

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
April 17, 2008
7:00 P.M.
County Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval/Correction of February 21, 2008 Minutes
3. New Business – Planning Board Function:
 - A. **Petition C2007-06 (R-SU) Zoning Atlas Amendment** –
Petitioner, Mr. Glenn Jones, PIN 5660-13-8210. The applicant is requesting that an additional use, auto repair and service be included as permitted use for the property. (**Tabled from December 20, 2007, Planning and Zoning Commission meeting**)
 - B. **Petition C2008-01 (R) Zoning Map Amendment** –
Petitioner, Mr. Laurent D. Beaudry, PIN# 5529-85-3566. Property is located at the intersection of Litaker Lane and Zion Church Road. The purpose of this petition is to rezone this property, approximately 11.14 acres, from O-I Office Institutional to G-I General Industrial to allow for an industrial use.
 - C. **Architectural Review:** Andrzej Kraska, Owner, Kraska Water Test Office Project #816, proposing a new facility to be located at 1121 NC Highway 24/27, Midland NC, in the Office Institutional (OI) Zoning District with Cabarrus County.
 - D. **Proposed Text Amendment:**
C2008-01-ZT – Chapter 8 – Reception Facilities in Residential Zoning Districts. (**Discussed at February 21, 2008, Planning and Zoning Commission meeting**)
 - E. **Proposed Text Amendment:**
C2007-09ZT – Chapter 4 – Part II, Section 4.8 River/Stream Overlay Zone
 - F. **Proposed Text Amendment:**
C2008- 02-ZT Chapter 5, Section 5.5, Part C., 1, Exception or Minor Subdivisions
 - G. **Proposed Text Amendment:**
C2008-03-ZT Chapter 15, Clarify the language of the APFO as it relates to adequate capacity for developments.
4. Directors Report
5. Adjournment

PLANNING STAFF REPORT
TO CABARRUS COUNTY PLANNING AND ZONING BOARD
April 17, 2008 (Tabled from January 17, 2008)

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. The 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 as part of the rezoning was farm equipment sales and repair.

Surrounding Zoning: North: CR – Countryside Residential &
OI – Office/Institutional
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 also 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
 9. Letter Regarding Erosion Control – Submitted by applicant
 10. Sedimentation Inspection Report, 1/2/2008 – Submitted by staff
 11. Sedimentation Inspection Report, 1/7/2008 – Submitted by staff
 12. Letter to Mr. Allman (1/29/2008) –Submitted by staff
 13. Letter to Mr. Allman (2/5/2008)– Submitted by staff
 14. Letter to Mr. Byrd (3/18/2008) - Submitted by Accutech Surveying
 15. Letter to Mr. Allman (3/20/2008) – Submitted by staff

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:

- No objections or comment to the proposed rezoning.

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.
- Soil & Water Conservation Staff discussed this site with the Cabarrus SWCD Board of Supervisors at their monthly meeting last night on 1/3/2008. Concerns were expressed regarding the short time lines faced in providing conservation planning assistance on proposed residential and commercial sites.
- Based on the history of poor erosion control efforts on this site – which have adversely impacted the floodplain, SWCD Staff is uncomfortable with the owner's plan to re-grade and seed ditches without a conservation plan.
- SWCD Staff would like to see the restoration plan for the fill area – if one was prepared by NC DOT – and to

research the property deed to see if the existing fill area (LICD landfill) has been properly recorded.

- Cabarrus SWCD's main interest here is in keeping stormwater and sediment on the site and off the floodplain.

Cabarrus County Zoning – Jay Lowe:

- On January 7, 2008, an on site inspection was made at the Hwy 49 site. The zoning violations discussed at the December 20, 2007, P&Z meeting have been rectified. Therefore, as for zoning, the property seems to be in compliance.

Cabarrus County Floodplain Manager – Mike Byrd:

- As discussed, Accutech Surveying had staked the 600' elevation line on the property. This is the 100 year flood elevation shown on the latest set of Cabarrus County FIRM maps. The amount of dirt moved out of the 100 year floodplain line, and the remaining area in the 100 year floodplain line that was not originally filled will meet the required work that we discussed. This action will bring you into compliance with the Cabarrus County Flood Damage Prevention Ordinance.
- This elevation was re-staked as we requested from AccuTech to confirm it. As requested, the area that was regarded had also been seeded and straw has been placed on the area.
- This action will allow you to continue with the Conditional Use Permit you had requested earlier.

Soil and Erosion Control – Thomas Smith:

- No erosion and sedimentation control plan is required because the size of the project is less than one acre and no future development is planned.
- Soil & Erosion Control staff recommended the "ditch" located behind the existing main building be repaired and stabilized with adequate ground cover (seed and straw).
- Soil & Erosion Control staff also recommended stabilizing slopes and flat areas along the back of the fill slope located below the existing building per discussion on site, 1/3/2008.
- The ditch has been re-graded and stabilized (seeded/strawed) at this time (1/7/2008). The slopes and flat areas along the back have been seeded and mulched. Soil & Erosion Control staff recommends

monitoring both areas to insure that all bare areas are stabilized with adequate ground cover.

- Soil & Erosion Control staff conducted a site visit on 4/8/2008. S&E staff determined the slope has been seeded and mulched at this time and recommends continued monitoring of the site to insure that all bare areas are stabilized with permanent ground cover.

Staff Analysis:

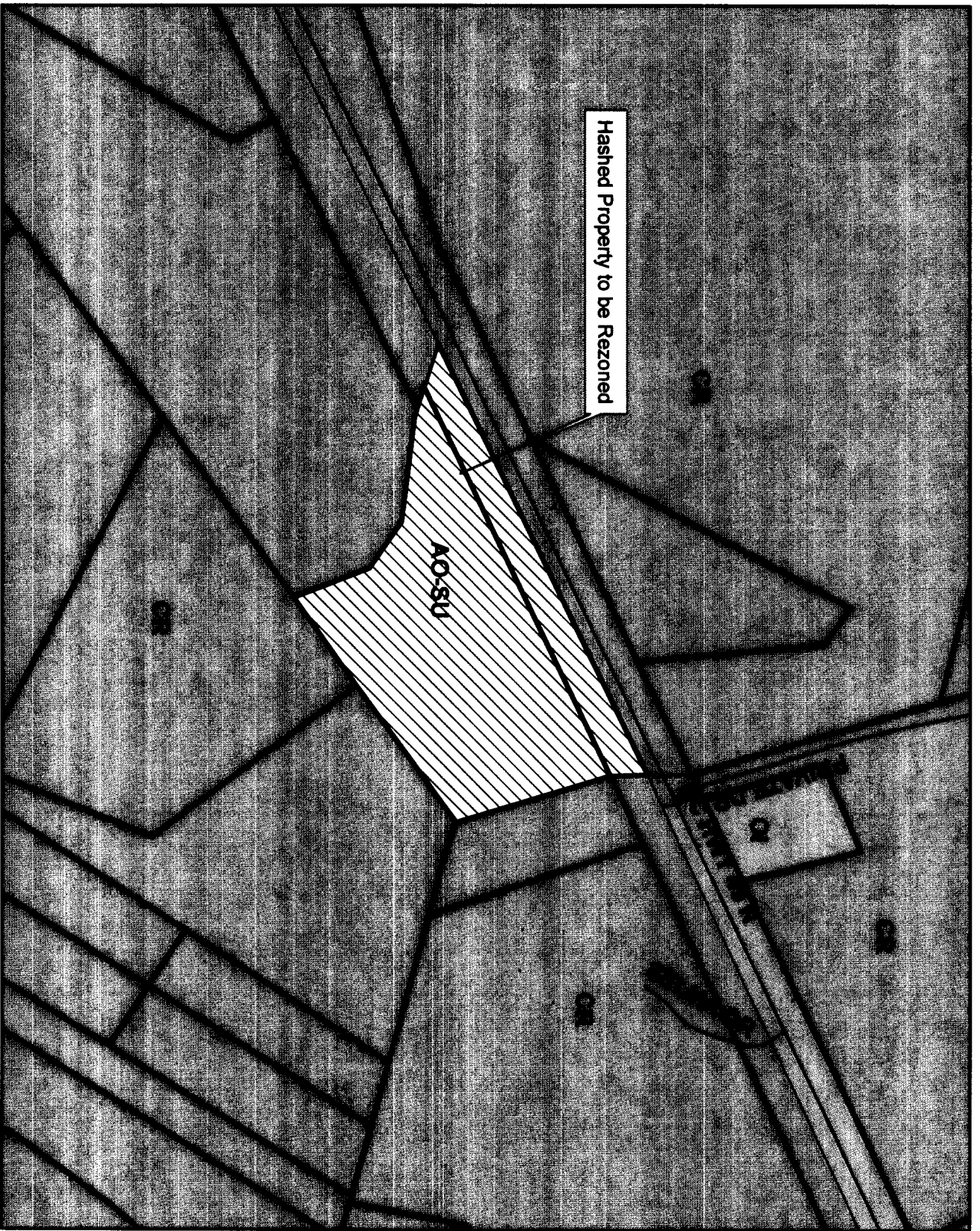
Staff finds that the proposed zoning map amendment and site plan meet the conditional use standards of the Cabarrus County Zoning Ordinance.

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 being repaired permitted on the subject property except in the designated paved parking area.
4. Applicant must complete required upgrades to parking areas and landscape as shown on proposed site plan.
5. There will be no storage of vehicles or dumping permitted in the River Stream Overlay District (RSOD) located on the subject property.
6. No construction of buildings will be permitted in the River Stream Overlay District (RSOD) located on the subject property.
7. Applicant shall work with Soil and Erosion Control staff to ensure that all bare areas are stabilized with permanent ground cover and that no sedimentation is being deposited in Adams Creek.



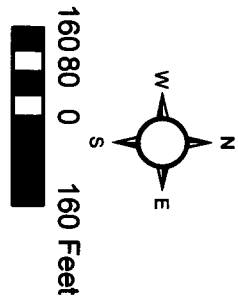
Hashed Property to be Rezoned

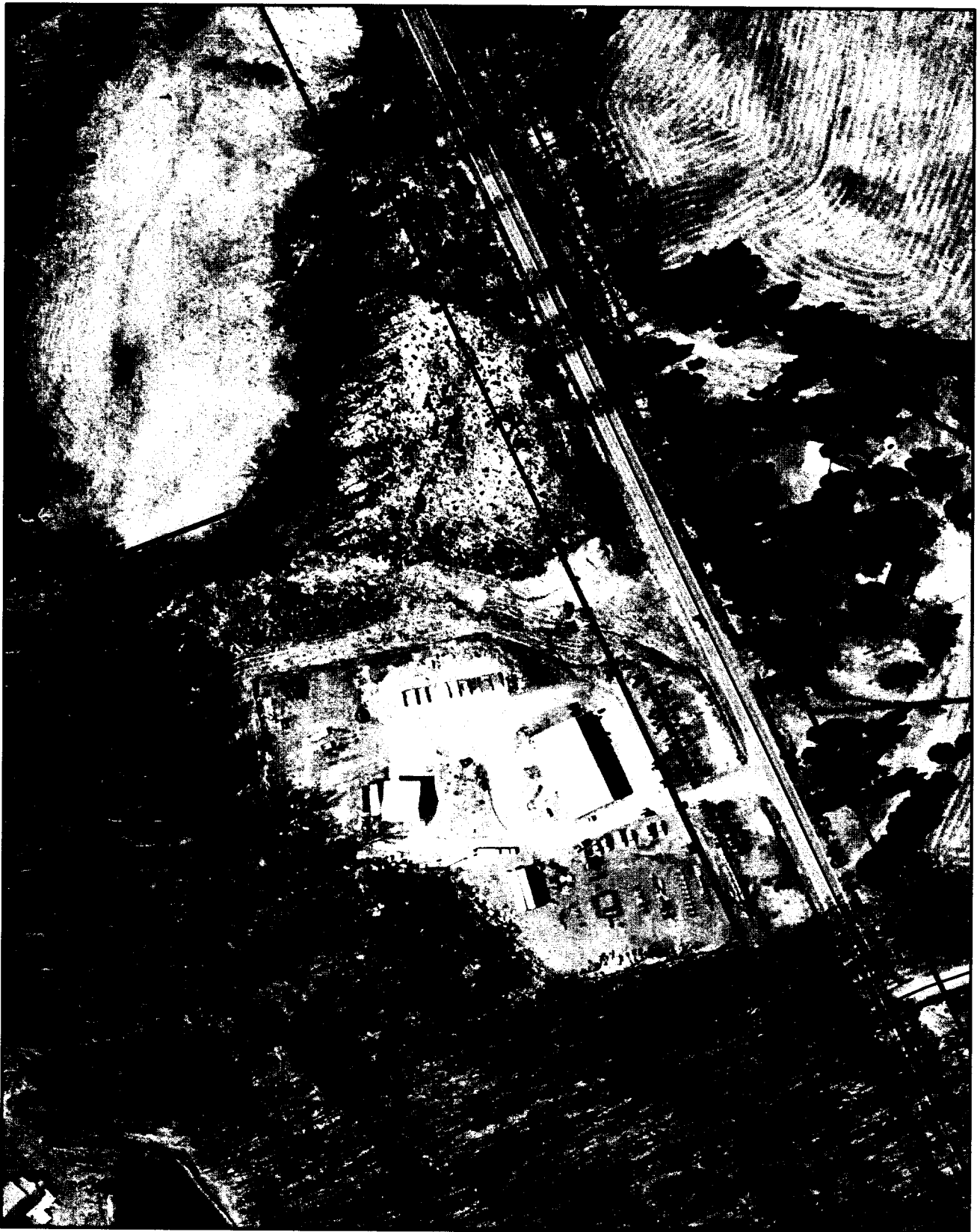
AO-SU

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



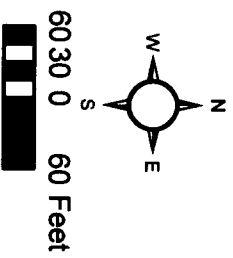
Vicinity Map





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

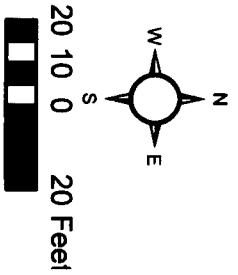
Aerial Map





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Petition: C2007-06(R-SU)
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PIN# 5660-13-8210




Aerial Map Detail

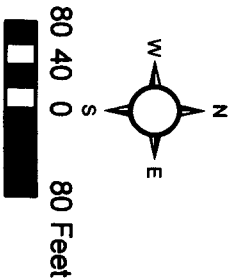




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 Proposed Zoning: AO-SU
 PIN# 5660-13-8210

Aerial Map With Floodplain

Legend	
	Floodplain
	100 Year
	500 Year



ADJACENT PROPERTY OWNERS

OWNER'S NAME, ADDRESS (PIN#)

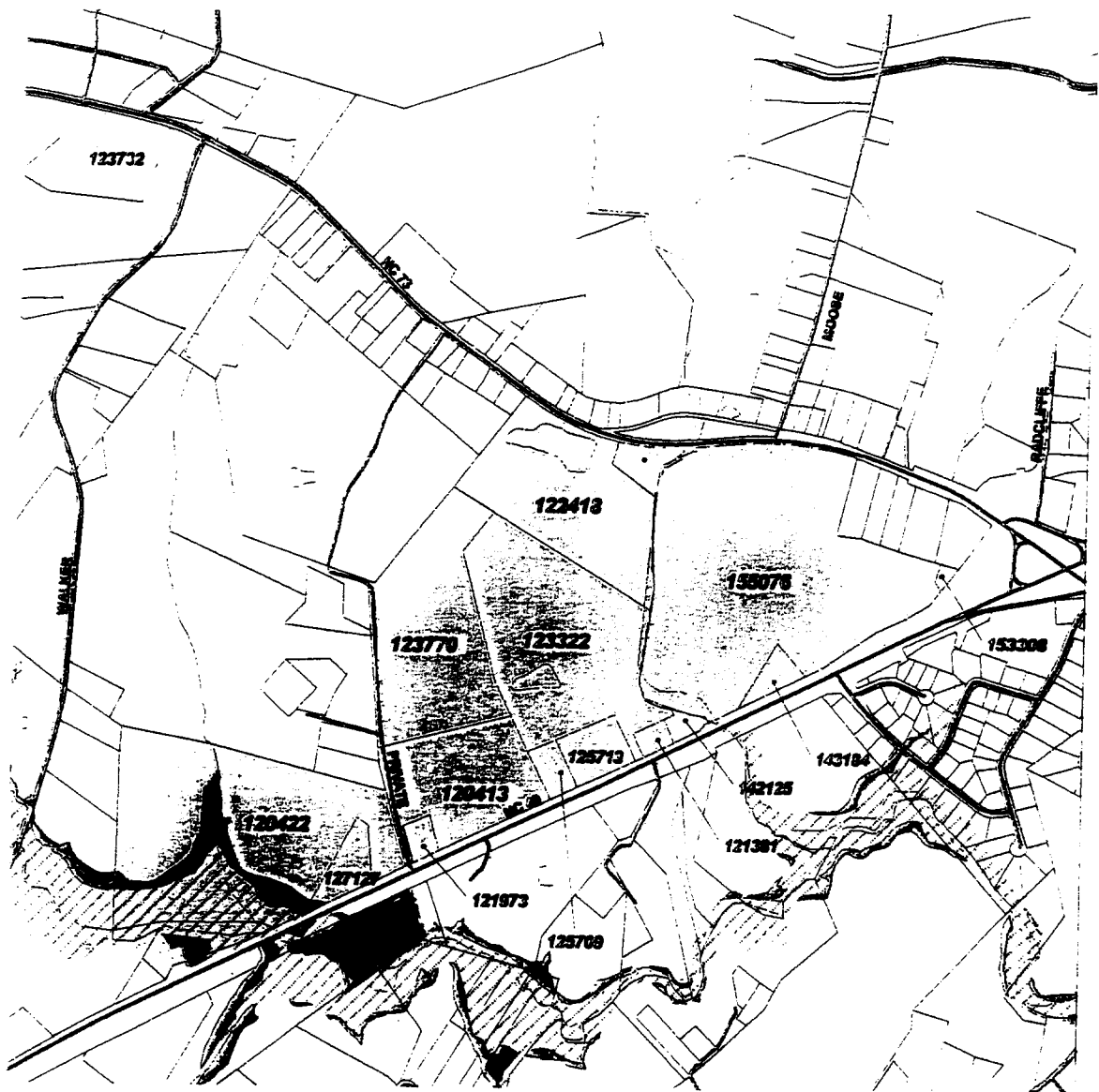
Ned C. Reece
1103 Rogers Lake Road
Kannapolis, NC 28081
(5660-13-1878, 5660-13-6780) (704) 933-2550

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 No.	Owner Name	Acres	Assessed Value	Market Value	Unimproved 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	27360.00	101410.00	203820.00
122413	LITTLE VIRGINIA MCALLISTER	31.24	221660.00	156270.00	381430.00
123322	HEGELE ETHELYN D SMITH	41.26	211410.00	0.00	211410.00
123770	SMITH JACOB ARCHIE A JR	33.40	162320.00	130000.00	320540.00
25709	BEAM KENNETH W & WIFE	2.2	32990.00	35000.00	120990.00
25710	JONES GLENN T & WIFE	4.70	32290.00	0.00	32290.00
27107	REECE NED C	0.33	00540.00	0.00	00540.00
42.05	DOOHRAVE STEVEN S & WIFE D	20	32000.00	190.00	43880.00
43184	NOBLES JOHN RAY JR	0.35	555300.00	0.00	555800.00
50003	N.C. DEPT OF TRANSPORTATION	0.45	59500.00	0.00	59500.00
53073	EDD WILDA WORTH DARDENALLO	3.70	609.00.00	0.00	609.00.00
TOTAL		390.35	32,415,910.00	3715,190.00	33,243,550.00

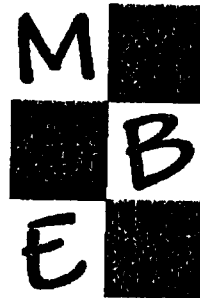
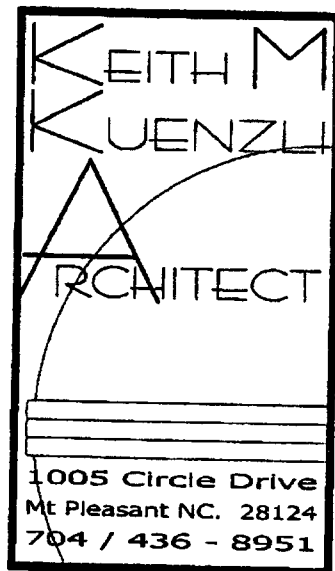
GMAX – AUTOMOTIVE & TRACTOR SERVICE CENTER

Site Plan Submittal
C2007-06(R-SU)

“EXISTING BUFFER AREA LANDSCAPING PHOTOS”

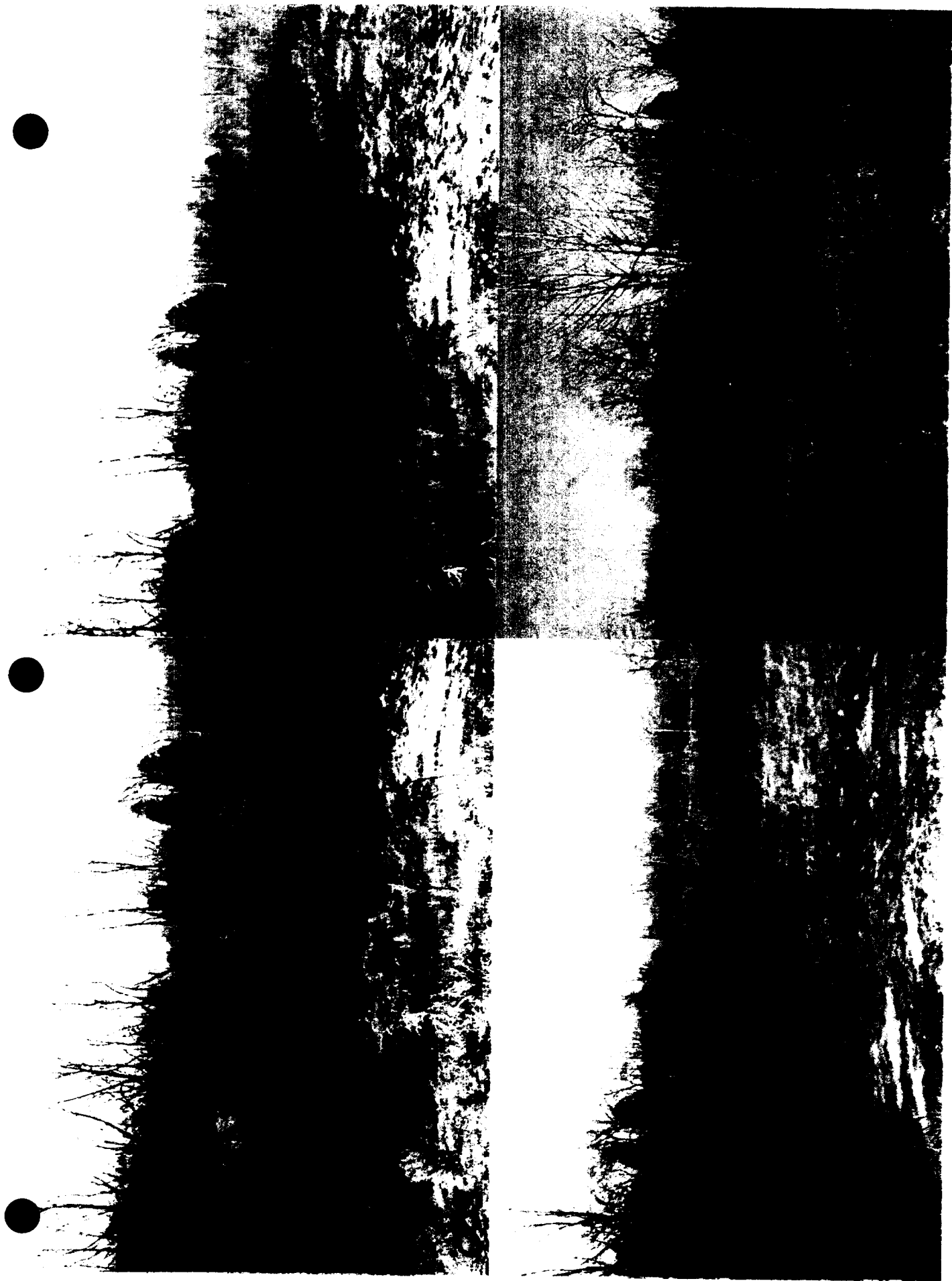
Reference Sheet A-004

December 12, 2007



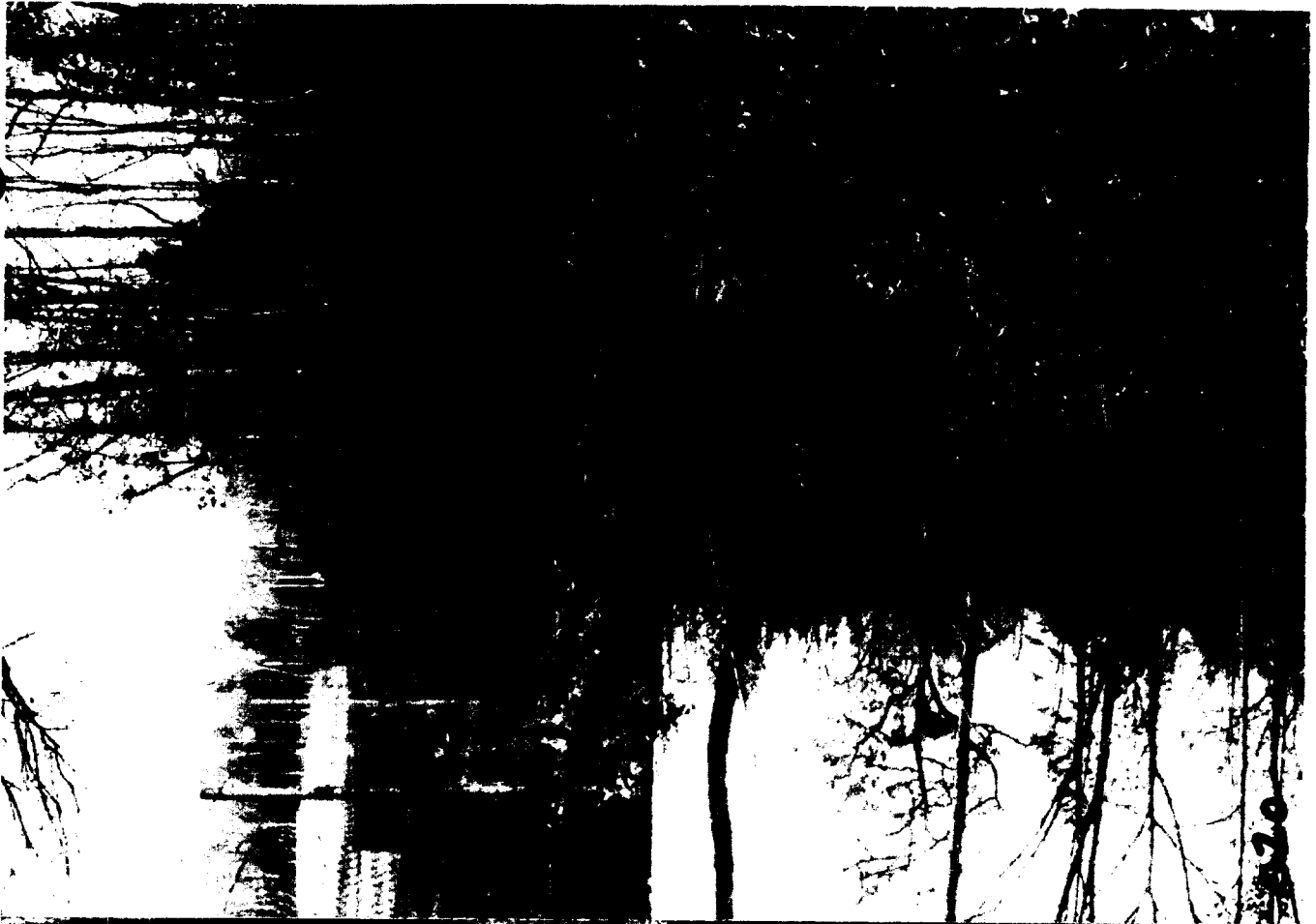
MARX-BRYAN
ENGINEERING
17155 Thompson Place Dr
Charlotte, NC 28227
OFFICE: (704) 210-8456
MOBILE: (704) 644-5349













M

B

E

Marx-Bryan Engineering
13755 Thompson Place Drive
Charlotte, NC 28227

Office: (704) 210-8456
Mobile: (704) 578-7014
Fax: (704) 644-5349
email: marxbryan@carolina.rr.com

January 5, 2008

Cabarrus County Commerce Department
Post Office Box 707
Concord, NC 28026

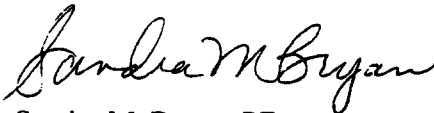
Re: C2007-06(R-SU) Zoning Atlas Amendment
6300 N.C. 49 Highway N., Mt. Pleasant, N.C. 28124

Dear Ms. Watts:

Per the site meeting on Thursday, January 3rd, the Cabarrus County Erosion Control Inspector, Thomas Smith, made no requirements for any erosion control measures for the development proposed on this site. He did however, make the recommendation that the existing ditch that runs along the existing gravel drive beyond the main building be improved to the point that it can be easily mowed.

The ditch is currently approximately one foot wide by one foot deep. The applicant has agreed to feather the ditch out to allow a lawnmower to easily maintain grass growth. The ditch will be graded accordingly and seed and straw immediately placed.

Sincerely,



Sandra M. Bryan, PE

Marx-Bryan Engineering

SEDIMENTATION INSPECTION REPORT

COMMERCE DEPARTMENT, CABARRUS COUNTY NORTH CAROLINA

P.O. BOX 707, CONCORD, NORTH CAROLINA 28026-0707 PHONE 704-920-2192

Project: C2007-06(R-SU) ZONING ATLAS AMENDMENT River Basin: Yadkin

Person Financially Responsible: GLENN JONES

Address: 8812 CRESTWOOD DRIVE, MOUNT PLEASANT, NC 28124

1. Project Location: 6300 NC HWY 49 N BP# _____

2. Weather and Soil Conditions: SUNNY AND DRY Pictures Prints Slides Video

3. Is the site currently under notice of violations? Yes No

4. Is the site in compliance with the S.E.S.C.O. S.P.C.A. and rules? Yes No If no, check violations below:

- | | |
|---|--|
| <input type="checkbox"/> a. No approved plan, Sec. 17(i)G.S. 113A-57(4) and 15A N.C.A.C.4B0117(c) | <input type="checkbox"/> f. Failure to take all reasonable measures, Sec 6(c), 15A N.C.A.C.4B.0105 |
| <input type="checkbox"/> b. Failure to follow approved plan, Sec. 17(c),G.S. 113A-61.1 | <input type="checkbox"/> g. Inadequate buffer zones, Sec. 7(a)(1)(2),G.S. 113A-57(1) |
| <input type="checkbox"/> c. Failure to submit revised plan, Sec. 17(c),G.S. 113A-54.1(b) and 15A N.C.A.C.4B.0018(a) | <input type="checkbox"/> h. Graded slopes and fills too steep, Sec. 7(b),G.S. 113A-57(2) or 15A N.C.A.C.4B.0124(d) |
| <input type="checkbox"/> d. Failure to provide adequate groundcover, Sec. 7(c),G.S. 113A-57(3) and 15A N.C.A.C.4B.0107(b) or 15A N.C.A.C.4B.0124(e) | <input type="checkbox"/> i. Unprotected exposed slopes, Sec. 7(b) G.S. 113A-57(2) |
| <input type="checkbox"/> e. Insufficient measures to retain sediment on site, Sec. 6(f),G.S. 113A-57(3) | <input type="checkbox"/> j. Failure to maintain erosion control measures, Sec. 13, 15A N.C.A.C.4B.0113 |
| | <input type="checkbox"/> Other (describe) _____ |

6. Has sedimentation damage occurred since last inspection? Yes If yes, where? Check all that apply) No
Lake/natural watercourse on the tract Lake/natural watercourse off the tract Other property

Description NONE NOTED

Degree of damage: Slight Moderate Severe

7. Contact made with (Name) MR. ALLMANGLENN JONES, MARK ROW Title OWNERS

Inspection report given sent to Person Financially Responsible. Date Given/Sent: _____

8. Corrective actions needed:

Comments:

WE RECOMMEND THAT THE "DITCH" LOCATED BEHIND THE EXISTING MAIN BUILDING BE REPAIRED AND STABILIZED WITH ADEQUATE GROUND COVER (SEED AND STRAW). ALSO STABILIZE SLOPES AND FLAT AREAS ALONG THE BACK OF THE FILL SLOPE LOCATED BELOW THE EXISTING BUILDING PER OUR DISCUSSION ON SITE.

9. Corrective action(s) to be completed by _____ 10. Hold certificate of occupancy: Yes No

Report By: THOMAS A. SMITH Others Present: _____

Date Of Inspection: 1/2/2008 Time arriving on site: 10:00 AM Time leaving site: 11:00 AM

SEDIMENTATION INSPECTION REPORT

COMMERCE DEPARTMENT, CABARRUS COUNTY NORTH CAROLINA

P.O. BOX 707, CONCORD, NORTH CAROLINA 28026-0707 PHONE 704-920-2192

Project: C2007-06(R-SU) ZONING ATLAS AMENDMENT River Basin: Yadkin

Person Financially Responsible: GLENN JONES

Address: 8812 CRESTWOOD DRIVE, MOUNT PLEASANT, NC 28124

1. Project Location: 6300 NC HWY 49 N BP# _____

2. Weather and Soil Conditions: SUNNY AND DRY Pictures Prints Slides Video

3. Is the site currently under notice of violations? Yes No

4. Is the site in compliance with the S.E.S.C.O. S.P.C.A. and rules? Yes No If no, check violations below:

- | | |
|---|--|
| <input type="checkbox"/> a. No approved plan, Sec. 17(i)G.S. 113A-57(4) and 15A N.C.A.C.4B0117(c) | <input type="checkbox"/> f. Failure to take all reasonable measures, Sec 6(c), 15A N.C.A.C.4B.0105 |
| <input type="checkbox"/> b. Failure to follow approved plan, Sec. 17(c),G.S. 113A-61.1 | <input type="checkbox"/> g. Inadequate buffer zones, Sec. 7(a)(1)(2),G.S. 113A-57(1) |
| <input type="checkbox"/> c. Failure to submit revised plan, Sec. 17(c),G.S. 113A-54.1(b) and 15A N.C.A.C.4B.0018(a) | <input type="checkbox"/> h. Graded slopes and fills too steep, Sec. 7(b),G.S. 113A-57(2) or 15A N.C.A.C.4B.0124(d) |
| <input type="checkbox"/> d. Failure to provide adequate groundcover, Sec. 7(c),G.S. 113A-57(3) and 15A N.C.A.C.4B.0107(b) or 15A N.C.A.C.4B.0124(e) | <input type="checkbox"/> i. Unprotected exposed slopes, Sec. 7(b) G.S. 113A-57(2) |
| <input type="checkbox"/> e. Insufficient measures to retain sediment on site, Sec. 6(f),G.S. 113A-57(3) | <input type="checkbox"/> j. Failure to maintain erosion control measures, Sec. 13, 15A N.C.A.C.4B.0113 |
| | <input type="checkbox"/> Other (describe) _____ |

6. Has sedimentation damage occurred since last inspection? Yes If yes, where? Check all that apply) No
Lake/natural watercourse on the tract Lake/natural watercourse off the tract Other property

Description NONE NOTED

Degree of damage: Slight Moderate Severe

7. Contact made with (Name) GLENN JONES, MARK ROWELL Title OWNERS

Inspection report given sent to Person Financially Responsible. Date Given/Sent: _____

8. Corrective actions needed:

Comments:

DITCH HAS BEEN REGRADED AND STABILIZED (SEEDED/STRAWED) AT THIS TIME. ALSO NOTE SLOPES AND FLAT AREAS ALONG THE BACK HAVE BEEN SEEDED AND MULCHED. MONITOR BOTH AREAS TO INSURE THAT ALL BARE AREAS ARE STABILIZED WITH ADEQUATE GROUND COVER.

9. Corrective action(s) to be completed by _____ 10. Hold certificate of occupancy: Yes No

Report By: THOMAS A. SMITH Others Present: _____

Date Of Inspection: 1/7/2008 Time arriving on site: 1:00 PM Time leaving site: 2:00 PM



Cabarrus County Government

Commerce Department
Community Development Division

March 20, 2008

Mr. Clarence Allman
8812 Crestwood Drive
Mt. Pleasant NC 28124

Dear Mr. Allman:

This letter is to follow up on our meeting at your property on NC 49 (Map/PIN 5660-13-8210). As we discussed, AccuTech Surveying had staked the 600' elevation line on the property. This is the 100 year flood elevation shown on the latest set of Cabarrus County FIRM maps.

The amount of dirt moved out of the 100 year line, and the remaining area in the 100 year area that was not originally filled will meet the required work that we discussed. This action will bring you into compliance with the Cabarrus County Flood Damage Prevention Ordinance. This elevation was re-staked as we requested from AccuTech to confirm it. This confirmation is shown on the attached letter.

As we requested, the area that was regarded had also been seeded and straw had been placed on the area.

This action will allow you to continue with the Conditional Use permit you had requested earlier. If you have any additional questions, please let me know.

Sincerely,

Michael L. Byrd
Cabarrus County
Commerce Department

Attachment

Cc:

Neal E. Stroup, Assistant Resident Engineer, North Carolina Department of Transportation

Phil H. Suggs, CPESC, North Carolina Department of Transportation

Davis C. Diggs, PE, North Carolina Department of Transportation

Thomas A. Smith, Cabarrus County Soil and Erosion

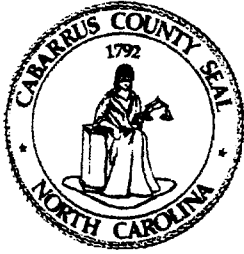
Dennis Testerman, Cabarrus County Soil and Water Conservation

Susie Morris, Cabarrus County Planning and Zoning Administrator

Kassie G. Watts, Cabarrus County Planning

Glenn Jones, GMST Holdings, LLC

Mark Rowell, GMST Holdings, LLC



Commerce Department
Planning Division

Cabarrus County Government

January 29, 2008

Clarence Allman
4300 Cauble Road
Mt. Pleasant, NC 28124

Dear Mr. Allman,

Please be advised of the following information:

It has been determined by Cabarrus County Planning and Zoning staff, the site under your ownership located at 6300 Highway 49 (PIN# 5660-13-8210) has fill material located in the 100-year floodplain. The existing fill material is approximately 10 feet above the top of the stream bank. This fill material was placed on the site, in the 100-year floodplain, per a Waste agreement dated October 12, 2004 between you, Clarence Allman and the contractor, Blythe Construction. This agreement further specifies an agreement between Blythe Construction and the North Carolina Department of Transportation.

There was a Biological Technical Report submitted by Ecologic Associates, PC, Principal Investigator, Kenneth A. Bridle, PhD, and also a Reclamation plan for the Waste Area submitted by the contractor, Blythe Construction. This reclamation plan was not approved by the Resident Engineer for NCDOT, nor initialed by the contractor or the property owner.

The Cabarrus County Subdivision Ordinance, Chapter 4, Section 6, item 4, Floodplain Fill Activity, states "Fill activity is restricted within the 100-year floodplain. See Section 38-77, item 8, of the Flood Damage Prevention Ordinance." Currently the site located at 6300 Highway 49 is in violation of the Cabarrus County Subdivision Ordinance and the Flood Damage Prevention Ordinance. Per Section 38-61, item 5 of the Flood Damage Prevention Ordinance, "When the local administrator finds violations of applicable State and local laws, it shall be his duty to notify the owner or occupant of the building in violation. The owner or occupant shall immediately remedy each of the violations of law in the property he owns".

As the current property owner, you recently allowed a Conditional Use Rezoning application to be filed to modify the uses permitted on the site. The county cannot continue to process this rezoning request or grant approval of the Conditional Use Permit

until this violation has been rectified. The fill material must be removed from the 100-year flood plain and that material must be relocated out of the 100-year floodplain and approved per a reclamation plan by NCDOT.

If you have any questions regarding the above information, please do not hesitate to contact myself or Mike Byrd, the Cabarrus County Floodplain Administrator at 704-920-2141.

Sincerely,



Kassie G. Watts
Planner

Cc:

Phil H. Suggs, CPESC, North Carolina Department of Transportation
Davis C Diggs, PE, North Carolina Department of Transportation
Thomas A. Smith, Cabarrus County Soil and Erosion
Dennis Testerman, Cabarrus County Soil and Water Conservation
Susie Morris, Cabarrus County Planning and Zoning Administrator
Mike Byrd, Cabarrus County Floodplain Administrator
Glenn Jones, GMAX Autocare
Mark Rowell, GMAX Autocare

- (3) Revocation of permits: The local administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (4) Periodic inspections: The local administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- * (5) Violations to be corrected: When the local administrator finds violations of applicable State and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law in the property he owns.
- (6) Action in event of failure to take corrective action: If the owner of a building or property shall fail to take prompt corrective action, the administrator shall give him written notice, by certified or registered mail to his last known address or by personal service,
 - (a) that the building or property is in violation of the Flood Damage Prevention Ordinance;
 - (b) that a hearing will be held before the local administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - (c) that following the hearing, the local administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- (7) Order to take corrective action: If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may prescribe; provided that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

- (ii) the name, address and phone number of the individual responsible for the removal of the temporary structure;
 - (iii) the time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a urricane or immediately upon flood warning notification);
 - (iv) a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and,
 - (v) designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.
- (b) The above information shall be submitted in writing to the local administrator for review and written approval.
- (7) Accessory structure. When accessory structures (sheds, detached garages, etc.) with a value of \$3,000 or less, are to be placed in the floodplain the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
 - (b) Accessory structures shall be designed to have low flood damage potential;
 - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (d) Accessory structures shall be firmly anchored in accordance with Division 3, Section 38-76(1);
 - (e) Service facilities such as electrical and heating equipment shall be installed in accordance with Division 3 Section 38-74(4); and,
 - (f) Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with Division 3, Section 38-77(5).
- ~~*~~ (8) Floodways. Located within areas of special flood hazard established in Division 1, Section 38-32, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris and potential projectiles, and has erosion potential. The following provisions shall apply within

such areas:

- (a) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local administrator.
- (b) If Division 3, Section 38-77(8)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Division 3.
- (c) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of Division 3, Section 38-77(3) are met.
- (d) Permitted uses: The following uses shall be permitted within the floodway to the extent that they are otherwise permitted by this ordinance and zoning ordinance and provided that they do not employ structures or fill except as specified herein:
 - (i) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, quarrying, wildlife and related uses;
 - (ii) Ground level loading areas, ground level automobile parking areas, rotary aircraft ports and other similar industrial and commercial uses;
 - (iii) Tractor-trailer parking, provided that no trailers haul be detached from tractors;
 - (iv) Lawns, gardens, play areas, and other similar uses;
 - (v) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space and other similar private and public recreational uses;

- (vi) Streets, bridges, utility lines, storm drainage facilities, sewage or waste treatment facilities, water supply facilities, and other similar public utility uses, but only if the proposed activity combined with the allowable encroachment in the floodway will not increase the base flood elevation due to allowable one foot. The increase in base flood elevation due to allowable encroachment of the floodway fringe is listed in the floodway data table in the flood insurance study prepared by the Federal Emergency Management Agency (FEMA). Fill material for utilities shall be permitted only if approved by the city engineer;
 - (vii) Temporary facilities such as displays, circuses, carnivals, or similar transient amusement enterprises;
 - (viii) Boat dock, ramps, piers, or similar structures;
 - (ix) Dams;
 - (x) Grading but not fill; and
 - (xi) Cantilevered portions of structures, provided that foundation and supports are located outside the floodway and the underside of the cantilevered portion is at least two feet above base flood elevation.
- (e) Prohibited uses: Storage or processing of materials that are flammable, corrosive, toxic, or explosive, or which could otherwise be injurious to human, animal or plant life in time of flood is prohibited in the floodway.
- (8) Floodway fringe permitted uses. The following uses shall be permitted within the floodway fringe to the extent that they are otherwise permitted by this ordinance and the zoning ordinance.
- (a) Uses permitted below flood protection elevation:
 - (1) Any use as permitted and regulated in the floodway.
 - (2) Fill material graded to drain, provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at grade 10 feet beyond the limits of the structure foundation, and shall have a side slope no steeper than two feet horizontal to one-foot vertical.

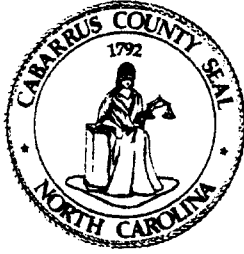
All material used as fill within the floodway fringe must be derived from adjacent floodway fringe and the same deeded parcel as that area being filled. The net result of borrow and fill within the floodway fringe area shall constitute no net loss to the flood storage capacity of the floodway fringe. A professional engineer must certify that no net loss of storage will occur as a result of the fill activity.

- (3) Structure foundations and supports, provided such are firmly anchored to prevent floatation.
- (b) Uses permitted above flood protection elevation:
- (1) Any residential or nonresidential use permitted by this ordinance and the zoning ordinance provided that the lowest flood elevation of any structure is located two feet or more above base flood elevation.
 - (2) Heating and electrical equipment installed below flood protection elevation shall be floodproofed.
 - (3) Any nonresidential use permitted by this ordinance and the zoning ordinance provided that all portions of the structure are elevated or floodproofed, as provided in this Article, to an elevation at least two feet above base flood elevation.
 - (4) Heating and electrical equipment installed below flood protection elevation shall be floodproofed. Nonresidential structures may floodproof this equipment if placed below the base flood elevation, but the floodproofing must be certified by a professional engineer or architect registered in North Carolina.
- (c) Prohibited uses: Uses that are prohibited below the flood protection elevation are the storage or processing of materials that are flammable, corrosive, toxic, or explosive or which could otherwise be injurious to human, animal or plant life in time of flood.

SECTION 38-78. Standards for streams without established base flood elevations and/or floodway.

Located within the areas of special flood hazard established in Division 1, Section 38-32, are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements of new development or new development shall be permitted within a distance of the



Cabarrus County Government

February 5, 2007

Mr. Clarence A. Allman
4300 Cauble Road
Mt. Pleasant NC 28124

Dear Mr. Allman,

This letter, as you requested, is to review the information we discussed on your property earlier today. Your property is identified as: Map/PIN 5660-13-8210. The property contains approximately 8.75 acres, and adjoins Adams Creek on the west side. I hope the following information provides additional clarification.

1. This property is in violation of the Cabarrus County Flood Damage Prevention Ordinance (FDPO) for filling in the area in the 100 year flood plain. A copy of the FDPO cover page, and the specific sections of the ordinance, Section 38-37 (8)(a)(2), pages 22 and 23 are attached. The violation is the result of off-site fill being placed in the 100 year flood area on the property.
2. To correct this violation, all fill must be removed from the 100 year area and relocated in an area not in the 100 year flood line, and may be relocated on the property. A field survey to determine the actual location of the 100 year flood line will be necessary based on a 100 year elevation of 620 feet as shown on the Cabarrus County FIRM map. A map showing both the before and after elevation of this fill will need to be prepared and sealed by a licensed surveyor or engineer.
3. Where the fill is removed, the remaining fill will need to have a back slope of 2:1 (2 feet run horizontal for every 1 foot rise vertical) and be seeded for erosion control purposes.

My suggestion would be any surveyor or contractor working to correct these issues be in contact with our offices. That may provide help to all parties working toward getting these problems corrected.

- (vi) Streets, bridges, utility lines, storm drainage facilities, sewage or waste treatment facilities, water supply facilities, and other similar public utility uses, but only if the proposed activity combined with the allowable encroachment in the floodway will not increase the base flood elevation due to allowable one foot. The increase in base flood elevation due to allowable encroachment of the floodway fringe is listed in the floodway data table in the flood insurance study prepared by the Federal Emergency Management Agency (FEMA). Fill material for utilities shall be permitted only if approved by the city engineer;
 - (vii) Temporary facilities such as displays, circuses, carnivals, or similar transient amusement enterprises;
 - (viii) Boat dock, ramps, piers, or similar structures;
 - (ix) Dams;
 - (x) Grading but not fill; and
 - (xi) Cantilevered portions of structures, provided that foundation and supports are located outside the floodway and the underside of the cantilevered portion is at least two feet above base flood elevation.
- (e) Prohibited uses: Storage or processing of materials that are flammable, corrosive, toxic, or explosive, or which could otherwise be injurious to human, animal or plant life in time of flood is prohibited in the floodway.
- (8) Floodway fringe permitted uses. The following uses shall be permitted within the floodway fringe to the extent that they are otherwise permitted by this ordinance and the zoning ordinance.
- (a) Uses permitted below flood protection elevation:
 - (1) Any use as permitted and regulated in the floodway.
 - (2) Fill material graded to drain, provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at grade 10 feet beyond the limits of the structure foundation, and shall have a side slope no steeper than two feet horizontal to one-foot vertical.

AccuTech Surveying & Mapping, LLP

March 18, 2008

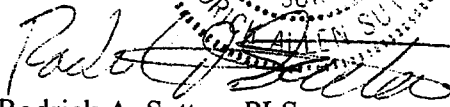
Mr. Mike Byrd
Cabarrus County Commerce Dept.
65 Church Street SE
Concord, NC 28025

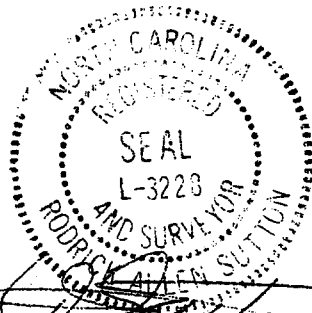
Dear Mr. Byrd:

This letter is to confirm that AccuTech Surveying & Mapping, LLP completed a field survey and staked the 600' contour line on the property located at 6300 North Carolina Highway 49 N. Mt. Pleasant, North Carolina (Cabarrus Tractor & Supply, Inc.), on March 12, 2008. The 600' contour line was re-staked March 18, 2008 verify material was removed from between the 600' contour line and the 100 year flood zone.

A Trimble R-6 GPS receiver utilizing the North Carolina VRS network (NSRS 2007) was used to establish the 600' elevation that was staked.

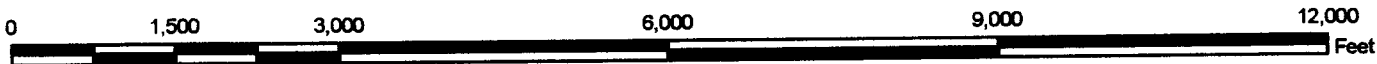
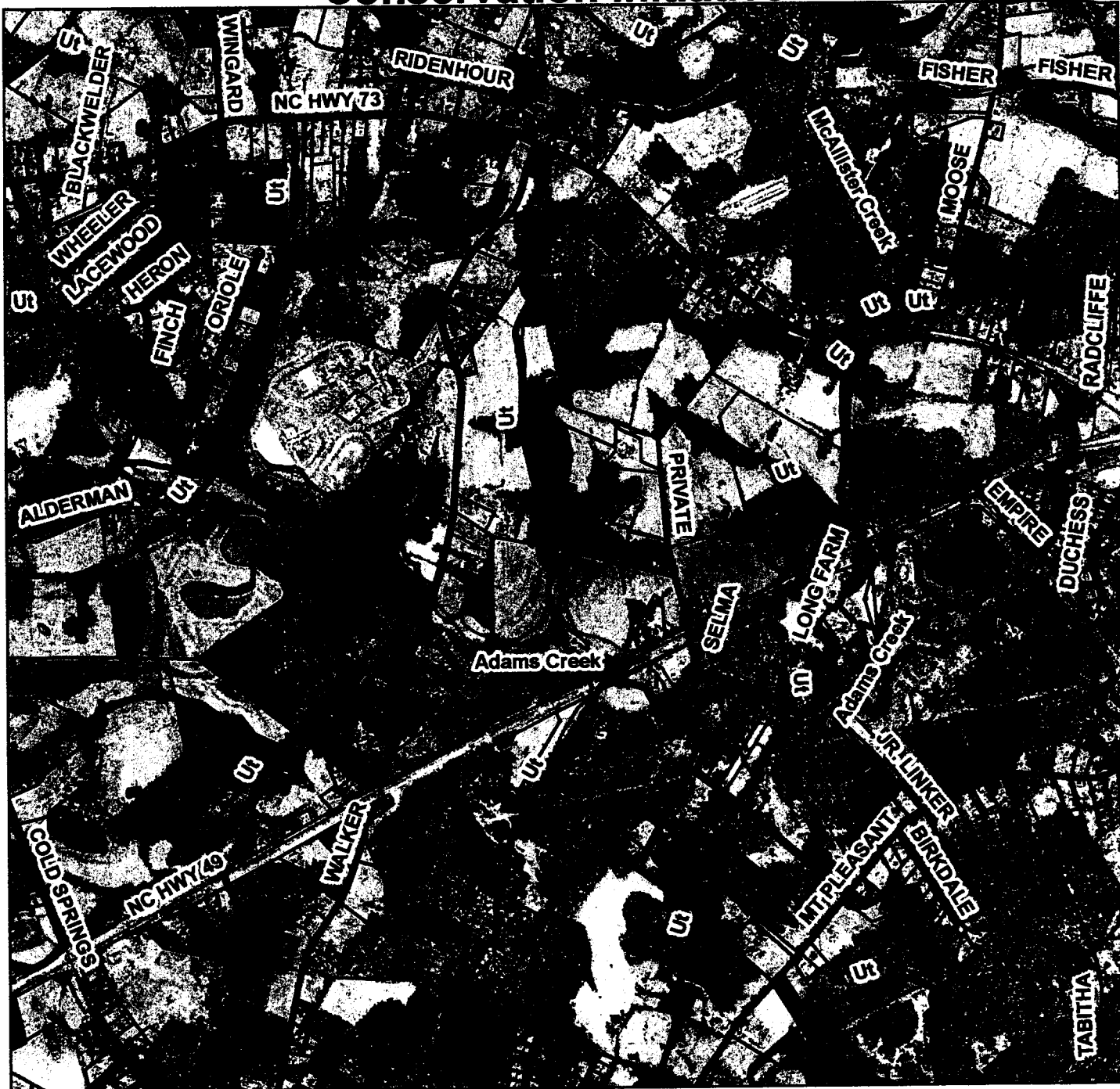
Sincerely:


Rodrick A. Sutton, PLS
AccuTech



546 Newell Street NW Concord, NC 28025
PHONE: 704-784-3286 FAX: 704-784-3581
EMAIL: accutech@accutechsurveying.com

Adams Creek Conservation Initiative



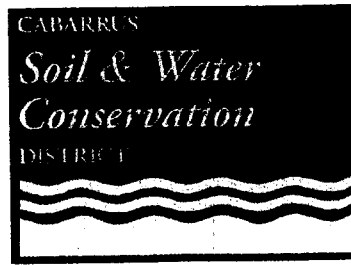
Legend

— YadkinHydro CLASS WS-II WS-IV

FloodPlain

ZONE

- A
- AE
- X
- X500
- Wetlands



PLANNING STAFF REPORT
TO CABARRUS COUNTY PLANNING AND ZONING BOARD
April 17, 2008

Petition: **C2008-01(R) Zoning Atlas Amendment**

Applicant: Laurent D. Beaudry
195 Union Street North
Concord, NC 28025

Property Owner Landis Business Park Inc.
913 Sprinkler Drive
Landis, NC 28088

Existing Zoning: OI – Office/Institutional

Proposed Zoning: GI – General Industrial

Township: Number 11 – Central Cabarrus

PIN#: 5529-85-3566

Area: +/- 11.14 acres

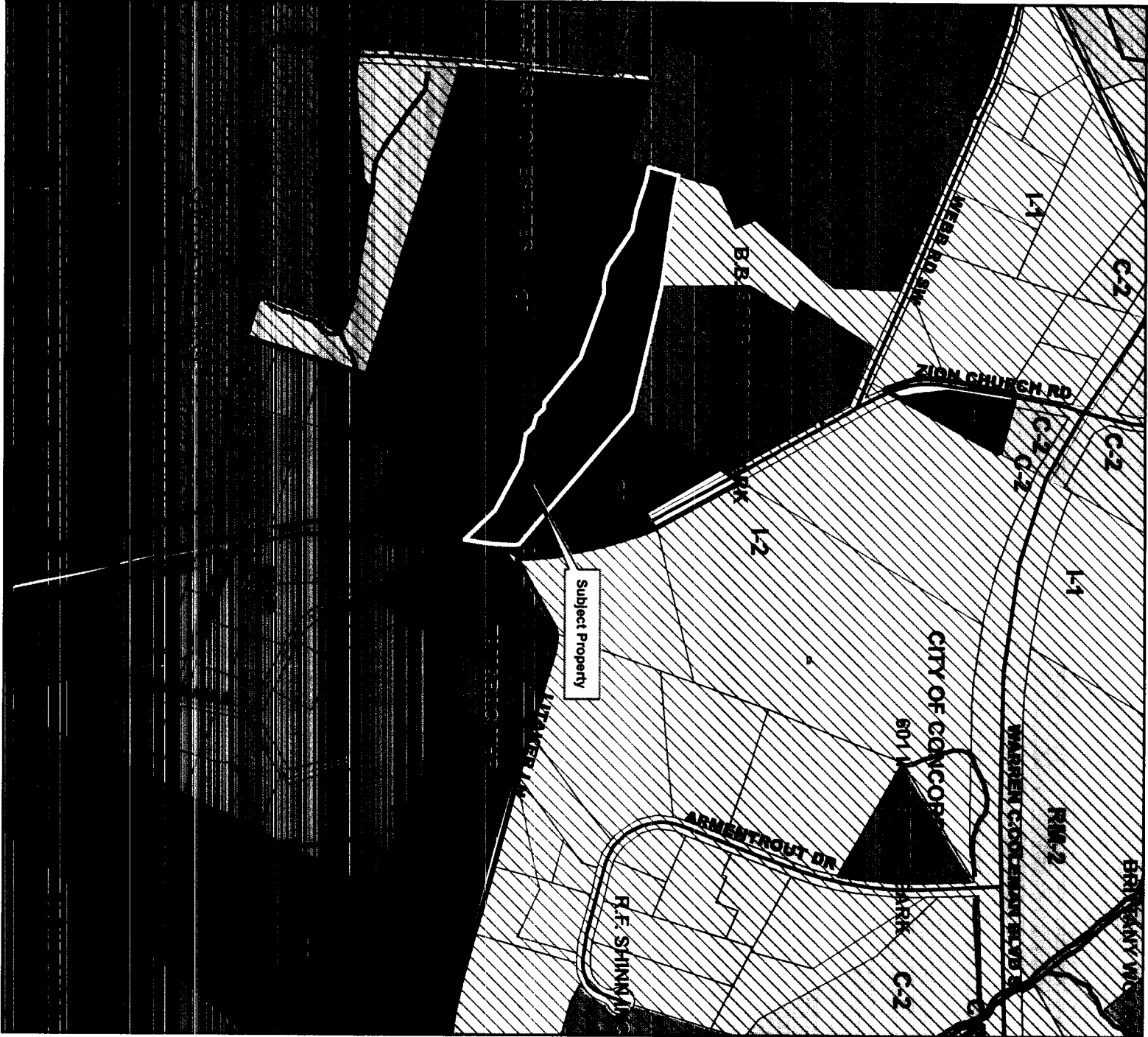
Site Description: The subject property is currently vacant. Irish Buffalo Creek runs along the southern edge of the property.

Zoning History: The subject property is currently zoned OI – Office/Institutional.

Surrounding Zoning: North: GI – General Industrial
I-2 – Heavy Industrial (Concord Designation)
South: OI – Office/Institutional
East: OI – Office/Institutional
West: I-2 – Heavy Industrial (Concord Designation)

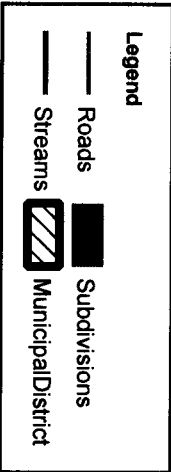
Adjacent Land Uses: The subject property is adjacent to the B.B. Sossamon Industrial Park located north. To the northeast of the subject property, across Zion Church Road, is Cabarrus Plastics. (See Aerial Map)

Infrastructure: This property is to be served by public water and sanitary sewer, pending approval and acceptance by the City of Concord. (See Intent to Serve Letter)



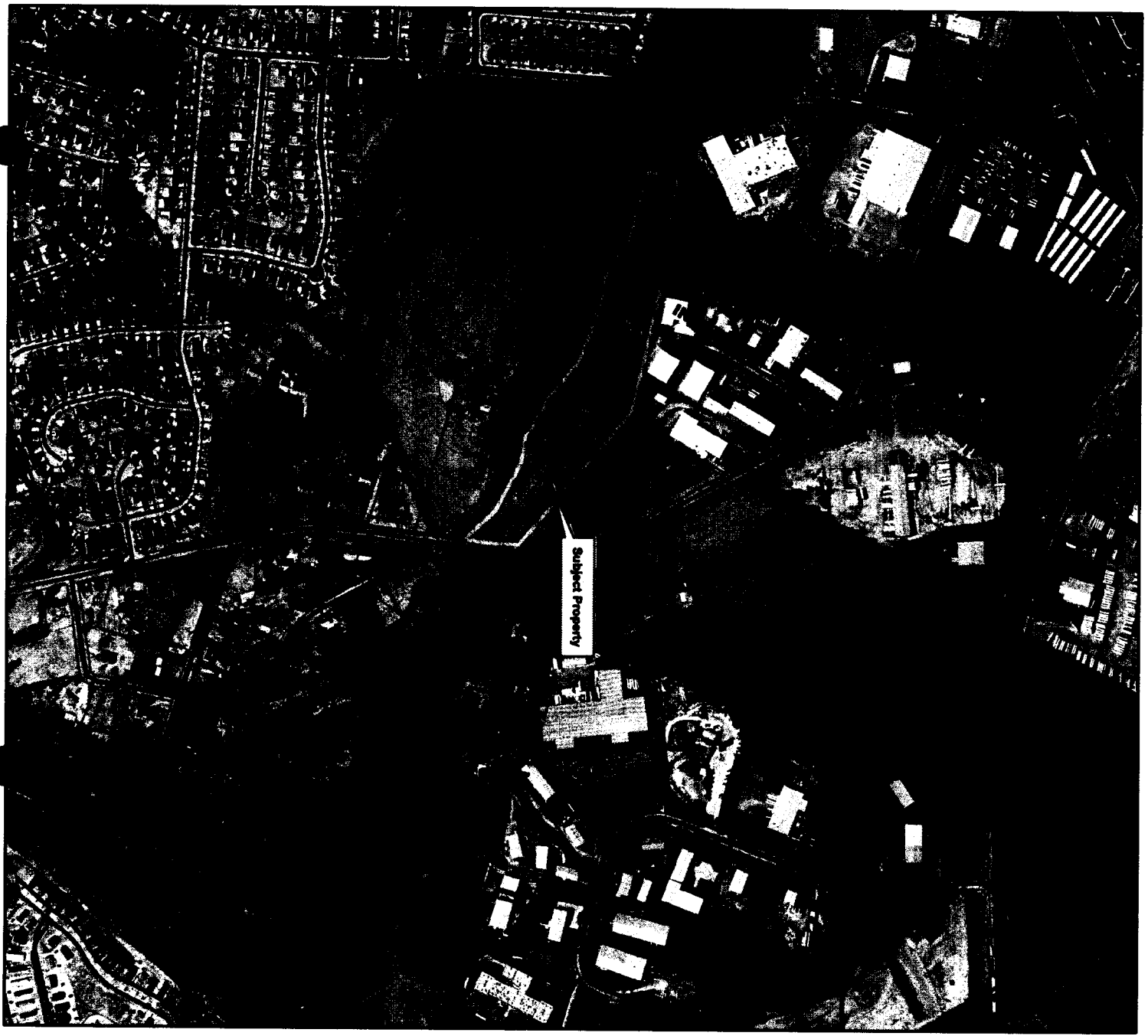
Applicant: Laurent D. Beaudry
 Petition: C2008-01(R) Zoning Map Amendment
 Existing Zoning: OI-Office Institutional
 Proposed Zoning: GI-General Industrial
 Parcel ID#: 5529-85-3566

Zoning Map



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

Map Prepared by Cabarrus County Planning Services, April 2008.



Applicant: Laurent D. Beaudry
 Petition: C2008-01(R) Zoning Map Amendment
 Existing Zoning: OI-Office Institutional
 Proposed Zoning: GI-General Industrial
 Parcel ID#: 5529-85-3566

Aerial Map












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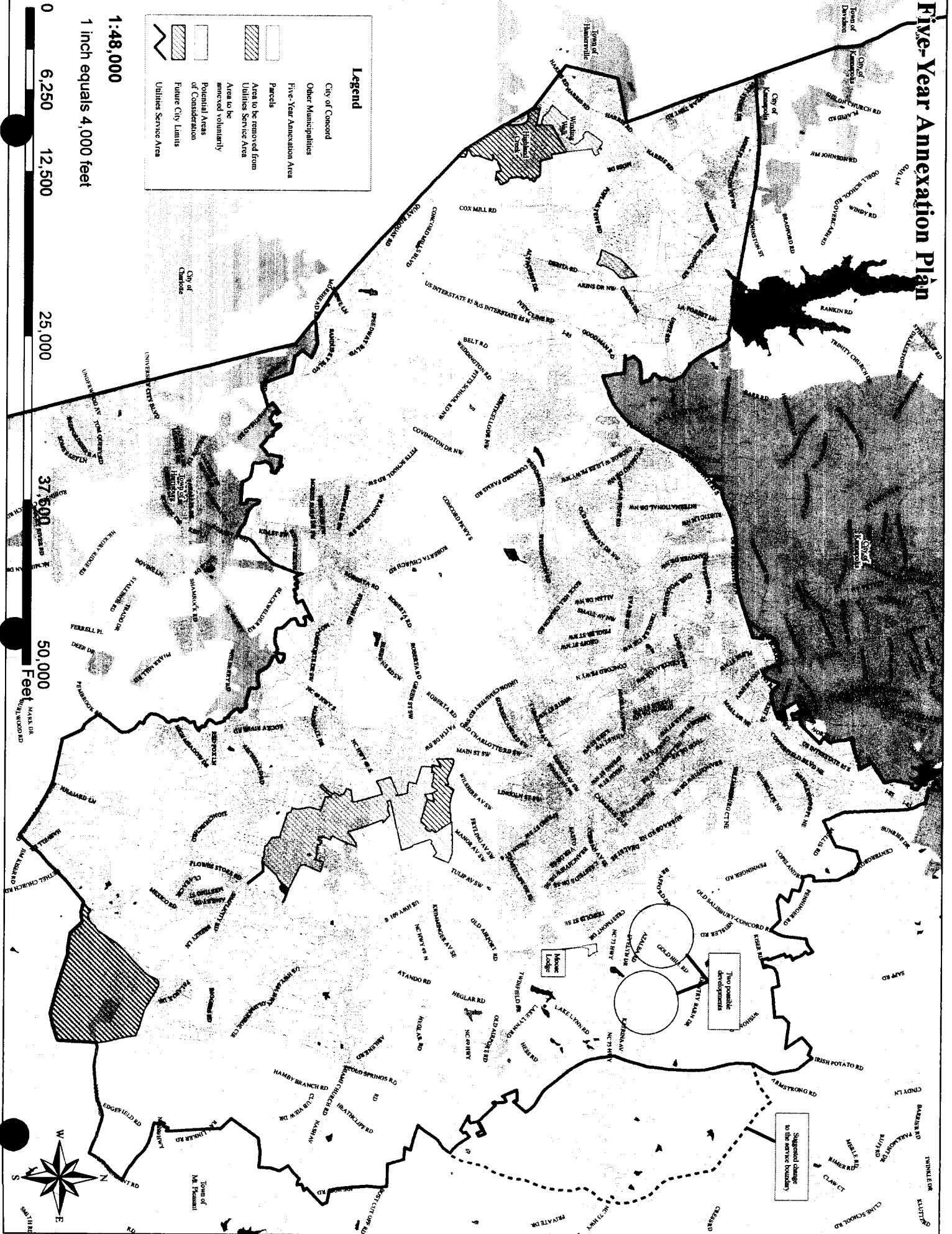
Map Prepared by Cabarrus County Planning Services, April 2008.

Five-Year Annexation Plan

Legend

-  City of Concord
-  Other Municipalities
-  Five-Year Annexation Area
-  Parcels
-  Area to be removed from Utilities Service Area
-  Area to be annexed voluntarily
-  Potential Areas of Consideration
-  Future City Limits
-  Utilities Service Area

1:48,000
1 inch equals 4,000 feet



Permitted Uses with Office/Institutional (OI) (Existing Zoning)

Permitted

Bank/financial institution/ATM
Civic organization facility
Colleges & universities
Funeral home
Group care facility
Hospitals/medical facilities
Office/professional (less than 30,000 sq. ft.)
Office/professional (more than 30,000 sq. ft.)
Parking lot, commercial or private
Printing & reprographic facility
Public cultural facility
Public use facility

Permitted Based on Standards (PBS)

Catering service
Home occupation
Mobile office, temporary
Nursery/Daycare center
Recreational facility, indoor
Recyclable materials drop-off
Religious institution (total seating capacity 350 or less)
Rest/convalescent home (10 beds or less)

Conditional

Communications tower
Elementary and secondary schools
Public service facility
Recreational facility, outdoor
Religious institution (total seating capacity 351 or more)
Religious institution with school
Rest/convalescent home (more than 10 beds)
Trade & vocational schools
Wireless telecommunication services (WTS)

Permitted Uses with General Industrial (GI) (Proposed Zoning)

Permitted

Asphalt and/or concrete plants	Nursery/greenhouse
Boat works & sales	Office/professional, 30,000 sq. ft. or less
Bottling works	Office/professional, 30,000 sq. ft. or more
Building equipment sales, indoor storage	Parking lot, commercial or private
Building equipment sales, outdoor storage	Printing & reprographic facilities
Bulk grain storage	Public use facility
Chemical manufacturing	Race complex
Contractor's storage yard	Radio & television studios
Convenience store, petroleum sales	Railroad station & storage yard
Convenience store, no petroleum sales	Repair shop, farm machinery
Dairy processing	Restaurant, excluding drive-thru
Dry cleaning/laundry plant	Sawmill
Foundries, iron, steel mills	Slaughter house/meat packing
Freezer/ice plant	Tire recapping
Gas station	Truck stop/truck terminal
Hatchery	Trucking & heavy equip., sales & service
Machine welding shop	Warehouse, enclosed
Manufacturing/processing	Warehouse, volatile materials
Multimedia production & distribution complex	

Permitted Based on Standards (PBS)

Communications tower
Landfill, demolition (one acre or less)
Mobile office, temporary
Public service facility
Recyclable materials drop-off
Restaurant, with drive-thru
Salvage yard
Warehouse/open storage

Conditional

Airport, commercial
Airstrip
Coliseum & stadium
Extraction of earth products
Landfill, demolition (more than one acre)
Landfill, sanitary
Mobile homes, Class I
Nursery/Daycare
Race tracks, animal & mechanical
Recreational facility, outdoor
Single-family, detached residential
Trade & vocational schools

April 8, 2008

To Whom It May Concern:

I, Ronald Edward Wilhelm, of Landis Business Park, Inc. give Laurent D. Beaudry Permission to act as an agent for the proposed rezoning of 11.14 acres of land with PIN #5529-85-3566, located off Zion Church Road in Cabarrus County, North Carolina.

Thank you,



Ronald E. Wilhelm

Jessica Gladwin

From: Susie Morris
Sent: Tuesday, April 08, 2008 3:36 PM
To: Jessica Gladwin
Subject: FW: Zion Church Road - PIN 5529 85 3566 Rezoning

-----Original Message-----

From: Sue Hyde [mailto:HydeS@ci.concord.nc.us]
Sent: Tuesday, April 08, 2008 3:29 PM
To: Susie Morris
Subject: Zion Church Road - PIN 5529 85 3566 Rezoning

Susie -

When this property develops, it could be served with City of Concord utilities. There is a gravity sewer line that crosses the property and a water line on Zion Church that would have to be extended approx. 500' to serve the development. In our discussions with the agent for this property, there intention is to have City water and sewer service. At the time that utilities are required, the City would then require annexation. Let me know if you need anything else.

Sue B. Hyde, PE
Director of Engineering - City of Concord PO Box 308, Concord, NC 28026-0308
704-920-5401 office
704-786-4521 fax
hydes@ci.concord.nc.us

Pursuant to North Carolina General Statutes Chapter 132, Public Records,
this electronic mail message and any attachments hereto, as well as any
electronic mail message(s) that may be sent in response to it may be
considered public record and as such are subject to request and review
by anyone at any time.

Adjacent & Surrounding Property Owners

PIN 5529-76-1019 & 5529-76-2335
Americhem Inc.
225 Broadway East
Cuyahoga Falls, OH 4221-3309

PIN 5529-86-0750
Dean Andrews Company
215 Chedworth Court SW
Concord, NC 28025

PIN 5529-84-7965
John & Ivy Furr c/o Hilda Robinson
3030 Zion Church Road
Concord, NC 28025

PIN 5529-85-2878
John Daniel Sossamon, Sr. & Brenda H.
174 Central Heights Drive
Concord, NC 28025

PIN 5529-85-8725
Paul M. Moose
37 Fleetwood Drive SW
Concord, NC 28027

PIN 5529-94-3728
Jodi Weddington Kiser
5123 Woodrun
Mt. Gilead, NC 27306

PIN 5529-95-3627
CVG Reeves, LLC
401 W Morehead St., Suite 125
Charlotte, NC 28208

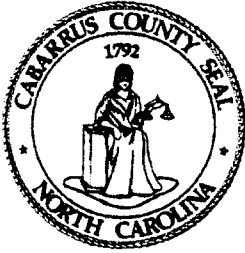
PIN 5529-85-0976
Leroy C. & Angela S. Coffey
825 Tanglewood Drive
Concord, NC 28025

PIN 5529-84-8550
Kenneth E. Furr
3100 Zion Church Road
Concord, NC 28025

PIN 5529-85-5998
PMR Investments, Inc.
1175 Asheford Green Ave.
Concord, NC 28027-8109

PIN 5529-95-4240
Arnold W. Holder
214 Litaker Lane
Concord, NC 28025

PIN 5529-94-1575
Brenda G. Deese
3033 Zion Church Road
Concord, NC 28025



Robbie Foxx, CZO
Senior Zoning Inspector

Memo

DATE: April 17th, 2008
TO: Cabarrus County Planning and Zoning Board
FROM: Robbie Foxx, CZO Senior Zoning Inspector
RE: Architectural Review, Kraska Water Test Office Project # 816

Kraska Water Testing Office is proposing a new facility to be located at 1121 NC Hwy 24-27, Midland NC, in the O-I-(Office Institutional) Zoning district within Cabarrus County. New commercial development in Cabarrus County requires Planning and Zoning Board approval per Appendix B of the Cabarrus County Zoning Ordinance.

SITE INFORMATION:

Parcel Number: 55244652550000
Owner: Andrzej Kraska
5612 Lyford Ct
Charlotte, NC 28227
Site Address: 1121 NC Hwy 24-27
Zoning Classification: OI – Office Institutional
Proposed Use: Commercial Water Testing Facility and Associated Office

Pursuant to the Cabarrus County Zoning Ordinance, the following Architectural and Site Development Standards apply:

SETBACKS

Front building setbacks shall be between a minimum of ten (10) feet and a maximum of twenty (20) feet to maintain a consistent and uniform streetscape

- The site plan shows the structure conforms to the front setback standard as the proposed setback is 20 feet.

CONNECTIVITY AND SIDEWALKS

Sidewalks shall be a minimum of five feet wide and shall have a minimum six-foot landscaped buffer area between the road and the sidewalk itself.

- The site plan shows the required 5 foot sidewalk adjacent to Hwy 24-27 and at all appropriate site interior locations.

PARKING REQUIREMENTS

No more than two rows of parking may be permitted on the side of the structure. Parking areas shall primarily be located to the rear of the proposed structures to minimize visibility. In no case, however, shall expanses of parking be permitted between any street and structure.

- The plan shows only one row of parking located to the side of the building. Additional parking is located to the rear of the structure.

PARKING LOT DESIGN

Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the buildings. Small posts or bollards incorporating lights may also serve the same purpose. Parking lots shall be adequately screened from public view and shall include landscaping and buffering per Chapter 9 of the Cabarrus County Zoning Ordinance.

- The site plan shows the project complies with the parking lot design standards. The parking area contains the required vegetation and buffers per Chapter 9 of the Ordinance.

LANDSCAPING

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

- The site plan complies with all landscaping requirements per Chapter 9 of the Ordinance.

LIGHTING

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

- The site plan complies with the Lighting Standards for commercial development. No wall pack lighting is used and no lighting shall spill onto adjacent properties.

LOADING/UNLOADING AREAS AND LOADING DOCKS

Loading and unloading areas shall be installed per Chapter 10. Loading/unloading areas shall be placed, to the greatest extent possible, to the rear of the structure and shall be screened from the view of any street and/or any residentially developed or residentially zoned property. Additionally, loading/unloading spaces shall be located such that interference with traffic on streets and or internal driveways is minimized.

- The loading area is located to the rear of the structure and screened from adjacent views with vegetation and fencing. A 6 foot screening fence will be installed around the septic drainfield to prevent disturbance by plantings in the immediate area. The loading area does not affect traffic flow or driveway access.

SOLID WASTE STORAGE AREAS

Solid waste storage areas shall not be located in any applicable planting yard and shall be screened from any street and/or any residentially developed or residentially zoned property.

- Solid waste disposal will be provided by roll out dumpsters. No solid waste storage receptacles will be located outside the building.

MECHANICAL APPURTENANCES

All equipment shall be completely screened from view from all public streets and adjacent properties. Appurtenances such as heating and air conditioning equipment, coolers, etc. shall be screened entirely from public view and shall be designed and finished to match adjacent building materials. In addition to design elements, landscape materials shall be incorporated to provide additional screening and/or softening of equipment areas.

- Mechanical equipment screening has been provided by a masonry wall matching the material and design of the structure. No equipment shall be visible from adjacent properties or public rights of way.

ARCHITECTURAL DESIGN STANDARDS

MASSING AND RHYTHM

To insure a consistent scale and compatible character of each and every building, massing and rhythm shall be considered in the site design. Horizontal masses shall not exceed a height-width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed elements. Changes in mass shall be related to entrances, the integral structure, and/or the organization of interior spaces and not merely for cosmetic purposes.

- Elevation plans submitted by the architect reflect compliance with Massing and Rhythm per the calculations provided.

HEIGHT

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

- Maximum height of Principle Structures per Chapter 5 is 40 feet. The height of the proposed structure is 14 feet.

SCALE AND ROOFLINE

A range of roof forms is acceptable as long as they are compatible with the architectural character, scale, and height of surrounding buildings. Mansard roofs are not permitted.

- There are currently no surrounding commercial buildings with significant architectural character. Surrounding structures are residential in nature with pitched roofs. The proposed design uses a parapet wall on the front to enhance the entrance. The roof design is ribbed metal with a 1":12" pitch.

FENESTRATION

Fenestration includes the structural openings to buildings, including doors and windows. All buildings shall have their principle entrance opening to a street, square, plaza, or sidewalk to create an invitation to the pedestrian. Access from the public sidewalk, street right-of-way or driveway to the principle structure shall be provided through an improved surface. These openings should be arranged so that the uses are visible and/or accessible to the street. This accessibility should not be on less than fifty percent (50%) of the length of the first floor street frontage. Additionally, not less than fifty percent (50%) of the length and twenty-five percent (25%) of the surface of the primary structure(s) shall be in public entrances or windows. No more than fifty (50) percent of the surface of the building shall be windows. Reflective glass is prohibited. Where tinted windows are used, they shall remain transparent.

- Plans submitted by the architect reflect compliance with Fenestration requirements of the ordinance per the calculations provided.

ACCESS

Structures should be sited so that the primary access is from the street front sidewalk leading to the parking area. In the event that a structure is located on a State Numbered Highway, the Administrator may permit the primary access to be located facing the parking area. Doors shall be recessed into the face of the building to provide a sense of entry and to add variety to the streetscape. An entryway shall not be less than one (1) square foot for each 1,000 square feet of floor area, and in all cases, shall not be less than fifteen (15) square feet.

- Access is provided in compliance with this section. The entry door has been recessed providing a sense of entry. The recessed area is 7.4' x 2.4' which equals 18.25 square feet. Therefore the recessed area complies with this section.

ARTICULATION

Articulation is required in order to add architectural interest and variety and to avoid the effect of a single long or massive wall with no relation to human scale proportions.

- Elevation plans submitted by the architect show change in plane and texture of the brick façade in addition to window placement not exceeding 20 feet of wall expanses. The design reflects compliance with Articulation requirements of the ordinance.

MATERIALS

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

- Plans show brick veneer material to be used on the exterior of the structure. The elevation shows a mixture of brick colors to provide contrast. Trim is provided using contrasting colors to that of the primary surface. The material of the roof is ribbed metal.

Robbie Foxx, CZO



Senior Zoning Inspector
704-920-2138
rdfoxx@cabarruscounty.us

Cabarrus County Department of Commerce
Zoning Division
65 Church Street SE, Concord, NC 28025
Phone: 704-920-2138 Fax: 704-920-2144 . www.cabarruscounty.us



MAY-08-2006 04:26 PM CABARRUSHEALTHAL



Cabarrus County
Comprehensive Zoning Division
65 Church Street, SE
Post Office Box 707
Concord, NC 28026-0707
Phone: 704-920-2138
Fax: 704-920-2144
Nextel: 24-58324
rdfox@cabarruscounty.us



Robbie Fox
Senior Zoning Inspector



May 8, 2006

Mr. Andrzej Kraska
5612 Lyford Court
Charlotte, N.C. 28224

To Whom It May Concern:

On May 5, 2006 the Cabarrus Health Alliance made an inspection on the septic tank system serving 1121 Highway 2A/27 (Albemarle Road) Midland, N.C. This septic inspection found no evidence of malfunction. The existing structure is a three (3) bedroom home and a request has been received to use the existing septic system for a business, specifically a lab with four (4) persons.

Permission is granted for this proposed usage provided there is no industrial wastewater discharged into this system. Please keep in mind that this is an old septic system and that the property around it has been found to be unsuitable for a new system under current regulations. No guarantees can be made that this system will function well for an extended period of time. If the septic system malfunctions the property owner will be required to repair it and if those efforts fail possibly vacate. Repairs can be very costly depending on their complexity.

If there are any questions concerning this matter please feel free to contact us at (704) 920-1207.

Sincerely,

Kenneth W. Hinson, R.S.
Environmental Health Program Specialist

lw

cc: 01-262

1307 South Cannon Boulevard • Kannapolis, North Carolina 28083
Phone: 704-920-1000 • Fax: 704-933-3345 • www.CabarrusHealth.org

Robbie Foxx

From: Leah Porch Wagner [LWagner@dot.state.nc.us]
Sent: Wednesday, April 09, 2008 12:55 PM
To: Susan Threatt
Cc: Robbie Foxx
Subject: Re: Letter of Driveway Useage
Attachments: driveway permit form.doc

Ms. Threatt,

I have reviewed the site plan and looked at the aerial on GIS. Given the change in use, a driveway permit will be required. Due to the physical location of the existing drive and the fact that the use is being changed, NCDOT will require that the driveway be shifted to better align w/ Pioneer Mill Road as there is a crossover there. This same entrance will have to be configured in a manner in which to provide access to the remainder of the property when/if future development occurs. I am attaching the driveway permit application to this correspondence. Please feel free to contact me if further clarification or information is required. I will be leaving the office momentarily and will not return until Friday.

Leah

Susan Threatt wrote:

Thanks so much for your help. The name of the project is Faagen/Kennington. Previous useage of site was residential changing to small business office. Address: 1121 NC 24-27 Highway Lot #6 Cabarrus County, NC pdf is attached. If you have any questions do not hesitate to contact me. Thanks again.

Susan F. Threatt

William E. Bruce Construction Consultant
704 846 2327 ext 5

Robbie Foxx

From: Leah Porch Wagner [LWagner@dot.state.nc.us]
Sent: Wednesday, April 09, 2008 1:36 PM
To: Robbie Foxx
Subject: Faagan/Kennington Letter of Driveway Useage]

Attachments: Letter of Driveway Useage



Letter of Driveway
Useage

Robbie,

Once the drive is shifted to align w/ Pioneer Mill, we can issue a driveway permit.

Leah

WILLIAM E. BRUCE

Construction Consultant
Email webruce@alltel.net

8501-A Tower Point Drive
Charlotte, NC 28227
704 846-2327
Fax 704 846-4866

April 9, 2008

To: Cabarrus County Commerce Dept
ATTN: Robbie Foxx, CZO


Ref: Faagen Kennington

Mr. Foxx,

The project mentioned above does not exceed one acre of disturbed area, so to the best of my knowledge this project is not applicable for the Post Construction Storm Water Management Permitting Program.

If you have any further questions do not hesitate to contact me.

Sincerely,


D. Eric Sutton, PE

WILLIAM E. BRUCE

Construction Consultant
Email webruce@alltel.net

8501-A Tower Point Drive
Charlotte, NC 28227
704 846-2327
Fax 704 846-4866

April 9, 2008

To: Cabarrus County Commerce Dept
ATTN: Robbie Foxx, CZO

Ref: Faagen Kennington

Mr. Foxx,

The above referenced project will not exceed one-acre. Erosion Control will not be required.

If you have any further questions do not hesitate to contact me.

Sincerely,


D. Eric Sutton, PE

Robbie Foxx

From: Steve Langer
Sent: Tuesday, April 08, 2008 4:07 PM
To: Robbie Foxx
Subject: Fagen Kinnington (Zoning Project 816)

Robbie,

Looking at the site plan for this project, I have no comments other than a hydrant will be required within 400 feet of the most remote point of the building. There is no access issue that I can see for this project.

Thanks,

Steven Langer
Fire Marshal
Cabarrus County
920-2561
smlanger@cabarruscounty.us



NORTH CAROLINA

High Performance Living



850 Warren C. Coleman Blvd., P.O. Box 308, Concord, NC 28026 - www.ci.concord.nc.us

April 8, 2008

Ms. Susan Threatt
Faagen Kennington
1121 NC Hwy 24-27
Concord, NC 28078
Fax (704) 846-4866

Subject: Service Availability Letter
PIN # 5524-46-4188
THIS IS NOT A CONTRACT

Dear Ms. Threatt:

This letter is in response to your April 8, 2008 request regarding utility availability at the subject property, which is located at the near the intersection of NC Hwy 24/27 and Pioneer Mill Road

THIS LETTER IS NOT A CONTRACT, NOR IS IT AN OFFER TO CONTRACT. THIS LETTER IS NOT A PUBLIC AGENCY LETTER SUFFICIENT FOR PURPOSES OF CABARRUS COUNTY SUBDIVISION ORDINANCE SECTION 4 SECTION 10 Water and Sewer Systems, Subsection B. Utility services are available from the City only through contract(s).

The property is currently served by an 8-inch water main running along the highway across the highway from the subject property along NC Hwy 24/27. The property is currently not served with sanitary sewer. The information about the size and location of these utility lines was obtained from the City's Geographic Information System (GIS), and are subject to change. The City makes no warranty of merchantability or fitness for any purpose, express or implied, and assumes no legal responsibility for the information contained in this letter or in the GIS. The data used in the GIS is from multiple sources of various scales and accuracies. Additional research, such as field surveys, may be needed to determine actual location and size of the lines.

In the event of a severe drought, the City or the State of North Carolina may temporarily halt permitting activity and may be unable to provide potable water to this property. The City will attempt to give as much notice as possible of such drought restrictions, but the restrictions may be imposed with little or no notice. In the event that potable water is not available, sanitary sewer extensions and permits will also be halted.

In accordance with Chapter 62 of the Code of the City of Concord, it is the sole responsibility of the owner or the developer to extend water and sewer infrastructure from existing service points and secure any right(s)-of-way as may be necessary to meet

Engineering

Phone (704) 920-5425 • Fax (704) 786-4521



High Performance Living



850 Warren C. Coleman Blvd., P.O. Box 308, Concord, NC 28026 - www.ci.concord.nc.us

project needs unless the needed utility extension has been identified and approved in the City's capital improvement plan.

Any upgrades to the existing infrastructure that are required to provide adequate service to the property are the financial responsibility of the owner or developer. In addition, it is the responsibility of the owner or developer to confirm all information regarding physical locations, sizes, and materials of pipes; and confirm that the water flow and pressure and sewer capacities of the existing (or any proposed) infrastructure are adequate to meet the required usage and fire protection demands in accordance with federal, state, and local codes and ordinances.

The City of Concord will not perform design work or design calculations to determine the adequacy of its own or others' utility line(s) or associated treatment systems for the demands of any development(s) on this property. Design work and design calculations are the responsibility of the owner or developer. The City reserves the right to challenge design calculations that appear to neglect factors that should be considered.

Please note that new discharges to the City's sewer system require the approval of the entity that manages the wastewater treatment facility, the Water and Sewer Authority of Cabarrus County (WSACC). WSACC is an entirely separate entity from the City of Concord over which the City has no direct administrative or operational control.

City Ordinance Sec. 62-81, "*Procedures and standards for extensions of Concord Utilities outside the City limits,*" governs extensions of water and/or sewer utilities to developments outside of the City limits. The City has no responsibility to provide water and/or sewer service to property located outside the City limits, except as otherwise provided by law. However, upon request, the City may allow extensions of its water and/or sewer lines to serve properties outside the City when it determines that it is in the City's best interest to do so. This multi-step process is described below.

The first step is called the "pre-application process". The pre-application process is designed to give the City enough information to evaluate the overall impact of the proposed extension. The potential negative impact on treatment plant capacity, the hydraulics of the water distribution system, and the capacity of the wastewater collection system will be considered. In addition, the effect of premature growth and development shall be considered as it relates to the City's adopted plans. If the Preliminary Application is granted, then a Final Application may be submitted. At a minimum, the Preliminary Applicant shall:

- a. Provide a plan that shows the acreage of the area to be served, identifies the type of development (residential, commercial etc.), estimates the maximum potential demands that the development may impose on the existing system, and determine the adequacy of the existing system to meet those demands;

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The City shall process each component of the Final Application simultaneously. The applications can be considered at the same meeting by the City Council in this order: (1) annexation, (2) zoning, (3) utility extension(s) and (4) a developer contract.

The City will not extend utilities except in compliance with the procedures explained above, including compliance with all City regulations and ordinances governing development.

If this property is to be developed in non-residential uses and obtains water and/or sewer service from Concord, the development must meet all Unified Development Ordinance standards, including stormwater control and treatment, unless the development is in another municipality's service area. (Copies of the UDO may be obtained from the Development Services Department, or the City's web site at www.ci.concord.nc.us/pcd/UDO_0.asp.) Complete engineering plans must be submitted to the City in accordance with Chapter 62 of the Code of the City of Concord. Also, all water and sewer system extensions are subject to the City's utility permitting process as described in Chapter 62.

The Concord City Council has approved water and sewer system connection fees and permitting fees. The fees are in effect for all system connection applications and utility system extensions and are available on the City of Concord website (www.ci.concord.nc.us). Please be aware that the City of Concord requires that system connection fees be paid prior to final plat approval and fee amounts are subject to change. Also, please note that WSACC and Cabarrus County charge fees in addition to City of Concord fees. It is the responsibility of the developer to determine those fees and pay the appropriate agency.

If you have further questions regarding water and sewer service availability and requirements, please contact me at 704-920-5425. If you need any other information about the City, please contact City of Concord's customer care at 704-920-5555.

Sincerely,
CITY OF CONCORD

M. Sue Hyde
M. Sue Hyde, PE
Director of Engineering

MSH/awd

Attachments: Property Map
Preliminary Application



NORTH CAROLINA

High Performance Living

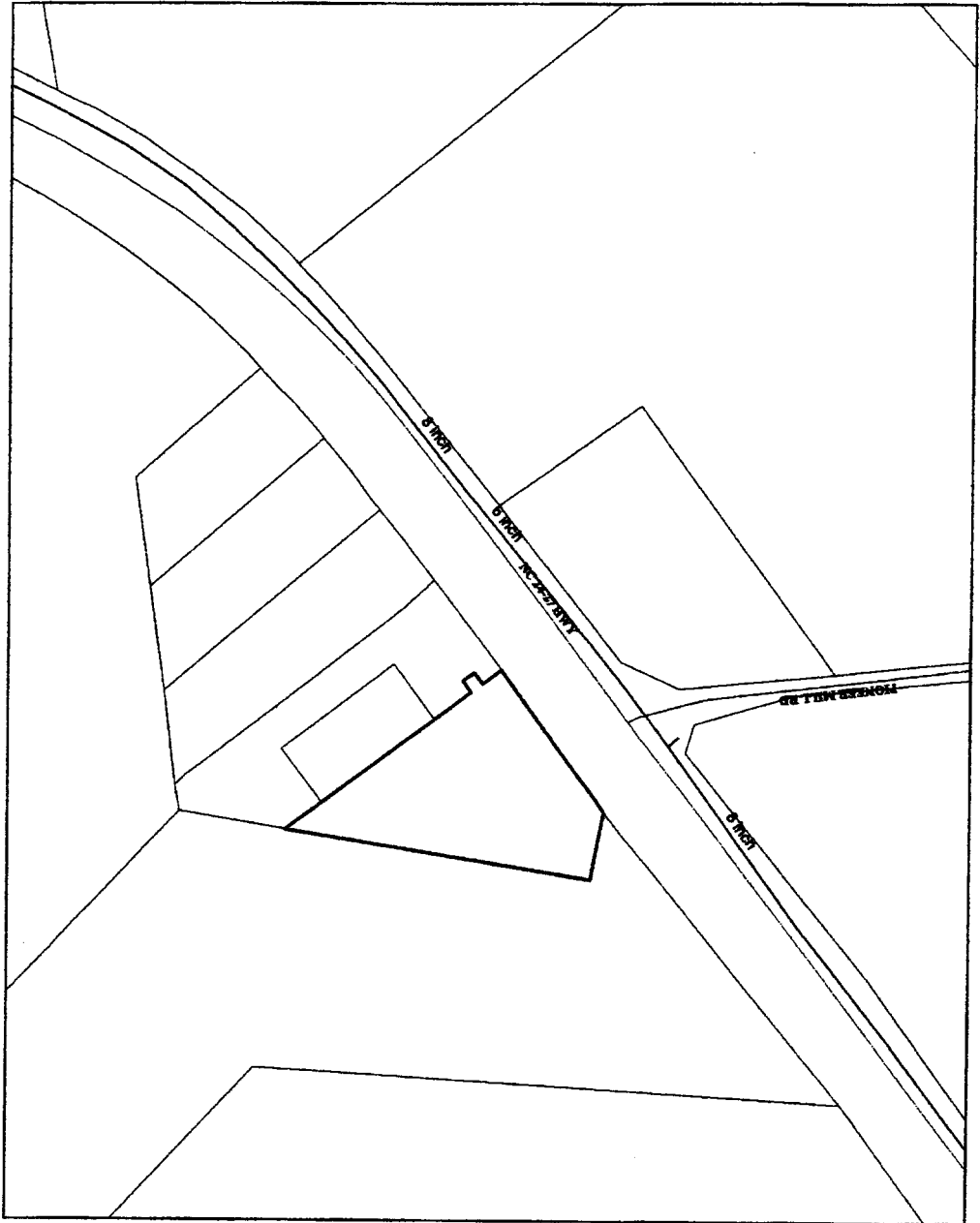


850 Warren C. Coleman Blvd., P.O. Box 308, Concord, NC 28026 - www.ci.concord.nc.us

cc: Mr. Henry Waldroup, Water Resources Department
Mr. Mark Fowler, Wastewater Resources Department
Mr. Dennis Roberts, Electric Systems Department
Ms. Margaret Pearson, Development Services Department
Engineering Department File

Engineering

Phone (704) 920-5425 • Fax (704) 786-4521



Utility Mapper

Legend

- Parcels
- Street Centerlines
- Calaveras Co.
- Concord Water Main



1 inch equals 200 feet

City of Concord, North Carolina
Preliminary Application – Extension of Concord Utilities outside Concord City Limits
(Please type or print in black ink)

1. Name of development: _____
2. Name and address of owner(s)/developer(s): _____

3. Owner(s)/developer(s) telephone: _____ Fax: _____
4. Name and address of surveyor/engineer: _____

5. Surveyor/engineer's telephone: _____ Fax: _____
6. Name, telephone and fax number, and address of agent (if any): _____

7. Name and address of person to whom comments should be sent: _____

8. Telephone number of person to whom comments should be sent: _____
Fax: _____
9. Location of property: _____
10. Cabarrus County P.I.N.#: _____
11. Current zoning classification: _____
12. Total acres: _____ Total lots proposed: _____
13. Brief Description of development: _____

14. Proposed Construction Schedule _____

15. Type of Service requested _____

Date

Signature of Owner/Agent

Name (printed)

NOTE: *By affixing his or her signature hereto, the owner/developer acknowledges understanding of and agreement to comply with all provisions of the Concord City Code section 62.*

Staff Use Only:	
Received by: _____	Date: _____

Memo

To: Cabarrus County Planning and Zoning Board
From: Jeff Huss, Planner
CC: File
Date: 4/3/08
Re: Proposed Text Amendment to Chapter 8 (C2008-01-ZT)

- Attached you will find proposed text to address reception facilities in residential zoning districts.
- This amendment is necessary because Cabarrus County Zoning does not classify or set standards for reception facilities in residentially zoned areas.
- Currently, the use is proposed as a conditional use and would be presented to the Board of Adjustment for approval.
- Please look over the materials and be prepared to discuss the proposed change at the meeting.

30. RECEPTION FACILITIES

Zones in which conditional:

Agricultural Open and Countryside Residential

Additional information required with petition:

- 1) A complete description of the facility including but not limited to:
 - types of events, days and hours of operation
 - site plan showing layout of all buildings, parking areas, etc.
 - projected number of users per weekday and weekend days, with the maximum number expected at any one event.
 - total number of seats
 - types of accessory uses, if any, envisioned on the site
 - total number of employees, both full-time and part-time.
 - any and all other relevant information that will help describe the facility

- 2) A traffic study based on ITE (Institute of Transportation Engineering) rates or other comparable source analyzing the proposed site's impact on the existing road network. Proposed roadway improvements serving the site should also be detailed.

Predefined standards:

- 1) Site Size. The site shall contain at least five acres.

- 2) Access. The parcel must have frontage on a major or minor thoroughfare.

- 3) Structure. A residential structure that is used for a reception facility shall not be altered in any way that changes its general residential appearance. Building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.

- 4) Setbacks. All structures, viewing areas, and seating areas shall be set back at least one hundred (100) feet from any street right of way (existing or proposed) or property boundary line.

- 5) Lighting. Outdoor lights must be shielded to direct light and glare only onto the facilities' premises and may be of sufficient intensity to

discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining properties.

6) Noise Control. Maximum permitted noise levels may be established in order to protect adjacent properties. Any such requirement will be made a part of the conditional use permit which may also specify the measures to be taken to control noise, including but not limited to muting, special landscape treatment and berms.

7) Buffer. In the event the facility abuts residential property, level one buffering must be implemented. See Chapter Nine, Landscaping and Buffer Requirements.

8) Access. The parcel must have frontage on a major or minor thoroughfare. Proposed access points must be approved by NCDOT.

9) Parking. The facility must provide two parking spaces for the owner/operator, plus one for every four persons in attendance, for the duration of the reception event. Service providers should be included in this calculation. The parking area must be grassed (no impervious). However, handicap accessible parking is required to be an improved/hard surface and to meet requirements of the North Carolina State Accessibility Code and Section 10-5.3. of this ordinance. No on-street parking is permitted.

10) Meals. Other than as part of the reception events, no meals shall be served to the general public on the site.

11) Accessory uses. The following accessory uses may be permitted as incidental to and limited to the patrons of the principal use:

- playground
- bathroom facilities
- aesthetic (gazebo, barn, etc.) features

12) Signage. Signs for Reception Facilities shall meet the requirements of Chapter Eleven (Standards for Permanent Signage in Residential Districts) of the Cabarrus County Subdivision and Zoning Ordinance:

- One detached sign per premises, located outside of street right-of-way and site distance triangle. Maximum sign area – sixteen feet, maximum sign height – four feet
- One attached sign per premises (as a substitute for a ground/detached sign). Maximum sign area – five feet

Memo

To: Cabarrus County Planning and Zoning Commission
From: Susie Morris, AICP, Planning and Zoning Manager
CC: File
Date: March 31, 2008
Re: Proposed Text Amendment C2007-09-ZT River/Stream Overlay Zone

- Attached you will find proposed changes to Chapter Four, Section 4-8-4-11 River/Stream Overlay Zone, of the Cabarrus County Zoning Ordinance.
- The purpose of these changes is to clarify when the buffer is applicable, what is permitted in the buffers and to refine the language to make sure that all of the terms of the Interbasin Transfer are being met.
- Please read over the materials and be prepared to discuss the proposed text at the meeting.

EXISTING TEXT

PART II. RIVER/STREAM OVERLAY (RSOZ) ZONE

Section 4-8. River/Stream overlay zone.

All rivers or streams shown on USGS Quadrangle Maps as a solid blue line (perennial streams) or as a dotted blue line (intermittent streams) shall be subject to these requirements.

Section 4-9. Intention.

A strip of land adjacent to a stream or river retained in its natural vegetation or revegetated or reforested by appropriate perennial vegetation to avoid erosion problems will reduce the velocity of overland flow, trap sediment and soil eroded from cropland or land being developed, and limit other pollutants from entering the waterway.

Section 4-10. Effect upon bona fide farms.

While North Carolina law exempts bona fide farms from local zoning regulations, the County strongly encourages the use of best management practices in farming. A stream buffer is one of these practices and is therefore consistent with North Carolina Sediment Control Law and thus is a 75% reimbursable North Carolina Agricultural Cost - Share Program. This program is administered through the Cabarrus Soil and Water District. Therefore, the following text shall apply to all development (farming is not considered development) or changing of conditions (e.g., timbering) adjacent to a perennial stream as defined below.

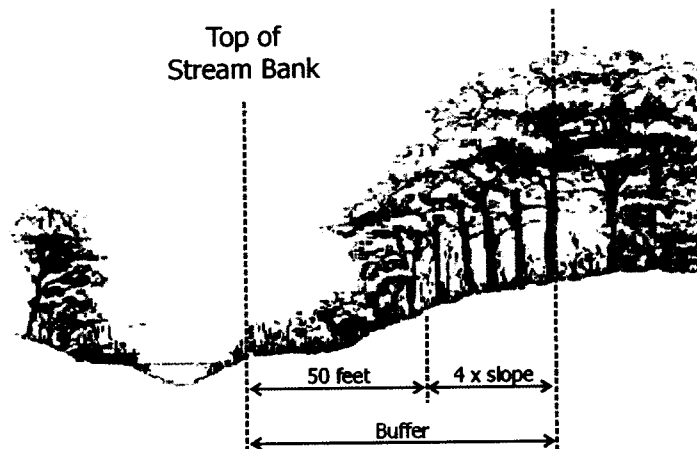
Section 4-11. Requirements of the RSOZ.

1) A 50-foot stream buffer shall be established on both sides of all perennial streams indicated by a solid blue line on the USGS Quadrangle maps and a 35 foot stream buffer on both sides of all intermittent streams indicated by a dotted blue line on the USGS Quadrangle maps. The applicant may substitute a detailed survey to field verify the location of perennial and intermittent streams on the subject property and within 100 feet of the boundary of the subject property for the delineation on the USGS Quadrangle maps. All designated floodways and flood fringe areas as defined by the Federal Emergency Management Agency (FEMA) are also subject to these restrictions. No development, including soil disturbing activities, shall occur within this buffer strip except as listed in 4B below.

2) As development occurs in any zone requiring a site plan or subdivision review, an enlarged stream buffer shall be made as follows:

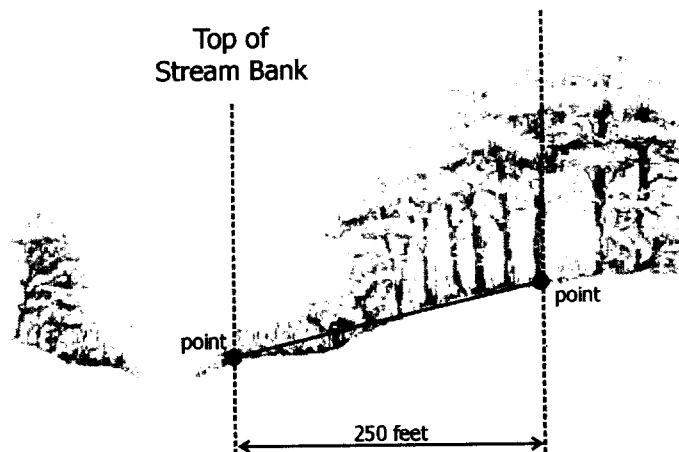
EXISTING TEXT

(a) The size of a perennial stream buffer shall be measured from the annual average stream banks perpendicularly for a distance of 50 feet plus 4 times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 120 feet from the edge of the stream.



$$\text{Width} = [50 + (4 \times S)]$$

Minimum width: 50 feet (areas with flat slopes)
Maximum width: 120 feet (areas with steep slopes)



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

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

(b) The size of an intermittent stream buffer shall be measured from the annual average stream banks perpendicularly for a distance of 35 feet plus 4 times the average percent of slope of area adjacent to the stream. This slope shall be

EXISTING TEXT

calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 75 feet from the edge of the stream.

3. Stream buffers shall be shown on all appropriate plans and plats in review by the Cabarrus County Planning and Zoning Commission and/or Cabarrus Board of Commissioners.

4A. Generally, stream buffer areas shall remain undisturbed. When agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities must occur, they shall conform to all State and Federal regulations. Other unnamed agricultural activities that would result in significant disturbance of the existing soil, increase soil erosion, or destroy plant and wildlife habitats are strongly discouraged and can only occur with an approved replacement program and shall also be consistent with North Carolina Sediment Control Law and in coordination with the North Carolina Wildlife Resources Commission's District 6 Biologist, and in consultation with the Cabarrus Soil and Water District Representative. Existing agricultural operations, forested or vegetated areas within stream buffer areas shall follow the State's forest practice guidelines which include best management practices (BMPs) as defined by the North Carolina Soil and Water Conservation Commission.

4B. Permitted activities/uses within the buffer area include sewer easements, providing the activities strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary step in completing construction of any sewer facilities. Sewer easements should be as close to perpendicular or parallel to the stream channel to minimize the impact on the stream buffer. Other overhead and/or underground utilities, roads, streets, bridges, or similar structures would be placed within existing public rights-of-way if possible, but in any case, must cross the buffer as close to perpendicular as possible.

4C. All disturbed areas within the buffer zone, permitted or not, shall be revegetated with perennial vegetation as soon as practical (immediately) after the disturbance. Forested areas shall be reforested if possible as detailed in the approved replacement program discussed in 4A above.

4D. A progress report shall be submitted by the individual, corporation, or company disturbing land in the RSOZ to the Cabarrus County Planning and Zoning Department within 60 days of approval of the replacement program. Two other reports may be required at 120 and 180 days if the program is not completed. The first two reports shall explain what work has been completed and any results as well as a time schedule for completion of the rest of the program. The final report shall document that the replacement program has been completed. The site shall

EXISTING TEXT

be regularly inspected by the enforcement branch of the Cabarrus County Planning and Zoning Department to assure activity and compliance. Any noncompliance shall be treated as a zoning violation and be subject to enforcement as described in Chapter Twelve of this Ordinance.

5. A minimum setback from the stream buffers for all buildings shall be at least 20 feet. If there is a difference in the zoning ordinance setbacks, the strictest setback shall apply.

6. Land within a stream buffer shall not be used to meet minimum lot size requirements, except where lots are greater than one acre in area, in which case at least 50 percent of the lot shall remain outside the stream buffer.

PART II. WATERBODY BUFFER ZONE

Section 4-9. Intention of Waterbody Buffer

Protected, vegetated strips of land adjacent to streams, rivers, lakes, ponds, impoundments, or wetlands, retained in a natural, undisturbed, state, in an effort to avoid erosion problems and to reduce the velocity of overland flow, thus trapping sediment and soil eroded from cropland or land being developed to limit pollutants from entering the waterway.

Section 4-10. Effect upon bona fide farms

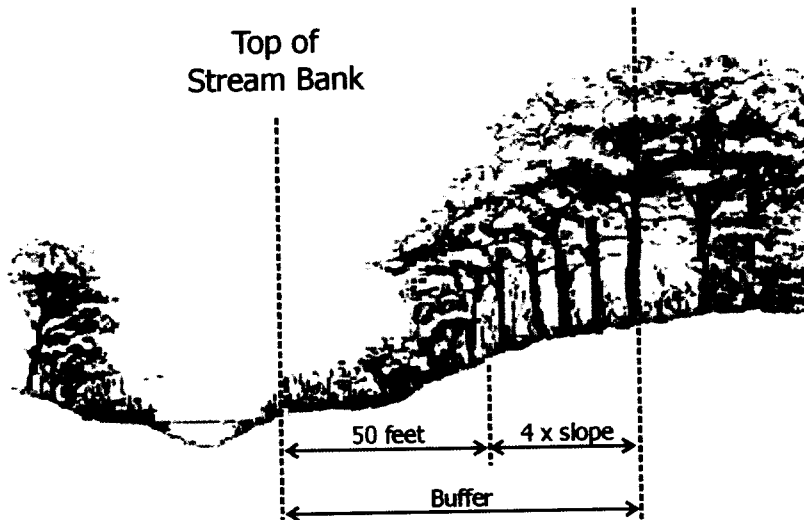
While North Carolina law exempts bona fide farms from local zoning regulations, the County strongly encourages the use of best management practices in farming. A waterbody buffer is one of these practices and is therefore consistent with North Carolina Sediment Control Law and thus is a 75% reimbursable North Carolina Agricultural Cost - Share Program. This program is administered through the Cabarrus Soil and Water District. Therefore, the following text shall apply to all development (farming is not considered development) or changing of conditions (e.g., timbering) adjacent to waterbodies as defined below.

Section 4-11. Requirements of the Waterbody Buffer Zone

- 1) A minimum 50-foot buffer shall be established on all sides of perennial or Class 1 streams in addition to any lakes, ponds or impoundments. Class 1 streams include all rivers, streams, lakes, ponds or waterbodies shown on the USGS Quadrangle Maps as a solid blue line.
- 2) A minimum 35 foot stream buffer shall be established on all sides of all intermittent or Class 2 streams and any identified wetlands. Class 2 Streams shall include all rivers or streams shown on the USGS Maps as dotted or dashed blue lines, identified as a stream on the NCRS Soil Survey for Cabarrus County or identified as a stream by a qualified stream classification professional as defined in Section 4-11.3.
- 3) The applicant must provide a detailed survey that field verifies the location of all perennial and intermittent streams, lakes, ponds, impoundments and wetlands on the subject property and within 100 feet of the boundary of the subject property as well as the applicable buffer areas. No development, including soil disturbing activities or grading, shall occur within this buffer area.
- 4) Streams may exist even if they are not mapped on the USGS Quadrangle Maps or NCRS Soil Survey Maps. A qualified professional must identify streams that exist on the site but are not mapped. For purposes of this section, a qualified professional shall mean an individual that has attended wetlands delineation training using application of the 1987 Wetland Delineation Manual by the US Army Corps of Engineers and Identification of Perennial and Intermittent Streams training supported by the North Carolina Division of Water Quality.

PROPOSED TEXT

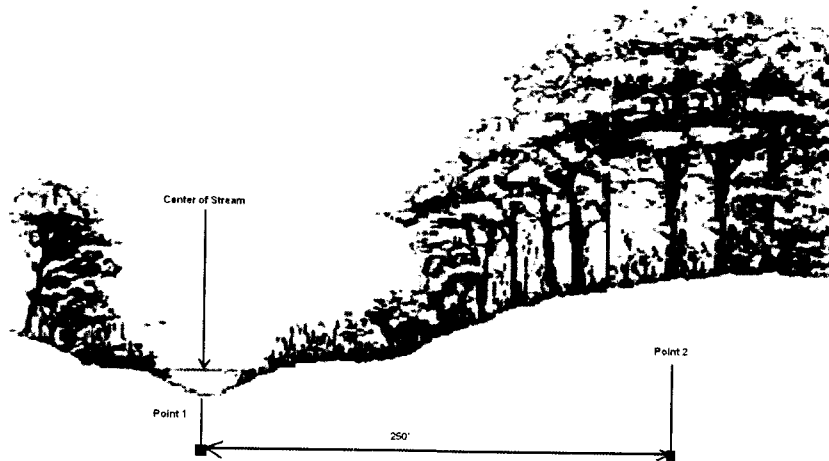
- 5) The determination that a waterbody or stream indicated on a USGS Map or NRCS soil survey map does not exist must be concurred by the NCDENR Division of Water Quality and/or the US Army Corps of Engineers.
- 6) The Waterbody Buffer Zone shall be determined and clearly delineated on site prior to any development or pre-development activity occurring in order to protect the required buffer from encroachment or damage.
- 7) The waterbody buffer shall be maintained as follows and shall be shown on all site plans or subdivision plats related to the project submitted for review, including soil and erosion control plans:
- (a) The size of a perennial stream or Class 1 waterbody buffer shall be measured from the annual average stream bank, perpendicularly for a distance of 50 feet plus 4 times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 120 feet from the edge of the stream. For Lakes, ponds or impoundments, the buffer shall be computed using the high water elevation in place of the stream bank in the calculation.



$$\text{Width} = [50 + (4 \times S)]$$

Minimum width: 50 feet (areas with flat slopes)
Maximum width: 120 feet (areas with steep slopes)

PROPOSED TEXT



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

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

(b) The size of an intermittent stream or Class 2 waterbody buffer shall be measured from the annual average stream bank perpendicularly for a distance of 35 feet plus 4 times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 75 feet from the edge of the stream. Wetlands shall be buffered using the edge of the determined wetland area to calculate the required buffer.

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

8B) Permitted activities/uses within the buffer area include sewer easements, providing the activities strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary step in

PROPOSED TEXT

completing construction of any sewer facilities. Sewer easements should be as close to perpendicular or parallel to the stream channel to minimize the impact on the stream buffer. Other overhead and/or underground utilities, roads, streets, bridges, or similar structures should be placed within existing public rights-of-way and must cross the buffer as close to perpendicular as possible. Any proposed recreation facilities or greenways must be located a minimum of 60' from the top of the stream bank. This includes any proposed pedestrian, hiking or biking trails. Recreational structures are not permitted in the waterbody buffer.

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

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

9. A minimum setback from the buffers for all buildings shall be at least 20 feet. If there is a difference in the zoning ordinance setbacks and the no build buffer, the greater of the two shall apply. No building or structures, including fences, shall be permitted in the no build buffer area.

10. Land within the buffer area shall not be used to meet minimum lot size requirements. Required no build buffer areas, however, may traverse or encroach onto lots. In the event the no build buffer is included as part of the lot, a note shall be placed on the plat listing all impacted lots and a restriction shall become part of the deed for the impacted lots that includes the prohibition of construction or placement of structures, including fences, in the required no build buffer area.

11. Undisturbed waterbody buffers shall be recorded as easements with the Cabarrus County Register of Deeds at the expense of the developer and shall be dedicated to one of the following:

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

Memo

To: Cabarrus County Planning and Zoning Commission
From: Susie Morris, AICP, Planning and Zoning Manager
CC: File
Date: April 10, 2008
Re: Proposed Text Amendment C2008-02-ZT, Conventional Subdivision Standards- Exception for Minor Subdivisions.

- Attached you will find proposed changes to Chapter Five, Section 5-5, Part C., 1, Exception for minor subdivisions, of the Cabarrus County Zoning Ordinance.
- The purpose of these changes is to clarify the language regarding the minor subdivision exception and its intent within the Zoning Ordinance.
- Please read over the materials and be prepared to discuss the proposed text at the meeting.




Section 5-5. Conventional subdivision standards.

A. Applicability.

A conventional subdivision is permitted in the AO, CR and LDR districts. Applicants shall comply with all other provisions of this ordinance and all other applicable laws, except those that are incompatible with the provisions contained herein.

B. Dimensional standards.

Applicants using the conventional subdivision option shall meet the following standards.

	AO <i>Single-Family Detached</i>	CR <i>Single-Family Detached</i>	LDR <i>Single-Family Detached</i>
CONVENTIONAL SUBDIVISION			
<i>Tract</i>			
Density (maximum units/acre)	0.33	0.50	0.50
Public water and sewer	not permitted*	not permitted*	optional
<i>Lot Dimensions (minimum)</i>			
Lot area (acres)	3	2	2
Average lot width (feet)	150	150	150
<i>Principal (minimum feet)</i>			
Front yard (minor collector)	75	75	75
Front yard (local road)	50	50	50
Side yard (single)	20	10	20
Side yard (total)	40	40	40
Rear yard	30	30	30
<i>Height (maximum feet)</i>	40	40	40
<i>Lot Coverage (maximum)</i>			
Impermeable surface	15%	20%	20%
Structural coverage	10%	15%	15%

* Governmental water may be provided to individual lots in these areas for public health reasons.

C. 1. Exception for minor subdivisions.

In the AO, CR, LDR, MDR and HDR Districts, applicants meeting the standards for a minor subdivision as defined by the subdivision ordinance may create no more than one conventional minor subdivision out of each parent tract existing as of June 20, 2005 with lots at least one acre in size, provided that each lot meets any minimum area requirements for public health purposes.

2. Minor Subdivision Dimensional Standards

Subdivisions that are classified as minor subdivisions in the AO, CR, and LDR zoning districts shall be subject to the tract requirements listed for public water and sewer, the minimum average lot width listed in lot dimensions, the setbacks, height and lot coverage standards in Section 5-5, Conventional Subdivision Standards, Section B, Dimensional Standards. NOTE: Density standards in table shall not apply. Minimum lot size shall be one acre (43,560 SF) as stated above.




Section 5-5. Conventional subdivision standards.

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A conventional subdivision is permitted in the AO, CR and LDR districts. Applicants shall comply with all other provisions of this ordinance and all other applicable laws, except those that are incompatible with the provisions contained herein.

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	AO <i>Single-Family Detached</i>	CR <i>Single-Family Detached</i>	LDR <i>Single-Family Detached</i>
CONVENTIONAL SUBDIVISION			
Tract			
Density (maximum units/acre)	0.33	0.50	0.50
Public water and sewer	not permitted*	not permitted*	optional
Lot Dimensions (minimum)			
Lot area (acres)	3	2	2
Average lot width (feet)	150	150	150
Principal (minimum feet)			
Front yard (minor collector)	75	75	75
Front yard (local road)	50	50	50
Side yard (single)	20	10	20
Side yard (total)	40	40	40
Rear yard	30	30	30
Height (maximum feet)	40	40	40
Lot Coverage (maximum)			
Impermeable surface	15%	20%	20%
Structural coverage	10%	15%	15%

* Governmental water may be provided to individual lots in these areas for public health reasons.

C. 1. Exception for minor subdivisions.

In the AO, CR, LDR, MDR and HDR Districts, applicants meeting the standards for a minor subdivision as defined by the subdivision ordinance may create no more than one conventional minor subdivision out of each parent tract existing as of June 20, 2005 with lots at least one acre in size, provided that each lot meets any minimum area requirements for public health purposes. The property may be further divided. However, any additional divisions shall be deemed major subdivisions and shall be processed as such and subject to all ordinances and policies related to major subdivisions.

2. Minor Subdivision Dimensional Standards

Subdivisions that are classified as minor subdivisions in the AO, CR, and LDR zoning districts shall be subject to the tract requirements listed for public water and sewer, the minimum average lot width listed in lot dimensions, the setbacks, height and lot coverage standards in Section 5-5, Conventional Subdivision Standards, Section B,

Memo

To: Cabarrus County Planning and Zoning Commission
From: Susie Morris, AICP, Planning and Zoning Manager
CC: File
Date: April 10, 2008
Re: Proposed Text Amendment C2008-03-ZT, Chapter 15 Adequate Public Facilities (APF)

- Attached you will find proposed changes to Chapter 15, Adequate Public Facilities of the Cabarrus County Zoning Ordinance.
- The purpose of these changes is to clarify the language in the APF as it relates to adequate capacity for developments.
- These changes have been reviewed by the County Attorney.
- Please read over the materials and be prepared to discuss the proposed text at the meeting.

Section 15-1 Introduction

This Section:

- Establishes phasing standards for new development based on the carrying capacity of Public Facilities; and
- Ensures that Public Facilities needed to support new development meet or exceed the Level of Service standards established in this section; and
- Ensures that no applications for development approval are approved that would cause a reduction in the levels of service for any Public Facilities below the Adopted Level of Service established in this Section; and
- Ensures that adequate Public Facilities needed to support new development are available concurrent with the impacts of such development, or within a reasonable period of time;
- Encourages development in areas where public services are available and underutilized; and
- Establishes uniform procedures for the review of development applications subject to the standards and requirements of this Section; and
- Establishes standards for the phasing, changes in site and development design, or proffering of public facilities in order to establish flexibility, avoid the unreasonable delay of development approval, and to promote the County's planning policies.

Section 15-2 How to Use this Chapter

Information in this Chapter is organized as follows:

What do the words and phrases used in this Chapter mean?	Section 15-3
What types of uses and permits does this Chapter apply to?	Section 15-4
What do I submit with my application?	Section 15-5
How is my application processed? Who determines whether facilities are adequate?	Section 15-6 and 15-7
What happens if facilities are adequate? What if facilities are presently inadequate? What conditions will apply to my application if facilities are inadequate?	Section 15-7
If facilities are not adequate, do I always have to phase my development or wait until they are adequate? Or, do I have the option to provide the facilities so that I can move my plans forward?	Section 15-7
Where (over what area) are facilities required to be adequate? What if my project has impacts outside of Cabarrus County, or is located in a municipality in the County?	Section 15-9, with some particular rules in Sections 15-9 through 15-20.
If facilities are determined to be adequate or conditions are imposed, how long does this determination last? What effect does it have on other permits that I need? If my project does not build out for a while, will I have to go through the determination again?	Section 15-6
What are the standards for assessing whether or not facilities are "adequate"?	Sections 15-10 through 15-20
What if I am already partially through the permitting process? Do I have to comply with this Chapter? If so, what requirements apply?	Section 15-21

Section 15-3 Basic Terms and Definitions

Adopted Level of Service

A measurement that quantifies a specific amount, frequency, capacity, or response time of a public facility. The Adopted Level of Service is established in Section 15-9.

Adequate or Adequacy

A determination that facilities that are considered available comply with the Adopted Level of Service standard.

Applicant

Any person, corporation, or entity who submits an application that is subject to this Chapter (refer to Section 15-4).

Available

"Available" means that a Public Facility either: (1) exists and is operational, or (2) the Public Facility is Planned Capacity that is included in the methodology for determining compliance with this Chapter for a specific facility (refer to Sections 15-12 through 15-20).

Available Capacity

Existing or Planned Capacity of Public Facilities that is not already committed to existing or planned development, as provided in Section 15-11.

Application for Development Approval or Application

Any application that would permit the development or establishment of a use that is subject to this Chapter (refer to § 15-4). This includes any application for subdivision plat approval or administrative site plan approval for multi-family projects.

Capacity

The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

Capital Improvement

A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the County, Cabarrus County School District, Kannapolis School District, special district, or a public service provider.

Capital Improvement, Planned

See "Planned Capital Improvement."

Capital Improvements Program

A plan that describes the capital improvements that will be provided over a given time period. A "Capital Improvements Program" may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities. The Capital Improvements Program includes the most recent: Cabarrus County Capital Improvement Program (CIP), and 15-Year Facilities Plan for the applicable school district.

Committed Development

Committed Development includes:

- development with an approved determination that public facilities are adequate; and
- developments that are approved, but are unbuilt. This includes unbuilt preliminary subdivision plats, minor plats, final plats, or building permits.

Currently Available Revenue Sources

An existing source or amount of revenue that:

- is presently available to the County or the entity providing a Public Facility; and
- may be allocated towards capital expenses; and
- has been budgeted for the capital disbursements or debt service account applicable to a planned capital improvement.

This term does not refer to a mere intent to increase the future level or amount of a revenue source, nor to a revenue source that is contingent on ratification by a public referendum. Mitigation that is guaranteed in a Public Facilities Mitigation Agreement is considered a Currently Available Revenue Source.

Public Facilities Mitigation Agreement

An executed contract between the County and an Applicant that formally sets forth development approval and requirements to achieve Adequacy. A Public Facilities Mitigation Agreement is a regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in this Article and, where the denial or deferral of development approval is disputed by the Applicant, to effectuate the public policy favoring the settlement of disputes. A Public Facilities Mitigation Agreement includes any Reimbursement Agreement (G.S. Section 153A-451, 160A-499), Public Enterprise Improvement Agreements (G.S. Section 153A-280 or 160A-320), Development Agreement (G.S. Sections 153A-379.1 et seq. or 160A-400.20 et seq), or Site Specific Development Plan or Phased Development Plan (G.S. Section 153A-344.1, 160A-385.1), in which the Applicant lawfully agrees to provide improvements that mitigate the impacts of the Proposed Development.

Development Order

An official decision to approve any application that is subject to this Chapter. This includes any decisions to approve a subdivision plat or to administratively approve a site plan (for projects not requiring subdivision approval).

Existing Demand

The present, actual utilization of Public Facilities capacity from existing (built) development. Examples include existing school enrollment, trip counts, or calls for service.

High School Feeder Area

A grouping of schools consisting of one or more high schools and one or more middle and elementary schools, as determined by the School District.

Impact Area

The area in which a proposed residential development is presumed to create a demand for Public Facilities. This area is evaluated to determine adequacy. (Refer to Sections 15-9 and 15-12 through 15-20 of this Chapter.)

Level of Service

Level of Service indicates the capacity per unit of demand for each public facility. It is an indicator of the extent or degree of service provided by a facility. This indicator is based upon and related to the operational characteristics of the facility.

Minor Subdivision

A "minor subdivision," as defined in Chapter 2, Section 2 of the Cabarrus County Subdivision Regulations.

Mitigation

An agreement by the applicant, as a condition of approval and as part of a Public Facilities Mitigation Agreement, to advance Public Facilities by mitigating its impacts. (Refer to Section 15-7.3 d) and e) for mitigation conditions). Mitigation may involve a monetary Voluntary Mitigation Payment (VMP) to the County, the actual construction or provision of needed facilities to Cabarrus County for the School District, or any other mechanism that adds student capacity to the School District as approved by the Cabarrus County Board of Commissioners.

Mobile Home

A "mobile home" or "manufactured home" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Mobile Home Park

A "mobile home park" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Multi-family

Any "multi-family" dwelling as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Phasing

A condition of approval that imposes a buildout schedule that is tied to future increments of Planned Capacity.

Planned Capacity

Unbuilt capacity that is included in the Capital Improvements Program, consistent with the standards provided in Section 15-10.

Planned Capital Improvement

A Capital Improvement that is scheduled for completion of construction within a period not to exceed six (6) years in a Capital Improvements Program.

Proposed Development

The development that is proposed in an Application for Development Approval, including all dwelling units, non-residential floor area, or other increments of demand on Public Facilities that would be created if the Application were approved.

Public Facilities

For purposes of this section, Capital Improvements for Public Schools.

Residence, single family detached

A "residence, single family detached" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Reviewing Agency

The agency that reviews and that has jurisdiction to approve, approve with conditions, or deny an Application. (Refer to Section 15-6 for a summary of the Reviewing Agencies).

Student Generation Rate

The figure (stated as the number of students per dwelling unit) to be multiplied by the number of proposed dwelling units, by type, in order to determine projected enrollment. This may be computed using the school district or North Carolina Student Information Management System data, Census data, or similar data, and actual numbers of dwellings to determine expected students/dwelling.

Subdivision

A "subdivision," as defined in Chapter 2, Section 1 of the Cabarrus County Subdivision Regulations.

Townhouse

A one family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

Voluntary Mitigation Amount

A figure that represents the per-unit cost of providing mitigation, which may be used as a basis for providing voluntary payments to the County or the School Districts in lieu of deferring development.

DRAFT

Section 15-4 Applicability

1. This Chapter applies to any:
 - a) any division of property, except for a minor subdivision (as defined in Chapter 2, Section 2 of the Cabarrus County Subdivision Regulations), and
 - b) attached single-family units, townhouse projects, or multi-family buildings,
 - c) mobile home park located in Cabarrus County, including any incorporated areas or
 - d) any other project creating an increase in the amount of residential units within Cabarrus County.
2. This Chapter does not apply to any use, development, project, structure, fence, sign or activity that does not create an impact on Public Facilities.
3. For multi-family buildings, mobile home parks or other residential projects that do not require subdivision plat approval, this Chapter shall apply to any site plan required for approval of the proposed development.

Section 15-5 Submittal Requirements for Reservation of Capacity

1. An application for Reservation of Capacity Certificate must include all information required by this Chapter and all required processing fees. No application for consideration subject to this Chapter will be accepted, approved, granted or issued unless it provides sufficient information to determine whether the capacity of Public Facilities is adequate to support the proposed development.
2. For purposes of this Chapter, the following information must be submitted with the application for development approval:
 - a) the number of proposed dwelling units; and
 - b) the applicable high school feeder area; and
 - c) if the applicant has determined that public facilities are not presently available after initial consultation with staff, a phasing schedule or plan

for the advancement of capacity must be provided as part of the application; and

- d) the name of the development.
3. Staff will determine whether the Reservation of Capacity Certificate application is complete and whether it complies with the applicable submission requirements. If the application is incomplete or the submission requirements have not been complied with, staff will notify the Applicant and specify the deficiencies.
4. If the application is complete and the submission requirements have been complied with, staff from the School Districts and the Cabarrus County Commerce Department will evaluate the application for compliance with the Adopted Level of Service and submit a recommendation in the form of a staff report to the Cabarrus County Board of Commissioners.
5. If the application is incomplete, staff will return the application to the applicant with an explanation of the deficiencies, and no further processing will occur until the deficiencies are corrected.

Reservation of capacity applications shall not be submitted or processed with rezoning application requests or conditional use rezoning requests.

At the time of application for reservation of capacity, all applicable zoning designations and zoning districts must be in place.

Section 15-6 Application Processing

1. Staff Review

If the application for the Reservation of Capacity Certificate is complete and the submission requirements have been complied with, Cabarrus County Commerce Department and the School District Staff will evaluate the application for compliance with the Adopted Level of Service and submit a recommendation in the staff report.

2. Determination

The determination of whether public facilities are adequate is made as part of the procedure for approving the Reservation of Capacity Certificate application (see Criteria).

If the Reservation of Capacity Certificate review determined that mitigation is required for the project to proceed, once a Development Order has been granted from the

appropriate jurisdiction, the applicant shall enter into a **Public Facilities Mitigation Agreement** with the Cabarrus County Board of Commissioners for the project.

3. Decision

The Reviewing Agency's decision must include the following, based upon the application and evidence in the record:

- the number of dwelling units proposed by the Applicant, by type, for each Public Facility;
- the phasing of the proposed development, if applicable;
- the specific Public Facilities impacted by the proposed development;
- the extent of the impact of the proposed development in the applicable Impact Areas;
- the Capacity of existing Public Facilities in the Impact Areas that will be impacted by the proposed development;
- the demand on existing Public Facilities in the Impact Areas from existing and approved development;
- the availability of Existing Capacity to accommodate the proposed development; and
- if Existing Capacity is not available, Planned Capacity and the year in which such Planned Capacity is projected to be available.

4. Duration of Reservation of Capacity

Once the applicant has submitted an application for a Reservation of Capacity and said application is reviewed, if the Reservation of Capacity Certificate is approved, said Certificate shall be valid for a period of 12 months from date of issue by the Cabarrus County Board of Commissioners. In the event that a Reservation of Capacity of Certificate expires, the applicant shall begin the process again and shall be subject to any ordinances, regulations, policies or resolutions in place at that time.

5. Extensions for Reservation of Capacity Certificate

No extensions shall be granted for a Reservation of Capacity Certificate that has been issued by the Cabarrus County Board of Commissioners.

6. Public Facilities Mitigation Agreement.

Applicant shall enter into a **Public Facilities Mitigation Agreement** with the Cabarrus County Board of Commissioners once a Development Order has been granted from the appropriate jurisdiction. Said **Public Facilities Mitigation Agreement** shall identify and incorporate the terms of the approved Reservation of Capacity Certificate.

- a) The **Public Facilities Mitigation Agreement** is a regulatory document containing specific conditions of development approval as defined in the Reservation of Capacity Certificate and designed to implement the

policies and criteria contained in this Chapter and, where the denial or deferral of development approval is disputed by the applicant, to effectuate the public policy favoring the settlement of disputes.

- b) The Public Facilities Mitigation Agreement must contain an integrated development scheme for a particular phase or phases of development approval, along with maps, diagrams and other appropriate materials showing future conditions consistent with the provisions of this Chapter.
- d) The Public Facilities Mitigation Agreement must be approved by the Cabarrus County Board of Commissioners. The Public Facilities Mitigation Agreement will be reviewed at a normal meeting of the Board of County Commissioners, unless a special meeting is convened for this purpose. The meeting may be continued from time to time as needed to resolve issues raised by the applicant or Commissioners.

Section 15-7 Determination of Adequacy for Reservation of Capacity Certificate

When the Reservation of Capacity Certificate application is reviewed by the Cabarrus County Board of Commissioners, the Board shall take one of the following actions:

1. Approval of the Reservation of Capacity Certificate

If the Cabarrus County Board of Commissioners concludes that public facilities are presently available at the Adopted Level of Service, including the overall enrollment projected to be generated by the proposed development, it shall approve the Reservation of Capacity Certificate application without any of the conditions required by this Chapter.

2. Denial of the Reservation of Capacity Certificate

If the Cabarrus County Board of Commissioners determines that any Public Facility will not be available at the Adopted Level of Service based upon Available Capacity, the Cabarrus County Board of Commissioners may deny the application or as an alternative, the Cabarrus County Board of Commissioners may approve the Reservation of Capacity Certificate application with conditions as provided in subsection 3, below.

3. Conditions of the Reservation of Capacity Certificate

The Cabarrus County Board of Commissioners may require, or the Applicant may consent to, conditions that reduce or mitigate the impacts of the proposed development. Conditions may include a combination of the following:

- a) deferral of final plats, building permits or certificates of occupancy until all Public Facilities are available and adequate if Public Facilities in the Impact Area are not adequate to meet the Adopted Level of Service for the

entire development proposal, consistent with the requirements of this Chapter;

- b) **phasing of final plats, building permits or certificates of occupancy so that future increments of development are constructed to coincide with available capacity;**
- c) reduction of the density or intensity of the proposed development to a level consistent with the Available Capacity of Public Facilities;
- d) provision by the Applicant of the Public Facilities necessary to provide Capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur;
- e) conditions agreed upon by the applicant to advance, or partially advance the Public Facilities necessary to provide capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur. Provisions for advancement of capacity are included in Section 15-8; or
- f) any other reasonable conditions to ensure that all Public Facilities will be adequate and available concurrent with the impacts of the proposed development.

Section 15-8 Mitigation Measures for Reservation of Capacity Certificate Consideration

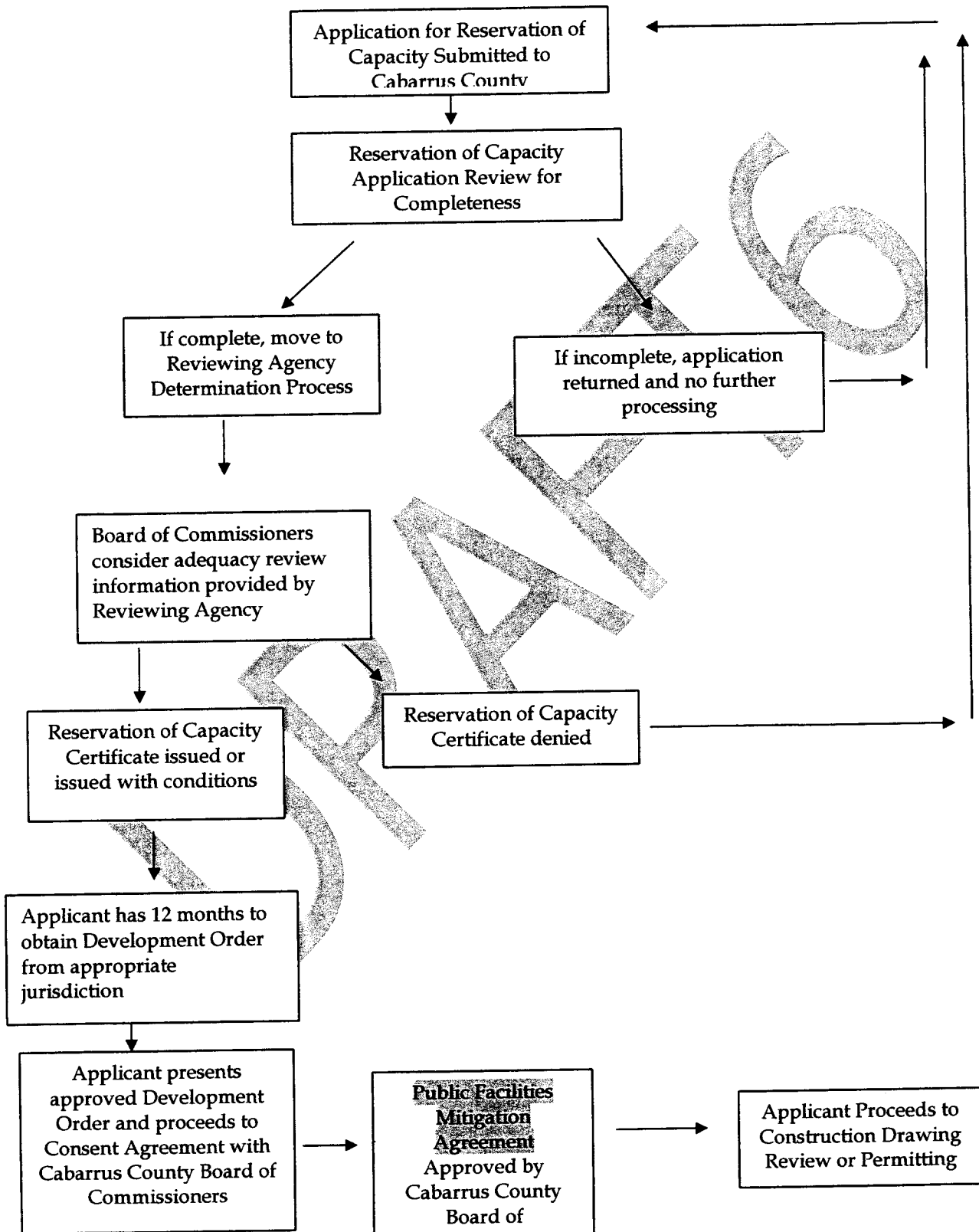
1. Applicants may propose mitigation measures to overcome a failure to meet one or more LOS standards including, but not limited to, payment of a pro rata share of facility capacity costs necessary to accommodate the demand generated by the proposed development.
2. Any Mitigation, including any monetary contribution, land donation or construction of Public Facilities, shall be paid or completed prior to the issuance of any affected building permit within the subject development.
3. The method to address Adequacy and a requirement that it shall be completed prior to the time of building permit application shall be included in the **Public Facilities Mitigation Agreement**.
4. If mitigation involves the construction of Public Facilities, the commitment to construction of Public Facilities prior to the issuance of a building permit shall be

included as a condition of the determination. The determination must include the following, at a minimum:

- a) For Planned Capital Improvements, a finding that the Planned Capital Improvement is included within the Capital Improvements Program of the school district or applicable service provider;
- b) an estimate of the total financial resources needed to construct the Planned Capital Improvement and a description of the cost participation associated with the improvement;
- c) a schedule for commencement and completion of construction of the Planned Capital Improvement with specific target dates for multi-phase or large-scale Capital Improvement projects;
- d) a statement, based on analysis, that the Planned Capital Improvement is consistent with the applicable *Area Plan*; and
- e) at the option of the County Commission and only if the Planned Capital Improvement will provide Capacity exceeding the demand generated by the proposed development, reimbursement, or a method to affect reimbursement, to the Applicant for the pro rata cost of the excess Capacity.

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Reservation of Capacity Process



Section 15-9 Impact Areas

1. General

- a) Except as provided below, availability and adequacy of Public Facilities are determined only with respect to Public Facilities located within the unincorporated areas of Cabarrus County. If part of the impact area lies in a municipality in the County or an unincorporated area of Mecklenburg, Union, or Rowan Counties, absent an intergovernmental agreement with the County or municipality, availability and adequacy are determined only with respect to Public Facilities located within unincorporated Cabarrus County.
- b) Per Session Law 2004-39, H.B. 224, Cabarrus County may review proposed developments within an incorporated area of the County for compliance with the Level of Service standards for schools.

2. Intergovernmental Agreement.

If the County Commission has entered into an intergovernmental agreement with an adjacent county or with a municipality to evaluate Public Facilities in such areas, an Applicant is subject to the evaluation of the Level of Service standard for the facility as adopted by the adjacent county or municipality. Prior to the request for Reservation of Capacity Certificate being presented to the Board of Commissioners, the Zoning Administrator will require that the adjacent county or municipality certify the proposed development will not cause a reduction in the Level of Service standards for those facilities lying within the adjacent county or the municipality.

- 1. For purposes of this Ordinance, the student generation rate for each category of schools shall be as follows:

Type of Unit	Type of School			
	Elementary	Middle	High	Total
Single Family Detached	.318	.139	.124	.581
Townhouse	.165	.157	.082	.304
Multi-Family/Other	.150	.055	.072	.277

Sources: Cabarrus County Planning Services Department; Cabarrus County Schools-Facility Planning Division, *Schools Voluntary Mitigation Payment Study*, TischlerBise, December 19, 2006.

Projected enrollment from the proposed residential development and enrollment generated by Committed Development consists of the sum of all proposed dwelling units or dwelling units permitted on platted lots, multiplied by the student generation rate. The above-referenced figures may be adjusted from time to time by the County Commission by amending this Ordinance to reflect updates to the student generation rate calculated by the Cabarrus County Planning Services Department.

2. The Reviewing Agency will determine whether public schools within the County have sufficient available capacity and acreage to accommodate the demand generated by the proposed residential development at the adopted level of service. Available capacity shall be calculated for the applicable high school feeder area and shall be expressed in terms of possible student enrollment which can be accommodated, in accordance with the following formulae:

Formula #1: $CAC = (EC) - (E + C)$

Formula #2: $FAC = (EC + PC_2) - (E + C)$

Formula #3: $FAC = (EC + PC_5) - (E + C)$

where:

Variable	Meaning
CAC	Current Available Capacity, in student enrollment.
FAC	Future Available Capacity, in student enrollment.
EC	110% of Existing Capacity, in enrollment, for elementary, middle and high schools within the high school feeder area. The capacity of school facilities shall be computed in accordance with the North Carolina Public Schools, <i>Facilities Guidelines</i> (January 1997), "Class Sizes and Teacher Allotments," This document is hereby incorporated by this reference and made a part of this Ordinance.
PC	Planned Capacity, in enrollment, for funded but <u>unbuilt</u> elementary, middle and high schools within the high school feeder area based upon the applicable School District <u>15 Year Facilities Plan</u> , <u>more specifically the Critical Project List</u> , which are incorporated by this reference.
PC ₂	PC (Planned Capacity), as defined above, based on the first two (2) years of the School District <u>15 Year Facilities Plan Critical Project List</u> .
PC ₅	PC (Planned Capacity), as defined above, based on the first five (5) years of the School District <u>15 Year Facilities Plan Critical Project List</u> .
E	Current enrollment based upon the most recent enrollment counts per monthly membership report as <u>provided by the School District Staff</u> .
C	Enrollment generated by <u>all</u> Committed Development within the high school feeder area

3. If current available capacity is equal to or greater than zero (0) (Formula #1 of subsection 1, above) and adequate capacity exists to accommodate the enrollment projected to be generated by the proposed development, school facilities are *adequate*.

If current available capacity for any school type is a negative number, adequate capacity does not currently exist to accommodate the enrollment projected to be generated by the proposed development.

4. If current available capacity is inadequate, Formula #2, above, is applied (**two (2) years of planned capacity**). If future available capacity is equal to or greater than the projected enrollment that will be produced by the proposed development for all school types, the development may be approved with conditions related to phasing or mitigation, and the applicant shall be permitted to proceed through the development approval process.

- 1) For a subdivision that consists of single family detached residences, the greater of 5 dwelling units per year or 10% of the proposed number of dwelling units, but no more than 15 dwelling units per year.
 - 2) For townhouses, 10 dwelling units each year or 10% of the number of dwelling units, whichever is greater, but no more than 15 dwelling units per year.
 - 3) For multifamily or other residential units, 11 dwelling units each year or 10% of the total number of units, whichever is greater, but no more than 20 dwelling units per year. This subsection applies to a proposed development that includes a mix of housing types that includes both single family detached residences and townhouses or multifamily/other dwelling units.
- b) These dwelling units shall not be constructed until the two years has expired unless the applicant agrees to provide mitigation measures for the project that delay the pro-rata impacts on school facilities for each dwelling unit constructed during the initial two year period.
5. If future available capacity pursuant to Formula #2 is less than zero (0), Formula #3, above, is applied (five (5) years of planned capacity). If future available capacity is then greater than or equal to the projected enrollment that will be produced by the proposed development for all school types, the application will only be approved with the following conditions:
- a) that Currently Available Revenue Sources are committed to all Public Facilities in the Capital Improvements Program that are needed to accommodate the impacts of the development; and
 - b) that phasing conditions are included that link the timing of new development to Planned Capacity that will be available, as shown in the Capital Improvements Program or that is guaranteed by Mitigation as provided in subsection c), below; and
 - c) the applicant has agreed to Mitigation for its pro-rata share of Planned Capacity.
6. If future available capacity pursuant to Formula #3, above, is less than zero (0), the applicant is permitted the following number of dwelling units per year:

- 1) For a subdivision that consists of single family detached residences, the greater of 5 dwelling units per year or 10% of the proposed number of dwelling units, but no more than 15 dwelling units per year.
 - 2) For townhouses, 10 dwelling units each year or 10% of the number of dwelling units, whichever is greater, but no more than 15 dwelling units per year.
 - 3) For multifamily or other residential units, 11 dwelling units each year or 10% of the total number of units, whichever is greater, but no more than 20 dwelling units per year. This subsection applies to a proposed development that includes a mix of housing types that includes both single family detached residences and townhouses or multifamily/other dwelling units.
 - b) These dwelling units shall not be constructed until the five years has expired unless the applicant agrees to provide mitigation measures for the project that defray the pro-rata impacts on school facilities for each dwelling unit constructed during the initial five year period.
 - b) For any year where a phasing schedule as provided in subsection a) applies, the applicant may elect to retest its remaining development against future available capacity. If the remaining development then meets Formula #1, Formula #2, or Formula #3 above, as certified by the Cabarrus County Commerce Department, the applicant may proceed subject to the conditions that apply to that formula. This subsection does not apply unless the Cabarrus County Commerce Department determines that the subsequent buildout, phasing or mitigation complies with this section.
6. Applicants may propose mitigation measures to overcome a failure to meet one or more LOS standards including, but not limited to, payment of a pro-rata share of facility capacity costs necessary to accommodate the demand generated by the proposed development or timing the proposed development so that phasing is linked directly to available capacity.
7. Mitigation measures that involve the payment of money to the County or School District to defray the per-unit impacts of school facilities must be based on calculated capital costs associated with new construction. The capital costs shall be re-assessed every five years. The Board of Commissioners shall adopt the minimum mitigation amount based upon that calculation and the annual rate of inflation. The Marshall and Swift valuation service shall be the index used to

calculate the rate of inflation. **The minimum amount of the Voluntary Mitigation Payment shall be adjusted and the new amount shall be effective as of January 1 of each year.**

The Board of County Commissioners may reduce the Voluntary Mitigation Payment if the applicant demonstrates that actual per-unit costs are less than the amount shown. This demonstration may take into consideration a reduction in the payments due to other contributions of taxes, fees, or similar payments from the proposed development that are reserved for capital improvements.

Section 15-12 to 15-20 Reserved

Section 15-21 *Approved Projects and Projects Currently Under Review*

1. Either approval of a subdivision preliminary plat by an incorporated municipality in the County or approval by the County of a preliminary plat prior to the effective date of this chapter and prior to the June 18, 2007, resolution of the Board of County Commissioners increasing the Voluntary Mitigation Payment shall permit the applicant to pay the following Voluntary Mitigation Payment amount previously adopted by the Cabarrus County Board of Commissioners:

Residence, single-family detached	\$4,034
Apartment	\$1,869
Townhouse	\$2,825
Mobile home	\$3,865
Duplex, triplex, or quadruplex	\$2,938

2. The Board of County Commissioners may accept substitute or additional mitigation offered by the applicant in order to settle pending or threatened litigation, and to advance public policy favoring the settlement of disputes.
3. All other applications pending with the County or with any incorporated municipality within the County must comply with this Chapter. However, applicants may appeal this requirement using any procedures established by this Chapter or the Subdivision Ordinance.
4. If any portion, clause or sentence of this ordinance shall be determined to be invalid or unconstitutional, such declaration of invalidity shall not affect the remaining portions of this ordinance.
5. This ordinance shall take effect and be in force from and after August 20, 2007.

Section 15-1 Introduction

This Section:

- Establishes phasing standards for new development based on the carrying capacity of Public Facilities; and
- Ensures that Public Facilities needed to support new development meet or exceed the Level of Service standards established in this section; and
- Ensures that no applications for development approval are approved that would cause a reduction in the levels of service for any Public Facilities below the Adopted Level of Service established in this Section; and
- Ensures that adequate Public Facilities needed to support new development are available concurrent with the impacts of such development, or within a reasonable period of time;
- Encourages development in areas where public services are available and underutilized; and
- Establishes uniform procedures for the review of development applications subject to the standards and requirements of this Section; and
- Establishes standards for the phasing, changes in site and development design, or proffering of public facilities in order to establish flexibility, avoid the unreasonable delay of development approval, and to promote the County's planning policies.

Section 15-2 How to Use this Chapter

Information in this Chapter is organized as follows:

What do the words and phrases used in this Chapter mean?	Section 15-3
What types of uses and permits does this Chapter apply to?	Section 15-4
What do I submit with my application?	Section 15-5
How is my application processed? Who determines whether facilities are adequate?	Section 15-6 and 15-7
What happens if facilities are adequate? What if facilities are presently inadequate? What conditions will apply to my application if facilities are inadequate?	Section 15-7
If facilities are not adequate, do I always have to phase my development or wait until they are adequate? Or, do I have the option to provide the facilities so that I can move my plans forward?	Section 15-7
Where (over what area) are facilities required to be adequate? What if my project has impacts outside of Cabarrus County, or is located in a municipality in the County?	Section 15-9, with some particular rules in Sections 15-9 through 15-20.
If facilities are determined to be adequate or conditions are imposed, how long does this determination last? What effect does it have on other permits that I need? If my project does not build out for awhile, will I have to go through the determination again?	Section 15-6
What are the standards for assessing whether or not facilities are "adequate"?	Sections 15-10 through 15-20
What if I am already partially through the permitting process? Do I have to comply with this Chapter? If so, what requirements apply?	Section 15-21

Section 15-3 Basic Terms and Definitions

Adopted Level of Service

A measurement that quantifies a specific amount, frequency, capacity, or response time of a public facility. The Adopted Level of Service is established in Section 15-9.

Adequate or Adequacy

A determination that facilities that are considered available comply with the Adopted Level of Service standard.

Applicant

Any person, corporation, or entity who submits an application that is subject to this Chapter (refer to Section 15-4).

Available

"Available" means that a Public Facility either: (1) exists and is operational, or (2) the Public Facility is Planned Capacity that is included in the methodology for determining compliance with this Chapter for a specific facility (refer to Sections 15-12 through 15-20).

Available Capacity

Existing or Planned Capacity of Public Facilities that is not already committed to existing or planned development, as provided in Section 15-11.

Application for Development Approval or Application

Any application that would permit the development or establishment of a use that is subject to this Chapter (refer to § 15-4). This includes any application for subdivision plat approval or administrative site plan approval for multi-family projects.

Capacity

The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

Capital Improvement

A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the County, Cabarrus County School District, Kannapolis School District, special district, or a public service provider.

Capital Improvement, Planned

See "Planned Capital Improvement."

Capital Improvements Program

A plan that describes the capital improvements that will be provided over a given time period. A "Capital Improvements Program" may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities. The Capital Improvements Program includes the most recent: Cabarrus County Capital Improvement Program (CIP), and 15-Year Facilities Plan for the applicable school district.

Committed Development

Committed Development includes:

- development with an approved determination that public facilities are adequate; and
- developments that are approved, but are unbuilt. This includes unbuilt preliminary subdivision plats, minor plats, final plats, or building permits.

Currently Available Revenue Sources

An existing source or amount of revenue that:

- is presently available to the County or the entity providing a Public Facility; and
- may be allocated towards capital expenses; and
- has been budgeted for the capital disbursements or debt service account applicable to a planned capital improvement.

This term does not refer to a mere intent to increase the future level or amount of a revenue source, nor to a revenue source that is contingent on ratification by a public referendum. Mitigation that is guaranteed in a Public Facilities Mitigation Agreement is considered a Currently Available Revenue Source.

Public Facilities Mitigation Agreement

An executed contract between the County and an Applicant that formally sets forth development approval and requirements to achieve Adequacy. A Public Facilities Mitigation Agreement is a regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in this Article and, where the denial or deferral of development approval is disputed by the Applicant, to effectuate the public policy favoring the settlement of disputes. A Public Facilities Mitigation Agreement includes any Reimbursement Agreement (G.S. Section 153A-451, 160A-499), Public Enterprise Improvement Agreements (G.S. Section 153A-280 or 160A-320), Development Agreement (G.S. Sections 153A-379.1 et. seq. or 160A-400.20 et seq), or Site Specific Development Plan or Phased Development Plan (G.S. Section 153A-344.1, 160A 385.1), in which the Applicant lawfully agrees to provide improvements that mitigate the impacts of the Proposed Development.

Development Order

An official decision to approve any application that is subject to this Chapter. This includes any decisions to approve a subdivision plat or to administratively approve a site plan (for projects not requiring subdivision approval).

Existing Demand

The present, actual utilization of Public Facilities capacity from existing (built) development. Examples include existing school enrollment, trip counts, or calls for service.

High School Feeder Area

A grouping of schools consisting of one or more high schools and one or more middle and elementary schools, as determined by the School District.

Impact Area

The area in which a proposed residential development is presumed to create a demand for Public Facilities. This area is evaluated to determine adequacy. (Refer to Sections 15-9 and 15-12 through 15-20 of this Chapter.)

Level of Service

Level of Service indicates the capacity per unit of demand for each public facility. It is an indicator of the extent or degree of service provided by a facility. This indicator is based upon and related to the operational characteristics of the facility.

Minor Subdivision

A "minor subdivision," as defined in Chapter 2, Section 2 of the Cabarrus County Subdivision Regulations.

Mitigation

An agreement by the applicant, as a condition of approval and as part of a Public Facilities Mitigation Agreement, to advance Public Facilities by mitigating its impacts. (Refer to Section 15-7.3 d) and e) for mitigation conditions). Mitigation may involve a monetary Voluntary Mitigation Payment (VMP) to the County, the actual construction or provision of needed facilities to Cabarrus County for the School District, or any other mechanism that adds student capacity to the School District as approved by the Cabarrus County Board of Commissioners.

Mobile Home

A "mobile home" or "manufactured home" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Mobile Home Park

A "mobile home park" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Multi-family

Any "multi-family" dwelling as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Phasing

A condition of approval that imposes a buildout schedule that is tied to future increments of Planned Capacity.

Planned Capacity

Unbuilt capacity that is included in the Capital Improvements Program, consistent with the standards provided in Section 15-10.

Planned Capital Improvement

A Capital Improvement that is scheduled for completion of construction within a period not to exceed six (6) years in a Capital Improvements Program.

Proposed Development

The development that is proposed in an Application for Development Approval, including all dwelling units, non-residential floor area, or other increments of demand on Public Facilities that would be created if the Application were approved.

Public Facilities

For purposes of this section, Capital Improvements for Public Schools.

Residence, single family detached

A "residence, single family detached" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Reviewing Agency

The agency that reviews and that has jurisdiction to approve, approve with conditions, or deny an Application. (Refer to Section 15-6 for a summary of the Reviewing Agencies).

Student Generation Rate

The figure (stated as the number of students per dwelling unit) to be multiplied by the number of proposed dwelling units, by type, in order to determine projected enrollment. This may be computed using the school district or North Carolina Student Information Management System data, Census data, or similar data, and actual numbers of dwellings to determine expected students/dwelling.

Subdivision

A "subdivision," as defined in Chapter 2, Section 1 of the Cabarrus County Subdivision Regulations.

Townhouse

A one family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

Voluntary Mitigation Amount

A figure that represents the per-unit cost of providing mitigation, which may be used as a basis for providing voluntary payments to the County or the School Districts in lieu of deferring development.

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Section 15-4 Applicability

1. This Chapter applies to any:
 - a) any division of property, except for a minor subdivision (as defined in Chapter 2, Section 2 of the Cabarrus County Subdivision Regulations), and
 - b) attached single-family units, townhouse projects, or multi-family buildings,
 - c) mobile home park located in Cabarrus County, including any incorporated areas or
 - d) any other project creating an increase in the amount of residential units within Cabarrus County.
2. This Chapter does not apply to any use, development, project, structure, fence, sign or activity that does not create an impact on Public Facilities.
3. For multi-family buildings, mobile home parks or other residential projects that do not require subdivision plat approval, this Chapter shall apply to any site plan required for approval of the proposed development.

Section 15-5 Submittal Requirements for Reservation of Capacity

1. An application for Reservation of Capacity Certificate must include all information required by this Chapter and all required processing fees. No application for consideration subject to this Chapter will be accepted, approved, granted or issued unless it provides sufficient information to determine whether the capacity of Public Facilities is adequate to support the proposed development.
2. For purposes of this Chapter, the following information must be submitted with the application for development approval:
 - a) the number of proposed dwelling units; and
 - b) the applicable high school feeder area; and
 - c) if the applicant has determined that public facilities are not presently available after initial consultation with staff, a phasing schedule or plan

for the advancement of capacity must be provided as part of the application; and

- d) the name of the development.
3. Staff will determine whether the Reservation of Capacity Certificate application is complete and whether it complies with the applicable submission requirements. If the application is incomplete or the submission requirements have not been complied with, staff will notify the Applicant and specify the deficiencies.
4. If the application is complete and the submission requirements have been complied with, staff from the School Districts and the Cabarrus County Commerce Department will evaluate the application for compliance with the Adopted Level of Service and submit a recommendation in the form of a staff report to the Cabarrus County Board of Commissioners.
5. If the application is incomplete, staff will return the application to the applicant with an explanation of the deficiencies, and no further processing will occur until the deficiencies are corrected.

Reservation of capacity applications shall not be submitted or processed with rezoning application requests or conditional use rezoning requests.

At the time of application for reservation of capacity, all applicable zoning designations and zoning districts must be in place.

Section 15-6 Application Processing

1. Staff Review

If the application for the Reservation of Capacity Certificate is complete and the submission requirements have been complied with, Cabarrus County Commerce Department and the School District Staff will evaluate the application for compliance with the Adopted Level of Service and submit a recommendation in the staff report.

2. Determination

The determination of whether public facilities are adequate is made as part of the procedure for approving the Reservation of Capacity Certificate application (see Criteria).

If the Reservation of Capacity Certificate review determined that mitigation is required for the project to proceed, once a Development Order has been granted from the

appropriate jurisdiction, the applicant shall enter into a **Public Facilities Mitigation Agreement** with the Cabarrus County Board of Commissioners for the project.

3. Decision

The Reviewing Agency's decision must include the following, based upon the application and evidence in the record:

- the number of dwelling units proposed by the Applicant, by type, for each Public Facility;
- the phasing of the proposed development, if applicable;
- the specific Public Facilities impacted by the proposed development;
- the extent of the impact of the proposed development in the applicable Impact Areas;
- the Capacity of existing Public Facilities in the Impact Areas that will be impacted by the proposed development;
- the demand on existing Public Facilities in the Impact Areas from existing and approved development;
- the availability of Existing Capacity to accommodate the proposed development; and
- if Existing Capacity is not available, Planned Capacity and the year in which such Planned Capacity is projected to be available.

4. Duration of Reservation of Capacity

Once the applicant has submitted an application for a Reservation of Capacity and said application is reviewed, if the Reservation of Capacity Certificate is approved, said Certificate shall be valid for a period of 12 months from date of issue by the Cabarrus County Board of Commissioners. In the event that a Reservation of Capacity of Certificate expires, the applicant shall begin the process again and shall be subject to any ordinances, regulations, policies or resolutions in place at that time.

5. Extensions for Reservation of Capacity Certificate

No extensions shall be granted for a Reservation of Capacity Certificate that has been issued by the Cabarrus County Board of Commissioners.

6. Public Facilities Mitigation Agreement.

Applicant shall enter into a **Public Facilities Mitigation Agreement** with the Cabarrus County Board of Commissioners once a Development Order has been granted from the appropriate jurisdiction. Said **Public Facilities Mitigation Agreement** shall identify and incorporate the terms of the approved Reservation of Capacity Certificate.

- a) The **Public Facilities Mitigation Agreement** is a regulatory document containing specific conditions of development approval as defined in the Reservation of Capacity Certificate and designed to implement the

policies and criteria contained in this Chapter and, where the denial or deferral of development approval is disputed by the applicant, to effectuate the public policy favoring the settlement of disputes.

- b) The **Public Facilities Mitigation Agreement** must contain an integrated development scheme for a particular phase or phases of development approval, along with maps, diagrams and other appropriate materials showing future conditions consistent with the provisions of this Chapter.
- d) The **Public Facilities Mitigation Agreement** must be approved by the Cabarrus County Board of Commissioners. The **Public Facilities Mitigation Agreement** will be reviewed at a normal meeting of the Board of County Commissioners, unless a special meeting is convened for this purpose. The meeting may be continued from time to time as needed to resolve issues raised by the applicant or Commissioners.

Section 15-7 Determination of Adequacy for Reservation of Capacity Certificate

When the Reservation of Capacity Certificate application is reviewed by the Cabarrus County Board of Commissioners, the Board shall take one of the following actions:

1. Approval of the Reservation of Capacity Certificate

If the Cabarrus County Board of Commissioners concludes that public facilities are presently available at the Adopted Level of Service, including the overall enrollment projected to be generated by the proposed development, it shall approve the Reservation of Capacity Certificate application without any of the conditions required by this Chapter.

2. Denial of the Reservation of Capacity Certificate

If the Cabarrus County Board of Commissioners determines that any Public Facility will not be available at the Adopted Level of Service based upon Available Capacity, the Cabarrus County Board of Commissioners may deny the application or as an alternative, the Cabarrus County Board of Commissioners may approve the Reservation of Capacity Certificate application with conditions as provided in subsection 3, below.

3. Conditions of the Reservation of Capacity Certificate

The Cabarrus County Board of Commissioners may require, or the Applicant may consent to, conditions that reduce or mitigate the impacts of the proposed development. Conditions may include a combination of the following:

- a) deferral of final plats, building permits or certificates of occupancy until all Public Facilities are available and adequate if Public Facilities in the Impact Area are not adequate to meet the Adopted Level of Service for the

entire development proposal, consistent with the requirements of this Chapter;

- b) phasing of final plats, building permits or certificates of occupancy so that future increments of development are constructed to coincide with available capacity;
- c) reduction of the density or intensity of the proposed development to a level consistent with the Available Capacity of Public Facilities;
- d) provision by the Applicant of the Public Facilities necessary to provide Capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur;
- e) conditions agreed upon by the applicant to advance, or partially advance the Public Facilities necessary to provide capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur. Provisions for advancement of capacity are included in Section 15-8; or
- f) any other reasonable conditions to ensure that all Public Facilities will be adequate and available concurrent with the impacts of the proposed development.

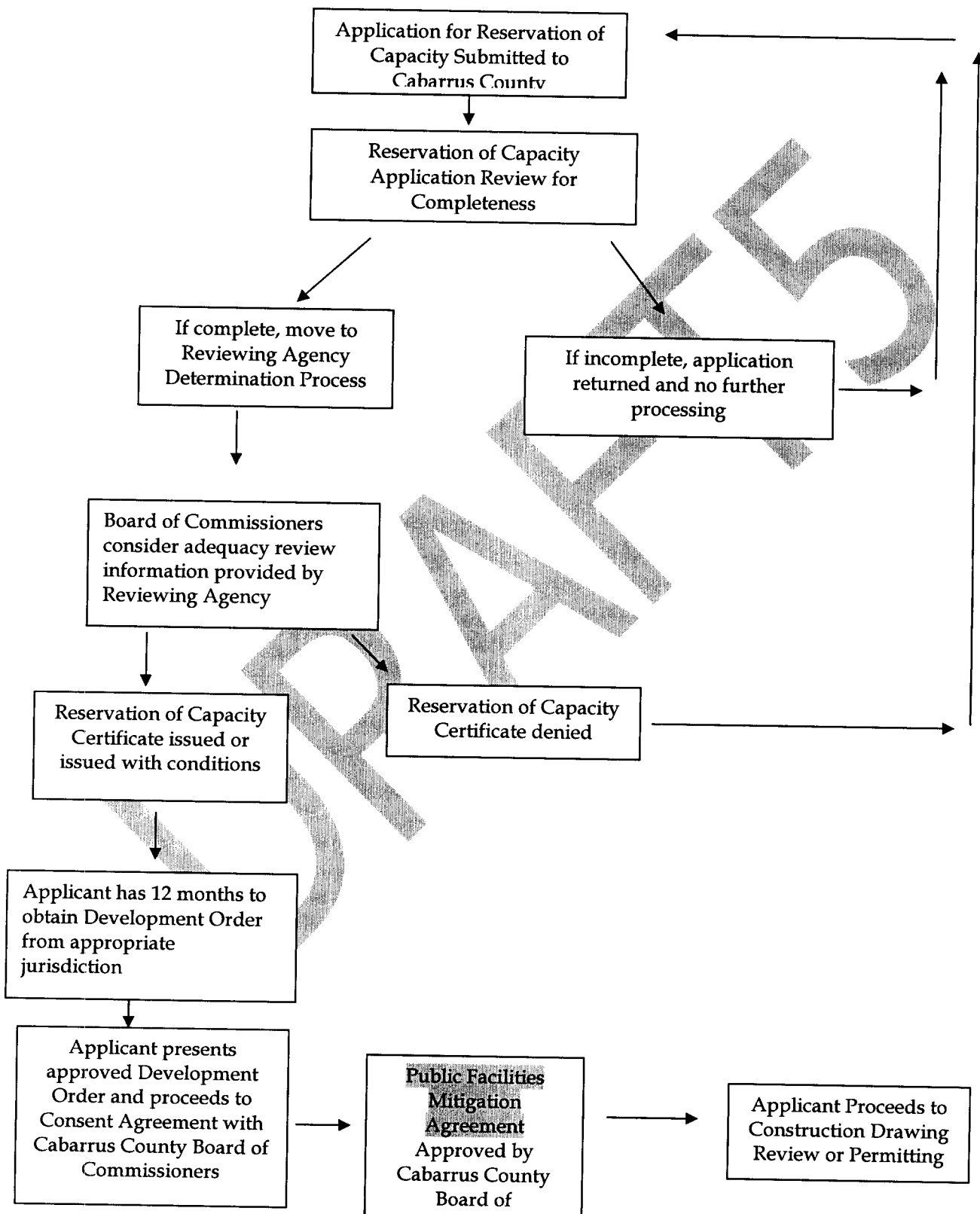
Section 15-8 Mitigation Measures for Reservation of Capacity Certificate Consideration

1. Applicants may propose mitigation measures to overcome a failure to meet one or more LOS standards including, but not limited to, payment of a pro rata share of facility capacity costs necessary to accommodate the demand generated by the proposed development.
2. Any Mitigation, including any monetary contribution, land donation or construction of Public Facilities, shall be paid or completed prior to the issuance of any affected building permit within the subject development.
3. The method to address Adequacy and a requirement that it shall be completed prior to the time of building permit application shall be included in the Public Facilities Mitigation Agreement.
4. If mitigation involves the construction of Public Facilities, the commitment to construction of Public Facilities prior to the issuance of a building permit shall be

included as a condition of the determination. The determination must include the following, at a minimum:

- a) For Planned Capital Improvements, a finding that the Planned Capital Improvement is included within the Capital Improvements Program of the school district or applicable service provider;
- b) an estimate of the total financial resources needed to construct the Planned Capital Improvement and a description of the cost participation associated with the improvement;
- c) a schedule for commencement and completion of construction of the Planned Capital Improvement with specific target dates for multi-phase or large-scale Capital Improvement projects;
- d) a statement, based on analysis, that the Planned Capital Improvement is consistent with the applicable *Area Plan*; and
- e) at the option of the County Commission and only if the Planned Capital Improvement will provide Capacity exceeding the demand generated by the proposed development, reimbursement, or a method to affect reimbursement, to the Applicant for the pro rata cost of the excess Capacity.

Reservation of Capacity Process



Section 15-9 Impact Areas

1. General

- a) Except as provided below, availability and adequacy of Public Facilities are determined only with respect to Public Facilities located within the unincorporated areas of Cabarrus County. If part of the impact area lies in a municipality in the County or an unincorporated area of Mecklenburg, Union, or Rowan Counties, absent an intergovernmental agreement with the County or municipality, availability and adequacy are determined only with respect to Public Facilities located within unincorporated Cabarrus County.
- b) Per Session Law 2004-39, H.B. 224, Cabarrus County may review proposed developments within an incorporated area of the County for compliance with the Level of Service standards for schools.

2. Intergovernmental Agreement.

If the County Commission has entered into an intergovernmental agreement with an adjacent county or with a municipality to evaluate Public Facilities in such areas, an Applicant is subject to the evaluation of the Level of Service standard for the facility as adopted by the adjacent county or municipality. Prior to the request for Reservation of Capacity Certificate being presented to the Board of Commissioners, the Zoning Administrator will require that the adjacent county or municipality certify the proposed development will not cause a reduction in the Level of Service standards for those facilities lying within the adjacent county or the municipality.

- 1. For purposes of this Ordinance, the student generation rate for each category of schools shall be as follows:

Type of Unit	Type of School			
	Elementary	Middle	High	Total
Single Family Detached	.318	.139	.124	.581
Townhouse	.165	.157	.082	.304
Multi-Family/Other	.150	.055	.072	.277

Sources: Cabarrus County Planning Services Department; Cabarrus County Schools-Facility Planning Division, *Schools Voluntary Mitigation Payment Study*, TischlerBise, December 19, 2006.

Projected enrollment from the proposed residential development and enrollment generated by Committed Development consists of the sum of all proposed dwelling units or dwelling units permitted on platted lots, multiplied by the student generation rate. The above-referenced figures may be adjusted from time to time by the County Commission by amending this Ordinance to reflect updates to the student generation rate calculated by the Cabarrus County Planning Services Department.

2. The Reviewing Agency will determine whether public schools within the County have sufficient available capacity and acreage to accommodate the demand generated by the proposed residential development at the adopted level of service. Available capacity shall be calculated for the applicable high school feeder area and shall be expressed in terms of possible student enrollment which can be accommodated, in accordance with the following formulae:

Formula #1: $CAC = (EC) - (E + C)$

Formula #2: $FAC = (EC + PC_2) - (E + C)$

Formula #3: $FAC = (EC + PC_5) - (E + C)$

where:

Variable	Meaning
CAC	Current Available Capacity, in student enrollment.
FAC	Future Available Capacity, in student enrollment.
EC	110% of Existing Capacity, in enrollment, for elementary, middle and high schools within the high school feeder area. The capacity of school facilities shall be computed in accordance with the North Carolina Public Schools, <i>Facilities Guidelines</i> (January 1997), "Class Sizes and Teacher Allotments," This document is hereby incorporated by this reference and made a part of this Ordinance.
PC	Planned Capacity, in enrollment, for funded but unbuilt elementary, middle and high schools within the high school feeder area based upon the applicable School District 15 Year Facilities Plan, more specifically the Critical Project List, which are incorporated by this reference.
PC ₂	PC (Planned Capacity), as defined above, based on the first two (2) years of the School District 15 Year Facilities Plan Critical Project List.
PC ₅	PC (Planned Capacity), as defined above, based on the first five (5) years of the School District 15 Year Facilities Plan Critical Project List.
E	Current enrollment based upon the most recent enrollment counts per monthly membership report as provided by the School District Staff
C	Enrollment generated by all Committed Development within the high school feeder area

3. If current available capacity is equal to or greater than zero (0) (Formula #1 of subsection 1, above), and adequate capacity exists to accommodate the enrollment projected to be generated by the proposed development, school facilities are *adequate*.

If current available capacity for any school type is a negative number, adequate capacity does not currently exist to accommodate the enrollment projected to be generated by the proposed development.

4. If current available capacity is inadequate, Formula #2, above, is applied (**two (2) years of planned capacity**). If future available capacity is equal to or greater than the projected enrollment that will be produced by the proposed development for all school types, the development may be approved with conditions related to phasing or mitigation, and the applicant shall be permitted to proceed through the development approval process. **Phasing shall coincide with the availability of capacity, except where voluntary mitigation is offered.**

5. If future available capacity pursuant to Formula #2 is less than zero (0), Formula #3, above, is applied (five (5) years of planned capacity). If future available capacity is then greater than or equal to the projected enrollment that will be produced by the proposed development for all school types, the application will only be approved with the following conditions:

- a) that Currently Available Revenue Sources are committed to all Public Facilities in the Capital Improvements Program that are needed to accommodate the impacts of the development; and
- b) that phasing conditions are included that link the timing of new development to Planned Capacity that will be available, as shown in the Capital Improvements Program or that is guaranteed by Mitigation as provided in subsection c), below; and
- c) the applicant has agreed to Mitigation for its pro-rata share of Planned Capacity.

6. If future available capacity pursuant to Formula #3, above, is less than zero (0); the applicant is permitted

a) The applicant is permitted the following number of dwelling units per year:

1) For a subdivision that consists of single family detached residences, the greater of 5 dwelling units per year or 10% of the proposed number of dwelling units, but no more than 15 dwelling units per year.

2) For townhouses, 10 dwelling units each year or 10% of the number of dwelling units, whichever is greater, but no more than 15 dwelling units per year.

3) For multifamily or other residential units, 11 dwelling units each year or 10% of the total number of units, whichever is greater, but no more than 20 dwelling units per year. This subsection applies to a proposed development that includes a mix of housing types that includes both single family detached residences and townhouses or multifamily/other dwelling units.

b) These dwelling units shall not be constructed until the five years has expired unless the applicant agrees to provide mitigation measures for the

project that defray the pro-rata impacts on school facilities for each dwelling unit constructed during the initial five year period.

b) For any year where a phasing schedule as provided in subsection a) applies, the applicant may elect to retest its remaining development against future available capacity. If the remaining development then meets Formula #1, Formula #2, or Formula #3, above, as certified by the Cabarrus County Commerce Department, the applicant may proceed subject to the conditions that apply to that formula. This subsection does not apply unless the Cabarrus County Commerce Department determines that the subsequent buildout, phasing or mitigation complies with this section.

6. Applicants may propose mitigation measures to overcome a failure to meet one or more LOS standards including, but not limited to, payment of a pro rata share of facility capacity costs necessary to accommodate the demand generated by the proposed development or timing the proposed development so that phasing is linked directly to available capacity.
7. Mitigation measures that involve the payment of money to the County or School District to defray the per-unit impacts of school facilities must be based on calculated capital costs associated with new construction. The capital costs shall be re-assessed every five years. The Board of Commissioners shall adopt the minimum mitigation amount based upon that calculation and the annual rate of inflation. The Marshall and Swift valuation service shall be the index used to calculate the rate of inflation. The minimum amount of the Voluntary Mitigation Payment shall be adjusted and the new amount shall be effective as of January 1 of each year.

The Board of County Commissioners may reduce the Voluntary Mitigation Payment if the applicant demonstrates that actual per-unit costs are less than the amount shown. This demonstration may take into consideration a reduction in the payments due to other contributions of taxes, fees, or similar payments from the proposed development that are reserved for capital improvements.

Section 15-12 to 15-20 Reserved

Section 15-21 Approved Projects and Projects Currently Under Review

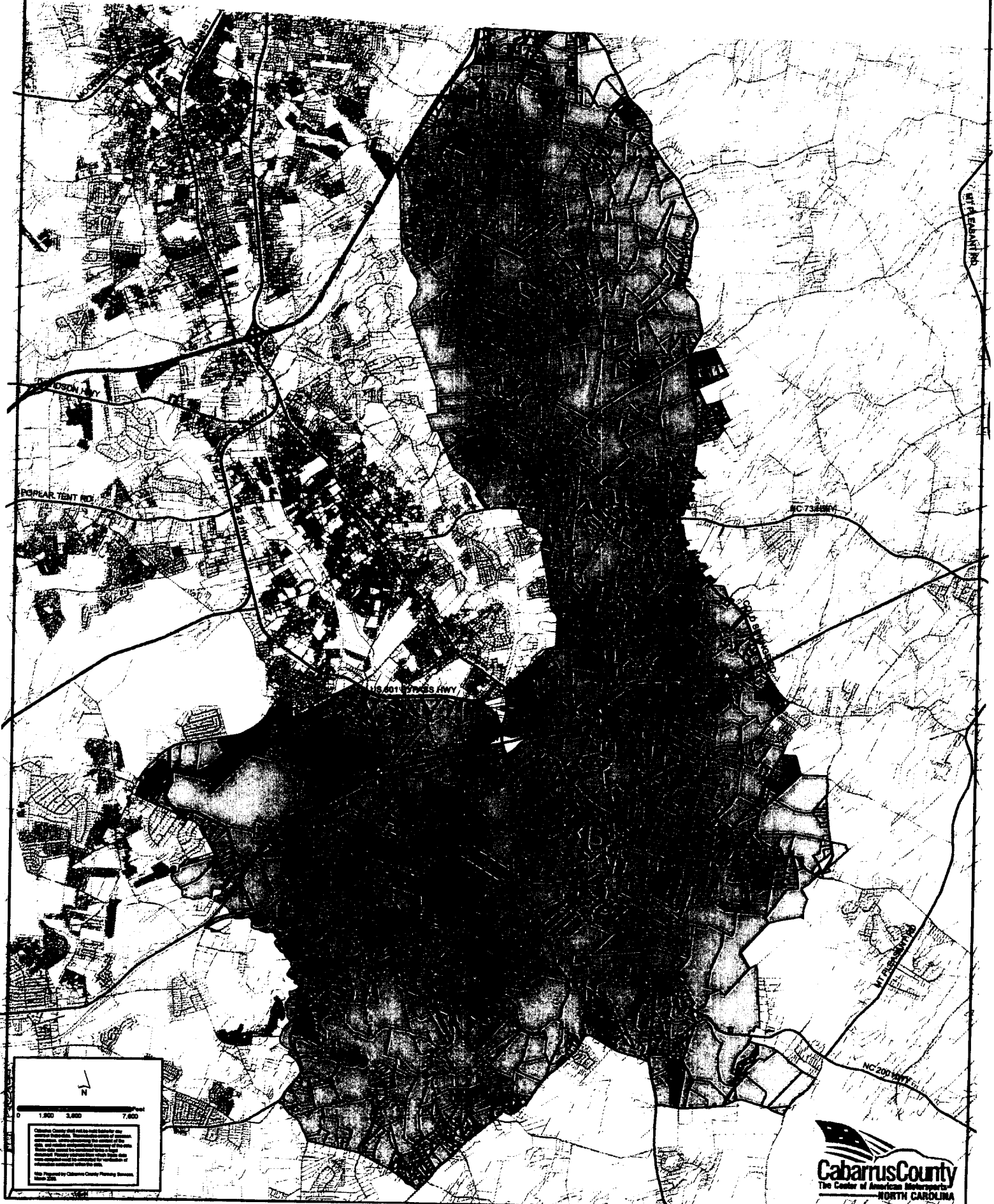
1. Either approval of a subdivision preliminary plat by an incorporated municipality in the County or approval by the County of a preliminary plat prior to the effective date of this chapter and prior to the June 18, 2007, resolution of the Board of County Commissioners increasing the Voluntary Mitigation

Payment shall permit the applicant to pay the following Voluntary Mitigation Payment amount previously adopted by the Cabarrus County Board of Commissioners:

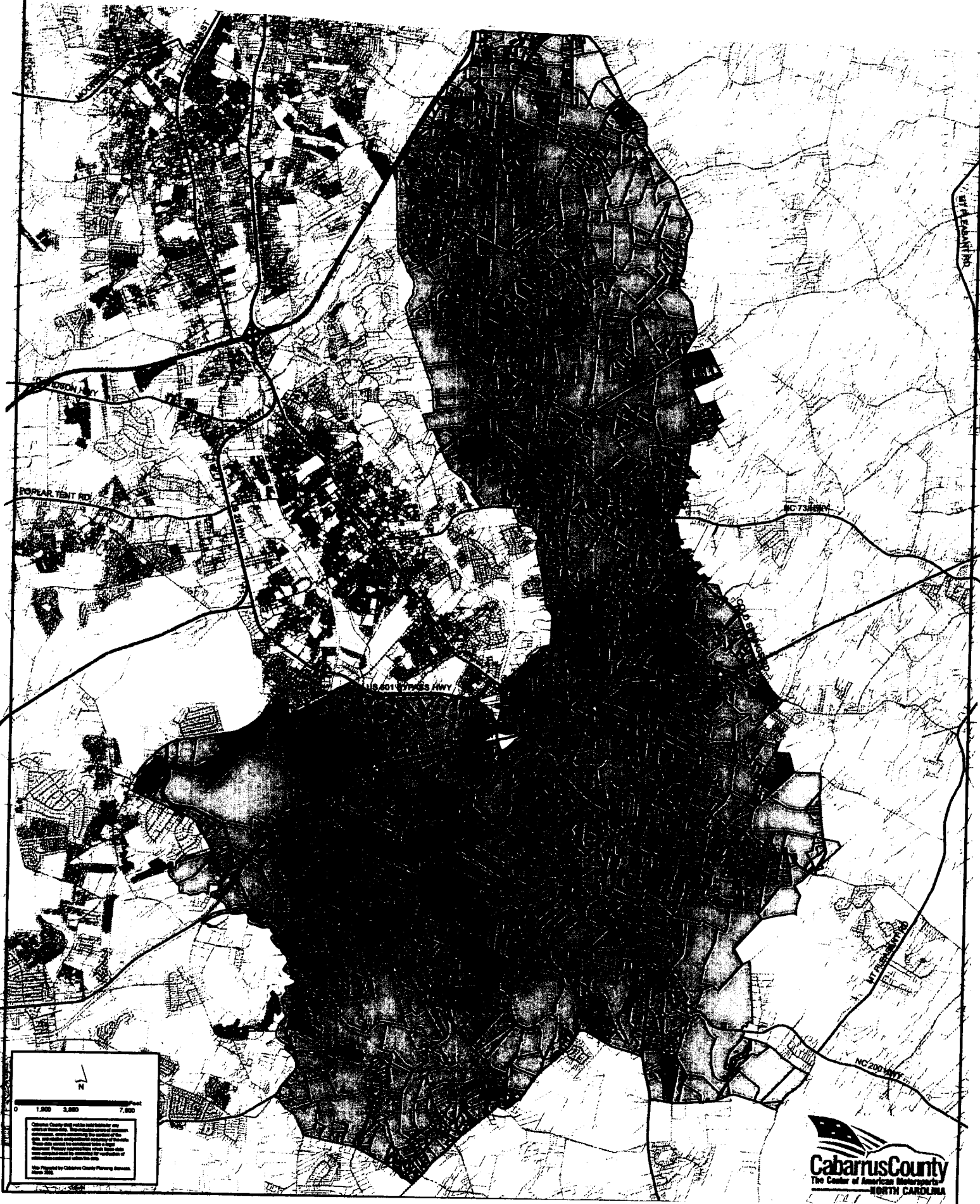
Residence, single-family detached	\$4,034
Apartment	\$1,869
Townhouse	\$2,825
Mobile home	\$3,865
Duplex, triplex, or quadruplex	\$2,938

2. The Board of County Commissioners may accept substitute or additional mitigation offered by the applicant in order to settle pending or threatened litigation, and to advance public policy favoring the settlement of disputes.
3. All other applications pending with the County or with any incorporated municipality within the County must comply with this Chapter. However, applicants may appeal this requirement using any procedures established by this Chapter or the Subdivision Ordinance.
4. If any portion, clause or sentence of this ordinance shall be determined to be invalid or unconstitutional, such declaration of invalidity shall not affect the remaining portions of this ordinance.
5. This ordinance shall take effect and be in force from and after August 20, 2007.

Proposed Study Area



Proposed Study Area



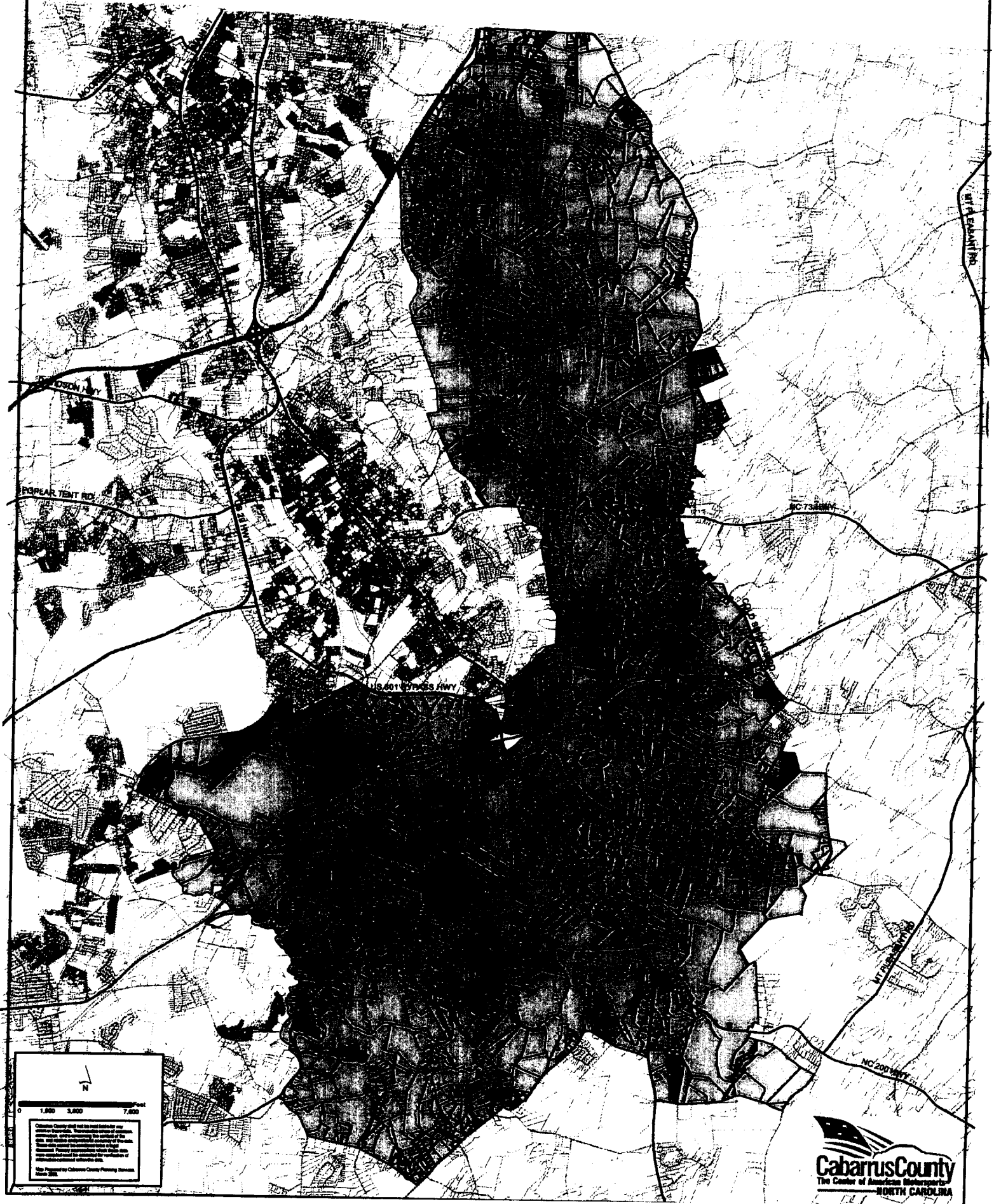
0 1,500 3,000 7,000 Feet

Cabarrus County that includes land within the city limits of Concord, North Carolina. The boundary of the study area is shown in a thick black line. The map is based on aerial photography and is not to scale. The map is for informational purposes only and does not constitute a contract or any other legal document. The map is subject to change without notice.

Map Prepared by Cabarrus County Planning Services, 2010



Proposed Study Area

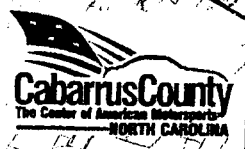


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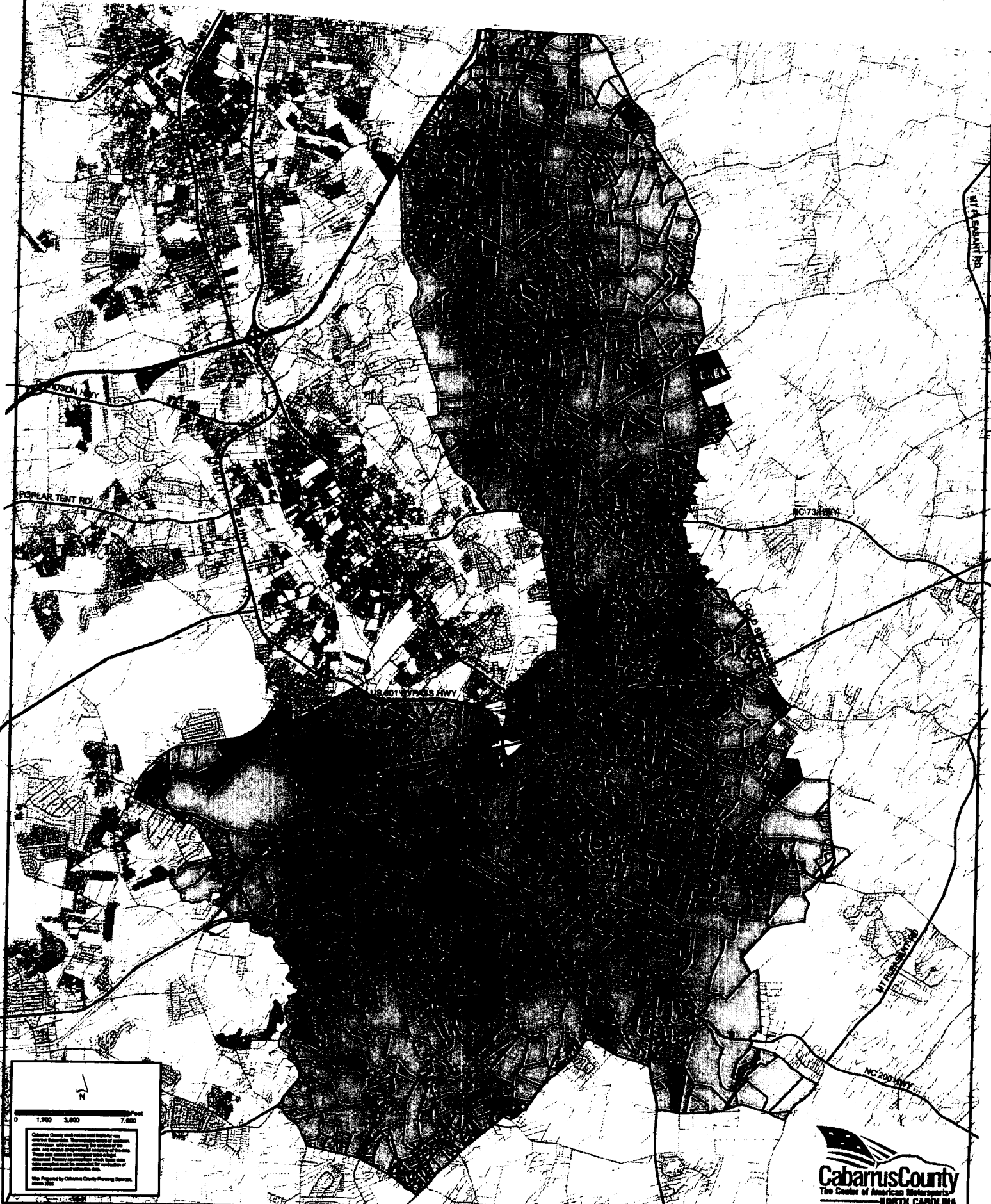
North Arrow

Cabarrus County and its staff do not guarantee any accuracy or completeness of the information contained in this map. The information is provided for informational purposes only. The user assumes all responsibility for the use of this information. The information is provided for informational purposes only. The user assumes all responsibility for the use of this information.

Map prepared by Cabarrus County Planning Services, March 2004



Proposed Study Area



0 1,500 3,000 7,500 Feet

North Arrow

This map was prepared by Cabarrus County Planning Services, Inc. for the Cabarrus County Board of Commissioners. It is intended for informational purposes only and does not constitute a contract or warranty of any kind. The County is not responsible for any errors or omissions on this map. The County is not liable for any damages, including consequential damages, arising from the use of this map. The County is not responsible for any changes in the information shown on this map after the date of its preparation.

Proposed Study Area

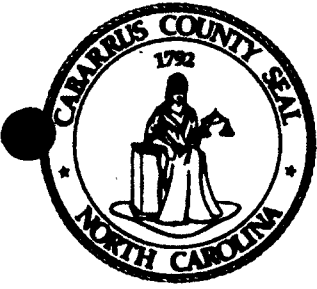


0 1,000 3,000 7,000 Feet

Cabarrus County and its constituent municipalities are not responsible for the accuracy of the information shown on this map. The information shown on this map is for informational purposes only. The information shown on this map is not intended to be used for any other purpose.

Map Prepared by Cabarrus County Planning Services, March 2008





Planning and Zoning Commission Minutes
April 17, 2008
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. Larry Ensley, Mr. Danny Fesperman, Mr. Larry Griffin, Mr. Ted Klutz, Mr. Tommy Porter, Mr. Ian Prince, and Mr. Barry Shoemaker. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Jeff Huss, Planner, Ms. Kassie Watts, Planner, Ms. Jessica Gladwin, Planner, Ms. Arlena Roberts, Clerk to the Board, Mr. Robbie Fox, Zoning Officer and Mr. Richard Koch, County Attorney.

Roll Call

Approval of Minutes

Mr. Danny Fesperman, **MOTIONED, SECONDED** by Mr. Barry Shoemaker to **APPROVE** the February 21, 2008, meeting minutes. The vote was unanimous.

New Business – Planning Board Function:

The Chair introduced **Petition C2007-06 (R-SU) Zoning Atlas Amendment**

The applicant is requesting that an additional use, auto repair and service be included as permitted use for the property (Tabled from December 20, 2007, Planning and Zoning Commission meeting).

The Chair swore in Ms. Susie Morris, Mr. Dennis Testerman, Ms. Kassie Watts, Mr. Clarence Allman, Mr. Glen Jones, Mr. Mark Rowell, Mr. Cecil Jenkins, Mr. Keith Kuenzli, Ms Susan Schneider, Mr. Rick Kraus, and Mr. Ned Reece.

Ms. Kassie Watts, Planner, addressed the Board stating that the petition was tabled from the December 20, 2007, Planning and Zoning Commission meeting. She said the Board requested that all zoning related issues be resolved prior to the applicant coming back before the Board to request the conditional use permit. She said the applicant is Mr. Glen Jones, Mt. Pleasant, NC; the property owner is Mr. Clarence Allman, Mt. Pleasant, NC and both are here this evening.

She said the existing zoning is Agricultural/ Open Space Special Use (AO-SU) and the proposed zoning is Agricultural/ Open Space Special Use (AO-SU). The applicant is requesting that auto repair and service be included as a permitted use for this property. The area of the property is approximately 9 acres in size and is served by a private well and septic system.

The Eastern Area Land Use Plan designates this area as Suburban Residential, and the future designation of the Eastern Area Plan; the auto repair and service use would not be

appropriate. Additional considerations would be that the River Stream Overlay Zone would be required and this proposed use would be permitted based on standards in the Agricultural Open Space (AO) zoning district. The comments provided to the Board at the December meeting remained the same, (Soil and Water Conservation, Health Alliance, and County Engineer). There were updated comments from the County Zoning office which state that on January 7, 2008, a zoning inspection was made at the Highway 49 site and the zoning violations discussed at the December 20, 2007, Planning and Zoning Commission meeting had been rectified. Therefore, per the County Zoning Office, the property seems to be in compliance, all the pallets of material that were located at the back of the site, close to the creek, have been removed and the site has been cleaned up.

She said one of the issues was fill material within the 100 year flood plain, and that was one of the violations that prevented the application from coming back before the Board. The applicants had the surveyor stake the 100 year flood plain and remove the fill material.

She said comments from Mr. Mike Byrd, Flood Plain Manager were: AccuTech Surveying staked the 600' elevation line on the property. This is the 100 year flood elevation shown on the latest set of Cabarrus County FIRM maps. The amount of dirt removed out of the 100 year floodplain line and the remaining area in the 100 year floodplain line that was not originally filled, will meet the required work that we discussed. This action will bring you into compliance with the Cabarrus County Flood Damage Prevention Ordinance. This elevation was re-staked as we requested from AccuTech to confirm it. As requested the area that was regarded had also been seeded and straw has been placed on the area. This action will allow you to continue with the Conditional Use Permit you requested earlier. (see attached letter)

Ms. Watts said Erosion Control Staff conducted a site visit on April 8, 2008, and determined the slope has been seeded and mulched at this time and recommends continued monitoring of the site to insure that all bare areas are stabilized with permanent ground cover.

She said staff analysis and recommendations remain the same as they were December 20, 2007, when the application was tabled. Staff finds the proposed zoning map amendment and site plan meet 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.

She said the conditions remained the same, but one thing to note specifically is that the conservation easement that was proposed in the original application is no longer being proposed. The applicant has decided to no longer include that in their application.

She said the applicant and several representatives are available if the Board has any questions or issues with the site, Mike Byrd and Thomas Smith are also here this evening.

The Chair stated there was a public hearing at the December 20, 2007 meeting and all the information given at that time is in the record and has been reviewed. He asked all speakers to keep that in mind and to keep their comments to a minimum. He said if you made a presentation at the previous meeting, we have that information, and he asked that new information be provided.

Mr. Dennis Testerman, Sr. Resource Conservation Specialist, Soil and Water Conservation District, addressed the Board. His comments are the same as in the previous hearing. He has been out to the site twice since the last hearing; the focus was primarily on removing the fill in the floodplain. He said there has not been any additional conversation about conservation easements per say on that site. He heard through the grapevine that the consideration for an easement had been taken off the table.

Mr. Testerman said the Cabarrus Soil and Water Conservation District takes a voluntary approach to conservation. It seems like in this case the focus has been on the regulatory side of this and trying to meet the requirements. The easement would in fact be going above and beyond that requirement. He said this is not an isolated situation where we are looking for easements; there are a number of property owners along Adams Creek that we have been talking with about easements and about conservation in general. He said the largest piece is the Mt. Pleasant High School site which has a buffer along Adams Creek; we have talked with the school officials about that. He anticipates going before the School Board and the County Commissioners sometime later this year to see about getting a conservation easement dedicated on that.

Mr. Testerman said the Boelte property on the corner of Walker Road and Highway 49, across the road is the Penniger property, the Allman property and the Schneider property; if all of these would pan out we would begin to have something of a corridor along Adams Creek. He said this is the approach that we like to take to conservation; trying to piece these together because they work better that way then to have them isolated in the landscape.

Mr. Testerman said in terms of the agricultural uses of this area and the zoning and in addition to the technical assistance, we have done some cost share with Mr. Reece who spoke with the Board the last time. We have provided technical assistance on his farm for seeding down some crop land into pasture and that provided water quality protection along Adams Creek. He said that kind of assistance is available to farmers and folks who are not farmers. We have state and federal monies that we can use to accelerate technical assistance and best management practices on the land.

Mr. Testerman said earlier today he was on a farm in Cabarrus County with Mr. John Day, Cabarrus County Manager and Mr. Jay White, Chairman, of the Cabarrus County Board of Commissioners, to talk about our on going efforts to work on land preservation

and open space protection. He said the flyer he gave the Board is about the program we have in Cabarrus County, which is voluntary. He has been with the county for almost 18 years and at this time the support for open space protection is at an all time high. We have submitted a grant application to the state of North Carolina to try to get over a million dollars from the state to do some conservation easement work in this eastern area and protect some of our remaining open space.

He said up to the north along Goldhill Road is the Suther farm. They have put an easement along Dutch Buffalo Creek which Adams Creek drains into through a state program; it is wetland mitigation money. He said to the right of the Suther farm is another easement, two other property owners there are putting easements on their property. He said the farm he was on today down near Miami Church and Mt. Pleasant Road, we are looking at putting an easement on portion of that farm.

He said this is to give the Board a big picture of what they are doing with open space protection and farmland preservation. He said the County Manager and County Commissioners seem to be very much in support of this. He said it is at this point and always will be, as far as he knows, a voluntary program. We were hoping in this situation, in keeping with the original zoning of the property, that an easement might make sense in that area.

Mr. Testerman said Mr. Tommy Porter was appointed by the state in March to serve on the Cabarrus Soil and Water Conservation District Board. He said several years ago they made an initiative and explored some options to get one of our Board (Cabarrus Soil and Water Conservation District Board) members as a liaison to the Planning and Zoning Commission; it did not work out at that time. He said it so happened, that Mr. Porter happens to be sitting on this commission at the time that a seat became available on our district board. He is hoping this will be the beginning of a new level of dialog where we can work together and try to find some ways to pick up on this initiative that the County Manager and Board of Commissioners seem to be on and try to get us all on that same page, working together.

Mr. Testerman encouraged the Board to consider the open space options on the property, the original zoning designation and the last zoning that made the previous or current use; enable that to happen and then see if there are some ways the Board can come up with that might enable us to have some open space protection on that in keeping with the other initiatives we are trying to work on.

Mr. Glen Jones, Applicant, 8812 Crestwood Drive, Mt. Pleasant, NC, addressed the Board. He asked if the Board had any questions for him from the last meeting.

Mr. Porter asked if the conservation easement was completely off the table.

Mr. Jones said it is not totally off the table, but for now it is. He said there have been some things that have happened. They have talked with Mr. Testerman and Mr. Smith down on the property, some things happened in those discussions. He said it is tough

starting a new business, and to come up with money to do that is going to cost us a lot of money. He said Mr. Testerman was talking about taking out the flood piece down there, to collect dirt and stuff like that and he wants us to put trees in there. He said there are trees all the way up and down that thing and grass all over it, there are bushes in there. He said you can hardly walk through it there is so much stuff in there. He said for them to add more trees to a budget that they are on right now, is almost impossible. We are doing everything we can. He said we are not against it, he is not against trees and planting and all of that, but to come to us and say you need to put trees here, you need to do this here, we are working on a slim budget as it is and cannot afford that.

Mr. Porters asked, for clarification, if the only thing holding Mr. Jones back from that at this time would be the expense that he would incur for any trees or plants that would be required to put in that area.

Mr. Jones said yes, they cannot afford it.

Mr. Porter asked Mr. Testerman to address what they would need to do.

Mr. Testerman said we were merely trying to get a conversation going, it would be Cabarrus Soil and Water Conservation District Board that would make the decision as to what type of easement they would accept. He believes what he said was that in the flood plain there would be a possibility of letting natural regeneration take over there. He said there were trees that were waist high and some may have even been shoulder high that had grown up and it looked like that site had maybe gone several years after it had been disturbed.

He has not been back on the site since all of the bulldozer work was done to remove the fill material out of the flood plain. He thinks the possibility would be for natural regeneration there. He thinks where he mentioned planting trees was the possibility on the upland site which we were not asking for an easement on, that was a mere suggestion for a way to try to minimize some of the storm water runoff off of that site that has been causing some erosion problems and stuff that has gone done to the creek

Mr. Testerman said there is cost sharing monies that are available in some cases for doing replanting work. He said depending on each unique situation, it might be possible that donation of a conservation easement represents a value that could work as a charitable deduction. He does not know how much money is on the table here, if the rezoning is approved and the property changes hands, there might be some tax deductions. We absolutely have not had this conversation at all since we were before the Board the last time and he had really hoped that would happen and it has not happened. He thinks there are a lot of opportunities there to look at monies that are available and technical assistance that is available to work on that situation.

Mr. Berg said he wants to be clear about the mechanics of the easement. He asked in order for the Mr. Jones to grant the conservation easement, would he be required to do anything other than just give you the easement?

Mr. Testerman said that would have to be negotiated, and the conservation district would be the body that would be holding that easement, it would ultimately be up to them to decide what they would or would not want in the easement. We had determined that getting the fill material out of the floodplain was something that would need to happen and that has happened, and then as soon as that has happened we are back in here with the rezoning request again. We have not had the follow up conversation about now that that's been removed, what does it look like, what will it take to stabilize it and those questions. He said who ever holds the easement is responsible, so ultimately the Board (Cabarrus Soil and Water Conservation District Board) would be responsible. It would require a formal vote on their part to decide to accept the easement or reject it working with their staff.

Mr. Porter said he is new on that Cabarrus Soil and Water Conservation District Board. He said if you are donating the conservation easement, it is not the interest of the Soil and Water District to make you incur cost for something you give away. He would like to see a conversation take place sometime in the future.

Mr. Jones said if you all want to sit and talk to us about this so we can understand what it is you want; instead of coming down here and saying you need to do this and you need to do that. He would be more than glad to talk with you.

Mr. Porter said it sounds like there have been some communication break down in the past.

Mr. Clarence Allman, Property Owner, 4300 Cauble Road, Mt. Pleasant, NC, addressed the Board. We have been aggravated with this property for six month now; it has cost him approximately \$50,000.00 for the work he had to do. We were threatened with this greenway (easement); either you do this or we will do this. We did not feel that we should be threatened; as far as sitting down and talking to someone about it that is fine, but we do not need to be threatened. He would like to get it over with and be done with it and sit done and talk with someone, we do not want to be threatened with it.

Mr. Ceil Jenkins, 6290 Harbor Drive, Concord, NC, addressed the Board. He did not speak at the December meeting so he is a little lost but wanted to address a couple of issues. He understands that at the last meeting you were talking about the intrusion on the flood zone. He said it ended up being about 2 feet of dirt put into the flood zone and this was done not by Mr. Allman, but by the State of North Carolina and Blythe Construction Company when widening Highway 49. He said a little problem is going to come up in 2010, because this property is adjacent to where Highway 49 ended four lanes. In 2010 they plan to come across there and make a four lane highway into 150 feet of this particular property we are talking about today. He said they will be extending that four lanes and that is the projected time that it will begin. As he understands, Mr. Allman and Mr. Jones will do anything and will talk to any body about any of the problems that may occur in this particular thing, about the easement and the zoning.

He does not see a problem, when you have a flood zone and you cannot do anything with it; to create an easement in there for what ever purpose. He said they will not be destroying this because they are not allowed to work on this particular area, this is not farm property, it is located on Highway 49 and they are coming through with four lanes there. He said all of that property is developing one way or another beside residential. He said the whole face of this particular property is changing with time just like we see here in the City of Concord and on the other side of town. We ask that you give this property consideration. He said Mr. Allman attempted to make this property go, he bought this property, invested his life savings in it buying a tractor place, promoting tractors. Last year was the biggest drought and tractors were not moving, he has everything involved in this particular piece of property, he was losing so he needs to sell and that is what it boils down too. He hates to see him go out of tractor business because he bought one of his tractors and he doesn't know who will work on it.

Mr. Jenkins understands there maybe concerns about run offs into the stream in this particular area and pollute the stream down stream. He spoke with the potential buyer of this particular piece of property and he has guaranteed and assured him that is not going to happen. There will not be anymore spill into that stream then what is going down that steam now with the rezoning proposed here. He is required to follow the law, required to follow the EPA. He has been assured there will not be anything going into this stream or anything going off this water except what is going off the highway today. We hope you will give this request to rezone this property where they can continue to do business down there a favorable consideration.

Keith Kuenzli, 1005 Circle Drive, Mt. Pleasant, NC, addressed the Board, stating that he is here if the Board has any questions. He is the architect that initially helped them out and got them in contact with the civil engineer.

Mr. Mark Rowell, 9215 Indian Trail Fairview Rd, Indian Trail, NC, addressed the Board. He does not have anything additional to add since the last meeting. He said as far as the conservation easement goes, they are not all opposed; but when you are hit with all this stuff, and DOT and the state coming in with the flood zone stuff, and everybody pointing fingers, then you get cold feet and get scared. He said you let the government come in here and take some property and then you have to back what they don't do and then you have to do it; it falls back on us. We did not know which way to turn, except to do what we did. We thought this was the best way to go because we had so many issues with other stuff.

Ms. Susan Schneider, 6405 Deer Haven Drive, Mt. Pleasant, NC, addressed the Board, stating that there were five points she wanted to touch on. She said Ms. Watts pointed out that it is out of character with the neighborhood in the surrounding area, it is largely rural; it is agricultural and would be out of character. She said Mr. Testerman pointed out that this is a very fragile area. She said Adams Creek is one of our cleanest water sources in this county; and actually it is so clean that the State is willing to give us grant money, clean water money if we use best management practices. If we start turning our back on a piece of property that doesn't show the elevation, remember that piece of property is

really a high elevation that slopes down to Adams Creek. She is the property owner that owns Adams Creek up to the back end of the property, all of the erosion that does come down that creek, comes down the hill into Adams Creek. She said you are creating a death sentence for Adam's Creek.

She said her 10 year old daughter was down in Adams Creek with her bathing suit and her girl friend on Saturday having the time of their life. She can let her go down to Adams Creek because it is clean enough right now and the Board is holding the key to Adams Creek in their hands. She said when her little girl asks if she can go down to the creek to play and pan for gold with her gold pan and bring her girlfriends over and want to take her pony into Adams Creek, she wants to be able to say yes, you can go down to Adams Creek because it is a safe, clean creek.

She said without the conservation easement you are essentially putting a nail in the coffin of that creek. She said there is a lot more to gain for the citizens of Cabarrus County, we can get grant money from the state; the state has money for clean water control. We are using best management practices, if you turn your back on it for short term profits, and you hear Mr. Jones say its tenuous, their finances are tenuous at best. How long will he be in business? She said it is an expensive piece of property for an auto repair business; so you are sacrificing the environmental quality, the water quality, and potential money that could be more from the state in grants to keep that corridor clean. She said Mr. Testerman pointed out that it is a key link on the eastern corridor greenway; if we lose that link then we are basically killing and putting the death sentence to that eastern corridor greenway plan.

Ms. Schneider said it is really an up zoning, a spot zoning and out of character with the neighborhood. We need to do what is right for the County, open space is a requirement that the state is looking at, and we are going to get a lot further down the road if we just forestall this, use common sense and stop trying to cram a square peg in a round hole.

Mr. Rick Kraus, 688 Grandview Drive, Concord, NC, addressed the Board stating that he is a law partner with Ms. Schneider and originally practiced in Southwest Colorado and most of his practice was land use law. He said there as is here, there are certain areas that are pristine and should be preserved. Even though a person thinks they may have a right to develop or do whatever they feel like they can do because they are the owner of the property, that isn't necessarily true. We do have zoning laws, and we have zoning laws for certain reasons; you are looking at the rights of one individual and his ability to make a profit using land as he wants, versus the potential harm that it may cause to the remaining people of the community and the community as a whole. He said this is an expensive piece of land and to put an auto repair shop, how are your going to pay for it other than to have as much volume as you possibly can in repairs. He said with repairs no matter how hard you try you are going to bring in automobiles, trucks, or whatever that are damaged, either by auto accidents or by just generally wearing out with leaks, oil leaks and gasoline, etc.

Mr. Kraus said the way the property slopes it is going to be almost impossible to stop pollution from hitting that creek. You are increasing the potential from agricultural repair to a full scale auto repair shop. He has not seen or heard much talk about the additional pollution that you will add to the area, which is the visual pollution. Everybody protects their property and businesses with lights. He has not seen or heard of any additional mitigation items to keep the light from light pollution of other property owners or what you are adding to the area; as well as the visual pollution along Highway 49 in what is basically an agricultural area on Highway 49.

He said you are looking at something that could be a potential hazardous condition if not handled right and if not mitigated correctly if you decide to let it in. So, in your considerations as whether to approve this, consider the additional cost, the property owner should, the additional cost of insuring that he does not pollute a pristine area, a pristine creek in Cabarrus County.

Mr. Ned Reece, 1103 Rogers Lake Road, Kannapolis, NC, addressed the Board. He stated that he sold the disputed land to Dr. Foster who promised that he was going to build a home on the property. Mr. Foster sold the property for agriculture use. He lives across the street from the property and would not like to look at a garage. If his wife had not been sick he would not have sold the property. He had a promise broken to him about what the land would be used for. He said Dr. Foster sold it and made a profit off of it. He said that was not his intention and he hates to see what is going to be put up there. He tried to take care of the land he inherited. We talk about green space and stuff like that and what we are trying to save in the county, we need to start right here.

The Chair opened the floor for discussion.

Mr. Griffin said it is his understanding that the applicant is not planning to add any additional buildings to the property.

Mr. Jones said they are not going to add any buildings to it, and they are not going to sell used cars and they are not going to have a junk yard. We are going to have a modern shop and all the waste is hauled away. He said U.S. filter comes and pumps out the waste oil and waste antifreeze and it is all hauled off in containers. He said there is company called Safety Clean that will come in once a month and clean the solvent tanks out, pumps them out and brings in new solvent, everything is contained.

Mr. Griffin said you can repair farm equipment there now and that is allowed.

Mr. Jones said they have been doing that since 1999, and it hasn't ruined the creek yet. The lights have been up out there since 1999, nobody said anything about that until tonight. He said farm equipment is actually dirtier than automotive repair; a tractor is going to hold a lot more oil and antifreeze than a car is ever going to hold. He said he might fix tractors too, he will fix anything, and he does work on a lot of farmers' equipment now. He said it is not going to be a junk yard, the fluids are going to be contained, and what little bit that will come out of those cars onto the asphalt or concrete

at the shop is no more different than watching junk guys go down the road with a load of transmissions and radiators on the back of a truck, and watching antifreeze stream out onto the road as they go down the road. Or a rollback going down the road with a wreck car on it and the antifreeze is spilling all over the bed or transmission fluid all over the bed running off the back of that going down the road, it is going to be less than that.

He said they do not do body work, they are not in the body business, they are in the mechanics business and are going to try to make a go of it.

Mr. Shoemaker asked if Mr. Jones will be operating this business.

Mr. Jones said yes.

Mr. Shoemaker said at the December meeting the applicant said they would be keeping all of the vehicles inside except those that had been completed.

Mr. Jones said those that have been completed will be outside waiting for customers to pick them up. He said sometimes they will be left outside, if he is waiting for a part they may have to put the car outside until the part gets there. He said there will not be scrap or wrecked cars stored. He said sometimes a customer doesn't pay for a car and he may have to hold it until you go through the channels in order to get rid of the car.

Ms. Watts said that at the December meeting on the site plan it had been determined that all of the cars that would be outside, the fixed cars, or any cars that were waiting on parts would be contained in the asphalt area. They would not be allowed to be on the gravel or grass area. They would have to be on the concrete or asphalt area as shown on the site plan. She said that is what was agreed to at the previous meeting and the applicant would have to agree to that.

Mr. Porter remembers from the previous meeting that it was determined that there would be no storage on the gravel area. He said he sees from the drawings that the applicant is going to do some landscaping and beautification of the area. He asked the applicant if he was planning to add any additional lights.

Mr. Jones said no, there is plenty of light.

Mr. Rowell said everything is going to be scheduled; there will be scheduled dates for repairs.

Ms. Watts said that was item number 3 in the staff recommendations. That there will be no outdoor storage of vehicles being repaired permitted on the subject property except in the designated paved parking area.

Mr. Griffin asked how many parking spaces there were.

Ms. Watts believes there are 18. The paved parking area did not significantly increase from what was originally there. She said it is a big piece of property, almost 9 acres with a lot of open space. But, they would not be allowed to leave any cars out there just sitting around.

Mr. Porter recapped his understanding of this. He said currently and since 1998, the subject property was zoned for tractor sales, tractor repairs and used farm machinery, which allowed them to have used farm machinery all over the graveled area. We are not changing that, this rezoning only allows them to do mechanic work inside the existing building. He said if this rezoning is denied and if the current owner wants to use the property he will have to go back to farm equipment, salvage yard or something of that nature, which could be much worse than what is being proposed, as far as the environment and the creek are concerned.

Mr. Porter is having a hard time understanding some of the opposition when it looks like this rezoning is a more favorable use for the site than what it was previously used for.

Ms. Watts said under the first conditional use permit issued on this site, there were not many restrictions other than they were going to do farm machinery sales and service, the site plan was very general in nature, there wasn't anything really associated with it. She said they could pretty much put storage anywhere they wanted to on the site. She said with this application they will be required to limit the storage to specifically the parking area or within the building, they will not be allowed to store anything else anywhere on the site, period. So, it would be a much more restricted application as far as outside storage goes.

Mr. Porter asked if the tree line and landscaping indicated on the drawings provided to the board were going to take place.

Ms. Watts said yes, the buffering and landscaped that was there was minimal and is certainly not what is required today. She said the applicant is going to have to landscape all the way down the front property line. She said they get credit for the trees and the plantings they currently have along the back of the creek. We do not want them to go in and rip out natural plantings just to replace them with new plantings. She said the site plan they have submitted is a much more detailed site plan than what they submitted in 1998.

Mr. Berg said he agreed with Mr. Porter but his support would be contingent upon having the conservation easement for the creek. He thinks it is an opportunity to protect that creek and he is disappointed that the negotiations did not happen between the December meeting and now. He agrees with the proposed developer that it should not be a financial burden on him to grant the easement, but he would like to see the easement in place before he supports it.

Mr. Koch said under the ordinance there is no provision that allows the Board to impose that. He asked Mr. Berg if he understood that.

Mr. Berg said yes.

Mr. Koch said in reference to any conditions that are placed on this application, the applicant has to consent. He wants to be sure that everyone understands that it (the conservation easement) cannot be imposed as a condition without the consent of the applicant.

Mr. Berg understands, and he thought the applicant was consenting in December, and it sounds like it was retracted or fell through.

The Chair said we could add that and he presumes if the Board would like too based upon reopening the conversation with the applicant; that if they could reach agreement in regards to the easement it could be done, but it is based upon his approval; correct?

Mr. Koch said that is correct, but if he understands the applicant correctly, he is not willing to commit to it at this time. He said if the Board is going to consider the application this evening, it would be without there being an agreement that the applicant would submit that part of the property to a conservation easement.

The Chair reminded the Board that the tabling of the issue originally in December was because there were some zoning violations; according to the staff report, those violations now seem to be in compliance. He thinks the question of consistency here in the land use plan is a little different as far as the inconsistency, because it is an additional use to something that is a similar use that already exists. It is not a major change from the present use of the property, and then you have the seven conditions that are already applied here as a part of the approval process as well.

Mr. Shoemaker asked if the engineer was there.

Mr. Kuenzli said he could answer questions.

Mr. Shoemaker said in the previous meetings we talked about the drainage patterns, the natural drainage flow is directly across the base of the building and goes directly to the creek. He asked if they have looked at diverting some of the drainage toward the back of the building and not let it go directly across.

Mr. Kuenzli was informed that was taken care of with the current grading. He said there were multiple people there from the county and they made the recommendation as to how they wanted it done. He said it was graded that way and then drawn up to match what they wanted done.

Mr. Kuenzli said it was mentioned that there might be spot checks every once in a while to make sure that the natural growth is coming up and that regular erosion is not eating away and sending silt down into the creek. He said until the grass has been planted and takes hold of it on the hill, you have to watch it.

Mr. Shoemaker asked if there were any plans to put in any type of sediment type ponding or anything to control some of the run off.

Mr. Kuensli said based on the slopes it was not needed, it was made as a recommendation if we wanted to go above and beyond, then we could do that.

The Chair said if there are no further questions we are prepared to entertain a motion.

Mr. Koch stated that with this type of special use rezoning there will be two votes potentially. The first vote is legislative; to determine whether to rezone the property, which is to add the additional use under the existing zoning. He said depending on the out come of that vote, then you will go on potentially to the second vote, which is to approve the site plan with the conditions that the applicant has proposed or other conditions that you may see fit to impose so long as he agrees.

Mr. Porter said the applicant has already indicated he would be willing to enter back into conversation about the conservation easement. He asked if it would be appropriate to ask the applicant if it were at no expense to them, would they be willing to donate the conservation easements on the floodplain.

Mr. Koch said it is perfectly permissible to ask him that.

Mr. Porter asked the applicants to come back up to the podium. He understands and he is not asking the applicant to do something that will be open ended to their pocket book expenses. He is asking if the applicant is will to give the conservation easements if there was no expense to them in doing so. If there are no requirements of the applicant to planting trees, it was natural vegetation or maybe there was cost share money, but that it not incur and expense to the applicant.

Mr. Jones asked if it would change their buffering, between their property and the easement. He asked if they would have to put another buffer between them and the easement. He said the flood plain is there buffer right now.

Ms. Morris, Planning Manager, said in this case it would only be a conservation easement, it would not create a new property line, and therefore the existing buffer would be appropriate. She said it would not be required to add additional landscaping because it would not create a new property line.

Mr. Rowell asked what happens when this easement gets done, is there something that can come back to them 10 years from now to bite them, like the flood plain. He said these are some of the questions that they did not have answers for.

Ms. Watts said with the fill material incident on the site, obviously the applicants' just a little cautious, because they do not know all of the specifics of what they are being asked to do.

Mr. Berg asked the applicant if rather than making a snap decision that could have consequences for them, would they be more comfortable tabling this again and taking 30 days to work it out.

Mr. Jones said to be honest they do not have 30 days.

Mr. Rowell said he is okay with the easement as long as it does not come back to bite them.

Mr. Jones asked if they could deal with Mr. Porter.

Mr. Porter understands the applicants concern; you do not want to agree to something you didn't know what you are agreeing too. He asked Mr. Testerman to step back up.

Mr. Rowell's understanding from Mr. Testerman is that the other landowners adjacent to this have already agreed to the easement.

Mr. Testerman said that is not correct. He said the Board has not agreed to accept anything and nothing has been offered to them at this point. He said the owner of the Boelte farm on the corner of Walker Road and Highway 49 approached us and wanted us to seek monies to try to buy the development rights on that property and a map was required from the county and we ran out of maps. He said that one is on hold until another pot of money rolls around.

He said Mr. Peninger also approached us and the Land Trust about that one, but he is not ready at this time to move forward on that. He thinks the school system will be the next one.

Mr. Jones asked about the people who border the creek now, are they going to give up their land also.

Mr. Testerman has hardly talked to Mr. Reece about an easement per say, and has not talked very much with Ms. Schneider. He said they have been dealing mostly with the folks on the north side of Highway 49. He said the focus has mostly been on the north side of Highway 49, ultimately wanting to get that corridor; to get as much of Adams Creek as they could down to Dutch Buffalo and then tie in with the other easements that they have already gotten along Dutch Buffalo.

Mr. Shoemaker asked if the applicant grants the easement, how will it be protected if the state widens Highway 49 and Blythe and the folks that do construction come into that area and start ripping it up to build up the highway. He asked how the state controls them selves and how does the easement protect the land owners so he does not have to go through this again.

Mr. Testerman said he is about to step out on the limb and say that NCDOT has already secured some sort of right of way along that and that would supersede. He said even if it

didn't, he does not think the Conservation District Board would want to be in a position of having a keystone that keeps Highway 49 from being widened. He thinks they have worked that out. He said the same issue is in place with the sewer line and he thinks the sewer line right of way deal has already been cut as well. He said this is one of the reasons why he does not recall having talked about planting trees on the flood plain, because he knew that a sewer line was proposed to come down through there, why plant trees and then come through and cut them down and dig them up? They have lots of places to do work without having to undo work they have already done.

Mr. Shoemaker said the highway is going to get widened, that's a given; however, after it's all said and done and construction has been demobilized and they move from the site and there is a mess left behind, is it the state's responsibility to clean the mess up and restore the easement to the proper state that it is supposed to be in after they disturbed it or would it fall back on the land owner?

Mr. Berg said they should not be working outside of the right of way. He said it appears from the aerial that they have already accounted for the 4 lane highway and the right of way.

Mr. Shoemaker said we know how spills work as far as construction, and he wonders where the responsibilities are and how the advisory board mitigates those kinds of things, to make sure the landowner is not responsible to clean the mess up in the end.

Mr. Fesperman said NCDOT can condemn an easement if it is a problem to them.

Mr. Shoemaker said they can condemn it but it would leave them hanging with the cost to repair later on right?

Mr. Testerman thinks in this case if an easement were in place before NCDOT widening, he thinks he remembers from conversations with those folks that they are now looking out to 2010. We can certainly get an easement in place even before 2010. He thinks it would be a potential help to these folks if in fact they want to see that area not get hammered by run off from erosion from the road side or whatever. This Conservation District Board if they hold an easement there, could exercise their authority and they have considerable weight, they are a subunit of state government and they can go head to head with NCDOT and make sure that things hopefully don't go wrong in the first place and if something does go wrong, that they get on it and get it cleaned up. Mr. Testerman thinks we would be in a little bit better position to have another entity to go to bat.

Mr. Shoemaker said are you saying they would have an ally with this group?

Mr. Testerman said he can not speak for them, but we have taken on NCDOT before on issues and they have been very responsive. We have been able to go to them when land owners were not getting any satisfaction at all, particularly when you have a culvert that runs water under a road and then onto a land owner and is causing erosion on the

property. He has had a fair amount of success with NCDOT coming out in response to us when the landowner has said they could not get anyone's attention.

Mr. Jones said NCDOT did not do a thing, neither did Blythe when it came to moving the dirt out of the flood zone, they were the ones who put it in there. He said it fell back on them; Buddy had to move.

Mr. Berg asked if they did it with the agreement of the current owner, they didn't just dump it there.

Mr. Jones said no one ever signed off on it. He said when it came down to it the elevations were just about right.

Mr. Rowell said we will commit to doing what ever the other land owners do.

Mr. Porter said he is not comfortable putting Mr. Jones and Mr. Rowell in a situation where they have to make a decision on this. He does not know if it is fair to tell them they have to agree to make a conservation easement when we don't do that to every person that come before us asking for rezoning. He asked what are the potential, if any, negatives, to them for donating a conservation easement on that road.

Mr. Testerman thinks the advantages outweigh the disadvantages. He does not know the financial situation here but there is always potential in land transactions; when we are working with traditional farmers, the arguments that we make are that you are going to get hit with inheritance taxes, you are going to have capital gains, you are going to get hit with this and that. He said a donated easement is like writing a check to the Salvation Army; it is a charitable deduction if it meets the conservation values and if it protects the common good in terms of conservation value. He thinks that is definitely valuable.

Mr. Rowell asked if they donate the property would it be tax deductible.

Mr. Testerman said it would be like writing a check to your favorite charity. He said it's been the tool that has been used by a lot of farmers, a lot of Land Trust and other people that are doing conservation work have used that considerably. He said there is legislation up for renewal in the federal government right now that has made a huge difference in the amount of easements that have been granted.

He said on the down side, if there were things coming off that property onto the easement, the Conservation District Board would have a responsibility to make sure that the conservation values are protected there. From what he is hearing they have no intention of anything moving off that site, so he does not see that happening. He said the thing that they could do to further prevent that would be to plant down the fill areas that were used to store equipment on before. He said the only thing he sees would be run off from the site that would get onto the easement and it impact the integrity of the easement itself. He said as long as it serves the water quality buffer purpose he does not see a down side.

Mr. Testerman said the county already requires a river stream overlay zone, essentially what you are doing is putting an easement on that; which is another layer saying this is set aside for water quality. The only thing we asked for extra was to go ahead and do the rest of the flood plain; under the County Ordinance you cannot do anything with the flood plain anyway. Basically, we have just asked for the bare minimum of what is already required in terms of water quality protection, to put an easement on top of that. He said since it is already protected by the ordinance then the question might be what is the value of putting an easement on it. He said the biggest value he sees right now is that when we go to state and federal governments looking for monies, they want to know about this connectivity, they want to know the nearest easements. The more of these that we can get the easier it is to protect lands that are nearby and it helps us to begin to piece that together. The state and federal governments want to see that; it is like a jigsaw puzzle that is starting to come together. He said that would be the main advantage for doing an easement from the conservation district perspective. Other than that, it is a pain, because it is a long linear strip as opposed to a hundred acre farmland build. Our main argument for doing it is because it would help us leverage other conservation work that they are doing.

Mr. Prince said it is clear to him that the applicant does not understand the easement concept yet and this is probably not the place to go through and educate. He said it is also clear that since it is a material change from the proposal when it was here before there are some board members questioning now what to do. He would strongly recommend that the applicant gets counsel, to meet and you all figure it out. He understands that time is of the essence, but he thinks it would behoove them to do so. He would be interested in looking for a motion to table for another 30 days.

Mr. Jones said we got to do what we got to do; to be honest we have to get in there and go at it. We cannot keep on the way we are going; Buddy cannot keep paying the same bills down there the way he has been paying them now with nothing happening in there, he is still making payments on it. There are going to be a lot worse things happening to us and they would really appreciate some type of answer. He said we do not understand a lot of it but if that is what we have to do to get in there then that is what they have to do.

Mr. Prince said you will not be giving that easement tonight, all you are going to do is as a condition agree to submit the property for a conservation easement; then you have to go through the whole process, the board has to review it, there is a whole approval process that happens as well. He said you are agreeing to submit it. He said the Board that Mr. Porter is a part of could deny it.

Mr. Porter said his understanding is the applicant would not be required to do any maps or surveys; it would not be of any expense to the applicant.

Ms. Watts asked Mr. Koch to clarify that. She said the board is asking the applicant, if they are agreeable to it to submit the property for consideration for a conservation easement as long as there is no additional no cost to the applicant.

Mr. Koch said to make sure that we all understand; it would be something that would have to be carried through to a decision by the commission. It would not be something that could be submitted and then withdrawn. He said as long as that is understood.

Mr. Prince said if you could word it as taking the property as is, so there is no material change to the property. He says they might incur legal fees, they might incur filing fees, and there might be a postage stamp that has to be involved somewhere. He thinks no fee is a little too broad.

Mr. Koch thinks that is right, he thinks that is more to the point; that they would not have to make any changes to the property.

Mr. Rowell asked what kind of legal fees they were talking about.

Mr. Porter asked Mr. Testerman to comment on that, he thinks that is a fair question.

Mr. Fesperman said they will have to have it surveyed.

Mr. Testerman said not necessarily, and if so, the assumption would be that we would cover that cost. He said our attorney has already handled one easement for us and we would rely on his or some other attorney as far as recording that easement. We encourage all persons we work with on easements to work with an attorney that understands easements and to work with an accountant. He said this one is fairly straight forward and if you are not worried about tax deductions then there is no great reason to even consult a tax accountant. He would strongly encourage an accountant and an attorney who understands something about easements to give them guidance on what is involved.

Mr. Rowell said they do not want to give this up and it come back and cost us more money.

Mr. Testerman said it is definitely in the best interest of the conservation district; this is all based on good will and the community pulling together for the common good. He thinks from the conservation district perspective as well, we do not want an easement that really is a bad easement or goes sour; don't want a lot of bad press getting out or word of mouth stuff that somebody did you wrong. He said it is really based on developing good relationships, and it gets back to the voluntary relationship that the conservation district has historically had with working with the landowners.

Mr. Testerman said they do conservation plans, things are put down in writing so that everybody is on the same page with what is involved.

Mr. Porter said it is his understanding that the applicant will not incur any fees unless they choose to hire an attorney.

Mr. Koch said the conservation easement that Mr. Testerman was referring to is one that actually went from the County to the District, so the County had him draw that document. He thinks there are only two components involved here, one would be to identify on the ground so that you could draft a legal description for the area. He does not know if there are enough documents to do that yet or not. If there are, that part would be taken care of and the other part is basically drawing the easement document which is not that big of deal.

Mr. Jones said we are okay with it so whatever you need to do from this point on I guess.

The Chair has some concern that we put the applicant in a position that we probably should not have put them in. He said Mr. Testerman spoke for quite a while that he has been going to the various properties trying to obtain these easements and it has all been voluntary, but we have taken tonight and said it is not voluntary in this case; we will rezone your property or we will give you an additional use to your property if you will agree to it; to him it does not become voluntary anymore when we do that. He said if the Board wants to put it in and the applicant agrees there is nothing wrong with doing that, but he has some concern about calling this a voluntary program any more after tonight.

There being no further discussion, Mr. Porter **MOTIONED, SECONDED** by Mr. Kluttz to rezone the property with the additional use under the existing zoning. The vote was 8 to 1 with Mr. Ian Prince voting against.

Mr. Porter agrees with the Chair, he has a problem with saying this is voluntary and then put in a condition. He would make a motioned to grant this rezoning with the recommendations made by staff, and instead of putting the condition that they give this easement, that the applicant enter into discussions. He still has a problem with requiring them to do it especially with what has taken place here tonight; with short notice and/or that they do not truly understand what they are doing.

Mr. Shoemaker said they are just submitting for consideration, it does not mean that anything is going to happen.

Mr. Berg said he would not support that. He said there are other conditions that we have imposed if they have agreed to, like the outdoor storage and things like that. He said the way he looks at it; he does not see how this is any different. He said if they truly do not understand, it has been suggested a number of times to table for 30 days, and they have elected not too.

Mr. Griffin thinks there is a difference. He thinks the Board has the legal right to impose the other requirements, and as he understands it the Board does not have a legal right to require them to submit an easement.

Mr. Koch said that is correct unless they consent; then it does become a condition.

The Chair said if we do make it a condition and they have agreed that they would agree to that condition then it can be in there?

Mr. Koch said that is correct.

There being no further discussion the Mr. Berg **MOTIONED, SECONDED** by Mr. Griffin, to approve the plan with the 7 conditions recommended by staff on page 6 of the staff report and with the additional condition that the owner and the applicant offer the conservation easement to the 100 year flood plain line to the Soil and Water Conservation District without any material change to the property. The vote was 8 to 1 with Mr. Ian Prince voting against.

CONSISTENCY STATEMENT

Mr. Koch presented the following:

The proposed rezoning of the property is inconsistent with the goals of the Eastern Area Land Use Plan. However, the proposed rezoning is for only one additional use for the property, with the existing zoning of the property being the same. Therefore the rezoning is reasonable and in the public interest.

There being no further discussion the Mr. Berg **MOTIONED, SECONDED** by Mr. Griffin to approve the consistency statement. The vote was unanimous.

Findings of Fact (see attached sheet)

The Chair introduced **Petition C2008-01 (R) Zoning map Amendment** - The applicant is requesting to rezone property located at Litaker Lane and Zion Church Road from Office Institutional (OI) to General Industrial (GI) to allow for an industrial use.

Ms. Jessica Gladwin, Planner, addressed the Board stating that the applicant is Laurent Beaudry, Concord, NC, and the property owner is Landis Business Park, Landis, NC. The subject property is currently zoned Office Institutional (OI) and the proposed zoning is General Industrial (GI). The subject area is a little over 11 acres and is located off Zion Church Road between Highway 49 and Highway 601. She said the surrounding zoning to the north is generally all industrial, and further south is generally all residential with some Office Institutional (OI) and Medium Density Residential (MDR) in between. This property is to be served by public water and sewer, pending approval and acceptance by the City of Concord.

She said the property lies just outside of the City of Concord's ETJ (Extra Territorial Jurisdiction), and is in the City of Concord's 2015 Land Use Plan (LUP). In this plan it is designated to be single family residential, and it is also within the 5 year annexation plan as an area proposed to be annexed in to the City of Concord.

She said the proposed rezoning is a Conventional Rezoning and no conditions can be placed on this rezoning request at this time. She said with approval of this request all uses that are permitted in the General Industrial (GI) zone would be permitted. She said based on the future designation of the City of Concord's 2015 Land Use Plan, it is assigned Single Family Residential, so the proposed rezoning would not be consistent with what is set forth in that plan. Therefore, the Planning and Zoning Commission should review the information and facts presented to determine if the proposed zoning map amendment is consistent with the Commission's goals and vision for this area of Cabarrus County.

The Chair asked if this was the proposed zoning for the City, or is it the surrounding areas that are presently within the City where we have city zoning listed as Heavy Industrial. He asked if that was the portion that exists within the city limits of Concord right now.

Ms. Morris said looking at the map you will see I-2 zoning designation as a Concord zoning designation; it is not a County designation. She said essentially the city limits touch this property and it is part of their 5 year annexation plan.

The Chair asked if this is actually a designation that is in effect.

Ms. Morris said it is currently zoned Office Institutional (OI) and they are requesting for it to go to General Industrial (GI) and it is a Conventional Rezoning, so any proposed use in the General Industrial (GI) district for the county would be permitted on the property.

Mr. Berg asked if and when the City annexes it, would they change the zoning to whatever they want it too at that time.

Ms. Morris said they could change it to whatever they wanted too. They could bring it to the same as what the county had or the applicant could ask for something different; but in this case the applicant is requesting this particular designation.

The Chair asked why would there be a piece of property in their land use plan that would be residential when north, south, east and west is all either Office Institutional or Industrial. He said it seems rather strange that no other residential surrounds the property at the present time.

Ms. Morris cannot answer that particular question, but that directly south is the Southern Chase Subdivision, and that property may have been a property that was put into the Office Institutional (OI) zoning designation as one of those holding zones that we talked about; because it is a transitional area, so that it would come to the Planning and Zoning Commission if somebody wanted something different. She said it is designated as Residential in the 2015 Plan for Concord. She said the subdivisions are there and with the Office Institutional (OI), Concord's Office Institutional (OI) designation does allow residential as a conditional use.

Mr. Berg asked Ms. Morris to clarify that the city property just to the north of that in the Sossaman Industrial Park is currently I-1 or I-2.

Ms. Morris said to the north it is I-2, which is the heavy industrial designation.

Mr. Laurent Beaudry, 195 Union Street North, Concord, NC, addressed the Board. He would like to point out that there is no residential touching that property now and that the Office Institutional (OI) zoning was adopted to stop the residential from coming that way. He said Office Institutional (OI) is a buffer zone against industrial. He said Southern Chase is about 3,000 feet south of that, and there is no residential touching that property. He said if that property was rezoned I-2, it would still be at least 1,000 feet of buffer zone. He said all the property on the north side, across the street from Litaker Lane is a 30,000 square foot building there with the I-2 zoning. The property north of it next to the left is zoned General Industrial (GI). He said Sossaman Industrial Park is an I-2 use; the next park is Eden Rock which is zoned I-2, American Company. He said if you go around to the adjoining property to the south, it is Office Institutional (OI) and it leaves the buffer zone as intended by the zoning, Office Institutional (OI) intact.

Mr. Beaudry said he is taking off of the old Office Institutional (OI), 270 feet of frontage on Zion Church Road and at best 350 feet in the larger part of the property. This property was previously zoned by the County, High Density Residential (HDR); it was destined for trailers. He specializes in developing industrial, and has done Motor Sports Industrial Park, Wilshire Industrial Park, Landis Business Park. He specializes in industrial and bringing industry to the county. He is proud to say that in motor sport, there is 20 million dollars of property, which lately the city annexed and gracefully takes the taxes. He said in Wilshire Industrial Park there is 10 million dollars worth of buildings of industrial, Landis is another story. He brought one customer there that was 10% of the whole tax value of Landis, they were happy.

Mr. Beaudry wants to develop industrial. He asked if any one could name how much I-2 property is left, he said there is none. He said in I-1, we have a few lots left in Motor Sport and we have 8 acres for sale by Carpenter Industrial Park on Highway 601 bypass. He said in developing, land only becomes available when someone dies or it is for sale; so development has always been tough to control because you do not have a choice. He said since the county gave away the water and sewer, they have abandoned the idea of developing, because sewer develops land. He said with out sewer, you do not have any economy. He is asking for I-2 property; he is not at liberty to talk because there is a company that wants that land with that zoning. He is asking for I-2, it is warehousing, the same thing that is on I-2. He said the guy annexed into the city to get the subsidies, they bought in a lot of jobs and that is what he wants to do and what he is proud of; that is what he does.

He does not think the city had any intent of doing residential there; they have enough with Southern Chase which has half way bankrupted anyway. He is asking the Board to consider the zoning I-2, it is adjacent and a continuation of two industrial parks that are there. When he is finished with that, there is still an Office Institutional (OI) buffer of

over 1,000 feet to buffer the noise or the industrial look. He said we would be better off with more industrial, especially small industrial, the guys at Corning do not shop here the money goes somewhere else. He said with the small industrial that he does, people shop here, they bank here, and that is our money and those guys should be encouraged and given tax breaks.

He said lets put it back to High Density Residential, he is sure he can make more money with trailers, even though today you have to use doublewides. He is sorry for his character, but he loves what he does and is passionate about it, he thinks he has done a good job and he does not want to be stopped.

Mr. Berg said our zoning designation would not be I-2 it would be General Industrial; I-2 is the City designation.

Mr. Paul Moose, 37 Fleetwood Drive, Concord, NC, addressed the Board stating that he owns the property joining this and he has no problem with what Mr. Beaudry is asking for.

Ms. Jodi Kiser, 5123 Woodrun, Mt. Gilead, NC addressed the Board stating that she grew up on this property and her daughter and her family still live there. She said there is noise from the property; there have intercoms going day and night. She no longer lives in this county but she is really concerned about this property, she still has family living there. She said there is already noise, and the traffic on the road is horrendous at this point and time. She said it is a narrow road, people come through there speeding and you are taking your life in you hands just pulling in and out of the drive way. She really has concerns about this, what it is going to do to her property values; could she get enough out of it to buy other properties that her family could live on. She said the tips of the properties should touch.

There being no further discussion, Mr. Prince, **MOTIONED, SECONDED** by Mr. Griffin to **Approve** Petition C2008-01(R) Zoning map Amendment as submitted (Office Institutional (OI) to General Industrial (GI)). The vote was unanimous.

CONSISTENCY STATEMENT

Mr. Koch presented the following:

Although the applicants proposed rezoning of the property is not consistent with the goals set forth in the Concord's 2015 Land Use Plan, there is similar zoning to the proposed zoning surrounding the property and therefore it is reasonable and in the public interest.

There being no further discussion, Mr. Berg, **MOTIONED, SECONDED** by Mr. Griffin to **Approve** the Consistency Statement. The vote was unanimous.

The Chair introduced the **Architectural Review** Project for Midland in the Office Institutional (OI) zoning district.

Mr. Robbie Fox, Senior Zoning Inspector addressed the Board stating that this is the first for the Board to review. He is presenting an Architectural Review for Kraska Water Test Office; it is a proposed office facility to be located at 1121 NC Highway 24/27. He said the property is currently zoned Office Institutional (OI). He said all new development in Cabarrus County now requires architectural review from the Planning and Zoning Board. He said after staff review, he finds that it complies completely with Appendix B of the Cabarrus County Zoning Ordinance, Architectural Design Standards.

There being no further discussion, Mr. Berg, **MOTIONED, SECONDED** by Mr. Prince to **Approve** the Architectural Review. The vote was unanimous.

The Chair introduced the Proposed Text Amendment – Reception Facilities in Residential Zoning.

Mr. Jeff Huss, Planner, said this Proposed Text Amendment for a Reception Facility in a residential area was originally presented at the December 21, 2007, Planning and Zoning meeting and it is modeled after the Mt. Pleasant UDO (Unified Development Ordinance), and is the same text that he presented at that meeting.

The Chair said the board has the draft proposal and asked if there were any specific questions.

The Chair said there was something included about over night stays, and asked if that had been removed and was not going to be considered in this.

Mr. Huss said it is not really addressed, but it was taken out as it was in the UDO.

The Chair asked if they were planning overnight stays, it could not fall under this recreation facility ordinance.

Mr. Huss said that is correct.

Mr. Huss said this is a conditional use that was brought up at the first meeting, the 5 acres was addressed and the site size under the predefined standards.

He said it was brought up in the text that an existing structure cannot be altered; any new buildings would have to follow the commercial design standards.

Mr. Berg asked if that would preclude the tent structure that was at issue at the last meeting.

Mr. Huss said the tent structure would be viewed as a structure, and would need a building permit just like it was a permanent structure.

Mr. Berg said if some one was putting up a new one, they would have to comply with those architectural design standards.

Mr. Huss said the reason Mr. Berg is asking that is because the couple, who spoke at the last meeting, had a permanent tent. He said any other tent, mainly if you are thinking a temporary tent; you would need a zoning permit or a temporary use.

Ms. Morris said it is up to the Board, but with a tent, they could not meet those particular standards, so essentially if they came in to do a new building, the set backs would be different, everything has to be set back 100 feet; but then past that they would need to meet all of the standards. We would not require them to pave the parking like it ask for but they would still need to show us that the buildings are connected. She said with those buildings they will be required to put the sidewalks in; and as a conditional use the Board will see the site plan and will also see what the building are going to look like.

Mr. Prince asked if the tent the couple brought forth at last month's meeting comply or not comply.

Mr. Huss said it would be a pre-existing condition, it would need to meet the building code, and the set backs and viewed as a permanent structure.

Mr. Berg said that particular one would be allowed because it is existing, but if someone were to come in and try to do a new one of those, it could not meet the architectural design standard so it would not be allowed unless they could classify it as temporary.

Ms. Morris said that is correct, unless the Board wanted to make some type of provision as a part of this to allow permanent tents. She said based on the conversation you had, we got the impression that was not something the Board wanted, so via the non-exempt in the commercial design standards, it would have to be a stick built building and the buildings then would have to be of those better building materials, have articulation, fenestration and all of those things.

Mr. Prince said we talked about part of the concept was that it is a historic home and a historic site. He thinks that lent some merit and separated it a little bit from the typical open agricultural residential. He asked if there were any feeling on the Board that that become a component of this. He said that this would be a use in these areas where there is a historical or cultural significance.

Mr. Huss said we talked about that the last time and he believes it was decided that we could not make that designation.

Mr. Koch asked Mr. Prince if he saying that there would have to be that type of a building or structure on the premises.

Mr. Prince thinks one of the things in the discussions was the concern that we would end up with a tent or structure on every corner out in the county with everybody putting up a sign trying to do this.

Mr. Koch said as he understood this proposed ordinance, he thinks with some of the predefined standards, it would tend to limit greatly the number of potential properties in which this might be able to be used.

Mr. Huss said that Mr. Koch mentioned that it could not be limited to historic. He said the Orchard House is not a national recognized historic site.

Mr. Berg said referring back to the minutes, the comment that was made was that typically these types of uses are associated with historic properties, and he thinks there was a different feeling if the historic house were a back drop to a temporary tent verses someone hauling in a tent or a trailer for toilets or something and puts it in a field. He recalls there was some discussion that it would be very difficult to limit it to historic properties. He assumes that could be a factor in reviewing a conditional use, as to what the existing buildings were and how it fit within that context.

Mr. Koch said that would be true.

Mr. Prince said obviously tying it into that complicates the matter because you have to go, what is the threshold, is it a national historic, is it local; it gets messy.

Ms. Morris reminds the Board that about 3 years ago the Board of Commissioners looked at doing some type of local designation. She said Cabarrus County does not have any local districts. She said essentially, if we have anything historic, it is because it is on the national register; so the Board would be very limited as far as what those structures were. She said if someone wanted to apply for it to become something on a national register, as long as it is over 50 years old they could do so, but they would have to go through that process. We do not have any local designations where we just go out and get property, like Union Street or South Union or anything like that. She thinks that is where we talked about the fact that limiting it to that would also definitely then limit where this could happen. She thinks Mr. Koch talked about the whole equal protection thing, why we could not go with that, but you could as a part of your review. She said the Board will get architectural or pictures of the house or something like that, but keep in mind as a conditional use, if they meet those 5 things; the noise, compatible with the neighborhood, those types of things, then you are almost obligated to approve it.

Mr. Huss said the board needs to decide where this should go in Chapter 8, Conditional Uses and the use chart, and make appropriate changes to Chapter 3, Permitted Uses. He can make the appropriate changes and bring back to the Board at the next meeting.

There being no further discussion, Mr. Kluttz, **MOTIONED, SECONDED** by Mr. Ensley to table the Proposed Text Amendment to Chapter 8 (C2008-01-ZT) until the next meeting. The vote was unanimous.

The Chair introduced Proposed Text Amendment 2007-09 (ZT), Chapter 4, Part II, Section 4.8 River/Stream Overlay Zone.

Ms. Morris said in the Board packet was a memo and some proposed language and also the existing language for our River Stream Overlay District. She said before Christmas, we talked about the fact that the Board would see some text amendments coming based on the conditions that were agreed to as part of the inter-basin transfer. She said they were agreed to for all of Cabarrus County. We finally got everything worked out between Concord and Kannapolis. She said initially our buffers were more than what they were requiring and there were some different things. She said if you remember, we had the one subdivision where they had pretty much all of the river stream overlay in those people's properties, and the people were asking why they could not use the property if it were their property; it was in the river stream overlay so that takes precedence. She said we also had 2 cases in Harrisburg where somebody came in and clear cut the property and went up into those buffers. She said those buffers are all tied back to the 401 permit and it is tied back to the reservoir, so it all gets very complicated.

Ms. Morris said you have the new and the old text and it has all been pretty much reworked. She said it will no longer be called a River Stream Overlay; it will simply be called a Water Body Buffer. She said it is all inclusive of everything that we need to be buffering for water quality. It is also very clear that if you have an existing pond it needs to be buffered, if you have wetlands they need to be buffered. These are all things that the water filters through; gets into the water table and it gets back into the streams eventually.

She said this will get us on the right track to where we need to be with the part of the agreement that we need to keep; that we will maintain these buffers and things. She said projects in Cabarrus County, countywide, that are over an acre are going to be subject to a state review, because Cabarrus County now has some Phase II storm water requirements. She said some of this is because of that part, it says, here is what you need to turn in and then from there we will determine who all needs to permit it. She said if you see a case where Concord is permitting utilities, but they are not annexing right now, it will probably end up looking very different or at least a little different.

She said if the Board remembers, on Rocky Glen, they had some of those areas that were supposed to be the runoff area where it kind of halted; now there is that requirement to treat that first entrance run off and then it is like a 1:24, it is more strict than what the state is looking for as far as what Concord has agreed to do.

She said hopefully this gets us to where we need to be. She said if Board remembers when the very large Shea project came in, there was some discussion about the trails and where they needed to be and whether they had to be ADA compliant or not because they wanted to have the harder trails for people to exercise on. This talks about where those trails need to be. We had some draft standards that the county never officially adopted, so this kind of says okay, we are still going to work with you on what those materials are, and how it is done. She said it specifically says you are going at least 60 feet before you put any type of recreation facility there, whether it is a bike trail or a walking trail or just how they put up the exercise equipment. She said that would all have to be a minimum of 60 feet out side of that initial part of that buffer so that buffer is not disturbed. She

said it is very clear now that you cannot disturb it. She said there were folks at the Lake who were trying to get there view of the Lake and cutting out the under brush and everything and creating more run off and not filtering into Lake Howell. Hopefully this will take care of all of that.

Mr. Berg asked if there were any attempt to have the County's ordinance to parallel the City of Concord or is the City of Concord going to change theirs as well.

Ms. Morris said they have already amended their language; initially they did not have the intermittent stream buffers that we had; we have had that since 2005. This was more to clarify some of those additional items that needed to be buffered and then taking care of the River Stream Overlay being a part of people's lots. She said the 24 foot no build buffer can encroach or run across their lots now, so that is not a part of that, it is strictly that protected River Stream Overlay Zone, which again will now be called the Water Body Buffer Zone. She said it is similar in what it does, but is it the exact language that they have; No.

Mr. Shoemaker said in ADA you are talking about buffer areas remain undisturbed. He said you could not do any construction activity or movement of soil and that type of stuff. He asked if you could cut grass there.

Ms. Morris said no.

Mr. Shoemaker said it just becomes a big tangled mess eventually.

Ms. Morris said it is undisturbed, and the issue becomes when people go in there and they start mowing the grass and start taking out the under brush, then it lets the run off get there quicker so it defeats the purpose.

Mr. Berg asked if there were some exemptions for agriculture.

Ms. Morris said yes, agriculture is exempt. She said one of the things this specifically talks about is those cases where the logging companies specifically went in the whole way to the bank, and then they said they were exempt. She said they are exempt because they are logging. She said, there are certain criteria and actually state statutes passed that help counties and cities to say that even if you did get into this buffer, it is still a part of our zoning ordinance, it does not exempt you and you are defeating the purpose by getting in there. She said it does ask for it to remain a natural state.

She said the things that grow there are the things that help filter the water and to make sure that it is not getting there too fast. As the water comes faster it actually does more damage to the stream. She said if you look at a lot of the streams in Cabarrus County you can tell that the run off is hitting them faster than it needs too.

Mr. Shoemaker foresees that you will not be able to see the streams anymore, because you will have briars and everything else just shrouding them on both sides. He said if

you have a body of water there you have 60 feet of obstacle to ever get there, you can't cut it down and therefore the stream is completely isolated; so who does it serve or what does it serve at that point, it is there idle. He said if you are trying to create green way effects, which are some of the things we are trying to do where we can create parks and opportunities like that. He said even a park is not exempt from this particular language, is that true?

Ms. Morris said yes.

Mr. Shoemaker said all ponds will have 60 feet of growth around them and you would not see the pond anymore.

Mr. Berg would argue that there is not 60 feet of tangled mess around every water body. He has seen some rivers and streams that are pretty nice down to the stream and are still untouched or not mowed or not cleared.

Mr. Shoemaker said if you have a substantial umbrella of mature trees and stuff you might get that, but if you just have an open situation then you just let it go. He said where his church is they have Buffalo Ranch and Buffalo Creek and it is very tangled and you cannot get in there. He said Frank Liske Park is another perfect example, right now you can see the pond but according to this if you were to build another park and put in another pond you would have to leave it natural for 60 feet and let it grow forever and not disturb it.

Ms. Morris said that is the intent and it was tied to that 401 permit.

Mr. Shoemaker said it takes over a generation for the trees to become mature and to create the type of umbrella that you need to create where the vegetation underneath actually dies out. So it would be a long long period of time before you could make it a real nice area.

Mr. Koch thinks the answer is yes that new ponds would be subject to this ordinance.

Ms. Morris said if you look at the language, it talks about the different classes of streams. We are still going to use the USGS maps, but if there is something else out there that Soil and Water Conservation District staff knows about or maybe environmental staff are aware of or even if the applicant finds something else on site, then it will have to be delineated. Again, it is getting back to preservation of the water quality and that is where the whole filtering concept comes in.

Mr. Prince understands the 60 foot for greenway trails or hiking. He asked how a bridge cross would be handled.

Ms. Morris said you are allowed to cross, but if you cross it has to be perpendicular. It has to run perpendicular as much as possible, not parallel. If you remember when you had that subdivision; they had done there wetlands permit and had to go back and adjust

it because they had to cut across that intermittent stream. It does allow for that, it would also allow for construction of a new road if need be across there; but it has to be as close to perpendicular as possible instead of parallel. If we had a stream that folks wanted to cross, they would be permitted to cross. She thinks the Corp would allow them up to 150 feet.

Mr. Prince said this says that all those things should be placed within existing public right of ways.

Ms. Morris said right, that would be if there was a road or something like that.

Mr. Prince said a pedestrian bridge and a new green way?

Ms. Morris said if they wanted to do that, more than likely it would end up being an easement; it would not necessarily be in a right of way. It is talking more about streets and things like that, but even the Pharr Mill Park if you have been out there, they did encroach but they went perpendicular.

Mr. Fesperman said in a project in Mecklenburg County they crossed the Rocky River and it took 4 years of zoning with state, federal, county, and city; they put a 2 million dollar bridge in that the City of Davidson demanded for them to cross. He said it is amazing when you cross water now as a developer. He said they had another small project; it was a 5 barrel bridge we put in. The permitting that was required and the non-disturbing; they got into it about being a no rise or rise river and it goes on and on and on. He said when you start crossing water today it is really tight and it is getting even worse from that stand point, but they really do try protect those banks.

Ms. Morris said what has changed is where we added the classes of the streams to better identify them and where we added the survey that field verifies, the streams, the ponds, those types of things when they turn in their applications. She said there are no major changes, because our buffers have not changed, it is really just to clarify what we are already enforcing.

Mr. Porter asked if a land owner has 5 or 10 acres and it is not a bona fide farm, and they put in a pond and they want this picturesque view of the farm and recreation fishing, swimming or whatever, and they want to mow down to the waters edge; does this say that they cannot do that and that they have to let it go to a natural state all the way around that pond?

Ms. Morris said that is what it says, and again it would be an enforcement issue, it is not something different, it is something that has always been there, and people are always in violation of it. She said nothing in that particular part has changed. She said it has an allowance where if someone does go in there and disturbs it, they have to work with Mr. Testerman and his folks to go back in and replant it. She said these are things that were agreed to as a part of that permit because they disturbed wetlands. They said we are

disturbing these wetlands, to build the reservoir, but we agreed to do X, Y, and Z, over here.

She said the County has always had that; Concord adopted that as part of the UDO (Unified Development Ordinance) and now they are going back in and refining what they are doing. We were already one step ahead of the game, this is just to make sure that there should not be any inconsistencies when the state comes in and does their review of who has done what they were supposed to do as per the terms of the IBT (Inter Basin Transfer).

Mr. Porter said this is something the County agreed to when they put in the reservoir, if we don't like it, do we have the option to change it?

Mr. Koch is not sure how viable that option is in the long run, maybe in the short run, but whether they will revoke the permit or take some other kind of action because the ordinances that support it are not in compliance; they certainly could.

Mr. Porter knew it was streams and he has no problem with that; but if a landowner has a pond out there and they are mowing it and keeping it looking like a park; well, like at Frank Liske Park, is the County in violation of mowing up to the banks the lake there?

Ms. Morris said people get into this buffer all the time.

Mr. Porter said if someone decides this is something they want to enforce, there will be an uprising in the county.

Ms. Morris said it is not that. When the plans come in they have to show it on the plan, and again, nothing has changed here; you have been using this same language for years. She said just like tonight when you got the plan, it showed the River Stream Overlay District and it is supposed to be undisturbed. Is it disturbed, did they go down to the water, yes, did they put fill in it, yes.

She said it is supposed to be undisturbed; the water bodies have to be on the USGS maps. If it is a pond and it is feed by two streams it is still carrying water in and taking water out somewhere that needs to be clean, buffered; it is all about water quality.

Mr. Berg believes that if you were to build a pond on your property at some point it also comes under the jurisdiction of the Corp of Engineers and you cannot just drain your pond any more, even if you built it.

Ms. Morris said that is correct, you would have to get permission from the Corp to be able to build one or to be able to drain one. She said if it is spring fed or something else they are not going to let you fill it in. We have cases here in the county where they filled in property and the houses now have 2 and 3 feet of water in them because it was a spring. She said these issues are out there, and again all this is clarifying what we have been administering and enforcing.

Mr. Shoemaker said we are enforcing on new development, but not on existing? If you go to Cabarrus Country Club and there is a pond or lake that is definitely on the USGS and go over to Lake Shore Estates and there is another one.

Ms. Morris said if you there and there aren't any trees or anything like that and there is already an open field, it's already an open field.

Mr. Shoemaker said but you are still disturbing and mowing right up to.

Mr. Griffin said you have fairways running right down beside the lakes and all.

Ms. Morris said it did not come into effect until they built the reservoir.

Mr. Shoemaker said it is an interesting quandary that we are in because enforcement is selective at best.

Ms. Morris said it is not selective enforcement, it is part of the ordinance and it is there so it is enforced.

There being no further discussion, Mr. Berg **MOTIONED, SECONDED** by Mr. Shoemaker that the Proposed Text Amendment C2007-09 ZT, Chapter 4, Part II, Section 4.8 River/Stream Overlay Zone be recommended for **Approval** to the Board of Commissioners. The vote was unanimous.

The Chair introduced the Proposed Text Amendment C2008-02ZT Chapter 5, section 5.5, Part C., 1 – Exception for Minor Subdivisions.

Ms. Morris said this text amendment is in part of the Adequate Public Facilities Ordinance (APFO); this language was added back in 2008, to make it clear that you are only permitted one minor subdivision for a piece of property in effect as of June 20, 2005. She said based on the fact that we have an Adequate Public Facility Ordinance, when you get to that 6th lot, it is subject to the Adequate Public Facilities Ordinance. So you cannot go in and take 5 lots and do one that is 10, or 7 acres and come back and split it up again; you are allowed the initial 5 and anything after that has be processed as a major subdivision. She said this means it comes to the Board and goes through all of the steps; it becomes a Mylar just like any other subdivision as soon as they get over 5 or if they create those lots and then come back and further subdivides them. She said this simply spells it out for folks because we were having a lot of confusion. It is to clarify for the general public what they can do with this minor exemption and then what happens after the fact.

Mr. Shoemaker said lets say I wanted to create a minor subdivision and I had 100 acres of land and I wanted to carve out 25 and create a subdivision on that, 5 houses on 5 acre lots, then later on I wanted to do another 25 and do it 10 years from now. He said you could not really do it once you broke up that parent property and called these 5 lots on

these 25 acres a subdivision. He asked if he could ever do the rest of the 75 acres that way.

Ms. Morris said he would not even get the 5, he would only get 4 because your over all tract would have been one of those cuts. Essentially, anything you do after that has to follow the major subdivision standards including being subject to the APF.

Mr. Prince said you are closing a loop hole here.

Ms. Morris said yes.

There being no further questions Mr. Prince **MOTIONED, SECONDED** by Mr. Shoemaker that the Proposed Text Amendment C2008-02-ZT be recommended for **Approval** to the Board of Commissioners. The vote was unanimous.

The Chair introduced the Proposed Text Amendment C2008-03ZT Chapter 15, clarifying the language to the APFO as it relates to adequate capacity for developments.

Ms. Morris said, we have been working with the consultant that we worked with initially, Mr. Mark White; to adopt this language and to make some clarifications. As we adopted the language it was actually silent as far as what happened. She said now when we do the reservation of capacity of front, we determine current capacity, we determine capacity at a 2 year test and then we determine capacity at a 5 year test. At the 5 year test if you didn't have capacity, it was silent to what you would do. So essentially the commissioners had the choice of either flat out denying development and saying go away and come back in 5 years or coming up with some kind of an option to allow those developments to proceed on a limited basis until those schools were actually in place; the same thing with the 2 year test.

Ms. Morris will walk through the major changes. She said what we call a Consent agreement right now, the definition of that has expanded and it is now called a Public Facilities Mitigation Agreement. What that allows is if a project is of a certain size, the state has passed some regulations regarding development agreements, so these are all different tools that we can use but essentially it's inclusive and ours will be called a Public Facilities Mitigation Agreement.

She said when you look through here, if you see anywhere where it reference the schools, we had language that was more specific to Cabarrus County schools and it impacts all of the schools, and we work with Kannapolis, City of Concord, as well as Cabarrus. She said it was to get the general language in there to cover all of that as well as each plan that we would use; the 15 year plan and the critical project list, because it wasn't referenced so that people would know specifically where we are getting these numbers from.

She said on page 8, some clarifications were made to the language; it still keeps that 1 minor subdivision. She said when those property owners come in and they get that 1

minor subdivision, they are also exempt from the APF, they are not subject to that, but then after that for anything past that then they are. She said that has not changed.

Ms. Morris said where it talks about staff, it is to clarify that the Commerce Department does the reviews together with the schools. She said on page 17 it starts talking about what happens when you are at a 2 year test, if you have capacity or if you don't. On page 18 it says if we do this test and you do not have capacity until after 2 years then you have a couple of options; you can delay your development and come back and be retested or you can have this limited number of permits within those 2 years, and those cannot be constructed until 2 years out unless they agree to mitigate for their share, because those schools are not going to come on line until 2 years out. She said it works the same way with the 5 years.

Ms. Morris said where the ordinance was silent on those two issues, we added some language to clarify what you can and cannot have, so that it is very specific and so that everybody knows and is on an equal playing field.

She said for example; if I had a subdivision and I came in and it was 50 lots and I'm going to generate 12 students and there is no capacity; Year 1, I would be allow 5 dwelling units or 10% of my proposed development or up to 15 dwelling units. She said Year 2, would be the same thing, Year 3, I would be able to come back for the remainder of my project. She said we have worked with our attorney as well as the attorney that helped to draft this text to clarify the process and how it works.

She said it will let you know how many permits you are entitled too depending on what the results of those tests are. You end up with a positive or negative number and if you do end up with a positive you have to have enough seats to be able to support however many children that you generating in that development. If it is a negative number it is pretty straight forward.

Mr. Tad Dunn addressed the Board. He is from Mecklenburg County and does a lot of work for the Real Estate and Building Industry Coalition, which does a lot of public policy work in the region. He is representing the Cabarrus County Building Industry Association.

He said on Tuesday, Draft 5 was presented to a group of stakeholders to look over the ordinance, specifically the part where if there is no school capacity projected in 5 years, what happens. He does not believe all of the municipalities were present at that meeting, and it was about 48 hours ago. He requests the Board to table or discuss this tonight and if the Board has questions about a builder feed back, nudge them out and he will present them to the Cabarrus Building Industry Association and then come back to the next meeting. He said essentially hear what the industry believes the impacts will be on the local industry.

He researched the issue several months ago for a city in Union County; it was on the topic of ordinances in North Carolina that limit the amount of homes that can be built per

year. He checked with some folks with COG, and they were not aware of it as well; in terms of a county, no county in the state does this. He said this could be a good thing, showing leadership or it could be a bad thing or something in between. He said with all of the ramifications to the industry, with the proposed limiting of lots per year and the APFO fee going up every year, it is really high stakes and so the industry wanted more than 48 hours to look at it and to be a participant at the next meeting to provide feedback and to answer any questions. He said as local government meets industry or development, sometimes it is very complicated and emotional.

The Chair asked what the differences were between Draft 5 and Draft 6.

Ms. Morris said the only difference is that under the advice of our attorney, we added specific language similar to the 5 year, so that everything was consistent. So at 2 years you are being treated the same way that you would be treated at 5 years, if you do not have capacity.

She said the APFO stakeholder group met on April 15th; their concerns were with the timing of the payment, and why the payment could not be made at CO (Certificate of Occupancy) or as part of the closing instead of the developer bearing that cost. Also, concerns with the limited number of permits, based on the fact that the school capacity is not there. They wanted to know who else was using this type of system. She said our consultants have worked with several areas in North Carolina with language based on ours or on Union County's; they have gone to Huntersville and Lincolnton. She said the building industry folks wanted to know the timing for these amendments. This is how it is being administered, so it is to clarify how that is happening based on the advice of all of our legal staff, including local and the attorney that helped to draft the initial text. She said, again, the only changes were to the 5 year test because in the first 2 years and the first 5 years our ordinance was silent on that and the other couple of items we talked about.

She said it is the Board's pleasure whether to recommend it for approval or entertain additional information from the building industry.

Mr. Koch said the majority of that ordinance is already in place and being utilized. We felt there were certain areas that needed some additional clarification where the ordinance was silent. He said they are primarily legal issues, more than policy issues. He said if you just denied development out right for a period of time; any development, whether it be for 2 years or 5 years, you run into the potential of having either an economic taking of the property or some portion of the value of the property, because you have denied any use of it or you have what amounts to a de-facto moratorium on development. He said it is to address those kinds of issues that might affect the validity of the ordinance that it's determined that you have to allow some development. He said the amount, 5 units or 10% of total, he supposes to some degree are policy decisions, they are not something that is in the law somewhere that says it has to be exactly that amount.

He said that is something we have gone over with the Board of Commissioners to get some idea of what they felt comfortable with and those are the numbers that seemed to

have come out of those discussions. He said that was sort of derived at in an inverse way. It is not clear to him, after being at the stakeholders meeting the other day what the exact objections are to these particular post changes, as oppose to just a dissatisfaction with the overall ordinance and the way it is applied.

He said it is up to the Planning and Zoning Board if they want to act on it this evening or put it off until next months meeting.

Mr. Dunn said this is not a stall tactic or bang the table tactic, what is the fundamental reason he is here tonight. He asked if the payments which are at \$8600 now and will go up in January, do those payments and the restrictions of developed lots between 5 and 15 over a period of time, is that a positive mathematical equation that was palatable by a lot of folks or does it turn and slip into a negative mathematical equation.

He said you talked a little bit tonight about all the things that go into water quality requirements now. He said, frankly, it is getting more expensive and that is the fundamental thing that the building industry wants to step back along with any questions the Board may have, step back and simply look at the fee, the timing, how many lots are allowed between 5 and 15 and what is the resulting non-emotional mathematical equation; is that palatable for people to do things which is buying land in these areas and developing. He said that is the specific thing wanted to be chewed on for a month as opposed to 48 hours.

Mr. Berg asked Mr. Dunn if he would anticipate that his group would think positively of this.

Mr. Dunn said he could not answer that, only because between the 48 hours that we looked at it, folks have not gotten together.

The Chair asked if this would have occurred yesterday and no one had ever seen this ordinance, and we do not have it spelled out in writing, what is the procedure that we use now for the 2 and 5 if you do not meet.

Ms. Morris said this is the way we are handling it now. She said the ordinance was silent and the Board gave us direction on what numbers they felt comfortable with. She said instead of telling people they cannot have any permits, it allows someone to continue to develop but on a schedule that hopefully the schools can absorb better than 50 lots at one time or 60 lots at one time. She said the calculations are saying the capacity is not there but the Commissioners are saying we will let you proceed on a smaller scale until the capacity actually is there.

Mr. Griffin said what he is hearing the industry representative say is that might be tantamount to not doing anything; it may not be affordable, financially, and no one has done any analysis to look at whether or not this is a real option. That is what he hears coming from the industry; that they would like to take a look it and come back and talk with us about. He does not have a problem with that.

There being no further discussion, Mr. Griffin, MOTIONED, SECONDED by Mr. Fesperman to Table Proposed Test Amendment C2008-03-ZT until the next meeting to give the builders and developers an opportunity to look at issues. The vote was 7 to 2 with Mr. Prince and Mr. Ensley opposed.

Directors Report

Ms. Morris said we are currently in the process of working with Concord and Kannapolis on our Central Area Plan. This is the plan that came out of the changes to that agreement and what's going to happen with utilities in Sub Area 1 and what is going to happen in Sub Area 2.

She said the board has been given a map of the area, the invitation to the remainder of the public meetings, and the list of all of the meetings. We will not be having a specific session just for the Planning and Zoning Board, at some point after all of the charettes are done, we will have a meeting with all of the Boards and Commissions together so that you can look at the draft and give your input at that time. She said please feel free to attend any of the public meetings. We will be hold charettes on May 22nd and May 23rd, and there will be some public drop in sessions as a part of that. She said if the Board is interested, they can call her and she will let them know which ones the consultant has designated as those particular times. She said feel free to attend any of the other meetings or the night meetings.

Ms. Morris thanked the Board for their recommendations for the advisory committee. She does not think that any of their recommendations ended being up on the committee, but a lot of people were approached, and we ended up with 12 who decided they would be willing to commit to the project.

She said there have been 2 public meetings at the arena, the first night there were 112 people that represented the north part of that planning area and the second night we had 123. We are getting a pretty good turn out and we are getting good comments. Hopefully, we will continue to have that participation and folks will stay interested in the process. It is a very short process, so if the Board can attend any of those sessions to give input, please do so.

She asked the Board to pass the information on to anyone they know who lives in that area. We have sent out 8500 flyers in the mail; if there are rezonings that come out of this, hopefully, you will not be faced with the folks who say they did not know. She said we are doing a very different, very heavy PR (Public Relations) Schedule for this particular project.

There being no further business, Mr. Fesperman MOTIONED, SECONDED by Mr. Shoemaker to ADJOURN the meeting. The vote was unanimous. The meeting ended at 9:55 p.m.

FINDINGS OF FACT
C2007-06 (R-SU)
Applicant: Glenn Jones

1. The existing zoning is agricultural/open space use with only one permitted use- farm equipment sales and repair.
2. The proposed zoning is the same as the existing zoning – agricultural/open space use, but allowing only one additional permitted use – that of auto repair and service.
3. The use as an auto repair and service facility will be less intense for this location because of the conditions that the applicant and owner have agreed to for the proposed use.
4. All existing zoning violations on the property have been rectified.
5. There is no evidence that the additional use as proposed will be harmful to any surrounding property or property owners.
6. There is no evidence that this additional use will have any negative or detrimental effect or impact on the public health, safety or welfare.
7. The additional proposed use of auto repair and service is very similar in scope and intensity of use as the existing allowed use of farm equipment sales and repair.



Cabarrus County Government

Commerce Department
Community Development Division

March 20, 2008

Mr. Clarence Allman
8812 Crestwood Drive
Mt. Pleasant NC 28124

Dear Mr. Allman:

This letter is to follow up on our meeting at your property on NC 49 (Map/PIN 5660-13-8210). As we discussed, AccuTech Surveying had staked the 600' elevation line on the property. This is the 100 year flood elevation shown on the latest set of Cabarrus County FIRM maps.

The amount of dirt moved out of the 100 year line, and the remaining area in the 100 year area that was not originally filled will meet the required work that we discussed. This action will bring you into compliance with the Cabarrus County Flood Damage Prevention Ordinance. This elevation was re-staked as we requested from AccuTech to confirm it. This confirmation is shown on the attached letter.

As we requested, the area that was regarded had also been seeded and straw had been placed on the area.

This action will allow you to continue with the Conditional Use permit you had requested earlier. If you have any additional questions, please let me know.

Sincerely,

Michael L. Byrd
Cabarrus County
Commerce Department

Attachment

Cc:

Neal E. Stroup, Assistant Resident Engineer, North Carolina Department of Transportation

Phil H. Suggs, CPESC, North Carolina Department of Transportation

Davis C. Diggs, PE, North Carolina Department of Transportation

Thomas A. Smith, Cabarrus County Soil and Erosion

Dennis Testerman, Cabarrus County Soil and Water Conservation

Susie Morris, Cabarrus County Planning and Zoning Administrator

Kassie G. Watts, Cabarrus County Planning

Glenn Jones, GMST Holdings, LLC

Mark Rowell, GMST Holdings, LLC



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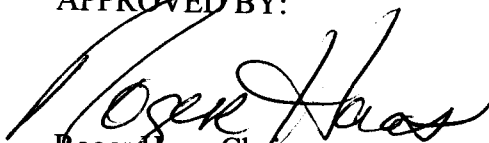
Susie Morris, Cabarrus County Planning and Zoning Administrator

Kassie G. Watts, Cabarrus County Planning

Glenn Jones, GMST Holdings, LLC

Mark Rowell, GMST Holdings, LLC

APPROVED BY:


Roger Haas, Chairman

SUBMITTED BY:


Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager