ TEODORO PEREZ BARCO MARIA ESTHER CALVILLO	2918 CRYSTAL DR	MIDLAND	NC	28107
5544914709	PETER V GUSEV INC	8341 ROLLING FIELDS RD	CHARLOTTE	NC	28227
5544841688	PIGG KATHRYN H	P O BOX 471	MIDLAND	NC	28107
5544542122	RICE HARRY RONALD & JANET S	9113 BROOKGREEN DR	MINT HILL	NC	28227
5544759617, 5544852428, 5544753754, 5544751882	SADDLEBROOK HOMEOWNERS ASSOC	2649 BREKONRIDGE CENTRE DR	MONROE	NC	28110
5544857681	SADDLEBROOK HOMEOWNERS ASSOCIATION OF MIDLAND INC	PO BOX 2427	HUNTERSVILLE	NC	28070
5544547332	SMITH ALFRED E & BERTIE F	13504 STERLING CIR	MIDLAND	NC	28107
5544654716	SNINCHAK EDWARD THOMAS & LINDAY KAY	12780 BETHEL SCHOOL RD	MIDLAND	NC	28107
5544449093	STILLWELL STEVEN DEAN	2913 CRYSTAL DR	MIDLAND	NC	28107
5544829427	WALLACE R L CONSTRUCTION CO	PO BOX 259	MIDLAND	NC	28107
5544804424	WALLACE ROBERT L & DONNA F	9750 HERBERT FLOWE RD	CHARLOTTE	NC	28227
5544755697	WGH NORTH CAROLINA LLC	103 FOULK RD STE 900	WILMINGTON	DE	19803
5544543157	WILLIAMS ROBERT	3009 CRYSTAL DR	MIDLAND	NC	28107
5544853491	WRAY BILLY JOE	P O BOX 322	MIDLAND	NC	28107
5544754689	SUMMERS KRISTINE & CLARKE JOSEPH	12892 BRANDENBURG LN	MIDLAND	NC	28107



Cabarrus County Government – Planning and Development Department

June 22, 2018

Dear Property Owner:

A Variance Application has been filed in our office for property **adjacent** to yours. The property and specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday, July 10, 2018 at 7:00 PM in the 2nd floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street SE, Concord, NC 28026. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this variance request, I encourage you to attend this meeting.

- **Petitioner:** Cabarrus County
- **Petition Number:** VARN2018-00001
- **Property Location:** 12900 Bethel School Road (Rob Wallace Park)
- **Parcel ID Number:** 5544-72-3955
- **Existing Zoning:** Office / Institutional (OI)
- **Variance Request:** Relief from the requirements of Chapter 9 – to allow portions of an interior driveway within the required landscape buffer & Chapter 10 – reduction of the required driveway width

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2149.

Sincerely,

Handwritten signature of Phillip Collins in cursive.

Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development
704.920.2181

If reasonable accommodations are needed please contact the ADA Coordinator at (704) 920-2100 at least 48 hours prior to the public hearing.



Cabarrus County Government – Planning and Development Department

June 22, 2018

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A Variance Application has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday, July 10, 2018 at 7:00 PM in the 2nd floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street SE, Concord, NC 28026. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this variance request, I encourage you to attend this meeting.

- | | |
|----------------------------|---|
| • Petitioner | Cabarrus County |
| • Petition Number | VARN2018-00001 |
| • Property Location | 12900 Bethel School Road (Rob Wallace Park) |
| • Parcel ID Number | 5544-72-3955 |
| • Existing Zoning | Office / Institutional (OI) |
| • Variance Request | Relief from the requirements of Chapter 9 – to allow portions of an interior driveway within the required landscape buffer & Chapter 10 – reduction of the required driveway width |

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2149.

Sincerely,

A handwritten signature in black ink that reads "Phillip Collins".

Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development
704.920.2181

If reasonable accommodations are needed please contact the ADA Coordinator at (704) 920-2100 at least 48 hours prior to the public hearing.



2018-06-22 11:25:08

North Carolina

Jun 22, 2018 11:32:16 AM

CABARRUS COUNTY
ZONING



NOTICE
VARN2018—00001
FOR DETAILS CALL
704 - 920 - 2141

