

Commerce Department
Planning Division

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
December 20, 2007
7:00 P.M.
County Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval/Correction of November 15, 2007 Minutes
3. New Business - Planning Board Function:
 - A. Zoning Atlas Amendment
 1. Petition C2007-06 – R-SU Rezoning Special Use
 - B. Preliminary Plat Approval
 1. Petition 2007-08(S) - Riverbend Subdivision – Greathorn Properties
4. Directors Report
5. Adjournment

PLANNING STAFF REPORT
TO CABARRUS COUNTY PLANNING AND ZONING BOARD
December 20, 2007

Petition: **C2007-06(R-SU) Zoning Atlas Amendment**

Applicant: Glenn Jones
8812 Crestwood Drive
Mount Pleasant, NC 28124

Property Owner: Clarence A. Allman & Wife, Hilda M. Allman
4300 Cauble Road
Mount Pleasant, NC 28124-9319

Existing Zoning: AO-SU – Agricultural/Open Space Special Use

Proposed Zoning: AO-SU – Agricultural/Open Space Special Use

Township: Number 8 – Mount Pleasant

PIN#: 5660-13-8210

Area: +/- 8.75 acres

Site Description: The subject property is currently used for the operation of a farm equipment sales and services facility. Applicant is requesting that an additional use, auto repair and service, be included as a permitted use for the property.

Zoning History: The property was rezoned in 1998 from LDR – Low Density Residential to AO-SU – Agricultural/Open Space Special Use. The only use allowed in the rezoning was farm equipment sales and repair.

Surrounding Zoning:

North:	CR – Countryside Residential & OI – Office/Institutional (there is a small parcel almost directly across the street)
South:	CR – Countryside Residential
East:	CR – Countryside Residential
West:	CR – Countryside Residential

Adjacent Land Uses: Three of the adjacent properties are residential with single family dwellings and the fourth, located immediately east, is wooded and vacant. Directly across the street, one lot is used as a residence and the other is vacant. To the

northeast, facing NC 49, properties are zoned OI Office/ Institutional. There is a mobile home park to the east.

Infrastructure: This property is served by a private well and septic system.

Exhibits:

1. Site Plan – Submitted by applicant
2. Vicinity Map – Submitted by staff
3. Aerial Map – Submitted by staff
4. Aerial Map Detail – Submitted by staff
5. Aerial Map with Floodplain – Submitted by staff
6. List of Adjacent Property Owners – Submitted by staff
7. Strategic Economic Development Plan,
Map of Site J - Submitted by staff
8. Property Photos – Submitted by applicant

Intent of Zoning: The intent of agricultural/open space zone designation is to preserve the agrarian nature of the land. Due to physical characteristics such as soil type, topography, etc., this district should remain agrarian. To a lesser degree, these are also those lands which are conducive to providing recreationally oriented open space. These lands should remain the farmland and undeveloped forested land of the County. Public utilities will not be planned for these areas.

Economic Development: The subject property is located directly across NC 49 from one of the seventeen sites identified and evaluated for development as part of the Strategic Plan for Economic Development by Leek-Goforth. The site, known as Site J – NC 49/Mt. Pleasant, consists of 200-300 acres of open rural areas that are flat to rolling terrain.

Eastern Area Land Use Plan: Highway 49 is the primary corridor for most traffic throughout eastern Cabarrus County as it is a primary route between Charlotte and Asheboro.

The Eastern Area Plan is a general guide for effective management of growth and development for the area. According to Appendix A, Map #2 of the Plan, the subject property lies within the Future Urban Service Boundary of Mount Pleasant and is designated Suburban Residential. Urban Service Areas aid the preservation of agricultural land and open space. They indicate where money should be invested in public infrastructure, especially for water and sewer services. Suburban Residential identifies the area's suitability for single-family development patterns. Permitted growth densities range from one to four units per

acre. Land with access to public utility service is permitted to develop at higher densities while land without access should develop at a density of one unit per acre. Development within this district should involve parks and open space. This district also includes existing Residential- Medium Density (RM-1) and Residential- Low Density (RL) districts.

According to the goals set forth by the Eastern Area Plan, and given the subject property's future designation as Suburban Residential, the auto repair/service use would not be appropriate.

Additional Code Considerations:

Adams Creek runs along the southwest portion of the subject property. The River Stream Overlay Zone (RSOZ) is required.

The proposed use is permitted based on standards (PBS) in the A/O Zoning District. (Chapter 7, Section 4.32)

Comments:

NCDOT – Leah Wagner:

- I have no objections or comment to the proposed rezoning.

Soil and Erosion Control – Thomas Smith:

- Neither the owner nor the developer has contacted this office in reference to the Highway 49 Rezoning project.
- If the size of the project is greater than one acre, an erosion and sedimentation control plan must be submitted to this office for review and approval prior to the commencement of any land disturbing activities.

Cabarrus County EMS – Steve Langer:

- No comment.

WSACC – Tom Bach

- WSACC has no issues or comments.
- Relative to any future development project, please be aware that flow acceptance from WSACC is granted in the order received assuming sufficient wastewater treatment and transportation capacity is available or is reasonably expected to be made available.
- Currently, WSACC does not have an interceptor serving this area, which is located within the Adams Creek drainage basin. Following approval of the final site/civil construction plans, flow acceptance must be

requested by the jurisdiction providing the retail sewer service, in this case the Town of Mt. Pleasant.

- It should be noted that WSACC does not own or operate any existing water lines (retail) serving in this area.

Cabarrus Health Alliance – David Troutman

- No comment except the existing facility is served by septic tank. A septic inspection is required before any building permits are issued for any new construction. This is not specific to this location; it is a requirement.

County Engineer – Jeff Moody

- No comment.

Soil & Water Conservation District – Dennis Testerman

- Cabarrus SWCD is working with several landowners in the vicinity of NC 49 and Walker Road on conservation easements aimed at preserving agriculture and open space.
- To this end, we would like to see the following considerations in the proposal to rezone the Allman site:
 - A conservation easement on Adams Creek that encompasses both the RSOZ and 100 year floodplain; and
 - Restrictions on future property uses that would be consistent with agricultural and residential uses of the surrounding area – including noise restrictions.

Staff Analysis:

Staff finds that the proposed zoning map amendment and site plan meet the conditional use standards of the Cabarrus County Zoning Ordinance.

The proposed use of the property is inconsistent with the goals of the Eastern Area Land Use Plan. However, the proposed amendment is for an additional use that is similar to the existing use on the subject property. Therefore, the Planning and Zoning Commission should review the information and facts presented to determine if the proposed zoning amendment is consistent with the Commission's goals and vision for this area of eastern Cabarrus County.

Staff Recommendation:

Should the Planning Commission grant approval of the rezoning, staff requests that the following conditions be applied as part of the approval:

1. Property must comply with the approved site plan.
2. The subject property is restricted to its current use, as a retail and service provider for farm equipment; and, its proposed use, a repair and service provider for automobiles.
3. There will be no outdoor storage of vehicles permitted on the subject property.
4. Applicant must complete required upgrades to parking areas and landscape as shown on proposed site plan.
5. Applicant shall provide, to Cabarrus County Soil & Water Conservation Agency or appropriate conservation agency as determined by Soil & Water Conservation staff, a conservation easement along Adams Creek that encompasses both the RSOZ and the 100 year floodplain.
6. There will be no storage of vehicles or dumping permitted in the River Stream Overlay District (RSOD) located on the subject property.
7. No construction of buildings will be permitted in the River Stream Overlay District (RSOD) located on the subject property.
8. The applicant shall work with Zoning Enforcement staff in order to ensure there are no violations.



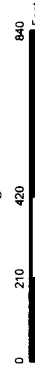
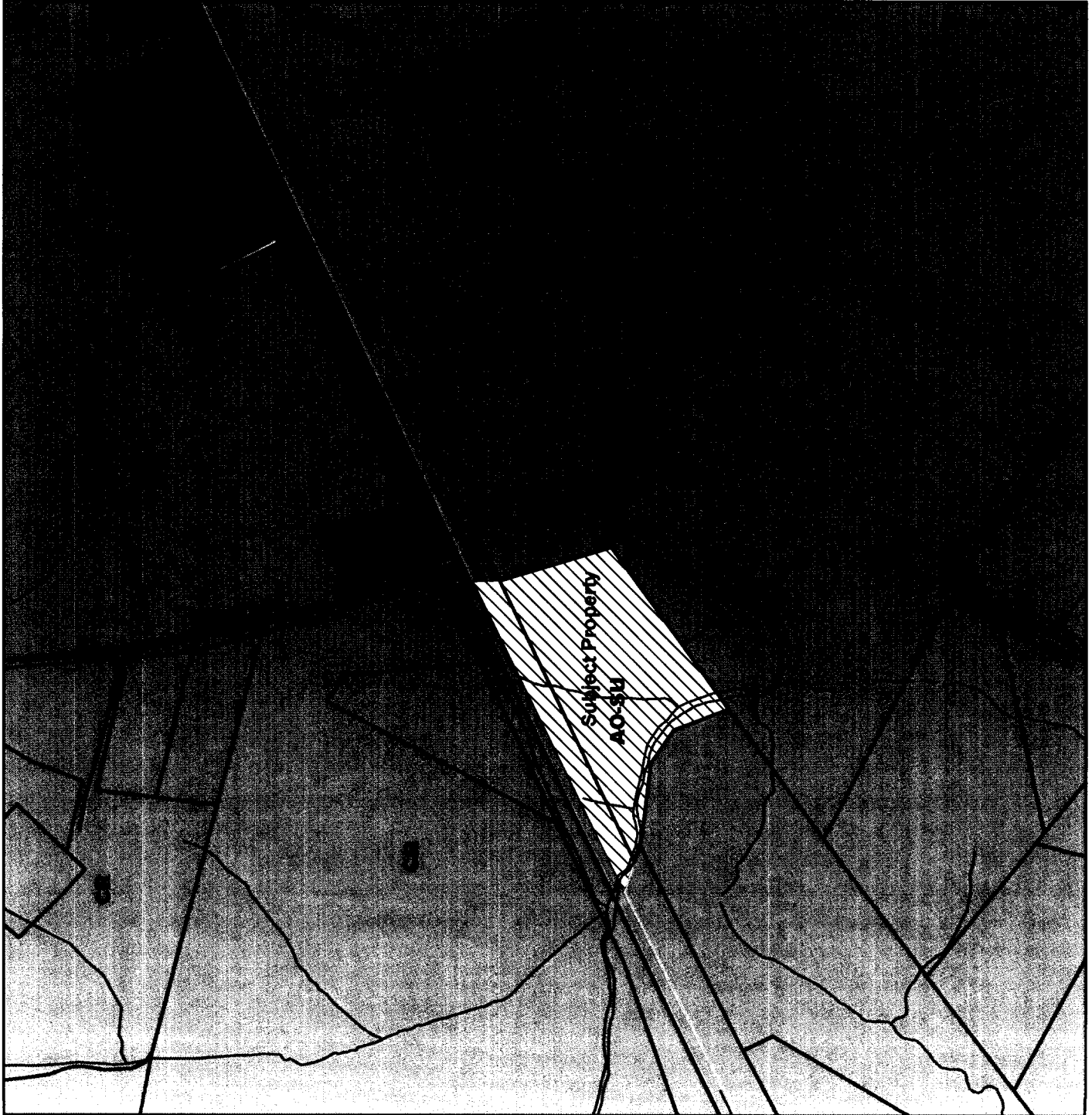
Applicant: Glenn Jones

Petition: C2007-06(R-SU)

Existing Zoning: AO-SU

Proposed Zoning: AO-SU

PIN#: 5660-13-8210



Cabarrus County shall not be held liable for any errors in these 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 Services
December 2007.



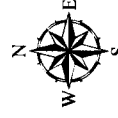
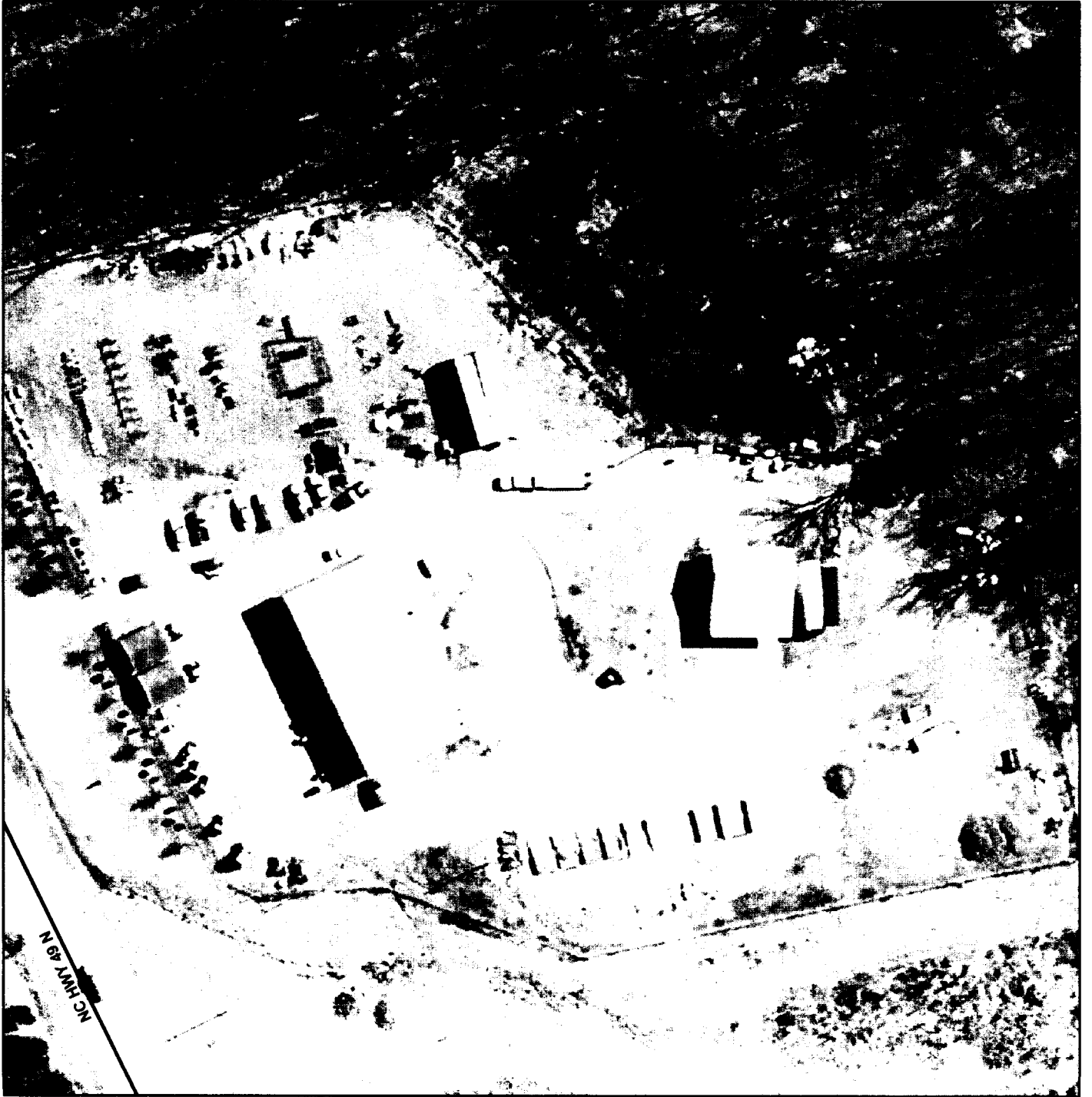
Applicant: Glenn Jones

Petition: C2007-06(R-SU)

Existing Zoning: AO-SU

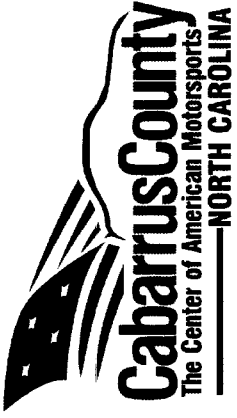
Proposed Zoning: AO-SU

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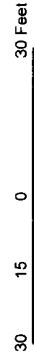
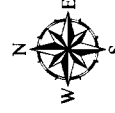
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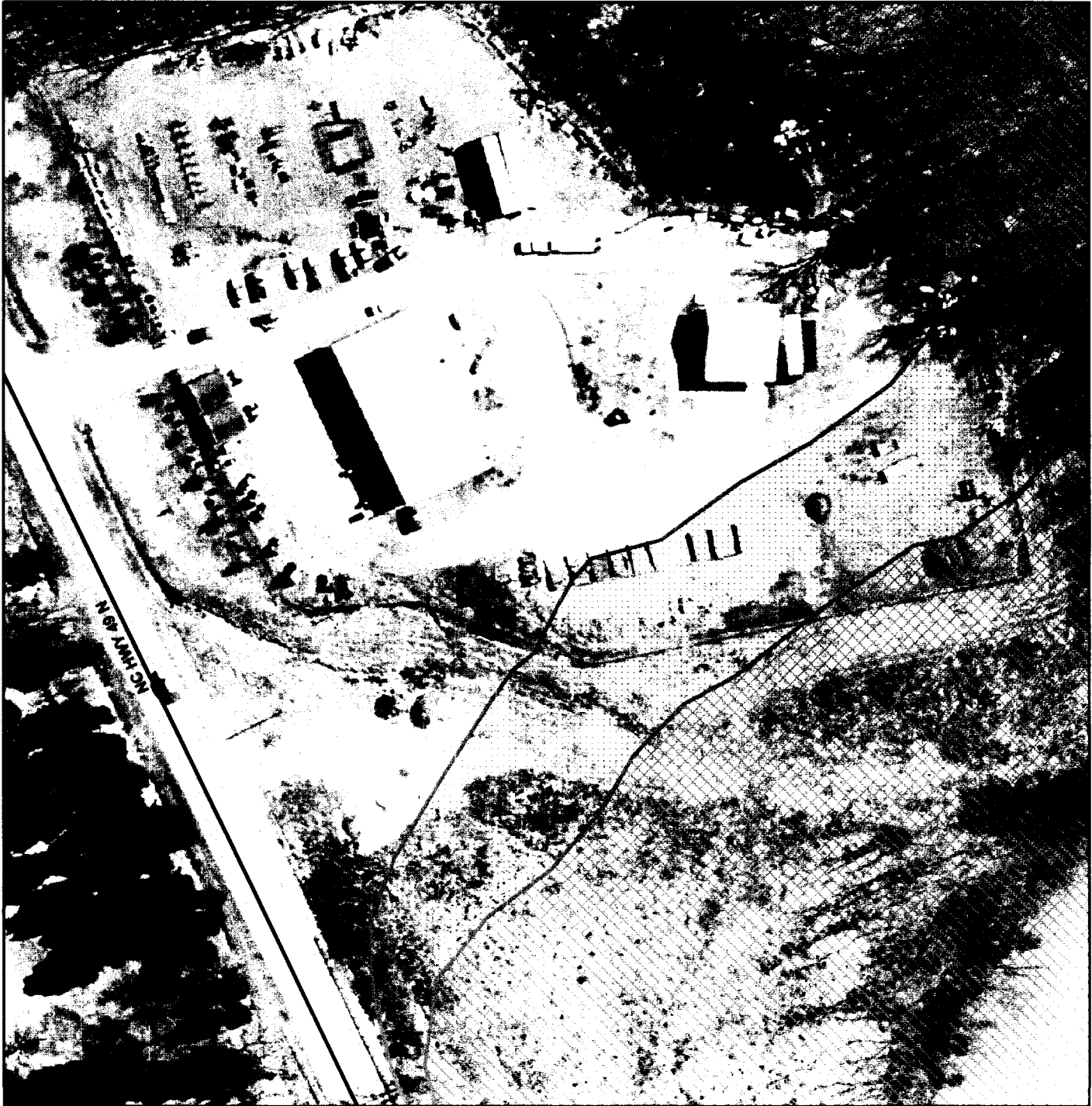
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Map Prepared by Cabarrus County Planning Services, December 2007.





Applicant: Glenn Jones
Petition: C2007-06(R-SU)
Existing Zoning: AO-SU
Proposed Zoning: AO-SU
PIN#: 5660-13-8210



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Map Prepared by Cabarrus County Planning Services,
December 2007.

ADJACENT PROPERTY OWNERS

OWNER'S NAME, ADDRESS (PIN#)

Ned C. Reece
1103 Rogers Lake Road
Kannapolis, NC 28081
(5660-13-1878, 5660-13-6780)

Carolyn M. Moose
2206 Murray Street
Newberry, SC 29108
(5660-23-2430)

George S. Moore &
Wife, Linda A. Moore
6150 Hwy 49 N
Mount Pleasant, NC 28124
(5660-02-9657)

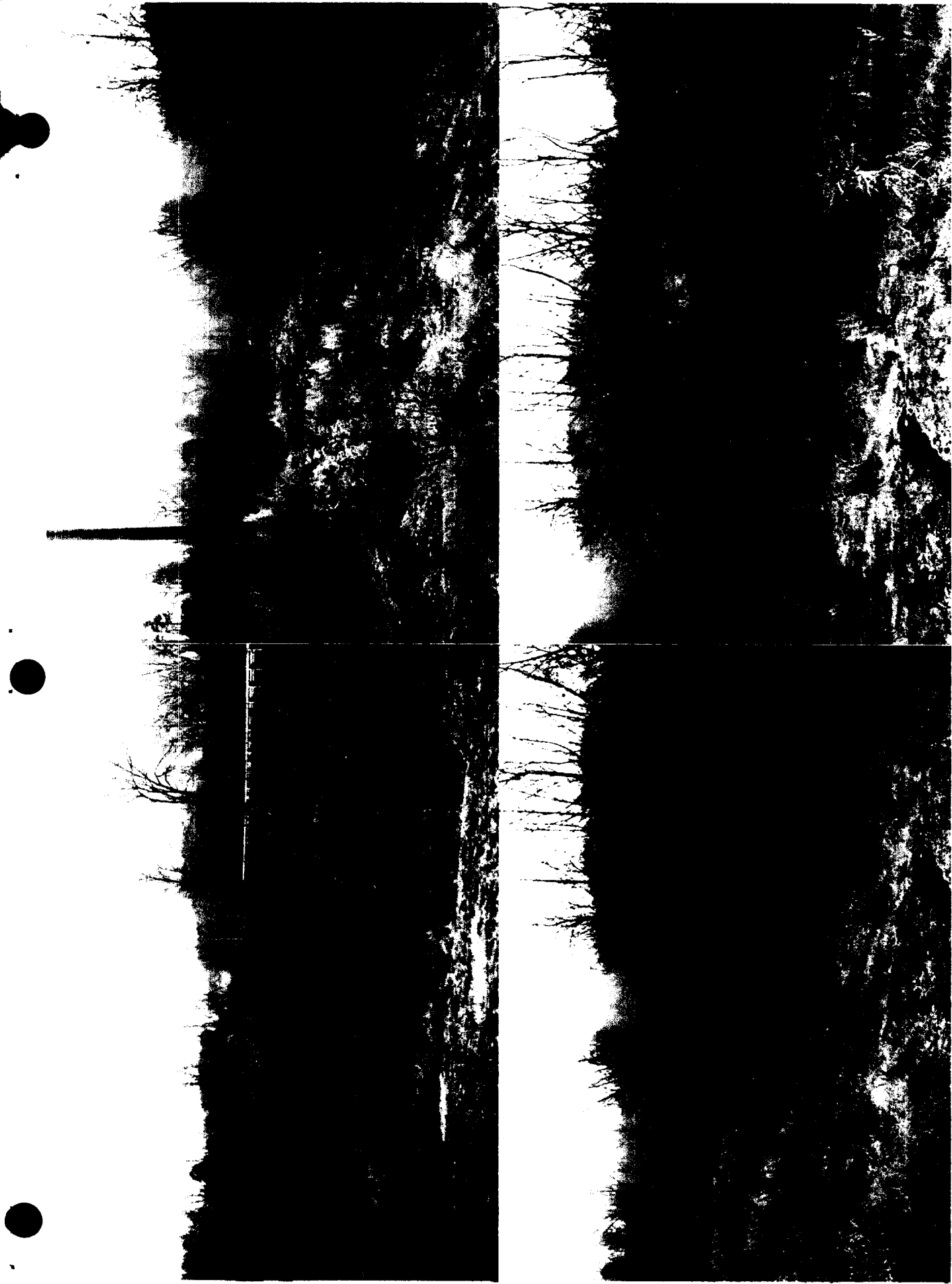
James Alan McCarty
6393 Deer Haven Drive
Mount Pleasant, NC 28124
(5660-12-8520)

Susan E. Schneider
6405 Deer Haven Drive
Mount Pleasant, NC 28124
(5660-22-3812)

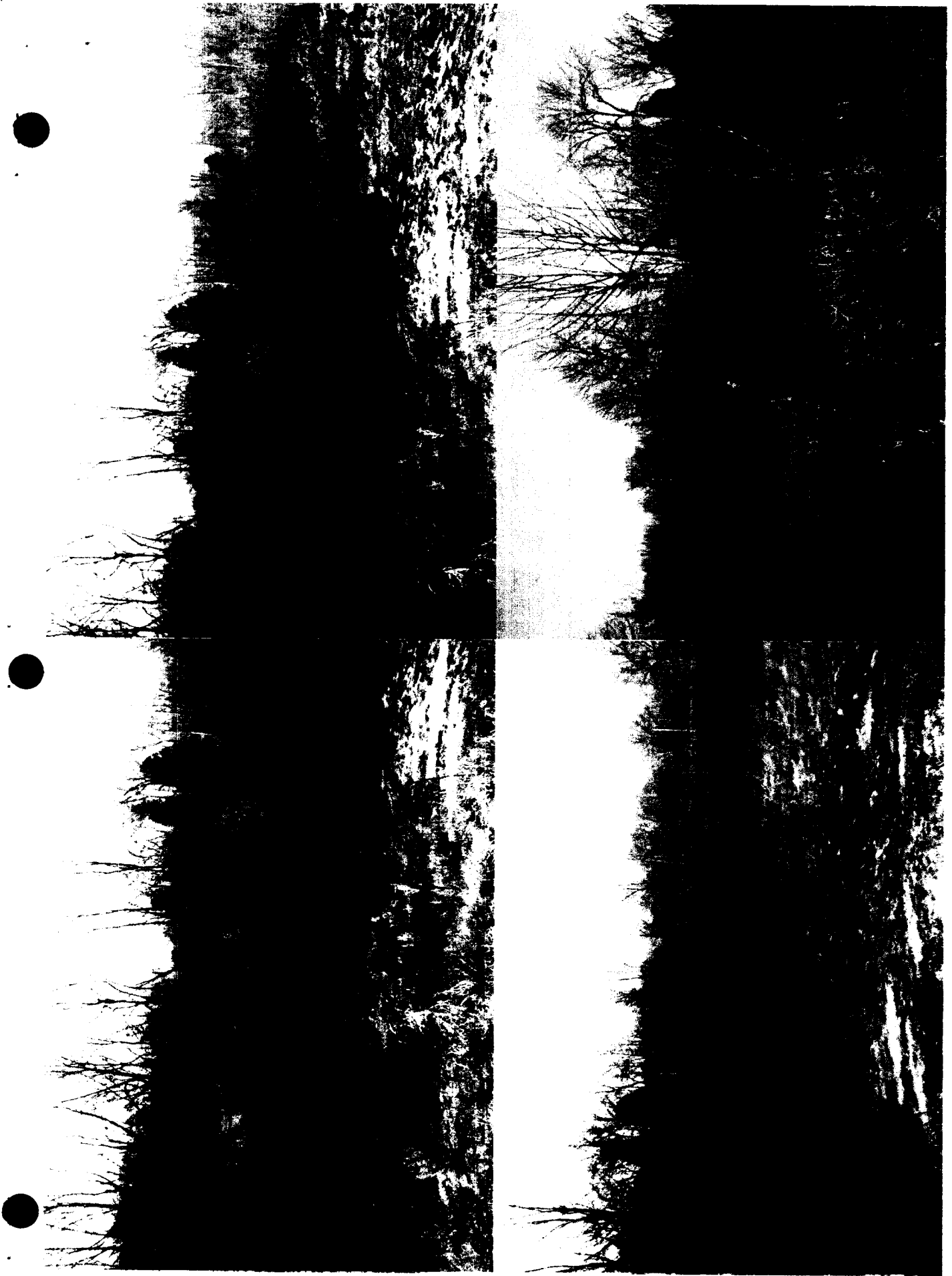


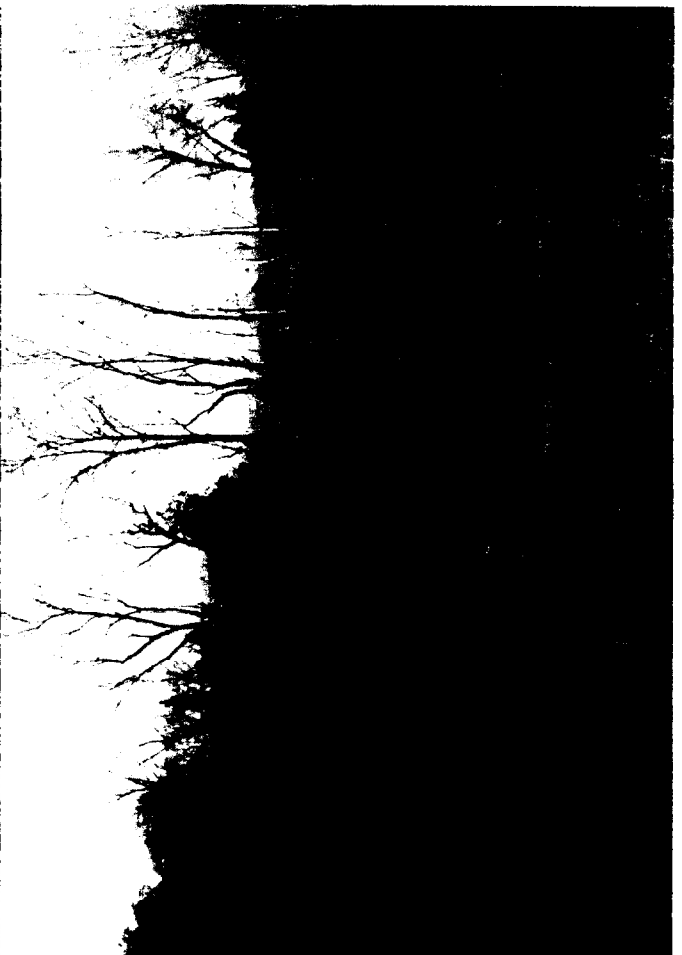
Site J - NC49/Mt. Pleasant Area

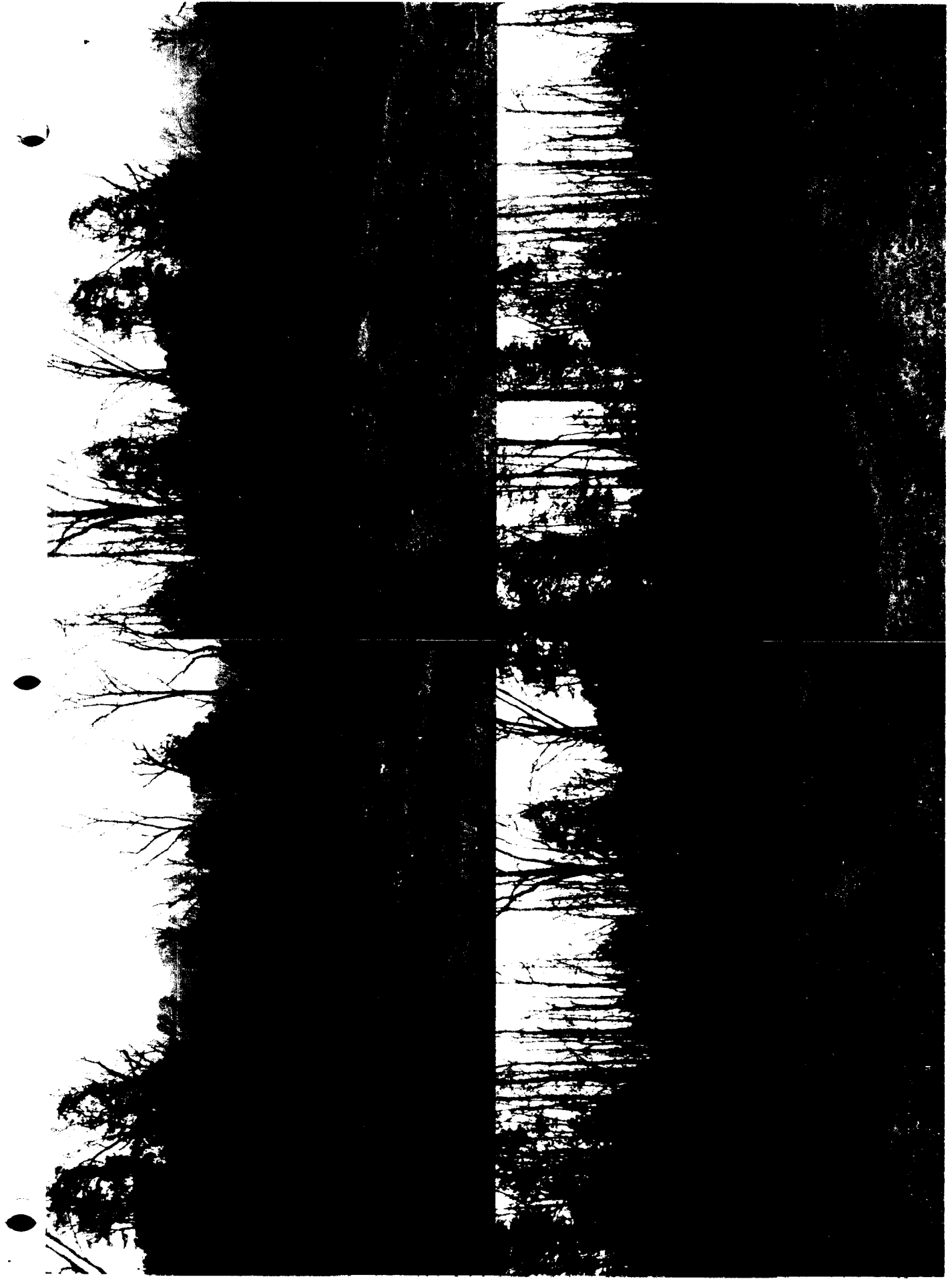
PARCEL	PROPERTY OWNER	ACRES	LAND VALUE	BLDG VALUE	TOTAL VALUE
120413	ARNOLD MARTHA CASWELL SMITH	21.01	127370.00	0.00	130590.00
120422	REECE NED C	64.07	223790.00	63840.00	288210.00
121381	DANGERFIELD WESLEY G	1.27	29080.00	65550.00	95300.00
121973	FOLEY ROBERT J	1.47	27660.00	101410.00	203820.00
122418	LITTLE VIRGINIA MCALLISTER	31.24	221560.00	156270.00	381480.00
123322	HEGELE ETHELYN C SMITH	41.25	211410.00	0.00	211410.00
123770	SMITH JACOB ARCHIE A JR	33.43	162820.00	133030.00	320540.00
125709	BEAM KENNETH W & WIFE	2.21	32990.00	85000.00	120990.00
125713	JONES GLENN T & WIFE	4.70	62290.00	0.00	62290.00
127127	REECE NED C	3.88	30540.00	0.00	30540.00
142125	COCHRANE STEVEN B & WILLA D	1.20	32000.00	111090.00	148980.00
143184	NOBLES JOHN RAY JR	2.35	585800.00	0.00	585800.00
153308	N C DEPT OF TRANSPORTATION	0.46	59500.00	0.00	59500.00
155076	ECB, LLC A NORTH CAROLINA LLC	81.70	609100.00	0.00	609100.00
TOTAL		290.25	\$2,415,910.00	\$716,190.00	\$3,248,550.00



PHOTOS NUMBERED IN BOTTOM LEFT CORNER
REF. SHEET A-004







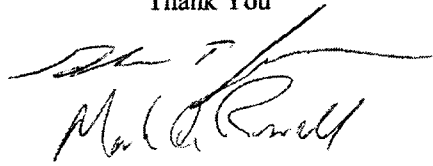
12/11/07

GMAX
704-785-8098

Ms. Watts,

Upon your request we would like to clarify that we will not be doing auto sales or have out side storage of parts and supplies.

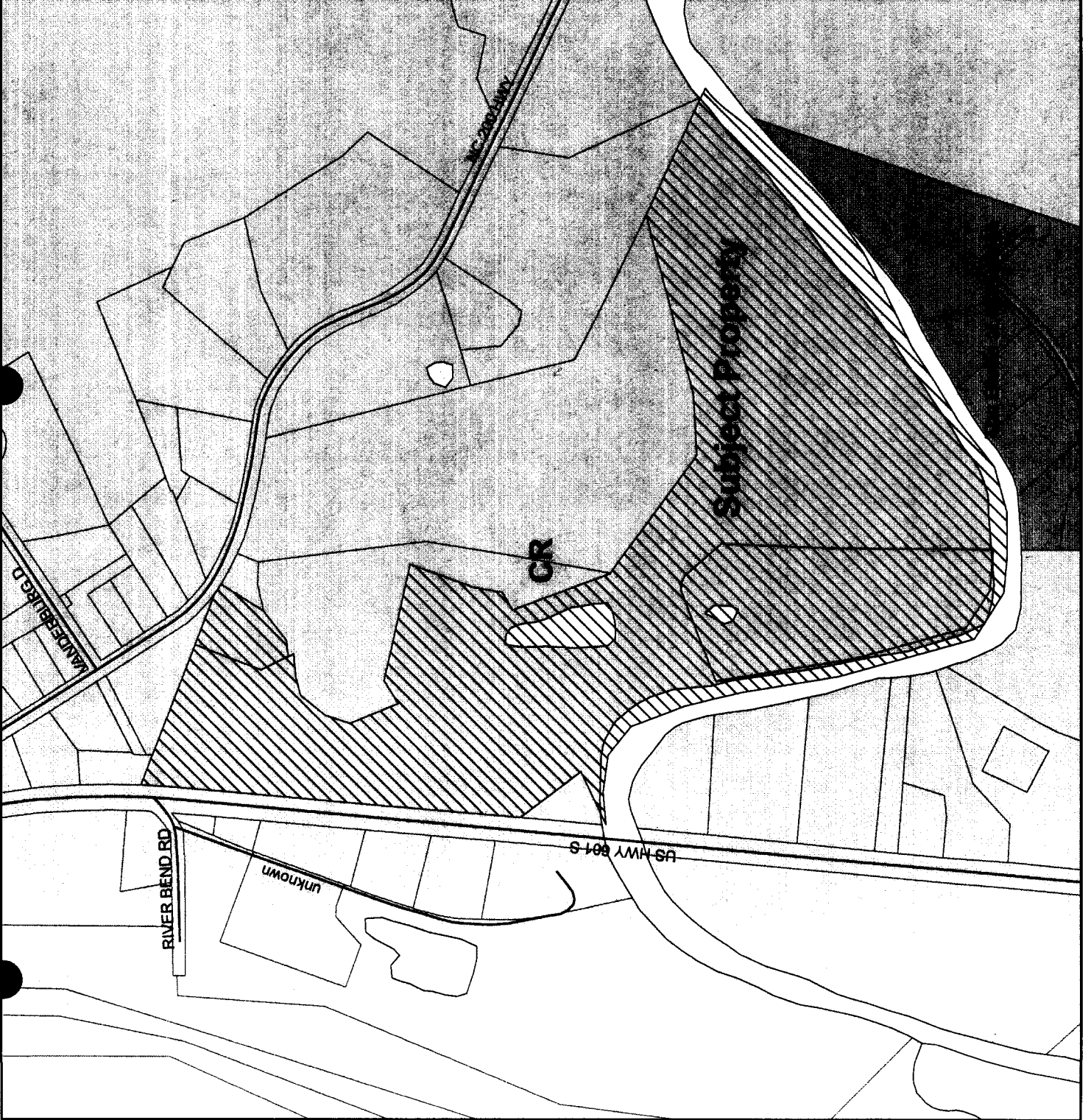
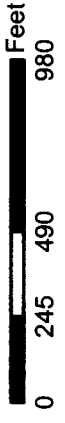
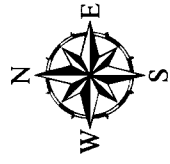
Thank You

A handwritten signature in black ink, appearing to read "Mark Rowell", with a large, sweeping flourish above the name.

Glenn Jones
Mark Rowell

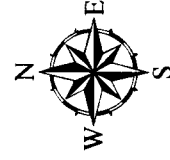


Riverbend Subdivision
Petition: C2007-08(S)
Petitioner: Greathorn Properties
Zoning: CR
Conventional Subdivision
Proposed 28 lots
Approximately +/- 79.754 acres





Riverbend Subdivision
Petition: C2007-08(S)
Petitioner: Greathorn Properties
Zoning: CR
Conventional Subdivision
Proposed 28 lots
Approximately +/- 79.754 acres



Arlena Roberts

From: Susie Morris
Sent: Thursday, December 13, 2007 3:24 PM
To: ✓ tberg@morrisberg.com; Barry.C.Shoemaker@pmusa.com; riverrund@aol.com; Danny Smith; Eugene Divine; Ian Prince; Rich Koch; Larry Griffin; teporter02@aol.com; Ted Klüttz; tberg@morrisberg.com; brenda e cook; 'dennisy@ycharch.com'; motorsports@ctc.net
Cc: Susie Morris; Arlena Roberts; Jay Lowe
Subject: Additional Information for Rezoning Case
Attachments: Memo for Clarence Allman.doc

Please let me know if you get this, we are having problems with our server.



Memo for Clarence
Allman.doc (...)

Good afternoon-

Attached you will find a memo describing the current violations on the subject property for the special use rezoning amendment case. Please add the memo to your information in your packets when you get it (they were sent out yesterday). As you will see, the last condition of the staff report discusses violations and ordinance compliance as a condition of the approval (if the Board chooses to approve the request). The memo describes the conditions that exist on the site that Zoning Enforcement Officer Lowe found when he investigated the site and the potential violations. If you have any questions or concerns about the existing site conditions or violations, feel free to call me or Jay.

Additionally, I will be unable to attend the meeting on the 20th, so if you have any questions about either case, feel free to call me or one of the other staff members prior to the meeting.

If I don't hear or see you before then, happy holidays!

Susie

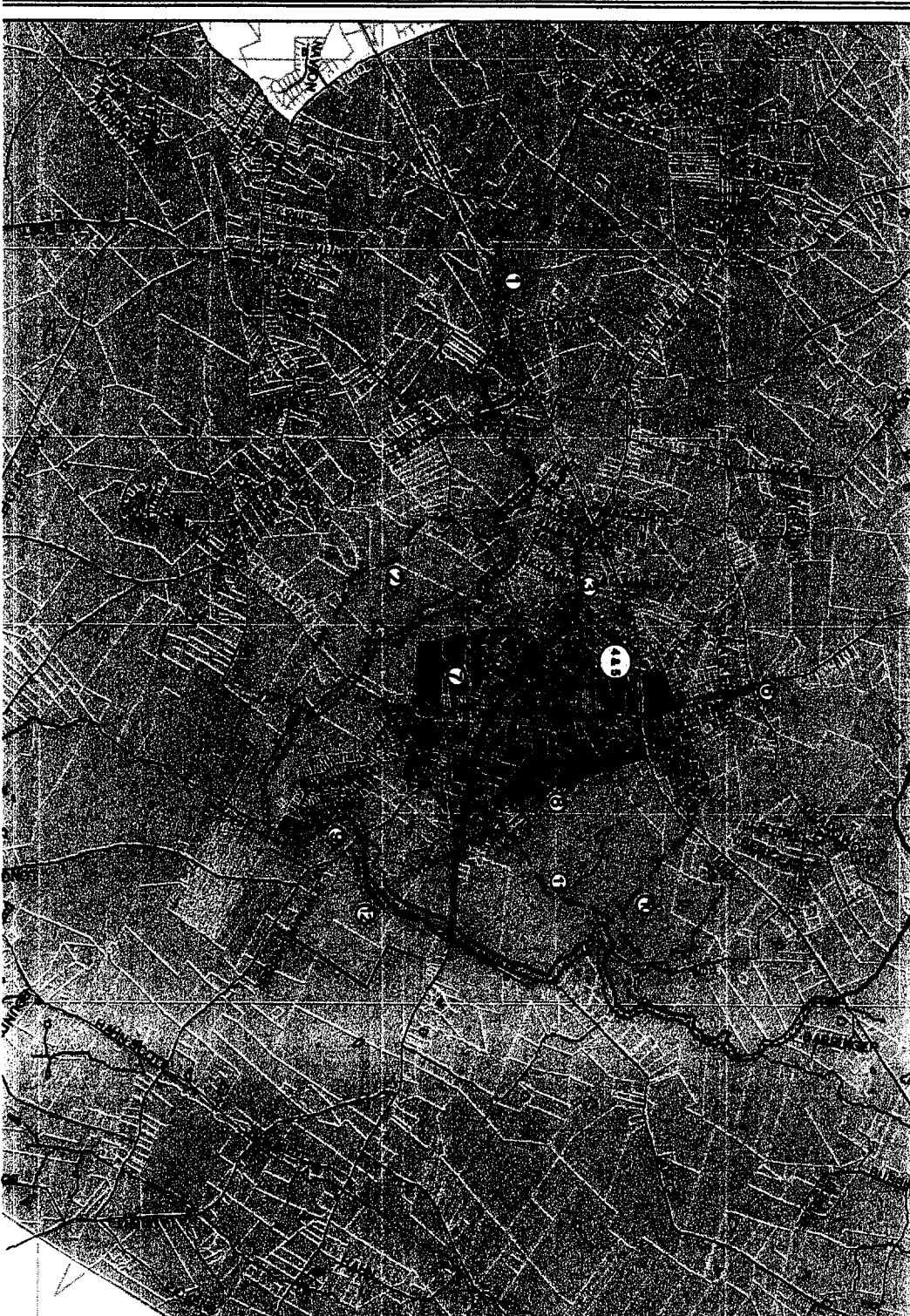
Memo

To: Susie A. Morris
From: Jay Lowe
Date: 12/17/2007
Re: Clarence Allman Inspection

On December 12, 2007 an on site inspection was performed at the property owned by Clarence Allman. The property's physical address is 6300 N.C. 49 Highway N., Mt. Pleasant, N.C. 28124.

The inspection confirmed that there were at least two Zoning violations on the property. They are as follows:

- Two large piles of scrap debris (pallets, tires, plastic, etc.) which need to be removed from the property per section 3-8 of the Cabarrus County Zoning Ordinance.
- Two tractor trailer units have been placed on the property for storage. These units were never permitted. Therefore, they must be removed from the property per section 12-3 of the Cabarrus County Zoning Ordinance.

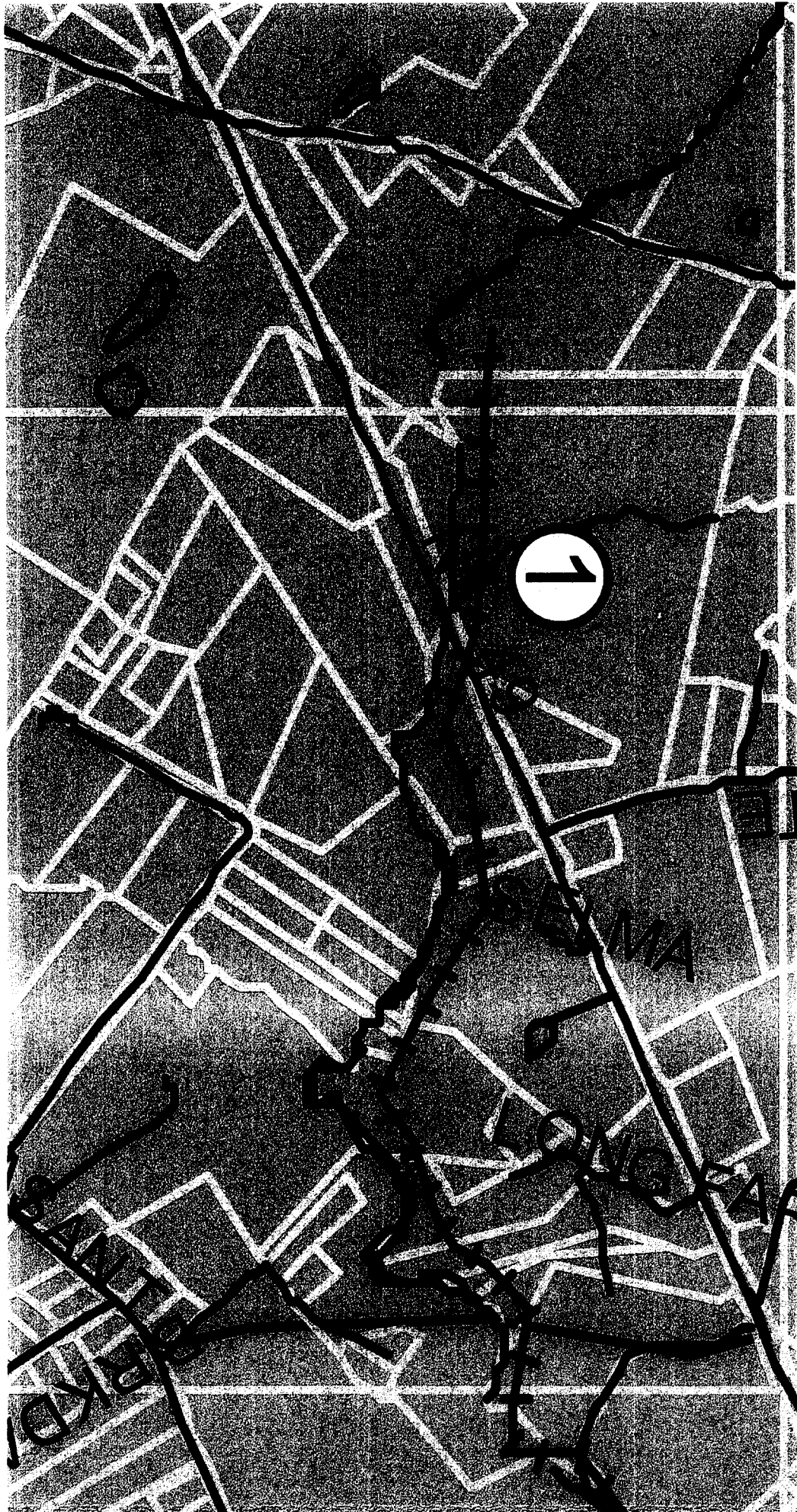


MT. PLEASANT TRANSPORTATION PLAN



1. East-West Greenway
2. Linkage of Mt Pleasant Rd W to Mt Pleasant Rd S
3. East-West Bike Lane
4. Proposed linkage of Wood Rd to Halifax St
5. Proposed Extension of Halifax St to Hwy 49
6. North-South Bike Lane
7. Linkage of Halifax St to Mt Pleasant Rd S
8. Extension of Klutz St to Preston Dr
9. North-South Greenway
10. Extension of North Dr
11. Extension of B St
12. Linkage of Bowman Barber Rd to Red Agn

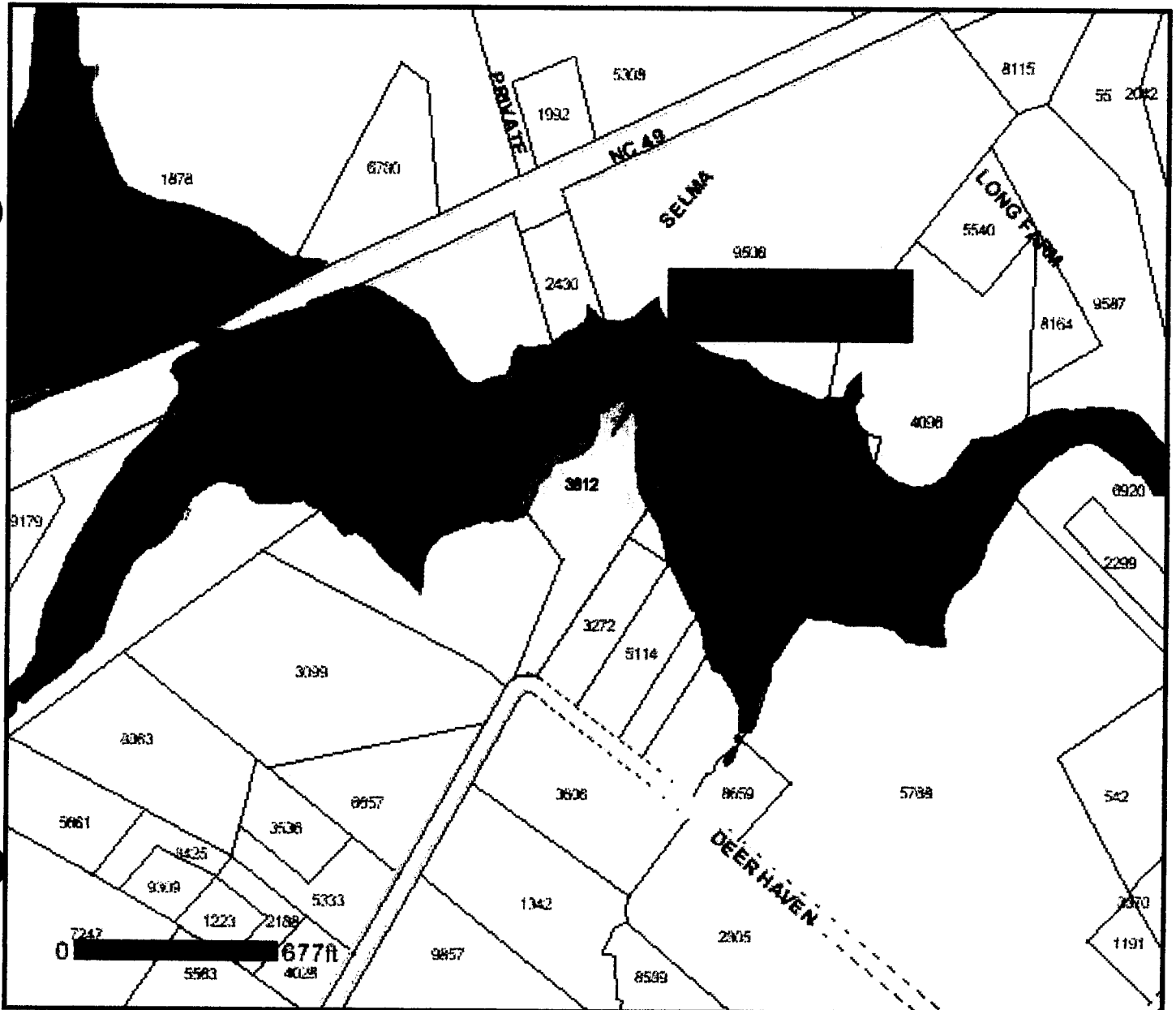




Flood Map

Borrower/Client Susan Schneider			
Property Address 6405 Deer Haven			
City Mt. Pleasant	County Cabarrus	State NC	Zip Code 28124-9666
Lender Susan Schneider			

37025C0095 D
November 2, 1994



Kassie Goodson Watts

Condition #6

From: Matt Weiss [MWeiss@nee-pa.com]
Sent: Tuesday, February 12, 2008 2:51 PM
To: Kassie Goodson Watts
Subject: FW: Riverbend Subdivision

Please read the email below for response to ACOE.

From: Tamp Bandy [mailto:tamp@wetland-consultants.com]
Sent: Friday, January 11, 2008 8:58 AM
To: 'John Robbins'
Cc: Matt Weiss
Subject: FW: Riverbend Subdivision

I spoke to Amanda about the project and she is okay, so long as the impacts are completed prior to March 18th. See email response below.

Best regards,

Tamp Bandy
828-302-3437

++++
Notice: This e-mail (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. Â§Â§ 2510-2521, is confidential and may be legally privileged. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, or copying of this communication is strictly prohibited. Please reply to the sender that you have received the message in error, then delete it. Thank you.
++++

From: Jones, Amanda D SAW [mailto:Amanda.D.Jones@saw02.usace.army.mil]
Sent: Thursday, December 20, 2007 4:20 PM
To: Tamp Bandy
Subject: RE: Riverbend Subdivision

The work is considered grandfathered and should be completed by March 18, 2008.

*Amanda Jones
Regulatory Project Manager
US Army Corps of Engineers
Asheville Regulatory Field Office
151 Patton Avenue, Room 208
Asheville, NC 28801-5006
office: (828)-271-7980 x.231
fax: (828)-281-8120
web: <http://www.saw.usace.army.mil/wetlands/>*

From: Tamp Bandy [mailto:tamp@wetland-consultants.com]
Sent: Thursday, December 20, 2007 3:29 PM

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
Thursday, December 20, 2007

Petition: C2007-08 (S) Preliminary Plat Approval

Subdivision Name: Riverbend

Subdivision Type: Conventional Residential Subdivision

Applicant Information: Greathorn Properties
1255 Odell School Road
Concord, NC 28029

Zoning: CR – Countryside Residential
Prior to the July 2005 county-wide rezoning, the property was zoned: LDR – Low Density Residential

Township: Number 11 – Central Cabarrus

Property Location: Subject properties are located off of Highway 601

PIN#: 5547-85-8671, 5547-86-4896, and 5547-87-8815

Proposed Lots: 28

Proposed Density: 0.351 units per acre

Area in Acres: +/- 79.754 acres

Site Description: The subject property is currently vacant (wooded)

Adjacent Land Uses: The surrounding properties to the North, East, and West have been developed as single family residential uses. The property to the south, across Rocky River, is being developed as the Bluffs at Mill Ridge Subdivision.

Surrounding Zoning: North: CR – Countryside Residential
South: CR – Countryside Residential
East: CR – Countryside Residential
West: CR – Countryside Residential

Infrastructure: Each lot will be served by a private well & septic system.

Exhibits: 1. Site Map – submitted by Staff

2. Preliminary Plat – submitted by Applicant
3. School Adequacy Worksheet – submitted by Robert Kluttz
4. General Permit (Regional & Nationwide) Verification – U.S. Army Corps of Engineers
5. Letter from Health Alliance – Mark Troutman
6. Comments from Cabarrus Soil and Water Conservation District – Dennis Testerman

Intent of Zoning:

Parcels of land in the CR district have a strong rural, pastoral feel. Natural environmental elements such as tree lines, small ponds, rock formations, and manmade elements such as pasture fencing are to be retained, if at all possible. Although the area is capable of handling higher densities of development, development is kept at very low overall densities. Development includes only the standard single family detached dwelling. The site sensitive design concept is carried out through performance based standards on residential development with the technique of "clustering". In general, clustering is an arrangement of physical structures on land with an emphasis on retaining natural areas as open space. It is the primary way in which development can be successfully blended into the rural landscape.

Code Considerations:

The CR-Countryside Residential district is a low density residential zoning district. The Riverbend Subdivision is designed as a conventional subdivision. Conventional subdivisions are not required to provide open space. Development standards are:

- Principal Setbacks
 - Front- 50 feet
 - Side (single)- 10 feet
 - Side (total)- 40 feet
 - Rear- 30 feet
- Accessory Structures
 - Can not exceed the height of the primary structure
 - If less than 15' in height:
 - Front- Same as the principal structure
 - Side- Same as principal structure
 - Rear - 5 feet
 - If more than 15' in height:
 - All setbacks are the same as the principal structure
- Minimum average lot width- 150 feet
- Maximum building height- 40'

- Maximum impermeable surface- 20%
- Maximum structural coverage- 15%

Land Use Plan:

The City of Concord Land use plan, adopted June 8, 2004, designates this property as Open Space Preservation on the Future Land Use map. It further states that staff should work with property owners and developers to encourage the preservation of open space by developing according to the subdivision options provided in the zoning ordinance and limiting density. Density limitations are the most frequently used technique employed to preserve open space. The Concord Land Use Plan cites the Eastern Area Plan of Cabarrus County and the rate of one unit per acre, when subject properties are not served by a governmental utility system.

The 1997 Midland Area Land Use Plan designates this property: Rural Residential/Agricultural. These areas experience little development pressure and have neither the infrastructure nor plans for developing the infrastructure to support dense residential development. It is suggested by the Land Use Plan that parcels in this designation remain much as they are now: agricultural, forested lands, and low density residential. Housing densities of no more than one unit per acre should be allowed, however overall intensities are expected to be much lower, around one unit per ten acres, due to soil and terrain constraints.

Adequate Public Facilities:

Cabarrus County Schools- Robert Kluttz:

- Schools that serve this area are inadequate at this time. Please see attached school adequacy worksheet for details.

Soil and Erosion Control- Thomas Smith:

- The applicant will be required to resubmit soil and erosion plans before commencing any land disturbing activities. Presently, these plans have been disapproved.

NCDOT- Leah Wagner:

- All lots are to be served internally.
- A performance bond shall be posted to cover the required roadway improvements.
- NCDOT reserves the right to modify comments pending subsequent plan submittal and review.

Cabarrus County Fire Marshal – Steve Langer:

- If the subdivision is to be gated, then the subdivision will need to

- meet requirements of Appendix D of the fire code.
- Only one access is required at this subdivision

WSACC- Tom Bach:

- No specific comments, since the development will be served by wells & septic service.

Cabarrus County Emergency Services – David Hampton

- No comments

Cabarrus County Sheriffs Department – Ray Gilleland

- No comments

Cabarrus County Soil Conservation – Dennis Testerman

- See attachment – Exhibit Six (Comments from Cabarrus Soil and Water Conservation District)

Alley, Williams, Carmen, & King – Jeff Moody

- No comments

Cabarrus County Health Department – Ken Hinson

- No comments

City of Concord Engineering – Adam Dagenhart

- No comments

Staff Analysis:

Staff finds that the proposed subdivision meets the development standards of the Cabarrus County Subdivision Ordinance and the Cabarrus County Zoning Ordinance.

Staff Recommendation:

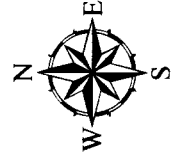
Should the Planning Commission grant approval of the subdivision, staff requests that the following conditions be applied as part of the approval:

1. The developer shall enter into a Consent Agreement with the Cabarrus County Board of Commissioners to address school adequacy. (Schools/APFO)
2. The developer must obtain an NCDOT driveway permit and must post a performance bond to cover roadway improvements. The driveway permit will not be issued until all right of ways are in place. (NCDOT/APFO)
3. The developer agrees to meet anti-monotony standards and shall submit sample elevations of proposed homes prior to the start of the final platting process. In addition, applicant will work with Planning & Zoning Services to provide an architectural inventory for permitting purposes. (PLANNING)

4. Developer agrees to secure any necessary permits required by Federal or State law prior to disturbing any wetlands on the site. (STAFF/APPLICANT)
5. All lots must be served internally. (NCDOT)
6. The U.S. Army Corps of Engineers permit allows 145 feet of stream disturbance. Due to ingress/egress issues on Lot Seven (7), twenty (20) feet of the stream disturbance allotment will be relocated. The applicant shall submit a copy of the revised permit prior to any final plat approval. (PLANNING)
7. NC form GW-30 must be filed with the Groundwater Section of the North Carolina Department of Environment and Natural Resources for abandonment of any wells on site. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)
8. The on-site wastewater system associated with the abandoned homestead is required to be decommissioned according to procedures recommended by Cabarrus Health Alliance. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)
9. Permits for the disturbance of streams and other wetlands must be requested from the North Carolina Division of Water Quality and U.S. Army Corps of Engineers prior to any impacts. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)
10. Applicant shall provide a conservation easement on all open space as requested by Cabarrus Soil and Water Conservation District as part of the countywide open space initiative supported by the City of Concord. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)



Riverbend Subdivision
Petition: C2007-08(S)
Petitioner: Greathorn Properties
Zoning: CR
Conventional Subdivision
Proposed 28 lots
Approximately +/- 79.754 acres



Adequate Public Facility Worksheet – Schools

Please fill out the following questionnaire regarding the preliminary plat for the **Riverbend Subdivision**. This preliminary plat has 28 lots and is located at the off U. S. Highway 601 near the intersection with NC Highway 200. Your response is required by Monday, April 30, 2007 for inclusion in the staff report. It is our understanding that this subdivision will be heard by the Planning and Zoning Commission on May 17, 2007.

Please see the enclosed proposed preliminary plat for location and information regarding the proposed development. If you need additional information for this project please contact **Kassie G. Watts @ 704-920-2191 or email kassieg@cabarruscounty.us.**

Questions

1. At present students from the proposed development would attend the following schools:

Elementary - A. T. Allen

Middle - C. C. Griffin

High - Central Cabarrus

2. Using the most recent attendance figures, these schools are at what percent of their stated capacity? 5th Mon. Feb. 7, 2007.

Elementary - 92.06%

Middle - 119.64%

High - 136.26%

3. How many students are expected from this development?

Based on 28 lots

Elementary - 8

Middle - 4

High - 4

4. Including previously approved subdivisions these schools will be at what percent of their stated capacity when the proposed development is completed?

Elementary - *92.06 %

*Note: All new subdivisions in the A. T. Allen attendance area have been satellited to Bethel. Therefore, the enrollment at A. T. Allen should remain constant.

Middle - 191.47%

High - **139.15 %

**Note: The enrollment at CCHS is projected to increase with approved lots in the inventory even with the opening of Hickory Ridge HS in Aug. 2007

5. The schools currently available in this area can or cannot accommodate the additional students expected from this development? **(if the answer above is "can", please stop here)**
6. If this development cannot be served by existing schools, are any steps planned within the next two years to address this service delivery issue? Yes / No. If yes, please describe the steps that will be taken (use an additional sheet if necessary). Are these changes in an adopted capital improvement plan or has funding been identified?

Note: Hickory Ridge High School projected to open in August 2007 will provide relief at Central Cabarrus High School. Funding for this school was approved in the 2004 School Bond.

15-Year Facilities Plan includes a new elementary school in 2008 southeast of Rocky River Elementary if the Grace site is finalized and another one in 2009 south of Harrisburg. Also, the A. T. Allen replacement school is proposed for 2008. These schools would relieve A. T. Allen, Bethel, Harrisburg, and Rocky River. A new middle school is included in the plan for 2008 south of Harrisburg that would relieve C. C. Griffin, J. N. Fries, and Mt. Pleasant.

7. If there are not plans for new school facilities in the next two years, please describe the additional resources required to adequately serve the proposed development (attach an additional sheet if necessary)?

Additional capital funding needed to acquire land and the construction of the A. T. Allen replacement school, two new elementary schools, and a new middle south of Harrisburg mentioned in question 6.

8. Are the improvements described in question 7 above included in an adopted capital improvement plan or has funding been identified? Yes / No

The schools mentioned in question 7 have been included in the Revised 15-Year Facilities Plan presented to the BOE on February 22, 2007 as information. **Funding has not been identified for these projects nor has land been secured.**

This form was completed by: Robert C. Klutz Date: April 27, 2007.

**U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT**

Action ID: SAW-2006-40613-313 County: Cabarrus USGS Quad: Concord SE

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner / Authorized Agent: Greathorn Properties / Attn: John Robbins

Address: 1255 Odell School Road
Concord, NC 28027

Telephone No.: 704-906-3808

Size and location of property (water body, road name/number, town, etc.): The site is located on the east side of NC Hwy 601, approximately 1/4 mile south of NC Hwy 200, near Concord, Cabarrus County, North Carolina.

Description of projects area and activity: This permit authorizes installation of culverts and placement of fill associated with a residential development. Impacts authorized by this permit are 0.09 acre of wetlands, 145 linear feet of stream channel, and 0.32 acre of open water.

Applicable Law: Section 404 (Clean Water Act, 33 USC 1344)
 Section 10 (Rivers and Harbors Act, 33 USC 403)

Authorization: Regional General Permit Number: _____
Nationalwide Permit Number: 39

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached Nationwide conditions and your submitted plans. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order and/or appropriate legal action.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. If prior to the expiration date identified below, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all new and/or modified terms and conditions. The District Engineer may, at any time, exercise his discretionary authority to modify, suspend, or revoke a case specific activity's authorization under and NWP.

Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Quality (telephone (919) 733-1786) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management.

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact Amanda Jones at 828-271-7980 x231.

Corps Regulatory Official Amanda Jones
Expiration Date of Verification: March 18, 2007

Date: October 23, 2006

CF: WNR, Attn: Pamela Bowman, P.O. Box 224, Newton, NC 28658

Kassie Goodson Watts

From: Mark D Thompson [MDThompson@CabarrusHealth.org]
Sent: Tuesday, December 04, 2007 4:26 PM
To: Kassie Goodson Watts
Subject: [text][heur] SOIL EVALUATIONS AT RIVERBEND SUBDIVISION

CABARRUS COUNTY PLANNING AND ZONING BOARD

To Whom It May Concern:

The Cabarrus Health Alliance has been working with John Robbins and his consultants to determine soil suitability for septic tank systems to serve a twenty-eight lot subdivision located east of Hwy 601 South and north of Rocky River known as Riverbend Subdivision.

At this time, an area has been located for each of the twenty-eight proposed residential lots.

Permits will not be issued until some additional work is completed by the applicant. Additional work includes: plat approval, irons set, easement areas recorded, etc.

If I can be of any assistance please feel free to contact me at (704) 920-1266.

Sincerely,

Mark D. Thompson, R.S.
Environmental Health Specialist

Cabarrus Health Alliance
1307 S. Cannon Blvd.
Kannapolis, N.C. 28083

DISCLAIMER: Email correspondence to and from this address may be subject to North Carolina public records law and/or may be confidential under HIPAA regulations.

Cabarrus Soil and Water Conservation District
715 Cabarrus Avenue, West
Concord, N. C. 28027-6214
(704) 920-3300

MEMORANDUM

TO: Kassie Goodson Watts, Cabarrus Co. Commerce Dept.

THROUGH: Ned Y. Hudson, Chair David Settlemyer, Chair
Board of Supervisors Watershed Improvement Commission

FROM: Dennis Testerman, Resource Conservation Specialist

COPIES: Susie Morris, Cabarrus County Commerce Department—Planning
 Thomas Smith, Cabarrus County Commerce Department—Erosion Control
 Tony Johnson, Cabarrus County Commerce Department—Erosion Control
 Robbie Foxx, Cabarrus County Commerce Department—Zoning
 Jay Lowe, Cabarrus County Commerce Department—Zoning
 Rick Payne, Cabarrus County—Solid Waste
 Robert Ward, County Ranger, NCDENR Div. of Forest Resources
 Theresa Bradford, NCDENR Div. of Solid Waste, Mooresville Regional Office
 Peggy Finley, NCDENR, DWQ—Aquifer Protection Sect./Groundwater, Mooresville Regional Office
 Alan Johnson, NCDENR, Div. of Water Quality, Mooresville Regional Office
 Cyndi Karoly, NCDENR, Div. of Water Quality, Wetlands Unit, Raleigh
 Robin Dolin, NCDENR, Ecosystem Enhancement Program
 Ron Linville, NCDENR, Wildlife Resources Commission-Habitat Conservation Prog., W-S Reg. Office
 Steve Lund, US Army Corps of Engineers, Asheville Regulatory Field Office
 Nancy White, USDA-FSA, Cabarrus-Mecklenburg Service Center Office
 Nathan Lowder, USDA-NRCS, Concord Field Office

NAME OF PRELIMINARY PLAT: Riverbend Subdivision **PLAN TYPE:** Residential **JURISDICTION:** County

LOCATION: NC 200 & US 601 S **ZONING:** CR

OWNER: John Robbins, Greathorn Properties, Inc., 1255 Odell School Road, Concord, NC 28027

DEVELOPER: John Robbins, Greathorn Properties, Inc., 1255 Odell School Road, Concord, NC 28027

DESIGN CONSULTANT: Northeast Engineering, PO Box 931, 37 Union St. S, Ste D, Concord, NC 28026-0931; 704-788-6372

DATE SUBMITTED: 11/17/07 (orig. 4/24/2007; ESC Plan on 7/31/07) **DATE REVIEWED:** 12/11/07 (orig. 5/2/07; ESC plan on 8/8/07)

PARCEL #: 5547858671, 5547864896, 5547878815 **TRACT#:** 2007-50 **ACRES:** 79.8

USGS TOPO QUAD MAP: Concord **LATITUDE/LONGITUDE:** 35° 19.38'N, 80° 30.73'W

RECEIVING WATERS: Rocky River **WATERSHED:** HU 03040105020020 (DB-3)

PERENNIAL OR INTERMITTENT STREAMS PRESENT: Yes No

SOIL TYPE(S): Altavista sandy loam (AaB), Chewacla sandy loam (Ch), Cullen clay loam (CuB2), Hiwassee clay loam (HwB, HwD), Mecklenburg loam (MeB, MeD), Poindexter loam (PoF)

HYDRIC SOILS: Yes *as possible inclusions in AaB & Ch No

THE FOLLOWING CHECKED ITEMS ARE MISSING FROM OUR COPY OF THE PLAN—PLEASE SUBMIT:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Location of existing structures and trees | <input checked="" type="checkbox"/> Open space covenant document |
| <input checked="" type="checkbox"/> Start & Completion Dates | <input checked="" type="checkbox"/> Environmental reviews |
| <input checked="" type="checkbox"/> Soil Type(s) | <input checked="" type="checkbox"/> 401/404 wetland permits |

ONSITE INSPECTION: Yes (5/2/07) No

PLAN COMMENTS:

- Pre-submittal meeting between developer and/or designer and reviewers is highly recommended, preferably onsite.
- River Stream Overlay District Zone on Rocky River is marked as required by Cabarrus County Ordinance and permit CESA-W-CO88-N-013-0061 issued under Section 404 of the U. S. Clean Water Act (33 U.S.C. 1413) by the US Army Corps of Engineers. However, the RSOZ is inside the 100-year floodplain and therefore will not filter pollutants from stormwater runoff during 100-year flood events. The developer should check with Cabarrus County Commerce Department—Planning.
- Platting of individual lots to edge of stream is discouraged. River Stream Overlay Zone and floodplain should be managed as one common land unit under a conservation plan. See additional comments below about conservation easements.
- Impacts of stormwater from this proposed project on water quality and water quantity have not been assessed. Cities of Concord and Kannapolis have applied to the NC Div. of Water Resources for an interbasin transfer of water certificate. Other jurisdictions receiving water from these municipalities are bound by the conditions of IBT certificate's drought management plan. Under this certificate, stream buffers will be determined by a qualified professional to ensure proper application of stream buffer rules.
- Unless developer has prior authorization from appropriate federal and state authorities to impact jurisdictional waters or wetlands, the proposed project will be in violation federal and/or state law. Permits for disturbance of streams and other wetlands must be requested from N. C. Division of Water Quality and U. S. Army Corps of Engineers prior to any impacts.
- The proposed site drains to a stream—Rocky River—which is included on the federal Clean Water Act (CWA) Section 303(d) list of waters not meeting water quality standards or which have impaired uses. This impairment is likely the result in part of development activities that have already taken place in the Rocky River watershed.
- This project is within a hydrological unit (HU) included in the North Carolina Ecosystem Enhancement Program's Upper Rocky River Watershed Plan area. Every effort should be made to use best management practices to prevent water quality impairment. The erosion and sedimentation control plan for this site should be followed closely once it has been submitted and approved.
- Cumulative and secondary impacts associated with this proposed development are not known and should be assessed prior to final plan approval.
- The information in this table indicates the dominant soil condition, but does not eliminate the need for onsite investigation. The numbers in the value column range from 0.01 to 1.00. The larger the value, the greater the potential limitation. Limiting features in this report are limited to the top 5 limitations. Additional limitations may exist.

Map Symbol	Soil Name	Dwellings without Basements	Dwellings with Basements	Small Commercial Buildings	Local Roads and Streets	Shallow Excavations	Lawns and Landscaping
		Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value
AaB	Altavista	Very limited Flooding - 1 Depth to saturated zone - 0.39	Very limited Flooding - 1 Depth to saturated zone - 1	Very limited Flooding - 1 Depth to saturated zone - 0.39	Somewhat limited Low strength - 0.78 Flooding - 0.4 Depth to saturated zone - 0.19	Very limited Depth to saturated zone - 1 Cutbanks cave - 1	Somewhat limited Depth to saturated zone - 0.19
Ch	Chewacla	Very limited Flooding - 1 Depth to saturated zone - 1	Very limited Flooding - 1 Depth to saturated zone - 1	Very limited Flooding - 1 Depth to saturated zone - 1	Very limited Flooding - 1 Depth to saturated zone - 0.94	Very limited Depth to saturated zone - 1 Flooding - 0.8 Cutbanks cave - 0.1	Very limited Flooding - 1 Depth to saturated zone - 0.94
CuB2	Cullen	Somewhat limited Shrink-swell - 0.5	Somewhat limited Shrink-swell - 0.5	Somewhat limited Shrink-swell - 0.5 Slope - 0.13	Somewhat limited Shrink-swell - 0.5 Low strength - 0	Somewhat limited Too clayey - 0.72 Cutbanks cave - 0.1	Not limited
HwB	Hiwassee	Not limited	Not limited	Somewhat limited Slope - 0.13	Somewhat limited Low strength - 0	Somewhat limited Too clayey - 0.28 Cutbanks cave - 0.1	Not limited
HwD	Hiwassee	Somewhat limited Slope - 0.63	Somewhat limited Slope - 0.63	Very limited Slope - 1	Somewhat limited Slope - 0.63 Low strength - 0	Somewhat limited Slope - 0.63 Too clayey - 0.28 Cutbanks cave - 0.1	Somewhat limited Slope - 0.63
MeD	Mecklenburg	Somewhat limited Slope - 0.63 Shrink-swell - 0.5	Somewhat limited Slope - 0.63 Shrink-swell - 0.5	Very limited Slope - 1 Shrink-swell - 0.5	Very limited Low strength - 1 Slope - 0.63 Shrink-swell - 0.5	Somewhat limited Slope - 0.63 Too clayey - 0.5 Cutbanks cave - 0.1	Somewhat limited Slope - 0.63
PoF	Poindexter	Very limited Slope - 1	Very limited Slope - 1 Depth to soft bedrock - 0.46	Very limited Slope - 1	Very limited Slope - 1 Low strength - 0.22	Very limited Slope - 1 Depth to soft bedrock - 0.46 Cutbanks cave - 0.1	Very limited Slope - 1 Depth to bedrock - 0.46

Disclaimer: Small areas of contrasting soils with different interpretations may not be shown on the soil maps due to the scale of the mapping. Soil surveys seldom contain detailed site specific information. This data set is not designed for use as primary regulatory tools in permitting or siting decisions, but may be used as a reference source. These data and their interpretations are intended for planning purposes only. This is public information and may be interpreted by organizations, agencies, units of government and others based on needs; however, these entities are responsible for the appropriate use and application of these data. Digital data files are periodically updated. Reports are dated and users are responsible for obtaining the latest version of the data.

- ❑ The following prime farmland soils will be removed from production: AaB, CuB2 and HwB. Part or all of the building envelopes on lots 8, 9, 14, 21, and 26-28 are shown on these prime farmland soils. Farmland Conversion Impact Rating form (AD-1006) must be filed if federal funds are involved. Redesign of plan to provide for more open space protection of this soil is encouraged. In accordance with the current policy of the North Carolina Association of Soil & Water Conservation Districts, "Any taker of important farm or forest land must prove an overriding public need exists—without a reasonable or prudent alternative—before public funds could be invested for roads, streets, water or sewer facilities, and similar items. In addition, this public need must be proven if actions taken were to decrease the productivity or adversely affect the remaining or adjacent farm and forestland." Redesign of plan to provide for more open space protection of these soils is encouraged.
- ❑ The following soils are classified as an important state farmland soils and will be removed from production: Ch, HwD and MeD.
- ❑ Development of site will remove existing forestland from production, result in loss of environmental services from forest land cover, and accelerate the rate of loss of green infrastructure in the county.
- ❑ A conservation easement on all open space is requested by Cabarrus Soil and Water Conservation District as part of the countywide open space initiative supported by the City of Concord. See brochure "This Land is Our Land. . . A Guide for Preserving Your Land for Generations to Come. "
- ❑ Private well was likely associated with abandoned homestead. **NC form GW-30 must be filed with the Groundwater Section of the N.C. Dept. of Environment and Natural Resources when abandoning a well.**
- ❑ On-site wastewater system associated with abandoned homestead is required to be decommissioned according to procedures recommended by Cabarrus Health Alliance (see attachment).
- ❑ Illegal solid waste has been deposited on this site, including household items. All waste must be recycled or disposed of in an approved landfill.
- ❑ Underground utilities including, but not limited, communications, electricity, natural gas and/or petroleum, wastewater and water may exist on site. Verify status before disturbing site by observation and by calling the NC One Call Center, 1-800-632-4949. Unmarked graves, underground mine shafts and historic Native American sites are not uncommon in Cabarrus County. Construction crews should be vigilant for the presence of these cultural and historical sites. Construction must be halted and appropriate authorities notified when any of these sites are uncovered.
- ❑ Additional field visits by Cabarrus SWCD and/or its conservation partners may be required, including but not limited to sedimentation and erosion control plan review.

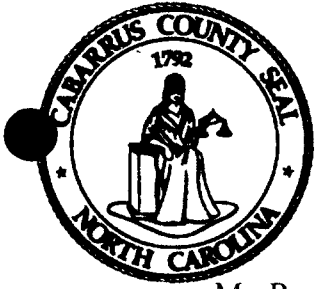
Please provide copies of approval notice and any revisions to this plan to the Cabarrus Soil and Water Conservation District.

CONTACT(S):

Cabarrus County Commerce Department—Zoning, Robbie Foxx, 704-920-2138
Cabarrus County, Commerce Department, Susie Morris, 704-920-2858
Cabarrus County Commerce Department—Erosion Control, Thomas Smith, 704-920-2411
Cabarrus County Commerce Department—Erosion Control, Tony Johnson, 704-920-2835
Cabarrus County Commerce Department—Zoning, Robbie Foxx, 704-920-2138
Cabarrus County Commerce Department—Zoning, Jay Lowe, 704-920-2140
Cabarrus County, Solid Waste, Rick Payne, 704-920-9255
Cabarrus Health Alliance, Environmental Health, David Troutman, 704-920-1207
Cabarrus SWCD & Watershed Improvement Commission, Dennis Testerman, 704-920-3303
NC DENR Div. of Forest Resources, Robert Ward, 704-782-6371
NCDENR-Mooresville Regional Office, Groundwater Section, Peggy Finley, 704-663-1699
NCDENR Div. of Solid Waste, Mooresville Regional Office, Theresa Bradford, 704-663-1699
NCDENR, Div. of Water Quality, Mooresville Reg. Office, Alan Johnson, 704-663-1699
NCDENR, Div. of Water Quality, Raleigh, Cyndi Karoly, 919-733-9721
NCDENR, Ecosystem Enhancement Program, Robin Dolin, 919-715-5836
NCDENR, Wildlife Resources Commission-Habitat Conservation Prog., W-S Reg. Office, Ron Linville, 336-769-9453
U. S. Army Corps of Engineers, Asheville Regulatory Field Office, Steve Lund, 828-271-7980 x223
USDA-FSA, Cabarrus-Mecklenburg Service Center Office, Nancy White, 704-782-2107
USDA-NRCS, Concord Field Office, Nathan Lowder, 704-788-2107

REFERENCES:

- "Avoiding Tree Damage During Construction." Consumer Information Program Fact Sheet. International Society of Arboriculture. [http://www.isa-arbor.com/consumer/avoiding.html]
- "Conservation-Based Subdivision Design: Protecting Water Quality and Scenic Resources in NC Mountains." Conservation Trust for North Carolina. 1997
- "Erosion and Sedimentation on Construction Sites." Soil Quality—Urban Technical Note No. 1. USDA, NRCS. [http://www.statlab.iastate.edu/survey/SQI/pdf/u01d.pdf]
- "401 Water Quality Certification Program – The Basics." N.C. DENR. Div. of Water Quality, Wetlands Section. [http://h2o.enr.state.nc.us/nwetlands/basic401.html]
- "North Carolina Ecosystem Enhancement Program's Upper Rocky River Watershed Plan." [http://www.nceep.net/services/lwps/Clarke_Creek/Upper_Rocky.pdf]
- "Protecting Urban Soil Quality: Examples for Landscape Codes and Specifications." [http://soils.usda.gov/sqi/files/UrbanSQ.pdf]
- "Recognizing Wetlands." Informational Pamphlet. US Army Corps of Engineers [http://www.usace.army.mil/inet/functions/cw/cecwo/reg/rw-bro.htm]
- "Seeding Specifications." Sect. 6.10 & 6.11 in Erosion and Sediment Control Planning and Design Manual. N. C. NRCD.
- "Soil Sampling for Home Lawns & Gardens." N.C. Dept. of Agriculture & Consumer Services. [http://www.ncagr.com/agronomi/samhome.htm]
- "This Land is Our Land. . . A Guide to Preserving Your Land for Generations to Come." [http://www.cabarruscounty.us/Easements/]
- "Topsoiling Specifications." Sect. 6.04 in Erosion and Sediment Control Planning and Design Manual. N. C. NRCD.
- "Urban Soil Compaction." Soil Quality—Urban Technical Note No. 2. USDA, Natural Resources Conservation Service. [http://www.statlab.iastate.edu/survey/SQI/pdf/u02d.pdf]
- "Well Abandonment." Brochure. N.C. DENR. Div. of Water Quality, Groundwater Section. [http://h2o.enr.state.nc.us/documents/Bro-WellAbandon.pdf]
- "Well Decommissioning." Field Office Tech. Guide, USDA, Natural Resources Conservation Service. [http://h2o.enr.state.nc.us/aps/gpu/documents/Well_decom.pdf]
- "Yadkin-Pee Dee River Basinwide Water Quality Plan." N.C. DENR. Div. of Water Quality—Planning Sect., Basinwide Planning Prog. 2003. [http://h2o.enr.state.nc.us/basinwide/yadkin/YadkinPD_wq_dt_management_plan0103.htm]
- "Watershed Management Plans & Recommendations: Lower Yadkin / Upper Rocky River Basin Local Watershed Planning (Phase Two). NCDENR, Ecosystem Enhancement Program. 2004. [http://www.ces.ncsu.edu/depts/agecon/WECO/rocky_river/URR2_WMP.pdf]



Planning and Zoning Commission Minutes
December 20, 2007
7:00 P.M.

Mr. Roger Haas, Chairman, called the meeting to order at 7:00 p.m. Members present, in addition to the Chair, were Mr. Todd Berg, Mr. Eugene Divine, Mr. Larry Ensley, Mr. Danny Fesperman, Mr. Larry Griffin, Mr. Ted Kluttz, Mr. Thomas Porter, Jr., Mr. Ian Prince, Mr. Barry Shoemaker and Mr. Dennis Yates. Attending from the Planning and Zoning Division were, Ms. Kassie Watts, Planner, Ms. Arlena Roberts, Clerk to the Board, Mr. Jay Lowe, Zoning Officer and Mr. Richard Koch, County Attorney.

Roll Call

Approval of Minutes

Mr. Larry Griffin, **MOTIONED, SECONDED** by Mr. Barry Shoemaker, to **APPROVE** the November 15, 2007, meeting minutes. The vote was unanimous.

New Business - Planning Board Function:

The Chair introduced Petition C2007-06 R-SU Rezoning Special Use- Zoning Atlas Amendment.

The Chair swore in Ms. Kassie Watts, Mr. Mark Rowell, Mr. Glenn Jones, Mr. Clarence Allman, Mr. Keith Kuenzli, Ms. Susan Schneider, Mr. Ned Reece, Mr. George Moore, Mr. Dennis Testerman and Mr. Jay Lowe.

Ms. Kassie Watts, Planner, addressed the Board. She said the application was submitted by Mr. Glen Jones, and the property owner is Mr. Clarence Allman and his wife Hilda of 4300 Cauble Road, Mt. Pleasant, NC.

The existing zoning is AO-SU – Agricultural/Open Space Special Use and there is currently a conditional use permit issued on that property for farm machinery sales and service. The proposed rezoning would be to the AO-SU and it would be modifying the permit to add automotive repair. The area is approximately 8.75 acres; it is currently vacant but was used for the operation of farm equipment sales and service facility. The applicant is requesting the additional use of auto repair and service as a permitted use on that permit. The applicant has agreed to no outside storage and no automobile sales on the site.

The property was rezoned in 1998 from LDR – Low Density Residential to AO-SU – Agricultural/Open Space Special Use and that is when the original permit was issued.

All of the surrounding zoning is Countryside Residential (CR), except to the north there is an Office Institutional (OI) parcel directly across the street. Three of the adjacent

properties are residential with single family dwellings and the fourth located immediately east, is wooded and vacant. Directly across the street one lot is used as a residence and the other is vacant. To the northeast, facing NC 49, properties are zoned Office/Institutional (OI). There is a mobile home park to the east. This property is served by a private well and septic system.

The subject property is located directly across NC 49 from one of the seventeen sites identified and evaluated for development as part of the Strategic Plan for Economic Development by Leek-Goforth. The site, known as Site J – NC 49/Mt. Pleasant, consists of 200-300 acres of open rural areas that are flat to rolling terrain.

The Eastern Area Land Use Plan gives the following information; Highway 49 is the primary corridor for most traffic throughout eastern Cabarrus County and it is the primary route between Charlotte and Asheboro. The Eastern Area Plan is a general guide for effective management of growth and development for the area. According to Appendix A, Map #2 of the Plan, the subject property lies within the Future Urban Service Boundary of Mount Pleasant and is designated Suburban Residential (1 to 4 units per acre). Urban Service Areas aid the preservation of agricultural land and open space. They indicate where money should be invested in public infrastructure, especially for water and sewer services. Suburban Residential identifies the area's suitability for single-family development patterns. Permitted growth densities range from one to four units per acre. Land with access to public utility service is permitted to develop at higher densities while land without access should develop at a density of one unit per acre. Development within this district should involve parks and open space. This district also includes existing Residential- Medium Density (RM-1) and Residential- Low Density (RL) districts. (These are Mt. Pleasant UDO designations)

According to the goals set forth by the Eastern Area Plan, and given the subject property's future designation as Suburban Residential, the auto repair/service use would not be appropriate.

Additional Code Considerations: Adams Creek runs along the southwest portion of the subject property. The River Stream Overlay Zone (RSOZ) is required and is shown on the site plan. The proposed use is permitted based on standards (PBS) in the A/O Zoning District. (Chapter 7, Section 4.32)

Ms. Watts said there were no comments from NCDOT, Erosion Control stated if the size of the project is greater than one acre, an erosion and sedimentation control plan must be submitted to this office for review and approval prior to the commencement of any land disturbing activities. She said the disturbance on this site does not exceed an acre. They are planning to pave a small area for additional parking so it would not qualify for it.

She said there were no comments from Emergency Management Services.

WSACC provided the standard comments:

Relative to any future development project, please be aware that flow acceptance from WSACC is granted in the order received assuming sufficient wastewater treatment and transportation capacity is available or is reasonably expected to be made available. Currently, WSACC does not have an interceptor serving this area, which is located within the Adams Creek drainage basin. Following approval of the final site/civil construction plans, flow acceptance must be requested by the jurisdiction providing the retail sewer service, in this case the Town of Mt. Pleasant. It should be noted that WSACC does not own or operate any existing water lines (retail) serving in this area.

Ms. Watts said this property is on a private well and septic.

Mr. David Troutman, Health Alliance stated that there were no comments except that the existing facility is served by a septic tank. A septic inspection is required before any building permits are issued for any new construction. This is not specific to this location; it is a requirement.

Ms. Watts said there were no comments from the County Engineer.

Comments from Mr. Dennis Testerman, Soil and Water Conservation were:

Cabarrus SWCD is working with several landowners in the vicinity of NC 49 and Walker Road on conservation easements aimed at preserving agriculture and open space. To this end, they would like to see the following considerations in the proposal to rezone the Allman site:

A conservation easement on Adams Creek that encompasses both the River Stream Overlay Zone (RSOZ) and 100 year floodplain; and restrictions on future property uses that would be consistent with agricultural and residential uses of the surrounding area – including noise restrictions.

Staff finds that the proposed zoning map amendment and site plan meet the conditional use standards of the Cabarrus County Zoning Ordinance. The proposed use of the property is inconsistent with the goals of the Eastern Area Land Use Plan. However, the proposed amendment is for an additional use that is similar to the existing use on the subject property. Therefore, the Planning and Zoning Commission should review the information and facts presented to determine if the proposed zoning amendment is consistent with the Commission's goals and vision for this area of eastern Cabarrus County.

Should the Planning Commission grant approval of the rezoning, staff requests that the following conditions be applied as part of the approval:

1. Property must comply with the approved site plan.

2. The subject property is restricted to its current use, as a retail and service provider for farm equipment; and, its proposed use, a repair and service provider for automobiles.
3. There will be no outdoor storage of vehicles permitted on the subject property.
4. Applicant must complete required upgrades to parking areas and landscape as shown on proposed site plan.
5. Applicant shall provide, to Cabarrus County Soil & Water Conservation Agency or appropriate conservation agency as determined by Soil & Water Conservation staff, a conservation easement along Adams Creek that encompasses both the River Stream Overlay District (RSOD) and the 100 year floodplain.
6. There will be no storage of vehicles or dumping permitted in the River Stream Overlay District (RSOD) located on the subject property.
7. No construction of buildings will be permitted in the River Stream Overlay District (RSOD) located on the subject property.
8. The applicant shall work with Zoning Enforcement staff in order to ensure there are no violations.

Ms. Watts said the Applicant submitted a letter stating that he agreed not to do the outside storage and automobile sales. Mr. Jay Lowe, Zoning Enforcement Officer has visited the site and determined that there are currently two violations on the site, one being two tractor trailer units stored on the property and two large piles of scrap debris (tires, plastic, pallets etc) that need to be removed from the site.

Ms. Watts and Mr. Testerman walked the perimeter of the site and it appears that there are some erosion issues on the western side of the site.

Mr. Berg asked how long the zoning violations mentioned had been in violation.

Ms. Watts said it is her understanding from the lady who did the site plan that there was someone under contract to clean up the site. She said the majority of the site has been cleaned up, there are still a few things that need to be done; the removal of the trailers and the trash.

The Chair said one of the conditions is there would be no outdoor storage of vehicles permitted. He said if you are doing auto repair what constitutes outdoor storage, opposed to vehicles that are on site for repair, can they remain outside for a certain period of time or does this mean at no time will outdoor storage be permitted?

Ms. Watts thinks the cars would have to remain in the building or in the parking area, hopefully the applicant will not take on more projects than they could reasonably turn around and return to their owners. She said we do not want to see a car lot out there. She said the zoning administrator would make that interpretation. Ms. Watts said outside storage would not be permitted under this request and the applicant has agreed that they will not have outdoor storage.

The Chair opened the public hearing for Petition C2007-06 R-SU Rezoning Special Use.

Mr. Mark Rowell, Applicant, 9215 Indian Trail Fairview Road, Indian Trail, NC 28079, addressed the Board. He is in the process of purchasing the building. He would like to do the same thing that is being done now and add automotive repair.

Mr. Prince asked what constitutes storage; if the vehicle is parked on the striped parking lot or if it is on the gravel next door, is that the line of demarcation? He said there is a letter that states there will be no auto sales or outside storage of parts and supplies and does not include vehicles.

Mr. Lowe said in his experience, it would be very difficult to have an auto repair and not have some cars outside. He said we do not want the cars out in the gravel areas every where and back toward the creek. He said when it was a farm tractor facility they had some storage of what looked liked cars to him in that area, we do not want that. He said if they are on the striped, paved part and they want to designate that area as their storage or holding area, we would be fine with that. He said they cannot go outside those areas and no parts (bumpers, doors, etc.) would be allowed in that area, it would be for vehicles only.

Mr. Lowe rides around the county all the time and he runs into what is called shade tree mechanics; where they are in a legal nonconforming capacity. He said, we have a lot of those and he stops by periodically to make sure those vehicles are being turned over and not sitting for three or four months. To him that is not auto repair, that turns into a salvage yard. He said they are pretty good about it, they see him coming and they know that they need to turn them around in a week or two.

Mr. Lowe thinks they will have to have some outside storage of the vehicles and he thinks they would need to designate a holding lot for those vehicles and it would need to be on the paved areas.

Mr. Rowell said, most of the business that comes in will be same day return or a day or two turn around.

Mr. Lowe said that is what we are looking for.

Mr. Rowell said there may be something left over night if something got caught up and a part had to be sent over night from a different location or something. He said it will not be something that would sit for a week; we cannot do business that way. He will keep it clean and he is willing to do go through the expense of getting the zoning back to where it needs to be by planting trees and that sort of thing and to do what he needs to do to make it work for everyone.

Mr. Koch, County Attorney, addressed the Board. He reminded the Board that for this type of rezoning, if conditions were imposed the applicant would have to agree. He said, so in that event if the board was looking to impose a condition that required that any of

the outside storage for vehicles be on a paved, striped area that would need to be made clear and would have to be agreed to by the applicant in the hearing.

Mr. Shoemaker asked how the applicant was going to use the gravel area, was it going to be dormant and eventually grow up in grass?

Mr. Rowell said right, he said on the one corner they would plant trees. He said they were basically going to use the building. He said there is a lot of land there but they are not interested in doing auto sales or junk yard or any of that type of stuff.

Mr. Shoemaker asked if the applicant is basically willing to allow the grass to grow up in the gravel area and to keep it mowed.

Mr. Rowell said yes.

The Chair asked the applicant if his intent was to use the existing building.

Mr. Rowel said yes, no additional building.

Mr. Ensley asked what the penalty was for a violation for these so called shade tree mechanics.

Mr. Lowe said they normally start out with a warning citation with 10 to 30 days to correct the matter. He said the citation procedures start at \$100.00 then it will continue to double and if needed, get Mr. Koch involved and into court. He said oddly enough that hardly ever happens with these mechanics, they try to turn the cars around in order to get paid.

Mr. Lowe said one excuse he hears more than any other from these mechanics is that they fixed the car and did not get paid, so they are holding that car and it sits there. He said if he were the Board he would want to know what the applicant's plan of action is going to be because it does take some time to take possession of the vehicle.

Mr. Koch said there is a procedure in the North Carolina General Statute under Chapter 20 that allows a mechanic who has a possessory lien, meaning that they actually have physical possession of the vehicle, to actually foreclose that lien by sending notification to the vehicle owner and to the Division of Motor Vehicles and then actually selling the vehicle to satisfy the lien. He said it is a little bit of a cumbersome process and it takes time, sometimes as much as 60 days to be able to complete the process from start to finish.

Mr. Koch thinks a lot of time the cars sit around because it has been repaired and the people do not have the money to pay for it and retrieve their automobile.

Mr. Fesperman asked what the hours were going to be.

Mr. Rowell said six days per week. He has been in the business 15 years and he has not had that problem yet.

Mr. Haas asked if Mr. Rowell was currently in the auto repair business.

Mr. Rowell said yes.

Mr. Shoemaker asked what Mr. Rowell's plan was for the building on the back of the lot where there is going to be some gravel access.

Mr. Rowell has no plans at this time.

Mr. Shoemaker asked if Mr. Rowell was planning to maintain it and keeping it as a whole building.

Mr. Rowell plans to keep it as it is.

Mr. Shoemaker said when you have a building sitting there and is unoccupied; eventually you may have some plans to possibly store some things in it.

Mr. Rowell said it could be an option but it would go back to the zoning issue; what the zoning is and if it is allowed. He does not want to do anything that is not correct.

Mr. Shoemaker does not know what type of inventory of items would be needed, if special chemicals or cleaning solvents to clean engines would be needed.

Mr. Rowell said no.

Mr. Glen Jones, Applicant, 8812 Crestwood Drive, Mt. Pleasant, NC 28124, addressed the Board. He has been in business for 13 years as a mechanic in Rymer Town. He has served people from Mt. Pleasant, Harrisburg and Concord,

Mr. Shoemaker asked how many bays there will be inside.

Mr. Jones said right now it looks like he will be able to get two lifts in, and one on the ground inside.

Mr. Shoemaker said maybe three vehicles at a time?

Mr. Jones said probably three, a quick job coming in the door possibly four.

Mr. Shoemaker said there will be anything from oil changes to engine tear down and rebuild.

Mr. Jones said he is trying to get away from engine tear down; he has been doing that too long and does not want to do that anymore.

Mr. Shoemaker asked about transmissions.

Mr. Jones said he does not do transmissions.

Mr. Clarence Allman, Property Owner, 4300 Cauble Road, Mt. Pleasant, NC 28124, addressed the Board. He has always worked with the community and the schools. He said there has not been a problem out there at all. He said the state put a lot of dirt in there over the last two years and the erosion control was taken care of at that time, there has not been any run off whatsoever. As far as Mr. Allman is concerned, they never had a problem there.

Mr. Berg asked Mr. Allman if he was going to be responsible for the two zoning violations that were mentioned, the trailer and scrap pile.

Mr. Allman said he can move the trailers at any time; he did not know it was a violation. He has a tractor trailer sitting on the yard with wheels on it, it was used for storage. He can move it out in the next week, it is no problem.

Mr. Berg asked Mr. Allman about moving the scrap debris pile.

Mr. Allman said he can throw it in the back of one of trailers, it is no problem.

Mr. Keith Kuenzli, Architect, 1005 Circle Drive, Mt. Pleasant, NC, addressed the Board. He said the shop that Mr. Glen Jones currently has is used for automotive tune ups, oil changes, brakes, and mufflers. He has known Mr. Jones for 13 years and has never known for him to rebuild engines. He said when Mr. Mark Rowell came on board from Indian Trail he specialized in accessories for trucks. He said if you are on a farm and need a trailer hitch or something they would sell that type of stuff, adding it on and moving it out. He said the proposed owners have been working with Kassie Watts to get the current landscaping along Highway 49 up to code; the buffer that was cut down on the east side they are putting back in, along the back there is a certain percentage of that area that needs to have the plan brought back in and they have agreed to that, they talked about cleaning up the site before they move in, there is a request from the city or the state that land along the creek is designated and the owners have agreed to do that.

Mr. Kuenzli said they are hoping to bring it all up to code, all the plants get put in and they maintain a clean site which they are willing to do.

Mr. Shoemaker asked about drainage on the parking lot.

Mr. Kuenzli said the drainage should not be an issue. He said to the west of the current building it used to drop off gradually to the creek. The creek is actually on the side and down the back; the state came in and put a lot of dirt on this site. It does not look like there is a drainage problem that he can see; the grass is there and does not seem to be any movement of the soil going down the hill. He does not know where the problem is but the owners have already said they are willing to solve any of the issues that anyone has.

Mr. Kuenzli said currently there are eight existing spaces and that does not meet any code, not even the current use right now. He said in order to make that compliant we have to pave ten spaces.

Ms. Susan Schneider, Adjacent Property Owner, 6405 Deer Haven Drive, Mt. Pleasant, NC 28124, addressed the Board. Ms. Schneider said Adams Creek runs along the back of the property and that is on her side of the property and not on the subject property. She said if you take a look at the packet (she handed the Board a packet), the last sheet is a pretty current depiction of a 100 year flood zone. She said this site is a little over eight acres, the flood zone and stream buffer zone encompasses probably 40% of the subject property.

Ms. Schneider used to work for the Catawba Land Conservancy as Staff Attorney; she has done conservation easements for Mecklenburg County, Long Gar Creek, Raven Creek, and all the water intakes along Lake Norman for the City of Charlotte. She has drafted numerous conservation easements for Mecklenburg Parks and Recreation, for Catawba Land Conservancy. She said, having done stream buffer work, having done flood plain work along the South Fork and Catawba River, realizing that this fragile piece of property, it has no topo up there and she believes that possibly in the Board's packet from Ms. Watts there may be a topo. She said this property is very sloped and is a very nice north facing slope. She said Mr. Dennis Testerman has also walked the property. She said it is flora and fauna rich on that north facing slope.

She said 40% of this property is indicated in a flood zone, the map the Board is seeing does not show the part that has been cut off of Highway 49, that's even compromising that fragile environmental site. She said according to the Eastern Area Plan, a greenway has been planned all through that area. She said directly to the north, northwest of her property is the subject property and by a careful glance you can see at least 40% of that property is located in a flood area.

Ms. Schneider said Ms. Watts mentioned conservation easements, they are very expensive to monitor; the County takes it very seriously when the county has to steward the cost of that monitoring, it is constant annual monitoring as required by federal regulations. She said we are talking here about an automotive repair business; we are talking about petroleum distillates, we are talking about things that surface water runoff is going to take down to Adams Creek. She said Adams Creek is one of our cleanest resource creeks in this county, and to put that creek in peril is not good stewardship of the lands that we have in that eastern area part of the county, the eastern area is our jewel for Cabarrus County. She said knowing that the surface area, 40% of it is flood plain and stream riparian corridor; we also have the greenway issues that she has addressed. She said there is toxic substance, petroleum distillates possibly going down into that creek basin. She said it is a stream basin and having those distillates and those toxins go in there is going to be injurious to that environment. She said NCDOT has designated that as a scenic byway, Highway 49 is a scenic corridor, a view shed in that rural agricultural area that is one of the prettiest corridors that we have.

She said this is an agricultural area, Low Density Residential; the applicants really aren't seeking a dove tail, they call it a dove tail for rezoning request. She said they are not concurring with the spirit and intent that was set out here, that this be Agricultural Special Use. She said the applicant has not mentioned agricultural, we have that zoning out there to support the community out there, the people who have cattle. She raises Shitake mushrooms there; it is perfect in that creek valley for Shitake mushrooms. She is the only one in Cabarrus County that does so and those Shitake mushrooms will be in peril from the pollutants that come down the side of the hill.

Ms. Schneider said the conservation easement has been spoken of and nothing has been done. She said there is no sewer interceptor, we are talking septic; the sewer interceptor is supposed to go along the widened portion of Highway 49 that has not been put in place. She urges the Board that this may be premature in this regard. She said the use that is proposed by putting in lifts, putting in bays, clearly says car; it does not talk about tractors or farm equipment support at all and that is what that side of the county grew up on.

She said it is probably improper, it is probably premature. We have to preserve that eastern part of the county so that growth can be orderly and that growth can be in the best interest of all the citizenry, and fit into the scheme that we have set out for that eastern part of the county.

Mr. Fesperman asked Ms. Schneider how many acres of land she had.

Ms. Schneider said ten acres, and the stream is on the south side of her property, it is entirely on her property. She said on the western side of the property it is on the subject's property but hers is the whole bottom side.

Mr. Ensley asked what Ms. Schneider estimated the monitoring cost per year would be.

Ms. Schneider said if the county can do in house monitoring and surveying; which means they would have to walk the property annually, look for any impact, erosion impact, other trash impacts, stream monitoring; her best estimate would be probably several thousand dollars.

Mr. Ensley asked if she could quantify that.

Ms. Schneider said they would have to do a written report; the property would have to be walked, a stream quality assessment and possibly a survey with the actual cost of the survey borne by the County, and pictures will have to be done with that report as well. She said that way any degradation in stream quality and soil quality would have to be noted to support the conservation easement.

Mr. Ensley asked for a ball park figure.

Ms. Schneider estimates between two and three thousand dollars.

Mr. Ned Reese, Former Property Owner, 1103 Rogers Lake Road, Kannapolis, NC 28081, addressed the Board. He sold this property because his wife became ill. He sold it to a doctor and the doctor did not keep his word that he would build a home on it; the doctor sold the land to someone else. He said it was never intended to be sold for anything other than a home.

Mr. Reese's family had owned that land since the late 1800's. He said this is a scenic highway and he would hate to see a junk yard or something similar messing up the view. He would like to see the land stay as it was and not let someone come in and destroy it.

Mr. George S. Moore, Adjacent Property Owner, 6150 Highway 49 N, Mt. Pleasant, NC, addressed the Board. He said in 1998, a Special Use Permit Exception was granted to put a farm instruments and equipment sales and service on this site. He said it was noted that equipment sales and service is a logical extension of agricultural use. He said in 1999/2000 time frame there was an application for a piece of property near by on the opposite side of Highway 49 to put in a propane bulk facility and it was denied. He said the reason stated at that time was that it was a commercial application and that the land usage and expectation for that area was to be Low Density Residential. He said obviously we cannot see 20 to 25 years into the future, but he thinks it is inevitable that as Mt. Pleasant grows that sphere will expand. However, the commercial sphere of Mt. Pleasant has not filled along Highway 49 and he thinks there are other properties that would be better suited for a commercial application. He said an automobile repair facility is not agricultural, it is commercial.

Mr. Moore would like to remind the Board that Spot Zoning is not allowed and that we are talking about rezoning for a commercial application, but he thinks we are looking at a much bigger picture than this one special use application.

Mr. Moore said for the record, he is the owner of 23 acres and according to the tax books he is on the hook for something approaching \$600,000, and he does not want it messed up.

Mr. Berg asked Mr. Kuenzli if he was anticipating any changes to the existing septic system or if it is pretty much remaining as is.

Mr. Kuenzli said the current owner intends to keep the building as is, including the septic system.

Mr. Berg asked to hear from Mr. Dennis Testerman, Cabarrus County Soil and Water Conservation District. He said there were a couple of issues that came up that Mr. Testerman could comment on, one having to do with conservation easement. He said one of the staff's suggested conditions was that an easement be granted to Cabarrus County Soil and Water Conservation or someone else.

Mr. Testerman said the County and the municipalities had an ad-hoc committee several years ago; they got together to look at open space preservation in the county and how to facilitate that. He said one of the things that came out of that discussion was the designation of the conservation district as the lead agency for working up the easements, holding the easements and monitoring them, so we are trying to take a strategic approach to that. He said Adams Creek looks a like a good place to do that, it is his favorite creek in the county. It is still fairly scenic through that area; there have been a number of landowners in that area that have expressed interest in granting easements.

Mr. Testerman said taking a different approach from the Eastern Area Plan; it looks like there is a possibility of having at least a greenbelt along the creek and maybe some working private lands that are being used for crop or forestry adjacent to the creek so that you would have a greenbelt or quarter that would actually separate Concord from Mt. Pleasant so that they do not all run together as you see in so many other major corridors in this area; you would have a demarcation there. He said in his personal and professional view point it would be a plus. We would like ecologically for that to function, or would like to look at the River Stream Overlay zone, that 50 to 120 foot and the flood plain as well. He said they have not done measurements to see how much property that involves but would like to have that. He said in conjunction with holding that easement, he thinks the storm water run off issues need to be addressed.

Mr. Testerman said the extreme western part of the property appears to drain pretty much directly to the creek; the road side ditch along Highway 49 does the same. He said there is an area that drains to another ditch and that ditch has some major erosion problems. He said there are a number of rills (something smaller than a gully), that feed into a drainage ditch that is becoming a gully, it would be good to have those problems addressed. He said sediment might have to be removed from the flood plain now. He does not know what the history of filling in there was, but there may be some fill that is actually in the flood plain that may need to be addressed, either through a mutual agreement or if enforcement action would be a possibility there. He said it is a pretty steep bank, dropping on the flood plain so there obviously has been some filling in there.

He assumes that NCDOT has some sort of arrangement with the land owner to place that material there; NCDOT cannot just come in and willy nilly dump stuff on your land.

Mr. Berg asked Mr. Testerman to comment on the cost of monitoring the conservation easement.

Mr. Testerman said he is just getting into it; most of the land trusts are looking for figures and what Ms. Schneider cited would be a minimum. He said what you are really shooting for are economies of scale. He said one of the reasons we are working so closely with the Land Trust for Central North Carolina on easements, we are in their region. They operate out of Salisbury; so just the cost of getting from Salisbury to Cabarrus County represents an expense. He said if we had a number of easements out there it would make it easier and would get cheaper to monitor everything over time. He would not quibble with the quote that has been given. He said it is hard to put a figure on

it and it would take more of the tax payers' money for him to sit down and keep track of all that, we have to do some of that initially to see where we are going. He is not that concerned about the cost, he thinks this will be an important addition to the county and he thinks we would do what ever it takes to make it work if we can work something out with the owner.

Mr. Griffin asked if Mr. Testerman was speaking of the current owner of this piece of property.

Mr. Testerman assumes if the Board takes a favorable action tonight the ownership will change fairly soon and we will be talking with the folks who are proposing to buy the business, they would be the ones who grant the easement. He thinks it would be the project owner, they are the applicant.

Mr. Griffin asked if the applicant approached Mr. Testerman about a conservation easement.

Mr. Testerman said no, this is a standard comment that we make when we are doing plan reviews on properties where we think strategically a conservation easement makes some sense.

Mr. Berg said it was a condition requested by staff. He thinks the only way they get the easement is if we approve the special use. He said the proposed owners have agreed to it.

Mr. Porter wanted clarification about the monitoring cost. He said it is in the county's best interest for the easement to be granted, and the monitoring takes place regardless, whether the property is vacant or not. He asked if it were correct that the monitoring cost is no greater for the use of this building or this site then for one particular use over another

Mr. Testerman said that is mostly true, the more intensive the use of the property the more the potential impacts. He said if the site was planted back to trees then you would have less need to monitor out there, other than run off from Highway 49 than with the impervious surface that you have now with run off. He said you have a land use change, however major or minor that is taking place and he thinks initially you would want to see how things were going. He said there was some mention tonight of restoring some areas, putting trees back where they had been removed, that obviously is going to take more over sight until that gets up and going, and again, we are in a drought so that is another factor that comes in. It might require more time then it would under other circumstances.

The Chair closed the public hearing.

The Chair asked Mr. Koch if the board was not considering a rezoning request since it is remaining as it is zoned, we are only considering an additional permitted use to the current zoning.

Mr. Koch said that is correct, but it still qualifies as a Special Use Rezoning because you are adding an additional use that was not approved in the original rezoning. The Chair asked if there would be two steps to the process, one would be the rezoning issue and the other would be additional permitted use or special use.

Mr. Koch said that is correct, the first consideration is a legislative decision; whether to do the rezoning and the second is whether to grant the Special Use permit containing the conditions.

Mr. Griffin said the zoning is not proposed to change except to add the additional use. He said it would still be zoned Agricultural Open Space Special Use.

Mr. Koch said that is correct, but whenever you add an additional use beyond the original rezoning it still is considered a rezoning.

Mr. Griffin said we are not talking about making it commercial or changing the zoning in that manner.

Mr. Koch said that is right, not in the terms of the designation.

Mr. Griffin said the only permitted uses that would be allowed or conditional uses that would be allowed would be the ones that go along with Agricultural Open Space Special Use.

Mr. Koch said that is correct, including the ones that they are applying for.

Mr. Lowe thinks the only use that the original applicant applied for was for Tractor/Farm Sales and Service, so that was the only use. He said if it stays like it is, that is the only use that would ever go in there.

Mr. Koch said that is correct.

Mr. Griffin said the only other use would be automotive repair, so there would be two permitted uses.

Mr. Berg said there are a couple of comments related to erosion. He asked if that is something the County's Erosion control people could or would or have looked at.

Mr. Lowe thinks that they could. He said we have the River Stream Overlay zone and we could monitor that. He said that was one of the violations; one of the piles of debris looked like it was in that River Stream Overlay Zone and that is a pretty serious violation. To him it looked like they had made a lot of effort to clean up that property and he assumes they will continue, but never the less a week ago when he was out there, there were two zoning violations.

He said from a zoning stand point the Board would have the option to table this until they got the zoning violations corrected or at the very least put conditions on them to where the zoning violations were cleared up before a Certificate Of Occupancy were issued. He said if the Board chose the second option, the applicant would have to agree to those conditions, which from the testimony we have heard tonight does not seem to be a problem.

Mr. Berg said that was a suggested condition by the staff and he assumes the applicant would not have a problem. He said the issue that was not really addressed in the conditions by the staff is the erosion issue and he is not sure how the applicant would deal with it.

Ms. Watts said the applicant could offer their suggestion on how to mitigate that issue.

Mr. Kuenzli said the proposed owner does have a civil engineer under contract and he believes they would be more than willing to come out and see if there are any issues. He thinks they will be more than happy to solve any of those issues on the drainage part.

Mr. Shoemaker said there is nothing on the plan to do anything with the building on the back of the property. His concern is that it could be use later on if it is vacant now for some other opportunity to do something out of control. He asked if the building would be left vacant.

Mr. Kuenzli said the existing structure is a pole barn and there is no floor slab on it; he does not see any automotive or anything that the owner could use that for that kind of service. He said even for storage it would not be a good idea because it is open on two sides, so he does not see it being used at all right night. He said they would have to get a permit to close the building in order for it to be of any use to them.

Mr. Shoemaker said that brings him back to the parking lot, because it was an impervious surface and you are going to have run off and your run off was scheduled to go to the west part of the property and would be feeding into the area that Mr. Testerman said was very steep.

Mr. Kuenzli thinks they are going to look at that and solve those issues.

The Chair said he sees three possibilities: first consider the rezoning issue, accept the rezoning with the conditions that had been applied as far as the approval and some additional conditions; reject the rezoning or table the item until some of the zoning violations that have been uncovered and occur there have been taken care of. He said there may be some reservation about adding an additional conditional use to a piece of property that is already in violation of use; so if that be the case then that is an alternative that we could consider.

Mr. Prince personally has a problem with going forward with a property that is currently in violation. He said it is currently zoned as a conditional use for Tractor/Farm Sales and

Service and the applicant was asking for an additional use of Automotive Repair and Service. He asked the applicant if they were willing to take the Automotive Repair Service in lieu of the Tractor/Farm and Sales.

The applicant said no.

Mr. Berg has some concerns about approving an additional use when there are outstanding violations and some unresolved erosion issues.

There being no further discussion, Mr. Todd Berg **MOTIONED, SECONDED** by Mr. Ian Prince to **TABLE** Petition 2007-06 R-SU Rezoning Special Use - Zoning Atlas Amendment until the two outstanding zoning violations are resolved and the applicant comes back with a plan to take care of the erosion control problems. The vote was unanimous.

The Chair asked Mr. Koch if the Board tables the motion until the next public meeting, is the board required to have another public hearing.

Mr. Koch said that is a decision the Board can make. He said you have complied with the law by conducting the public hearing tonight, you closed the public hearing, and if it is the Board's wish have that be the end of the public hearing and have no further public input, or you could reopen the public hearing at the next meeting at which this is considered and take additional testimony. He said it is the Boards option.

The Chair introduced Petition C2007-08 (S) Preliminary Plat Approval – Riverbend Subdivision – Greathorn Properties

Ms. Kassie Watts, Planner addressed the Board stating this is Petition C2007-08 (S) Preliminary Plat Approval – Riverbend Subdivision. This is a Conventional Residential Subdivision. The applicant is Greathorn Properties. This is in Central Cabarrus, Township Number 11. The zoning is Countryside Residential, prior to the June/July 2005 countywide rezoning, the property was zoned Low Density Residential (LDR), so it was down zoned. The subject properties are located off of Highway 601, there are three parcels involved. It is proposed to be 28 lots and the density is .351 units per acre. The area total is approximately 80 acres and is currently vacant and wooded. The properties to the North, East, and West have been developed as single family residential uses and the property directly to the south is the Bluffs at Mill Ridge Subdivision. Each lot will be served by a private well and septic system.

Some considerations would be that the CR-Countryside Residential district is a low density residential zoning district. The Riverbend Subdivision is designed as a conventional subdivision and conventional subdivisions are not required to provide open space because the lot sizes are significantly larger than any thing you see in the open space and amenity subdivisions. Per the City of Concord Land Use Plan, adopted June 8, 2004, designates the property as Open Space Preservation on the Future Land Use map. It further states that staff should work with property owners and developers to encourage the preservation of open space by developing according to the subdivision options

provided in the Zoning Ordinance and limiting density. Density limitations are the most frequently used technique employed to preserve open space. The Concord Land Use Plan cites the Eastern Area Plan of Cabarrus County and the rate of one unit per acre when subject properties are not served by a governmental utility system.

The 1997 Midland Area Land Use Plan designates this property Rural Residential/Agricultural. These areas experience little development pressure and have neither the infrastructure nor plans for developing the infrastructure to support dense residential development. It is suggested by the Land Use Plan that parcels in this designation remain much as they are now: agricultural, forested lands, and low density residential. Housing densities of no more than one unit per acre should be allowed, however overall intensities are expected to be much lower, around one unit per ten acres, due to soil and terrain constraints.

Ms. Watts received comments back from Robert Kluttz, Cabarrus County Schools. Schools that serve this area are inadequate at this time.

She said the applicant will be required to submit a soil and erosion plan before commencing any land disturbing activities. At this time the plan has been disapproved, but the applicant has been working with Mr. Thomas Smith, Erosion Control, on their plan and is working on getting it approved.

She said NCDOT is requiring all lots to be served internally and they will have to post a performance bond to cover the required roadway improvements; the turn lane that will be required on Highway 601. NCDOT also reserves the right to modify comments pending subsequent plan submittal and review.

Ms. Watts said, Mr. Steve Langer, Cabarrus County Fire Marshall, submitted a comment that if the subdivision is to be gated, which is an idea that the developer is still bouncing around and has not made a definitive decision on yet; then the subdivision will then need to meet the requirements of Appendix D of the fire code and that would require that the access information be given to E-911, and they will go out and do a check at the gate to make sure that it works. She said only one access is required for this subdivision because it does not exceed 30 lots.

Ms. Watts said WSACC did not have any specific comments since the subdivision will be served by well and septic. She said no comments were received from the Cabarrus County Emergency Services, Cabarrus County Sheriffs Department, Cabarrus County Health Department, the County contracted engineer or the City of Concord. She received an email from Mr. Mark Thompson, Cabarrus Health Alliance stating that the developer has been working with them to make sure that all of the perk sites are okay with them.

She said Mr. Dennis Testerman Cabarrus County Soil Conservation had comments which were attached as Exhibit 6 and he will speak to those comments.

Staff finds that the proposed subdivision meets the development standards of the Cabarrus County Subdivision Ordinance and the Cabarrus County Zoning Ordinance.

Should the Planning Commission grant approval of the subdivision, staff requests that the following conditions be applied as part of the approval:

1. The developer shall enter into a Consent Agreement with the Cabarrus County Board of Commissioners to address school adequacy. (Schools/APFO)
2. The developer must obtain an NCDOT driveway permit and must post a performance bond to cover roadway improvements. The driveway permit will not be issued until all right of ways are in place. (NCDOT/APFO)
3. The developer agrees to meet anti-monotony standards and shall submit sample elevations of proposed homes prior to the start of the final platting process. In addition, applicant will work with Planning & Zoning Services to provide an architectural inventory for permitting purposes. (PLANNING)
4. Developer agrees to secure any necessary permits required by Federal or State law prior to disturbing any wetlands on the site. (STAFF/APPLICANT)
5. All lots must be served internally. (NCDOT)
6. The U.S. Army Corps of Engineers permit allows 145 feet of stream disturbance. Due to ingress/egress issues on Lot Seven (7), twenty (20) feet of the stream disturbance allotment will be relocated. The applicant shall submit a copy of the revised permit prior to any final plat approval. (PLANNING)
7. NC form GW-30 must be filed with the Groundwater Section of the North Carolina Department of Environment and Natural Resources for abandonment of any wells on site. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)
8. The on-site wastewater system associated with the abandoned homestead is required to be decommissioned according to procedures recommended by Cabarrus Health Alliance. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)
9. Permits for the disturbance of streams and other wetlands must be requested from the North Carolina Division of Water Quality and U.S. Army Corps of Engineers prior to any impacts. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)
10. Applicant shall provide a conservation easement on all open space as requested by Cabarrus Soil and Water Conservation District as part of the countywide open space initiative supported by the City of Concord. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)

Ms. Watts said the conservation easement is not a requirement of the Subdivision Ordinance, so we cannot require the applicant to grant the easement. She knows that Mr. Robbins has discussed the possibility of doing that with us and he has also been involved with some conservation subdivisions in some other municipalities.

The Chair asked if there were any questions:

Mr. Berg asked Ms. Watts to clarify the conservation easement on the open space.

Ms. Watts said there is no open space required, so the conservation easement that Mr. Testerman requested would include the River Stream Overlay and the 100 year flood plain.

Mr. Berg asked Ms. Watts if she knew where the twenty (20) feet of the stream disturbance that needs to be reallocated was going to be reallocated.

Ms. Watts said on Lot 7, there was an issue with having a driveway that was going to affect the River Stream buffer. She said when the Army Corps of Engineers issues the permit; they issue it per the foot, so they allow you to flex that area on the site where you need it. She said Mr. Weiss has indicated that he can flex some of the area between Lot 23 and Lot 5 to minimize his impact on the stream there and to reallocate those 20 feet to the area on Lot #7. Mr. Weiss met with Ms. Morris about that and she was okay with allowing him to come before the Board with the condition that they would have to resubmit that permit prior to any final platting. Ms. Watts said Mr. Weiss has indicated that they are working on getting the modified permit.

Mr. Fesperman said because they are under the 30 lots, they are only required to have one in and one out; that is our county situation. He said that is dangerous, if something happens to that first house and somebody has a fire down the road, they would not be able to get in because it would be blocked; it's just not good.

Ms. Watts said the subdivision ordinance states that you have to have the one entrance and at least a stub out street, which the applicant has provided. She said it is actually the fire code that allows you to only have the one entrance under 30.

Mr. Fesperman asked what the policy was for gating in Cabarrus County.

Ms. Watts said there is nothing specific in the ordinance that references the gated community. She said Mr. Robbins has not indicated that he is necessarily going to gate it, but if he does, he will be required to do elevations of the gate, he will have to have all the required permits and before any final plats are signed off on we will have to have approval from the Fire Marshal that it has been inspected.

The Chair opened the public hearing for Petition C2007-08 (S) Preliminary Plat Approval.

Mr. John Robbins, Developer, Greathorn Properties, 1255 Odell School road, Concord, NC 28029, addressed the Board. Mr. Robbins has been working with Ms. Watts for approximately 18 months on this project. He feels they have come to a very good product for the county and he thinks it is an excellent use of the land. He feels good about the very large lots being 2 to 4 acres and with their experience with tenants who prefer to do developments with larger lots for the reason of preserving some of the habitat and having a development where you don't just go in and just clear cut and that kind of

thing. He likes what is done here with having relatively few lots and feels good about the design.

Mr. Robbins and Mr. Testerman had a discussion about an easement of some type and he thinks there are several choices out there that we can look at as we go forward. Their experience has been with self-policing in a development like this where people are preserving, on very large lots, having a HOA that requires control beyond the building envelope in terms of any clear cutting of large legacy trees and that kind of thing. He said the self-policing is cost effective, the people take ownership, and it is a very successful kind of thing. He and Mr. Testerman talked about conservation easements and Mr. Testerman's interest when they spoke was in part a desire to be able to get at the river for purposes of stream restoration kind of work. He said that would be more of an access type of easement and to him that makes a lot of sense. His intent is to do the right with this land; it is gorgeous and beyond having a very nice residential subdivision, their desire would be to preserve the animal habitat like they have other places and to have minimal impact on the land and the river.

Mr. Robbins said they did a subdivision called Riverside in Davidson that received national attention and is a prototype for the North Carolina Wildlife Federation, that is a more traditional, 40% open space and large lots, but where the open space and every single lot will be compliant with the National Wildlife backyard habitat program at time that the family moves into the house. The intent would be to do that with this development as well, as well as to have if not a conservation easement, to having a restrictive covenant, strong guidelines for touching anything outside of the building envelope over time.

Mr. Fesperman asked if all the lots perked.

Mr. Robbins said there are six primary and seven reserved sites that are offsite and 2.5 acres up front by Highway 601 where these offsite septic sites are located, and they would go in at the time of construction and get all the pipe in the road into the right of way so if somebody touches it at their lot and touch it at the offsite, it is all the ground in between. He said that is a big part of why it has take 18 months, because we were working through our soil issues with Mark Thompson.

Mr. Robbins said the soils were challenging, but we are there, he thinks Mr. Thompson is at the point of provisional permits for all 28 lots.

Mr. Berg asked if at this point there is no agreement on the conservation easement and what is in the River Stream Overlay you cannot do anything with, but out side of that, the 100 year flood there really is no agreement.

Mr. Robbins said that is right. He said it is an agreement in spirit; it is a question of how you achieve it. His experience in the past has been to deal with restricted covenants and the HOA policing.

Mr. Berg asked about the erosion plan, he understands it has been disapproved.

Mr. Robbins said it is his understanding that it is more of an in process that they need to finish.

Mr. Matt Weiss, Engineer, 195 Birtwick Road, Rockwell, NC, addressed the Board. They submitted the erosion plan earlier and he had his basin set working with Mr. Tony Johnson and Mr. Thomas Smith, Erosion Control; however when we realized the soil issues coming with the septic, he did not want to put an erosion basin where the good soil is for septic, so he backed off. He told Mr. Johnson and Mr. Smith that once we figure out our soils and where the septic is going then he can place his silk fence and appropriate measures in and around those septic lines. He does not want to dig a 3.5 foot deep sediment basin where the lots will have there septic line and that is why they stopped there. He said it should take about a week to dress up the plan and submit it to Mr. Johnson and Mr. Smith; they are familiar with it so it should be pretty straight forward.

Mr. Berg asked Mr. Weiss to address the reallocation of the 20 foot stream impact. As he understood it, Ms. Watts said between Lots 23 and 5, which looks like where the road is.

Mr. Weiss said for Lot 7, when we were coming across with the driveway, Ms. Morris did not like the way he initially had it; we were running more parallel to the other ROZ coming up the side. He said Ms. Morris wanted to move it where it was perpendicular, when we did that it was crossing the intermittent stream. He had over 100 feet initially allocated for the road crossing; we can shorten that and take 20 feet, possibly raise the head walls, then move that to a driveway pipe for that particular residence. He said a letter was sent to the Corp making them aware of their plan and hopefully they will have a response pretty quick. He said it should be straight forward, the actual threshold is 150 feet, what they applied for was 145, so they were under their threshold and are going to stay under that threshold. They would like to make the road crossing a little shorter and if need be, raise the head walls and or lower the sag part so that there is not as much fill and get the slopes to tie out before the water starts in the spring.

Mr. Fesperman asked if the Army Corp of Engineers had been out to view this yet.

Mr. Weiss said yes, they have their permits.

Ms. Watts said we checked all the areas to make sure what was shown on the plan complied with what the permit allowed for and it does meet that and did not exceed any of those numbers.

The Chair closed the public hearing.

The Chair asked what the AFPO requirements would be.

Ms. Watts said this application was submitted prior to the payment increase in July 2007, so this would be under the \$4034 per lot.

Mr. Prince said the comment from Dennis Testerman saying "unless the proper authorization has been received, it is in violation". He asked if that was or was not the Army Corp of Engineers permit that they have received.

Mr. Testerman said it is one in the same. He said that language was worked out in agreement with the Corp of Engineers. He said typically when they see a plan they have not seen any paper work.

Mr. Prince asked if he reviewed plans prior to submittal of what we have.

Mr. Testerman said we do not get the permits; we have no evidence that they have contacted the Corp or the Division of Water Quality, so we put in a standard statement saying this has to be done. He said in some cases it has already been done and some cases it has not.

Mr. Berg asked Mr. Testerman to speak to the easements.

Mr. Testerman said would prefer not to see the property at the lots platted to the center line of the river, and not just this property but in any case. What he has seen in the past is that people tend to treat that as their own and you end up with fences, storage sheds, dog houses, and grass clippings dumped off the bank into the stream. He makes the assumption that most of that would be less of an issue on this property; assumptions on the cost of the houses and the types of folks who would be moving into them.

He said the county submitted applications to the NC Department of Agriculture to purchase development rights on land in Cabarrus County. He said they submitted an application for about \$2 million in state assistance, \$8 million state wide; it is very competitive to try to get funds to purchase development rights. He said they have ranking forms; the same is true for other programs where we have pots of money to work for and one of the criteria they are looking for is proximity to protective properties. He said we really hurting in this county that we do not have properties that are protected.

Mr. Testerman said the type of arrangement that Mr. Robbins was describing would not provide that kind of protection, you would need an easement such as the one that was recorded on portion of the jail site recently. He said it would be good to have more of those around the county where they are appropriate. He thinks on the Rocky River would certainly be appropriate, that is an impaired stream.

He said the regulations that are in place for protecting water quality from the storm water perspective generally is not adequate to reverse the trend from an impaired stream to a stream that is healthy again. He said that would be the other consideration he would have in his mind as to why an easement would be good there. He said if the lots were not platted on the centerline of the stream but was platted to the edge of the easement it

benefits both in terms of water quality and in terms of helping them when ranking applications and seeking funds to get easements in the county.

The Chair asked for questions or comments.

Mr. Porter likes the subdivision and the size of the lots; however it is still an impact on schools that are inadequate at this time.

There being no further discussion, Mr. Ian Prince **MOTIONED, SECONDED** by Mr. Larry Griffin to **Approve** Petition 2007-08 (S) Preliminary Plat Approval – Riverbend Subdivision with Conditions listed in the staff report except for Item #10. The vote was 8 to 1 with Mr. Tommy Porter voting against.

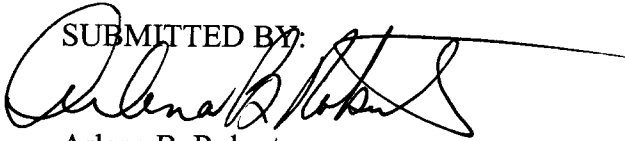
There being no further business, Mr. Griffin **MOTIONED, SECONDED** by Mr. Fesperman to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 8:40 p.m.

APPROVED BY:

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

Roger Haas, Chairman

SUBMITTED BY:

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

Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager