

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
September 18, 2008
7:00 P.M.
County Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Oath of Office for Newly Appointed Members
2. Selection of Chair and Vice-Chair, also Appoint a member to be Chair of the Board in the absence of the Chair and Vice-Chair
3. Roll Call
4. Approval/Correction of August 21, 2008 Minutes
5. New Business – Planning Board Function:
 - A. **Petition C2008-04 (R) - Central Area Land Use Plan Implementation Rezoning**
 - B. **Petition C2008-01(S) - Subdivision Preliminary Plat Approval - Park Creek - Phase III, Section A & B**
6. Old Business – Planning Board Function:
 - A. **Petition C2008-04 (ZT) - Proposed Text Amendment - Proposed Recreational Therapy Center (Rural Center)**
7. Directors Report
8. Adjournment

**SUGGESTED RULES OF PROCEDURE FOR CENTRAL AREA LAND USE
PLAN IMPLEMENTATION REZONING
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
SEPTEMBER 18, 2008**

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. After the staff report and questions, the proponents (those speaking generally in favor of the rezoning) will have a total of 15 minutes to speak and/or present documents in support of their position. The 15 minute time limit does not include questions directed to the proponents by the Commission.
3. After the proponents finish, the opponents (those speaking generally against the rezoning) will have a total of 15 minutes to speak and/or present documents in support of their position. The 15 minute time limit does not include questions directed to the opponents by the Commission.
4. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.
5. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
6. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
7. Those persons opposing the rezoning of a particular parcel or parcels shall be limited to 3 minutes per person.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING BOARD
September 18, 2008

Petition: **C2008-04 (R) Zoning Atlas Amendment-Central Area Land Use Plan Implementation Rezoning**

Applicant: Administrative Rezoning

Property Owner: Multiple Property Owners

Existing Zoning: LDR, CR, MDR, HDR, GI, LC, OI

Proposed Zoning: AO, LI, OI, LDR, CR

PIN#: Multiple PIN Numbers

Area: +/- 24,548 acres

Description: Properties in this area must incur zoning changes in order for densities to correspond to the densities in the adopted plan. The properties subject to zoning changes will be subject to changes to less dense zoning classifications.

Zoning History: Zoning designations currently in place were a result of the mass rezoning that took place in 2005 in order to direct growth to areas where infrastructure supports growth.

Infrastructure: Subject properties are served by well and septic systems or by the City of Concord public utility system.

Exhibits:

1. Central Area Plan Map Including Density Descriptions
2. Maps Corresponding to Staff Report
 - Land Use
 - Existing Zoning
 - Proposed Zoning

Submitted by: Susie Morris, AICP, CZO, Planning and Zoning Manager

Discussion of Areas:

Area 1-Agricultural/Rural Area North of Highway 73

This area starts at Highway 73 and extends north to Rowan County. This area is roughly defined by Cold Water Creek to the west and Irish Potato Road to the east. The Central Area Plan calls

for this area to be Rural Residential. As the plan states, it is comprised mostly of lands determined to remain agrarian in the future. Residential uses may be allowed but only to support agrarian purposes and are not the predominant use. Therefore, residential uses are provided only at the very lowest densities. Predominant uses are agricultural and single-family residential. Densities are 1 unit per 3 acres or up to 1 unit per 2 acres provided additional development standards are met. Properties in this area are currently zoned Cabarrus County Low Density Residential (LDR) and Countryside Residential (CR). The proposed zoning designation for this area is Agricultural Open Space (AO) as the AO zoning district designation is consistent with the intent of the land use plan as described for the Rural Residential land use plan classification.

Area 2-South of Highway 73 and North of Highway 49

This area is roughly defined as the area south of Highway 73, north of Highway 49 and bounded to the west by the Utility Service Boundary line and to the east by Cold Springs Road. The Land Use Plan states that this area is comprised mostly of lands determined to remain agrarian in the future. Residential uses may be allowed but only to support agrarian purposes and are not the predominant use. Therefore, residential uses are provided only at the very lowest densities. Predominant uses are agricultural and single-family residential. Densities are 1 unit per 3 acres or up to 1 unit per 2 acres provided additional development standards are met.

Properties in this area are currently zoned Cabarrus County Low Density Residential (LDR) and Countryside Residential (CR). The proposed zoning designation for this area is Agricultural Open Space (AO) as the AO zoning district designation is consistent with the intent of the land use plan as described for the Rural Residential land use plan classification.

Area 3-South of Highway 49, East of the Utility Service Boundary

This area is roughly defined as the area south of Highway 49 and east of the Utility Service Boundary line. The majority of land in this area is defined by the Central Area Plan as Rural Residential; however it does include areas designated as Very Low Density Residential and Low Density Residential.

The Land Use Plan states that this area is comprised mostly of lands determined to remain agrarian in the future. Residential uses may be allowed but only to support agrarian purposes and are not the predominant use. Therefore, residential uses are provided only at the very lowest densities. Predominant uses are agricultural and single-family residential. Densities are 1 unit per 3 acres or up to 1 unit per 2 acres provided additional development standards are met.

The Land Use Plan states that areas defined as Very Low Density are to remain predominantly rural in character while allowing residential uses to occur at very low to low densities. Predominant uses in these areas are single-family residential with densities up to 1 unit per 2 acres, or up to 2 units per acre provided that additional development standards are met.

The Low Density Residential classification in the Land Use Plan states that Low Density areas are intended to allow low to moderate density residential accommodating community development. Predominant uses for this designation are Single-family residential uses with

densities up to 2 units per acre, or up to 3 units per acre provided additional development standards are met.

Properties in this area are currently zoned Low Density Residential (LDR), Countryside Residential (CR), Office Institutional (OI) and Limited Commercial (LC). Parcels in this general area will be rezoned to the Countryside Residential (CR) and Agricultural Open Space (AO) zoning designations to coincide with the permitted densities in the Land Use Plan.

Area 4-Area South of Highway 200 and East of the Utility Service Boundary

This area is roughly defined as the area east of the Utility Service Boundary and south of Highway 200.

This area is designated as Rural Residential by the Central Area Land Use Plan. The Land Use Plan states that this area is comprised mostly of lands determined to remain agrarian in the future. Residential uses may be allowed but only to support agrarian purposes and are not the predominant use. Therefore, residential uses are provided only at the very lowest densities. Predominant uses are agricultural and single-family residential. Densities are 1 unit per 3 acres or up to 1 unit per 2 acres provided additional development standards are met.

Existing zoning in this area is Countryside Residential (CR). Proposed zoning in this area is Agricultural Open Space (AO). This densities permitted in this zoning designation are consistent with the densities proposed in the area plan.

Area 5-Area West of the Utility Service Boundary Line

This area is the remaining area of the Planning Area located to the west of the Utility Service Boundary (USB) line as defined in the Land Use Plan and as part of the Amended Agreement entered into by the City of Concord and Cabarrus County.

Existing zoning designations in this area varied and include Low Density Residential (LDR), High Density Residential (HDR), Office Institutional (OI) and General Industrial (GI). Proposed zoning designations for this area are Light Industrial (LI), Low Density Residential (LDR), Office Institutional (OI) and Countryside Residential (CR) in order to have properties zoned consistently with the densities set forth in the Central Area Land Use Plan.

Intent of Proposed Zoning Districts:

Agricultural/Open Space

This district is comprised mostly of lands usually found on the eastern side of the County which, due to physical characteristics such as soil type, topography, etc., should remain agrarian or very low density. To a lesser degree, these are also those lands which are conducive to providing recreationally oriented open space. These land areas should remain the farmland and undeveloped/forested land of the County. Public utilities will not be planned for these areas. Consequently, residential uses that support those working and/or owning the land, home occupations allied with existing residences, and very limited business endeavor are envisioned as

complementary to the area. In sum, the primary activity of these lands is agricultural housing and business typically related to and supportive of the practice of modern day agriculture. It is not, however, improbable that a small hamlet type settlement might evolve in this zoning district. As to those areas constituting open space, manmade uses must take care to enhance and not detract from the essential character of the area.

Countryside Residential

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

Office/Institutional

This district is intended to accommodate relatively low intensity office and institutional uses at intensities complementary to residential land use. Where appropriate, this district can serve as a transition between residential land use and higher intensity nonresidential land use.

Limited Industrial

This district provides for both large and small scale industrial and office development. The primary distinguishing feature of this district is that it is geared to indoor industrial activities which do not generate high levels of noise, soot, odors and other potential nuisances/pollutants for impacting adjoining properties. It is typically located in areas of the county with infrastructure, i.e., higher volume roadways, water and sewer. Light industrial zones may border higher density residential zones only when an effective buffer exists, for example, a natural structural feature such as a sharp break in topography, strips of vegetation or traffic arteries. In no case, would a limited industrial zone be located so as to result in industrial/commercial traffic penetrating a residential neighborhood.

Medium Density Residential

This district is intended to permit development with a moderately high density community character. This district allows open space and amenity subdivisions. Residential development options for this zone include a variety of housing types, including townhouses. These zones are located where public utilities either are available or are envisioned available within the next ten years.

Area Plan Consideration:

The properties discussed in this rezoning proposal are part of the Central Area Land Use Plan (CALUP). The proposed zoning changes are consistent with the CALUP and are a necessary component of the implementation of the Plan as adopted by the Cabarrus County Board of Commissioners on August 18th 2008.

Staff Analysis:

This is a conventional rezoning request. All uses permitted in the AO, CR, LI, OI and MDR zoning designations would be permitted on the subject properties if rezoned.

Consideration of Proposed
Rezoning:

The proposed zoning changes are consistent with the adopted Central Area Land Use Plan and are in keeping with the intent of the zoning ordinance for the AO, CR, LI, OI and MDR zoning districts as defined in the Cabarrus County Zoning Ordinance.

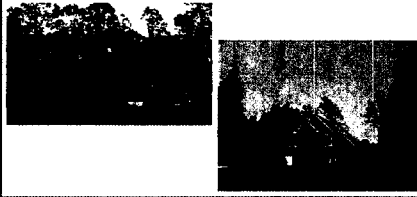
Rural Residential

Comprised mostly of lands determined to remain agrarian in the future. Residential uses may be allowed but only to support agrarian purposes and are not the predominant use. Therefore, residential uses are provided only at the very lowest densities.
 Predominant Use(s): agricultural and single-family residential
 Density up to 1 unit per 3 acres, or up to 1 unit per 2 acres provided additional development standards are met.



Very Low Density Residential

Intended to remain predominantly rural in character while allowing residential uses to occur at very low to low densities.
 Predominant Use(s): single-family residential
 Density up to 1 unit per 2 acres, or up to 2 units per acre provided additional development standards are met.



Low Density Residential

Intended to allow low to moderate density residential accommodating community development.
 Predominant Use(s): single-family residential
 Density up to 2 units per acre, or up to 3 units per acre provided additional development standards are met.



Medium Density Residential

Intended to allow moderately high density residential accommodating community development.
 Predominant Use(s): single-family residential
 Density up to 3 units per acre, or up to 4 units per acre provided additional development standards are met.
 Units may be attached in the form of townhouses and/or duplexes.



Industrial

Intended to provide small-scale industrial and office uses.
 Predominant Use(s): existing industrial and clean, light industrial and multi-tenant (flex space)



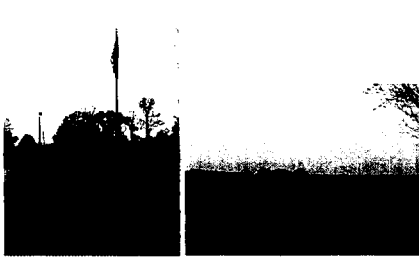
Mixed-Use

Accommodates development that combines two or more compatible uses to create pedestrian-friendly, higher density development where it is supported by infrastructure.
 Predominant Use(s): retail, office, multi-tenant (flex space), single-family detached and attached residential and multi-family residential



Open Space/Recreation

Existing parks serving the area, including some outside of the study area



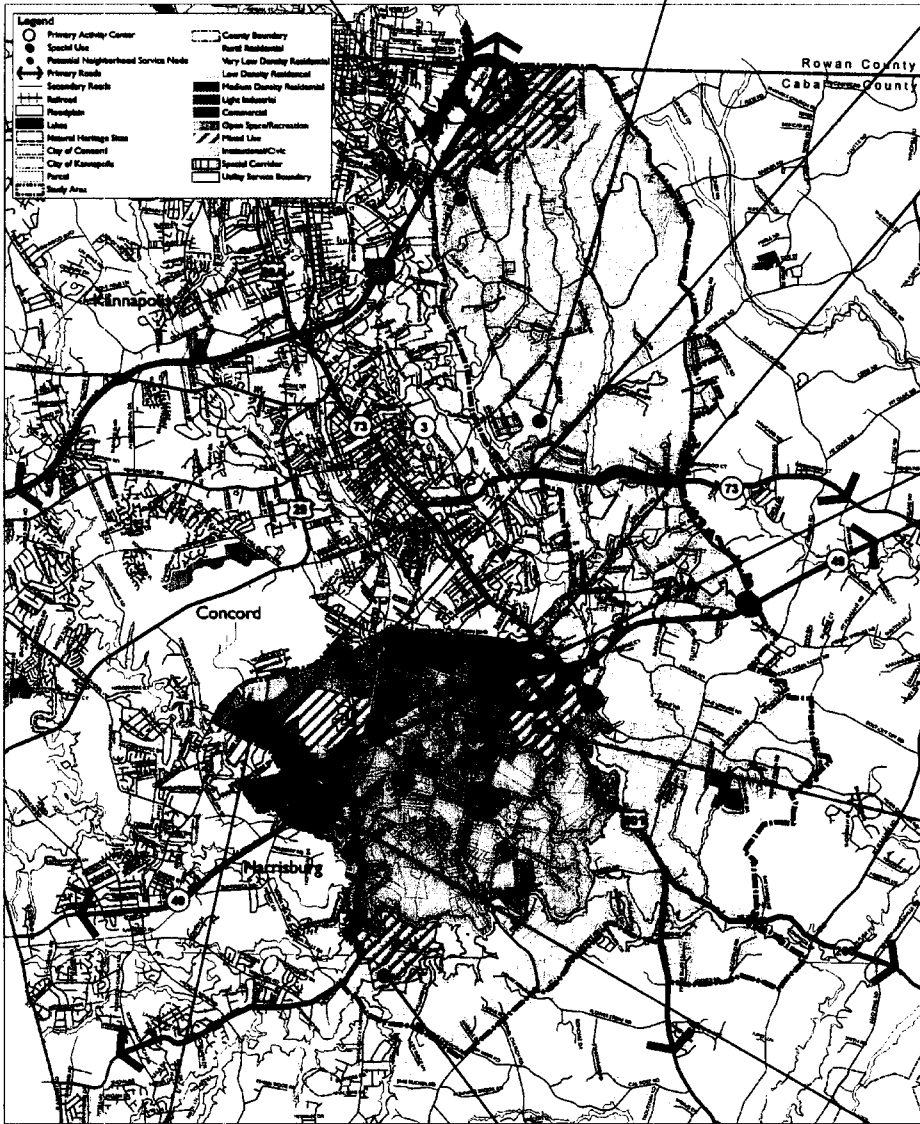
Institutional/Civic

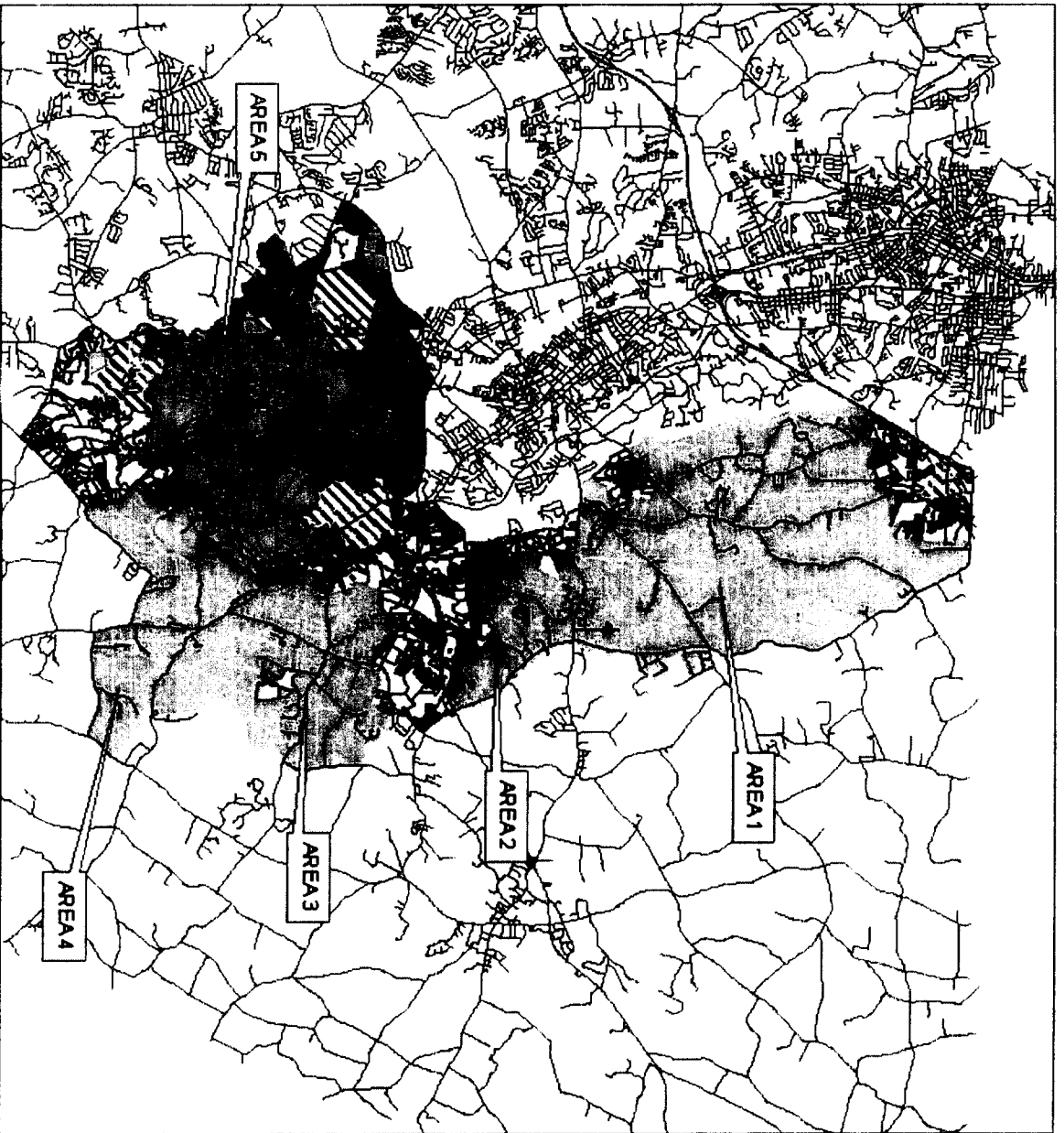
Recognizes areas where a public use is appropriate to serve the needs of the overall community.
 Predominant Use(s): schools, libraries, churches, public safety facilities



Commercial

Intended to maintain existing areas for small-scale commercial development while accommodating future large scale commercial uses
 Predominant Use(s): Retail





STAFF REPORT
AREAS
CENTRAL AREA
PLAN
IMPLEMENTATION

Legend

— Street/Centerline

Central Area Plan Land Use

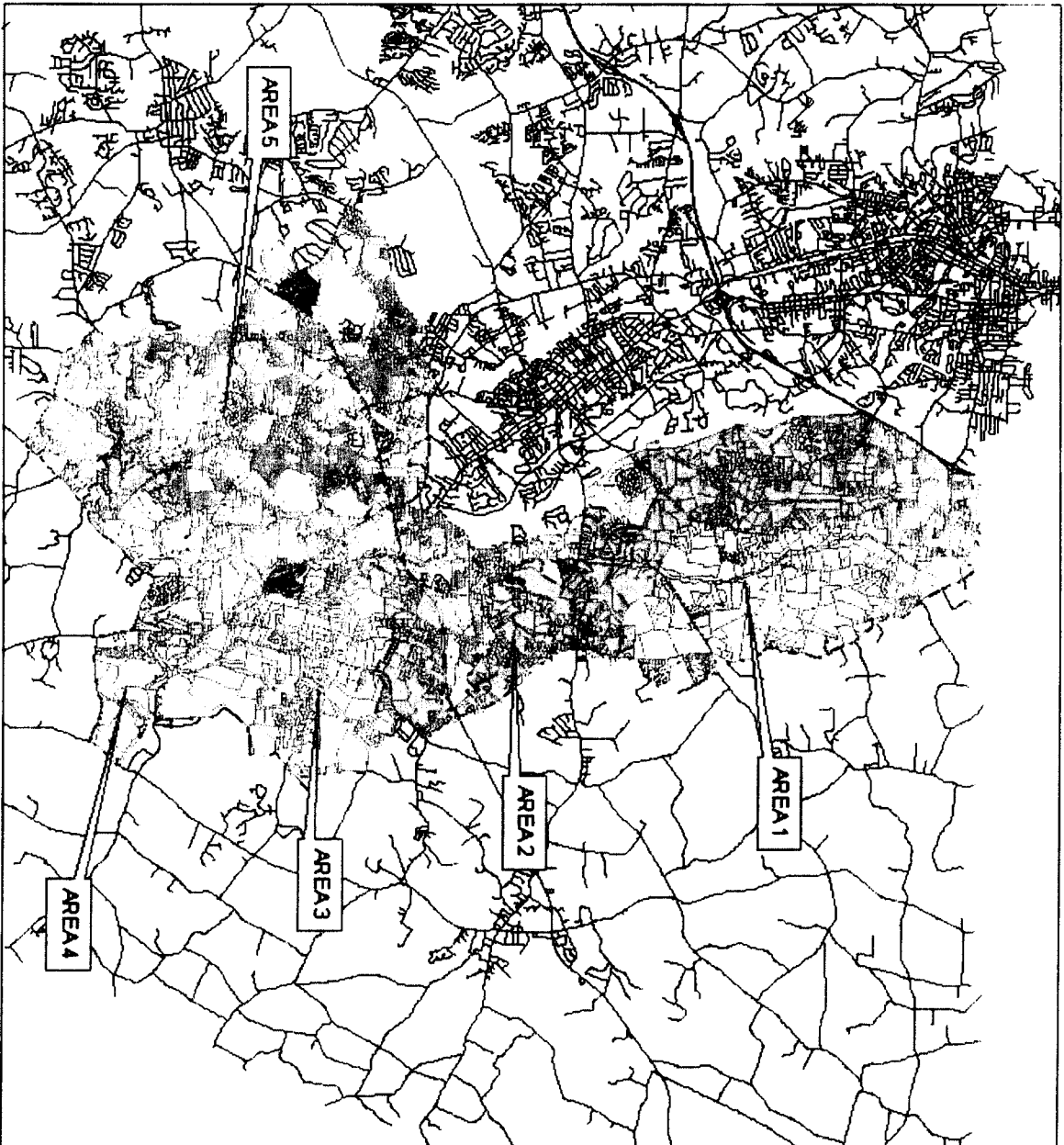
Land Use

- Commercial
- Institutional/Civic
- Light Industrial
- Low Density Residential
- Medium Density Residential
- Mixed Use
- Open Space/Recreation
- Rural Residential
- Special Use
- Very Low Density Residential



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Map prepared by Cabarrus County Planning Services, 2010/06/08



**CENTRAL AREA
LAND USE PLAN
CURRENT ZONING**

Legend

Central Area Plan Land Use Parcels

**ZONING
CURRENT ZONING**

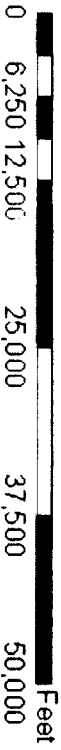
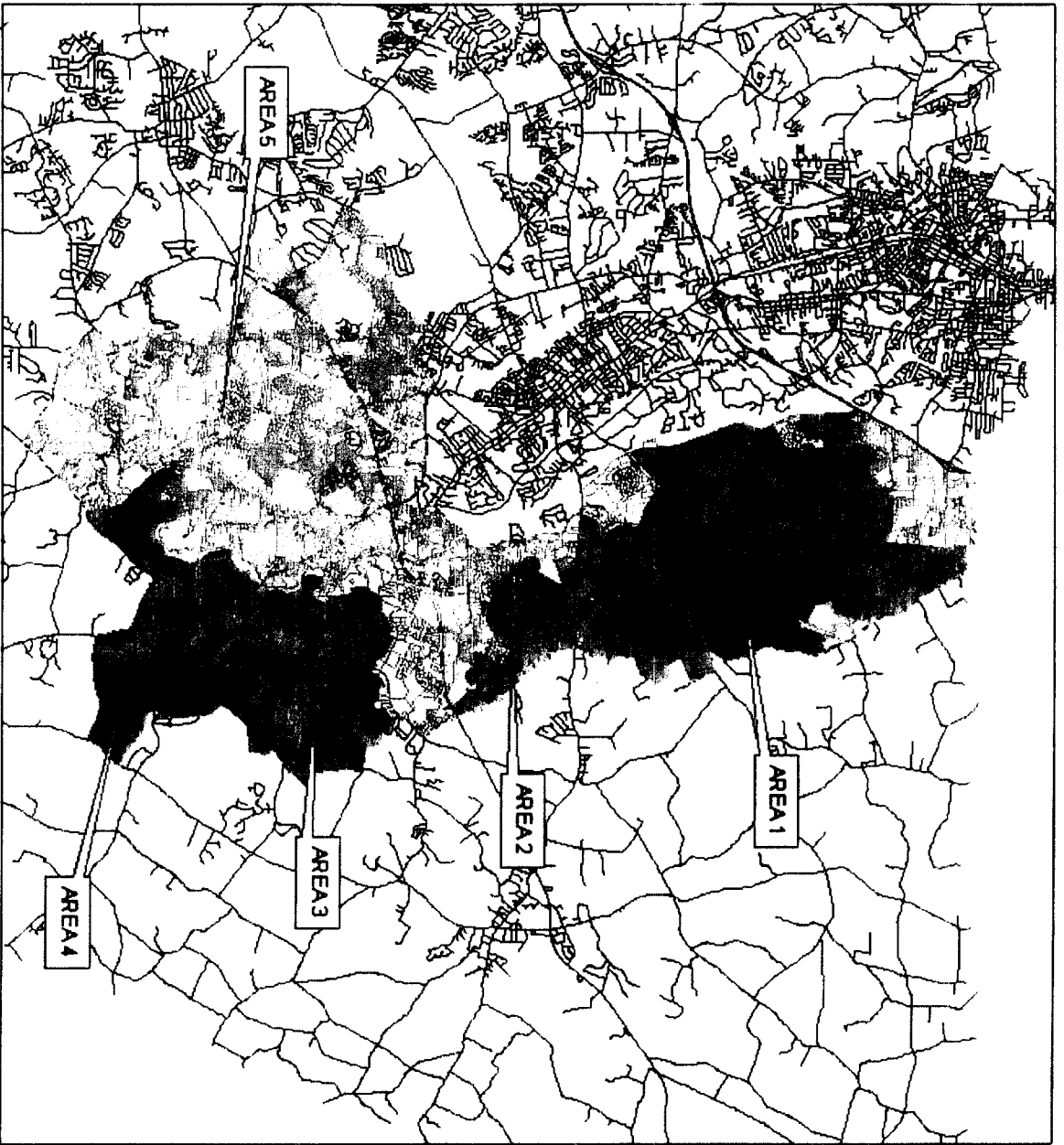
- CR
- GI
- HDR
- LC
- LDR
- MDR
- OI

Street Centreline



Catawba County shall not be held liable for any errors in this plan. The holder's name of commission, commission, and the holder's name of the commission, shall be liable and not liable for the plan. These data shall not be used for any other purpose than the purpose for which they were prepared without the written consent of Catawba County Planning Services.

Map prepared by Catawba County Planning Services
5/1/2000



**CENTRAL AREA
LAND USE PLAN
PROPOSED ZONING**

Legend

Central Area Plan Land Use Parcels

ZONING

Proposed Zoning

- AO
- CR
- LDR
- LI
- MDR
- OI
- Street Centerline



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Map prepared by Cassius County Planning Services, Inc.

Sery Newton

Specific Recommendations regarding the Rezoning Proposal of land within the Central Area Plan, Cabarrus County, North Carolina
Cabarrus County Planning and Zoning Commission
September 18, 2008

Here are recommendations that I respectfully recommend to the members of the Commission.

1. The Planning Commission actions should only be as **recommendations** to Board of Commissioners. (NCGS 153A-344, Cabarrus Zoning Ordinance Section 12-17)
2. The Planning Commission should recommend that **existing zoning districts remain** intact with the exceptions of those wishing to place their land in Agricultural Open or one of the proposed upzonings shown on the map.
3. The Planning Commission can point to intent of Agricultural Open zoning district's purpose statement to show that the mass rezoning is **not consistent with the intent of the district** nor does it match the description of its use as presented in the Central Area Plan (Cabarrus County Zoning Ordinance Section 3-7 and Central Area Pan 4.0, p19.)
4. Rather than downzoning which only **takes from the property owners**, the Planning Commission should recommend to the Board of Commissioners and direct the Planning Division of the Commerce Department that the Central Area Plan's **recommendations addressing Utility Infrastructure be implemented** (Central Area Plan 5.5 (U-1) and (U-2).
5. Downzoning from **General Industrial to Limited Industrial is not supported** or recommended anywhere in the Central Area Plan. The Planning Commission should recommend to the Board of Commissioners that it not occur and the few areas that remain General Industrial be left alone on this county initiated rezoning. (Central Area Plan)
6. The Planning Commission should point to the **circular reasoning** of developing standards and restrictions as land use plan recommendations and then stating that the new regulations simply implement the land use plan recommendations. (This type of "recommendation" which is really a regulation occurs no where else in the plan's recommendations and implementation strategy's set of recommendations. LU-3 is the only specific regulation in the 24 recommendations and it is not justified or determined anywhere in the preceding plan text.) (Central Area Plan, Section 5.0, pp 27-39)
7. With so much of our **overall economy is in distress**, the Planning Board should recommend to the Board of Commissioners that unnecessary issues influencing and adversely affecting land and housing values in the County be left alone. As stocks fall, investment banks fail, one of the few hard assets that remains for us is our property (land and homes). **County growth control can and does occur without reducing and taking development rights** while increasing development costs and adding more restrictions and regulations. These are all factors that lower actual market values.
8. The Planning Commission should consider whether or not we should continue to spend over \$100,000 for developing government land use plans with consultants who do not live in the county when the county has **well qualified land planners on its staff**.
9. The Planning Commission should recommend to the Board of Commissioners that any land that is placed in Agricultural Open with the consent of the property owner and not already in a Present Use Valuation for taxation purposed be afforded that opportunity, be

revalued per the approved schedule of values for property taxation adjustments and be allowed to file to the Cabarrus County Board of Equalization & Review outside of the standard appeal time period if they disagree with the property valuation.

10. The Planning Commission **only rezone site specific parcels with owner's consent** and similarly explain those changes already shown on the mass rezoning map.

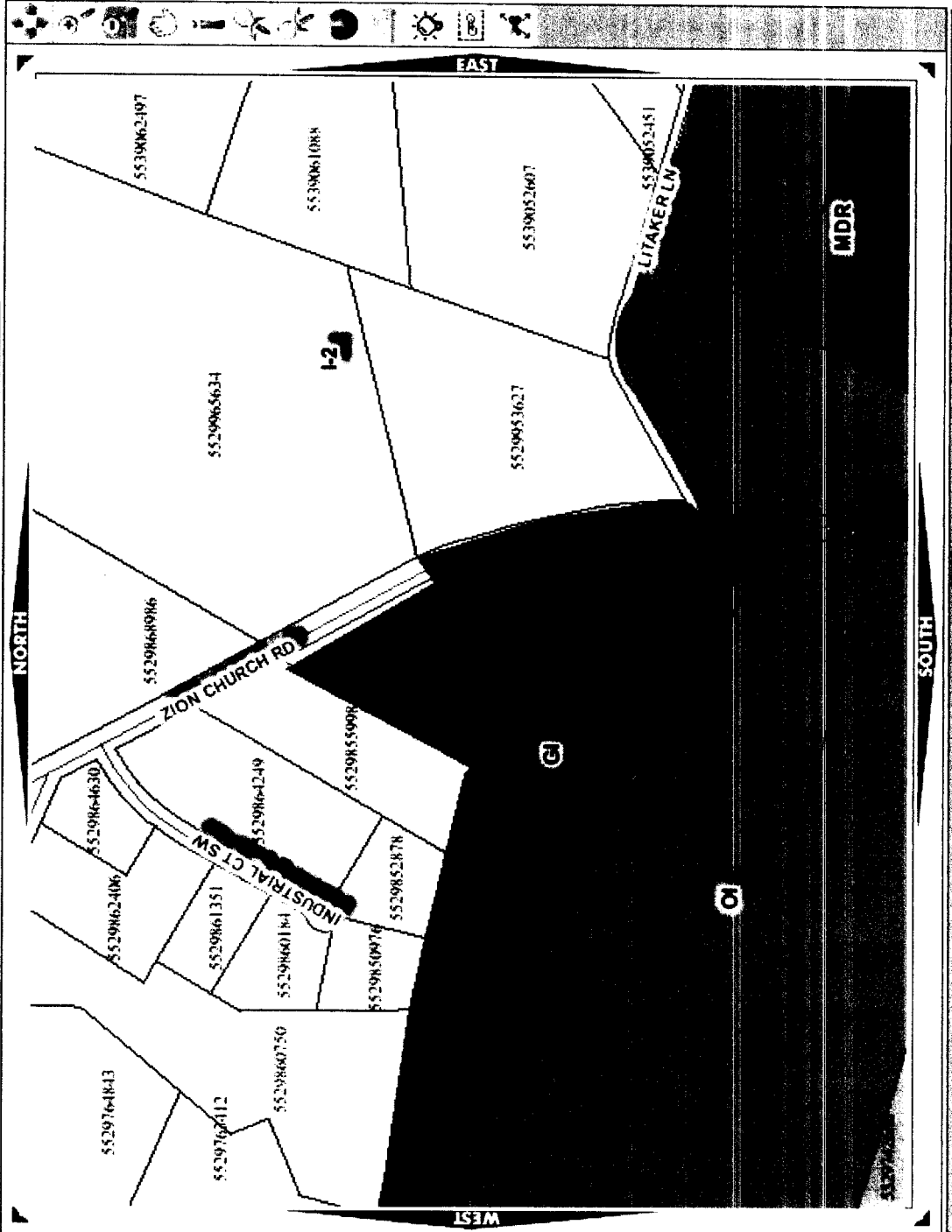
Thank you for your consideration,

Jerry Newton, AICP
Cabarrus County resident

Russell Moore

Welcome Guest | Login | Change Password | Theme: Classic

General | Floodplain | Topography | Voting Districts | More Maps >>



Map Tools

- Search Property PIN
- Search Property Owner
- Search Property Address
- Search Polling Places
- Search County Parks

Results

- Selection
- Redlining
- Measure
- Buffer selections
- Nearby Search
- Get Directions
- Search by Co-ordinates

Map Layers

- Watershed
- Aerial2005
- Aerial2001
- Aerial1995
- County Zoning
- Kannapolis Zoning
- Concord zoning

Apply

Scale: 1:4697.83

See Annex

**RESPONSE AND REQUEST FOR REVISION TO
PROPOSED ZONING DISTRICT MAP FOR CENTRAL AREA**

TO: Cabarrus County Planning and Zoning Commission

Properties and Current, Proposed, and Requested Zoning:

<u>Parcel Number</u>	<u>Area in Acres</u>	<u>Current Zoning</u>	<u>Proposed Zoning</u>	<u>Requested Zoning</u>
5559-49-6266	11.66	OI and LDR	CR	OF/LC and LDR
5559-48-6689	16.76	LDR	CR	LDR
5559-47-0237	<u>89.91</u>	OI and LDR	CR	OF/LC and LDR
	118.33			

REQUEST: In response to the proposed rezoning of their properties, the Owners request that:

- 1. The areas of these parcels that are now zoned Low Density Residential (LDR) be allowed to remain LDR**
- 2. The areas of these parcels that are now zoned Office/Institutional (OI) be changed to Office/Limited Commercial (OF/LC).**

OWNERS:

Mitchell and Mary Ruth Hartsell, 4166 Amarillo Dr., Concord, NC 28027; Owners of Parcel 5559-49-6266 and Timothy A. Arey, Arey Properties, 1028 Lee Ann Dr., Suite 215, Concord, NC 28025, on behalf of the Owners.

George H. Troutman, 2242 Cold Springs Rd., Concord, NC 28025, Owner of Parcel 5559-48-6689

Davisco, Inc., PO Box 842, Concord, NC 28026-0842, Owner of Parcel 5559-47-0237

EXPLANATION

I. THE PROPOSED ZONING IS NOT CONSISTENT WITH EXISTING AND PROPOSED DEVELOPMENT AND IS NOT REQUIRED BY THE LAND USE PLAN

The zoning district of CR is not appropriate for these Properties and is not required by the Central Area Land Use Plan. The Properties are in an area designated by the Land Use Plan as Very Low Density Residential. However, the Properties do not fit the Plan's description of Very Low Residential or the description of Countryside Residential Zoning District (CR) in the Zoning Ordinance. Until the Owners have more complete development and use plans, the Owners request that the current zoning be continued with the OI parts of the Properties rezoned

REQUEST FOR REVISION TO PROPOSED ZONING DISTRICT MAP

Page 2

to Office/Limited Commercial (OF/LC) to be more consistent with the uses and zoning designations of adjacent Properties.

The Central Area Land Use Plan is a general document that affects broad areas Zoning District designations, however, must take into account the existing uses and development of specific properties and areas and should reflect sound zoning principles. In describing the Very Low Density Residential district, the Central Area Plan provides that the predominant uses in the district are single-family residential. Predominant use expressly allows for other uses. The Plan further provides that the characteristics of this district include typically, "two-lane roads with shoulder and ditch."¹

In describing the CR Zoning District, the Zoning Ordinance provides in part, "Lands in this district have a strong rural, pastoral feel. . . In summary, the principal purpose of this district is to provide some land area in the County for a permanent country/ residential lifestyle."²

Two of the Properties have frontage on North Carolina Hwy 49, a four-lane highway divided by a grass median. Two of the Properties have frontage on Cold Springs Road, which provides access to Hwy 49 at a signaled intersection. One of the Properties has direct access to Hwy 49 at the Old Airport Road intersection. The Land Use Plan does not mention four-lane, divided roads and highways in describing Very Low Density Residential or Low Density Residential, but the Plan does state that four-lane, divided roads and highways are characteristics of Medium Density Residential, Commercial, Industrial, and Institutional/Civic.

The existing development of adjacent properties includes public-use (Cabarrus Arena and Events Center), commercial (McDonald General Store and BP convenience store and gasoline station), and light industrial (Elon Specialties, Inc.). Immediately south of the Properties are the existing residential subdivisions of Heritage Springs, Fieldstone, and Cold Springs, in which lot sizes range from approximately .5 acre to 1 acre. Immediately to the east on Hwy 49 is industrially developed property. In Fieldstone and Cold Springs subdivisions, public water and sewer are available and in use.

Vacant land across Hwy 49 and west of the Old Airport Road intersection is now zoned C-2, although, unlike the Properties, it lacks access to Hwy 49 through a signaled intersection.

The Properties have the advantage of convenient and safe connections to Hwy 49 as described above. The Owners are working together toward a joint and coordinated development and street plan that will provide access through the properties to Hwy 49 and Cold Springs Rd.

The areas of the Properties along Hwy 49 are now zoned OI. However, because of the surrounding development, the Owners believe that Office/Limited Commercial Zoning is appropriate for these areas. It certainly is not desirable or appropriate for residential development.

¹ Central Area Land Use Plan, page 20.

² Cabarrus County Zoning Ordinance, page 3-7.

REQUEST FOR REVISION TO PROPOSED ZONING DISTRICT MAP

Page 3

II. LDR IS AN APPROPRIATE RESIDENTIAL ZONING UNDER THE LAND USE PLAN DESIGNATION, VERY LOW DENSITY RESIDENTIAL

The adopted Central Area Plan Land Use Map designates these parcels as Very Low Density Residential. As described on page 20 of the Central Area Land Use Plan, the predominant use in Very Low Residential is "Single-family residential (density up to 1 unit per 2 acres, or up to 2 units per acre provided additional development standards are met)."

The single-family residential densities of Very Low Residential match exactly the densities permitted in LDR, which permits 1 unit per 2 acres in a Conventional Subdivision,³ 1.5 units per acre in Open Space Subdivision,⁴ and 2 units per acre in an Amenity Subdivision.⁵ Open Space and Amenity Subdivisions in LDR zones require governmental water and sewer. In contrast, the Countryside Residential (CR) permits 1 unit per 2 acres in Conventional Subdivisions and 1 unit per acre in Open Space Subdivisions.⁶ CR does not permit 2 units per acre as allowed by the Land Use Plan.

III. UTILITIES

Governmental water and sewer are located adjacent to these parcels. WSAAC has a 30-inch water line in Hwy 49. The Mt. Pleasant sanitary-sewer force main is located adjacent to the Properties in Cold Springs Rd. and Hwy 49. The City of Concord sanitary sewer serves the Cabarrus Arena and Events Center, which is across Hwy 49 from the Properties.

The Owners recognize that the City of Concord and Cabarrus County have entered into an agreement not to extend sanitary sewer across Hwy 49, unless both parties agree. Two of the parcels, however, are in the Mt. Pleasant utility service district. The Owners submit that, because of the access to Hwy. 49 at a signaled intersection, convenient location of existing utilities, and the existing development surrounding the Properties, the utilities will be made available.

The description of LDR in the Zoning Ordinance provides, "These zones are located where public utilities either are available or are envisioned available within the next two to five years."⁷ It is noted that description of Medium Density Residential (MDR) states, "These zones are located where public utilities either are available or are envisioned available within the next ten years."⁸ CR does not permit public water and sewer.⁹

³ Cabarrus County Zoning Ordinance, page 5-5.

⁴ Cabarrus County Zoning Ordinance, page 5-9.

⁵ Cabarrus County Zoning Ordinance, page 5-12.

⁶ Cabarrus County Zoning Ordinance, pages 5-5 and 5-8.

⁷ Cabarrus County Zoning Ordinance, page 3-8.

⁸ Cabarrus County Zoning Ordinance, page 3-10.

⁹ Cabarrus County Zoning Ordinance, pages 5-5 and 5-8.

REQUEST FOR REVISION TO PROPOSED ZONING DISTRICT MAP

Page 4

IV. SUMMARY AND CONCLUSION

Office/Limited Commercial Zoning is supported by sound zoning principles, consistent with the Land Use Plan, and in the best interest of Cabarrus County and its taxpaying citizens. The Cabarrus Arena and Events Center ("Arena") represents a substantial investment by the taxpayers of Cabarrus County. The potential for return on the County's investment will not be realized until there are restaurants, retail establishments, and eventually a hotel, which are convenient, to serve visitors to the Arena. Restaurant and retail establishments will not locate at the Arena, unless there is a sufficient customer base provided by residential and other commercial development in the area.

The timing of any development will depend on market conditions and expectations, which now are, at best, uncertain. The accelerated schedule with which the Land Use Plan was generated and the proposed Zoning Changes presented do not allow for a comprehensive alternate proposal. However, we are certain that, as it affects these Properties and the County's own economic interests, the proposed Zoning is not in the best interest of the Owners or the County.

Supporting Exhibits are attached as follows:

Cabarrus County GIS aerial photograph of the Properties
Current Zoning Map

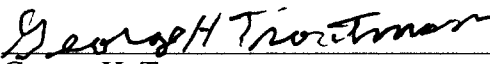
Submitted by,



Mitchell Hartsell



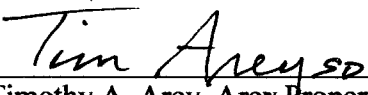
Mary Ruth Hartsell



George H. Troutman



Sam Davis, President, Davisco, Inc.



Timothy A. Arey, Arey Properties

Cabarrus County Property Map

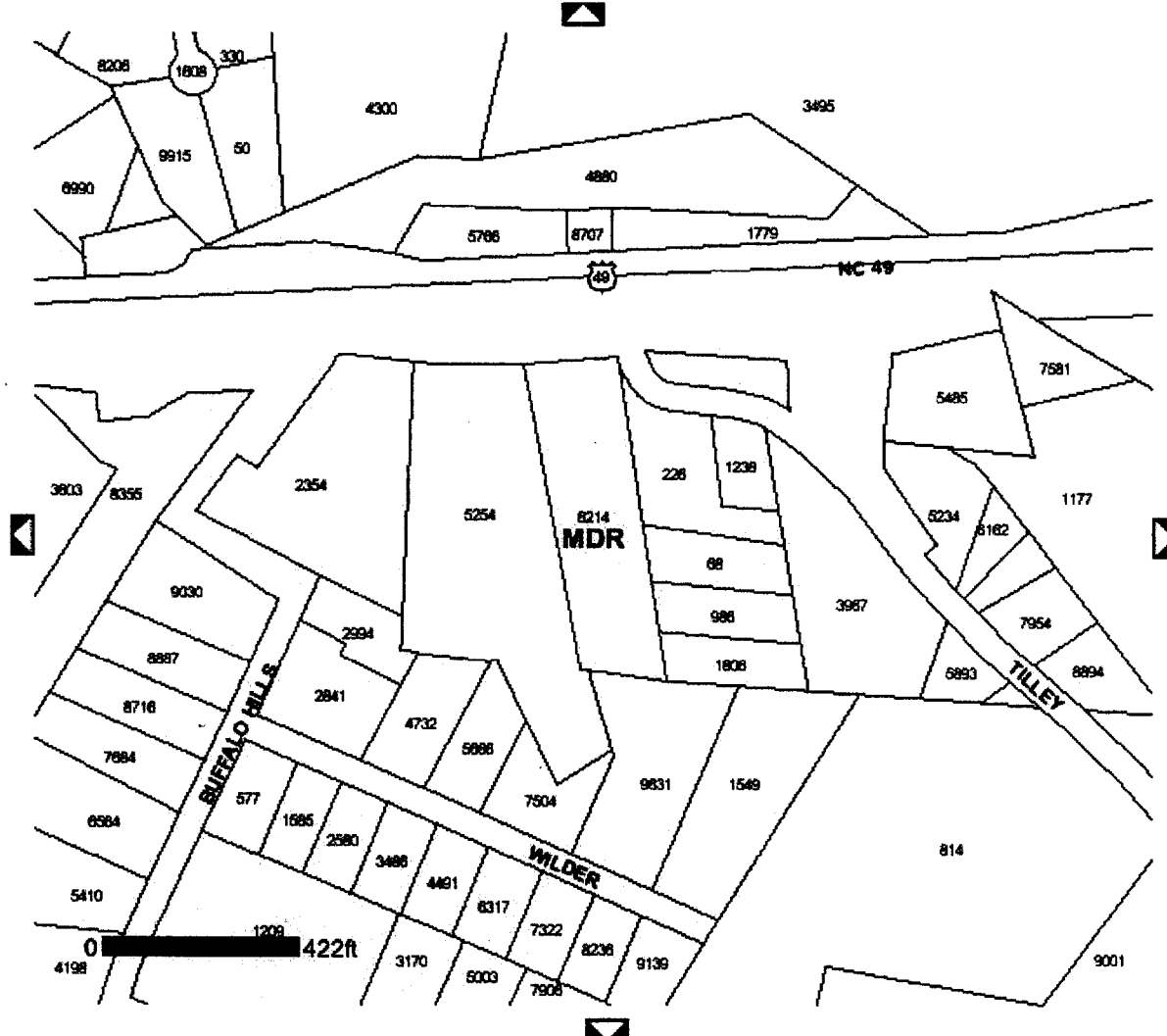
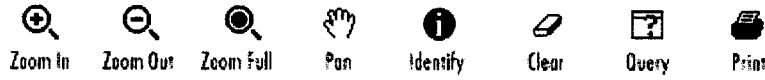
Name: Cabarrus County GIS
Telephone: (704) 920-2154
Website: www.cabarruscounty.us/gis





FELDS

Zoning Information Map



- Leg**
- Zoni Bour
 - Main Parc
 - Cour
 - Zoni
 - Agric
 - City C
 - Comm
 - Indus
 - Office
 - Plann-Devel
 - Public
 - Resid

Owner Information:
 CASE JEANETTE KLUTTZ
 71 FRANKLIN AVE
 P O BOX 571
 CONCORD NC 28026

Site Information:
 Multiple Addresses Exist
 CONCORD NC 28025

Zoning Information:
 PIN: 5549888214
 Zoning Type: MDR
[More information about zoning types...](#)

[Parcel Information for this parcel](#)
[Voting Information for this parcel](#)
[Floodplain Information for this parcel](#)

Send comments about the site design to [Webmaster](#)
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9-18-09

Robertson parcels under consideration at Highway 49 and Buffalo Hills -
5549 88 0214v

5549 87 7714v

5549 88 5136v

5549 88 2354v

Gaillard Mervin
8598 Flowe Store Road
Concord, NC

September 18, 2008

Cabarrus County Planning and Zoning Commission Meeting

Issue: Disagree with rezoning property (262 acres – pin # 5537 43 1434) at southern tip of Central Area Plan, located on Flowe Store Road, from LDR to CR.

Parcel currently has preliminary plat approval and consent agreement in place for Roycroft subdivision, a 361 lot residential subdivision.

Proposed CR zoning is inconsistent with approved use of property – sewer is not allowed in CR zoning district.

Approved preliminary plat of Roycroft has a road stubbed into adjoining property I own (56 acres – pin # 5537 40 1613 000, # 5536 39 6831 0000, # 5536 49 4746 0000) that I would like to tie into and also utilize water and sewer that would be available at some point in time.

I was advised to seek rezoning by county planning staff from CR to LDR after Roycroft property begins work on their project. If Roycroft property is down zoned to CR, it would be virtually impossible for me gain zoning classification change from CR to LDR and thus deny me use of water, sewer and roads that adjoin my property.

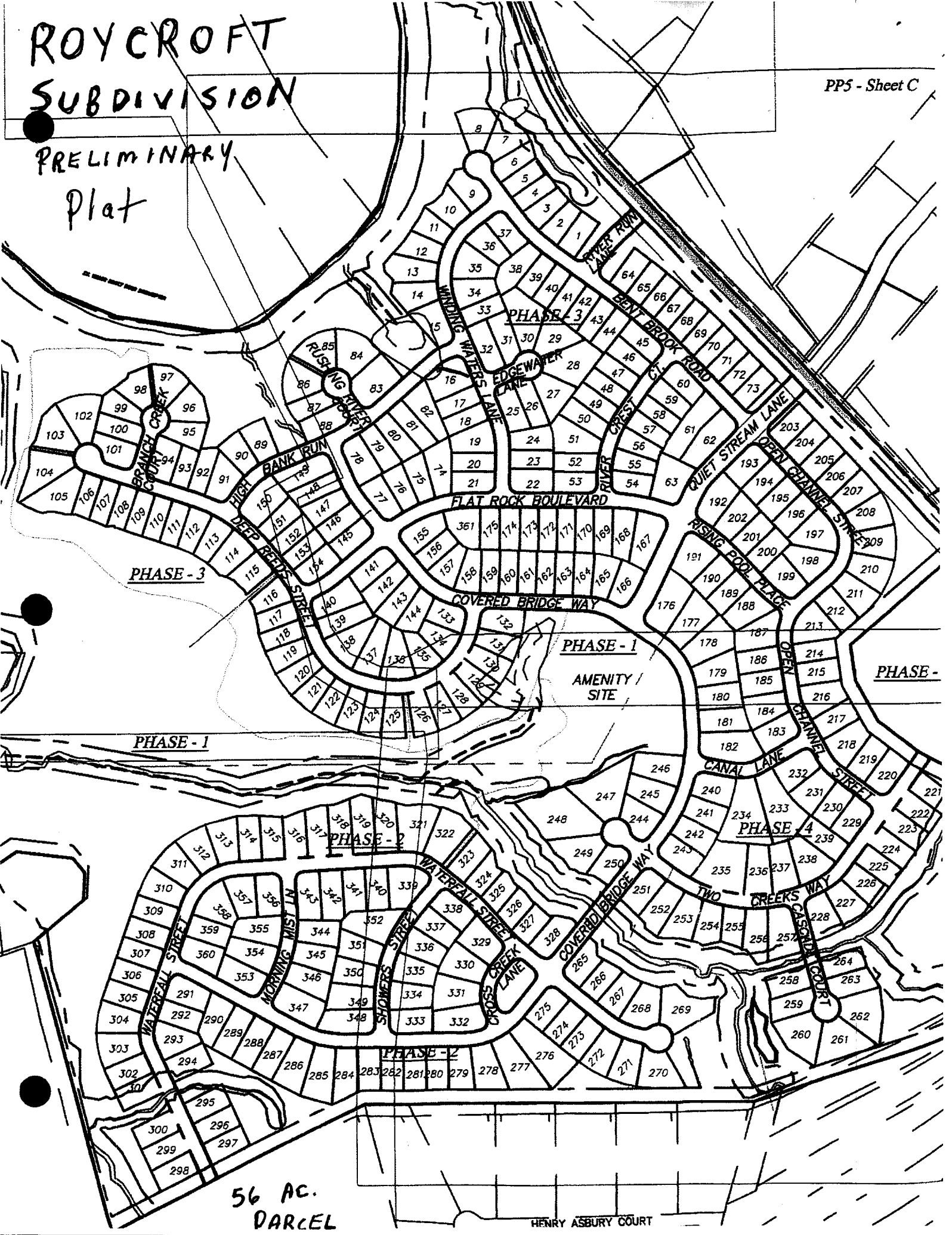
WASSAC, Water and Sewer Authority of Cabarrus, is currently constructing a pump station and infrastructure to provide sewer capacity for all of the Reedy Creek Basin in which my property lies. The effort to keep sewer out of CR zoning district is inconsistent with infrastructure being constructed by WASSAC for this area.

ATTACHMENTS

- 1 – Roycroft subdivision preliminary plat
- 2 – Current zoning divisions
- 3 – Property with associated pin numbers

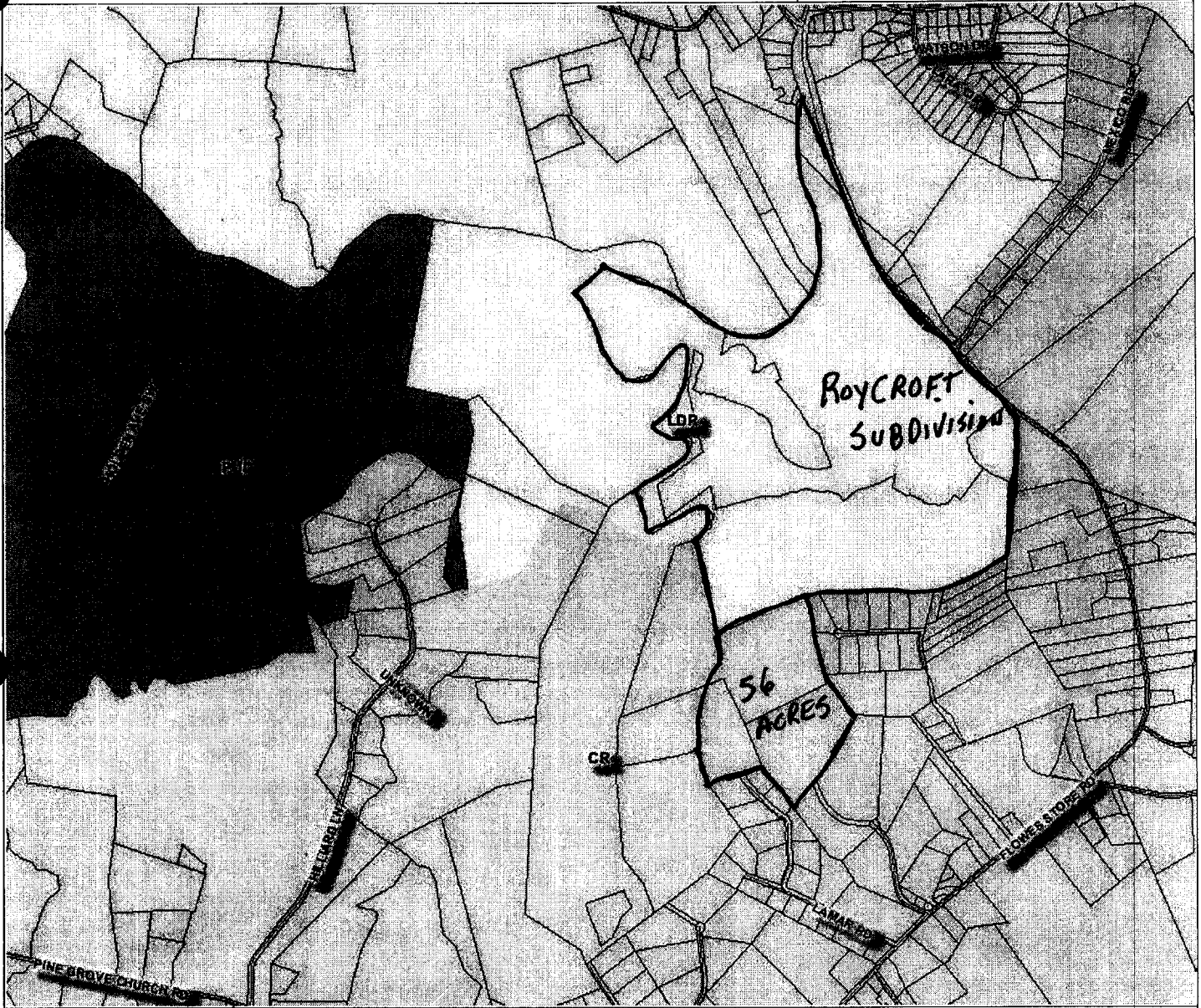
ROYCROFT SUBDIVISION

PRELIMINARY
Plat



Cabarrus County Map

Name: Cabarrus County GIS
Telephone: (704) 920-2154
Website: www.cabarruscounty.us/gis



Map Printed On September 15, 2008

Disclaimer Cabarrus County shall not be held liable for any errors in the data represented on this map. This includes errors of omission, commission, concerning the content of the data, and relative positional accuracy of the data. The data cannot be construed to be a legal document. Primary sources from which this data was compiled must be consulted for verification of information represented on this map document.

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NPOINT

CURRENT ZONING



Map Tools

Welcome Guest | Login | Change Password | Theme: Classic

Search Tools

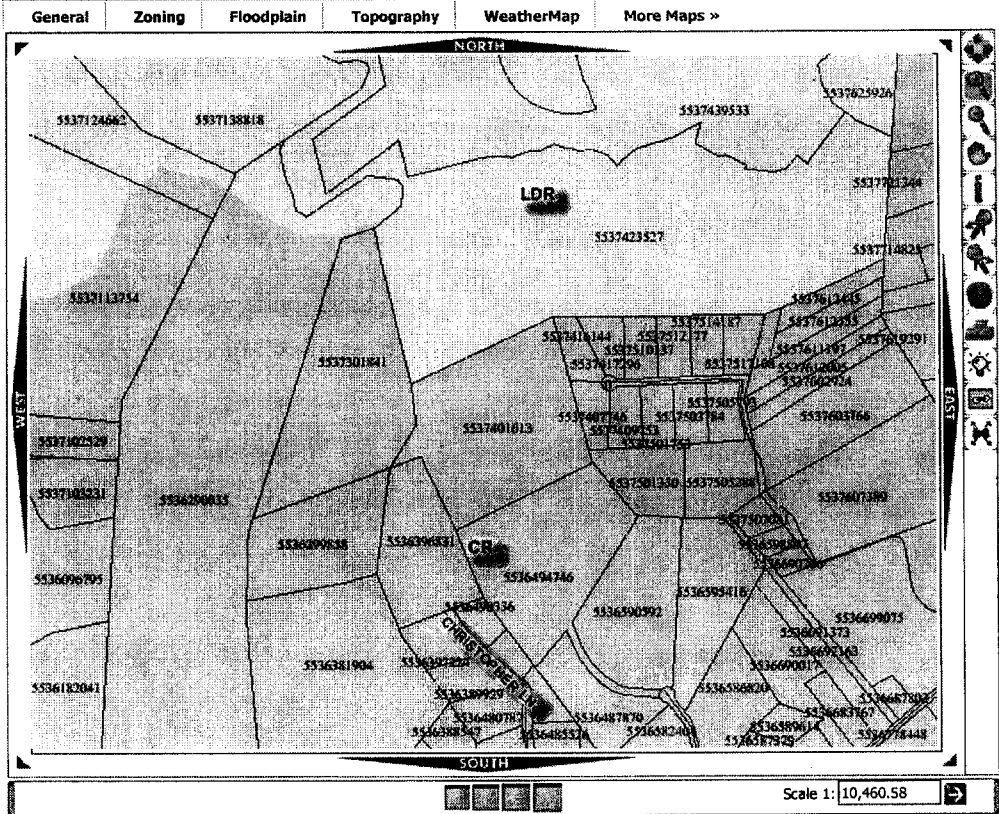
- Search Property PIN
 - Search Property Owner
 - Search Property Address
- Results

Advanced Tools

- Selection
- Redlining
- Measure
- Buffer selections
- Get Directions
- Search by Co-ordinates

Layer Manager

- Map Layers
- Watershed
 - Aerial2005
 - County Zoning
 - Kannapolis Zoning
 - Concord zoning



Property with PIN #'s

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
Thursday, August 29, 2008

Petition: **C2008-01 (S) Preliminary Plat Approval**

Subdivision Name: Park Creek - Phase III, Section A & B

Subdivision Type: Section A: Conventional Residential Subdivision
Section B: Open Space Subdivision

Owner Information: Michael Allison
986 Odell School Rd.
Concord, NC 28027

Applicant Information: Keith Wayne
195 Erwin Woods Dr.
Kannapolis, NC 28081

Zoning: AO – Agricultural/Open Space
Prior to the July 2005 county-wide rezoning, the property was zoned Low Density Residential (LDR).

Township: Number 3 - Odell

Property Location: The subject property is located directly west of existing Park Creek Subdivision.

PIN#: 4694-12-1281

Proposed Lots: Section A: 13
Section B: 25

Proposed Density: Section A: 0.296 units per acre
Section B: 0.485 units per acre

Area in Acres: Section A: 43.85 acres
Section B: 51.59 acres
Total: +/- 95.44 acres

Site Description: The subject property is currently vacant and wooded.

Adjacent Land Uses: The surrounding properties to the North, South, East, and West have been developed as single family residential uses or

agricultural uses. The property to the west is the first phase of the Park Creek Subdivision.

- Surrounding Zoning: North: RA – Rural Agricultural (Rowan County)
South: AO – Agricultural/Open Space
East: AO – Agricultural/Open Space
West: AO- Agricultural/Open Space
- Infrastructure: Each lot will be served by a private well & septic system.
- Exhibits:
1. Zoning Map – submitted by Staff
 2. Preliminary Plat – submitted by Applicant
 3. School Adequacy Worksheet – submitted by Robert Kluttz
 4. Letter from Health Alliance – Mark Thompson
 5. Comments from Cabarrus Soil and Water Conservation District – Dennis Testerman
 6. Comments from Rowan County Planning Services – Shane Stewart
 7. Memos from NCDOT – submitted by Staff
 8. Corrected Area Calculations – submitted by Applicant
 9. Aerial Map – submitted by Staff
 10. Watershed Map – submitted by Staff
- Intent of Zoning: Agricultural/Open Space- This district is comprised mostly of lands usually found on the eastern side of the County which, due to physical characteristics such as soil type, topography, etc., should remain agrarian. To a lesser degree, these are also those lands which are conducive to providing recreationally oriented open space. These land areas should remain the farmland and undeveloped/forested land of the County. Public utilities will not be planned for these areas. Consequently, residential uses that support those working and/or owning the land, home occupations allied with existing residences, and very limited business endeavors are envisioned as complementary to the area. In sum, the primary activity of these lands is agricultural - housing and business are typically related to and supportive of the practice of modern day agricultural. It is not, however, improbable that a small hamlet type settlement might evolve in this zoning district. As to those areas constituting open space, manmade uses must take care to enhance and not detract from the essential character of the area.
- Code Considerations: The AO- Agricultural/Open Space district is the residential zoning district with the lowest permitted density. The developers of the Park Creek Phase III Subdivision are proposing a conventional subdivision (Section A on the plat) on the western portion of the

property and an Open Space subdivision (Section B on the plat) for the eastern portion of the property. The dividing line between the two different subdivisions is the perennial stream: Park Creek. Conventional subdivisions are not required to provide open space.

Development standards for conventional subdivisions are:

- Principal Setbacks:
 - Front - 50 feet
 - Front (minor collector) – 75 feet
 - Side (single) - 20 feet
 - Side (total) - 40 feet
 - Rear - 30 feet
- Minimum average lot width- 150 feet
- Maximum building height- 40'
- Maximum impermeable surface- 15% (Because Park Creek Phase III is in the Coddle Creek Watershed Protected Area, it will be allowed only 12% impermeable surface.)
- Maximum structural coverage- 10%
- Density (maximum units/acre)- 0.33

Development standards for open space subdivisions are:

- Principal Setbacks:
 - Front- 50 feet
 - Front (minor collector) – 75 feet
 - Side (single) - 20 feet
 - Side (total) - 40 feet
 - Rear- 30 feet
- Minimum required open space- 40%
- Minimum average lot width- 150 feet
- Maximum building height- 40'
- Maximum impermeable surface- 15% (Because Park Creek Phase III is in the Coddle Creek Watershed Protected Area, it will be allowed only 12% impermeable surface.)
- Maximum structural coverage- 10%
- Density (maximum units/acre)- 0.50

Lot 8, a portion of Lot 9, and a majority of the proposed cul-de-sac are located entirely in Rowan County and do not fall under Cabarrus County Jurisdiction. Consequently, these items must be approved by Rowan County Planning Services. Additionally, there is proposed open space located in Rowan County, that will also need to be approved by Rowan County Planning.

Land Use Considerations: The draft version of the updated Cabarrus County Northwestern Area Plan recommends that the subject property be developed as residential, with a density of 1 unit per 2 acres. This draft plan was utilized in 2005 when the zoning for the county was updated and the current zoning of AO was assigned. The area in the draft plan that recommends 1 unit per 2 acres contains both the critical and protected watershed zones for Lake Howell. It is proposed that conservation subdivision techniques be required for major subdivisions. This would allow residential projects to develop on smaller lots while preserving significant undisturbed open space to protect water quality in Lake Howell.

Extensive buffering is required on and around the intermittent and perennial streams on the property. 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 so that they meet the buffers as required. Park Creek Phase Three meets all the buffering requirements of Cabarrus County's River Stream Overlay Zone.

The intent of an open space subdivision is to provide a development alternative to a conventional subdivision. An open space subdivision involves placing a cluster of homesites within a portion of the development site, allowing housing units on smaller lots than those permitted in a conventional subdivision to promote environmentally sensitive, more efficient use of the land and provide additional common open space. Forty percent of a development must be open space. The subdivision design for Section B shows the required open space.

The proposed subdivision does not meet the overall residential component of the draft Northwestern Area Plan. The eastern portion exceeds the intensity of residential development specified in the plan for the parcels under consideration. The conventional subdivision component proposed provides one lot for every three acres. The proposed acreage for the conventional subdivision is 43.85 acres with 13 units proposed, for a density of 0.296 units per acre. The open space component provides the one acre minimum required lot size in the protected watershed. The proposed acreage for the open space component is 51.59 acres with 25 units proposed, for a density of 0.485 units per acre. The proposed acreage for Park Creek Phase Three is 95.44 acres with 38 units proposed, for a density of 0.398 units per acre.

Adequate Public Facilities: **Cabarrus County Schools- Robert Kluttz:**

- On April 21, 2008, the Cabarrus County Board of Commissioners approved issuing the reservation of capacity certificate to Park Creek LLC, for the Park Creek Subdivision. The certificate was issued for 45 lots and will expire a year from the date of issuance, April 21, 2009. Schools that serve this area are inadequate at this time. Please see attached school adequacy worksheet for details.

Soil and Erosion Control- Thomas Smith:

- The applicant will be required to resubmit soil and erosion plans before commencing any land disturbing activities.

NCDOT- Leah Wagner:

- NCDOT must receive confirmation from Pleasant Grove Church as to their preferred means of access.
- It will be necessary for the existing portion of Pleasant Grove Road between Tuckaseegee and Fox Tail Lane to be abandoned from NCDOT maintenance upon acceptance of the new road.
- NCDOT reserves the right to modify comments pending subsequent plan submittal and review.

Cabarrus County Fire Marshal – Steve Langer:

- Phase III, Map A must be completed first as to provide a second access to the subdivision.

WSACC- Tom Bach:

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

Cabarrus County Emergency Services – David Hampton

- No comments

Cabarrus County Sheriffs Department – Ray Gilleland

- No comments

Cabarrus County Soil Conservation – Dennis Testerman

- See attached – (Comments from Cabarrus Soil and Water Conservation District)

Alley, Williams, Carmen, & King – Jeff Moody

- No comments

Cabarrus County Health Department – Mark Thompson

- No comments

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

Staff Analysis:

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

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

- 1. The developer shall enter into a Consent Agreement with the Cabarrus County Board of Commissioners to address school adequacy. (Schools/APFO)**
- 2. The developer must obtain an NCDOT driveway permit and must post a performance bond to cover roadway improvements. The driveway permit will not be issued until all right of ways are in place. (NCDOT/APFO)**
- 3. Developer agrees to secure any necessary permits required by Federal or State law prior to disturbing any wetlands on the site. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)**
- 4. All lots must be served internally. (NCDOT)**
- 5. Permits for the disturbance of streams and other wetlands must be requested from the North Carolina Division of Water Quality and U.S. Army Corps of Engineers prior to any impacts. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)**
- 6. Provide corrected plat seven days from the date of the Cabarrus County Planning and Zoning Meeting. Corrections shall include the proper housing densities for each subdivision type, corrected area acreage calculations, removal of the partial curve table, and any other recommendations from the Planning and Zoning Board. (Planning)**
- 7. NCDOT must receive confirmation from Pleasant Grove Church as to their preferred means of access. It will be necessary for the existing portion of Pleasant Grove Road between Tuckaseegee and Fox Tail Lane to be abandoned from NCDOT maintenance upon acceptance of the new road. NCDOT reserves the right to modify comments pending subsequent plan submittal and review. (NCDOT)**
- 8. North Carolina form GW-30 must be filled with the Groundwater Section of the N.C. Department of Environment and Natural Resources when abandoning a well. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)**

Staff Use Only:

Approved: _____

Denied: _____

Tabled: _____







9. On-site wastewater system associated with abandoned homestead is required to be decommissioned according to procedures recommended by Cabarrus Health Alliance. (CABARRUS SOIL AND WATER CONSERVATION DISTRICT)

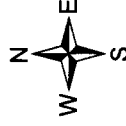
10. The part of the project located in Rowan County shall be approved by Rowan County prior to any final plats being processed by Cabarrus County. (Planning)

Park Creek Phase III

Petition: C2008-01(S)
Petitioner: Keith Wayne
Zoning: AO
Conventional Subdivision
& Open Space Subdivision
Proposed lots: 39
Approximately +/- 97.83 acres

Legend

-  Park Creek Phase III
-  Local Roads
-  Subdivisions
-  Parcel
-  Agricultural/Open Space Zoning
-  Cabarrus County Boundary

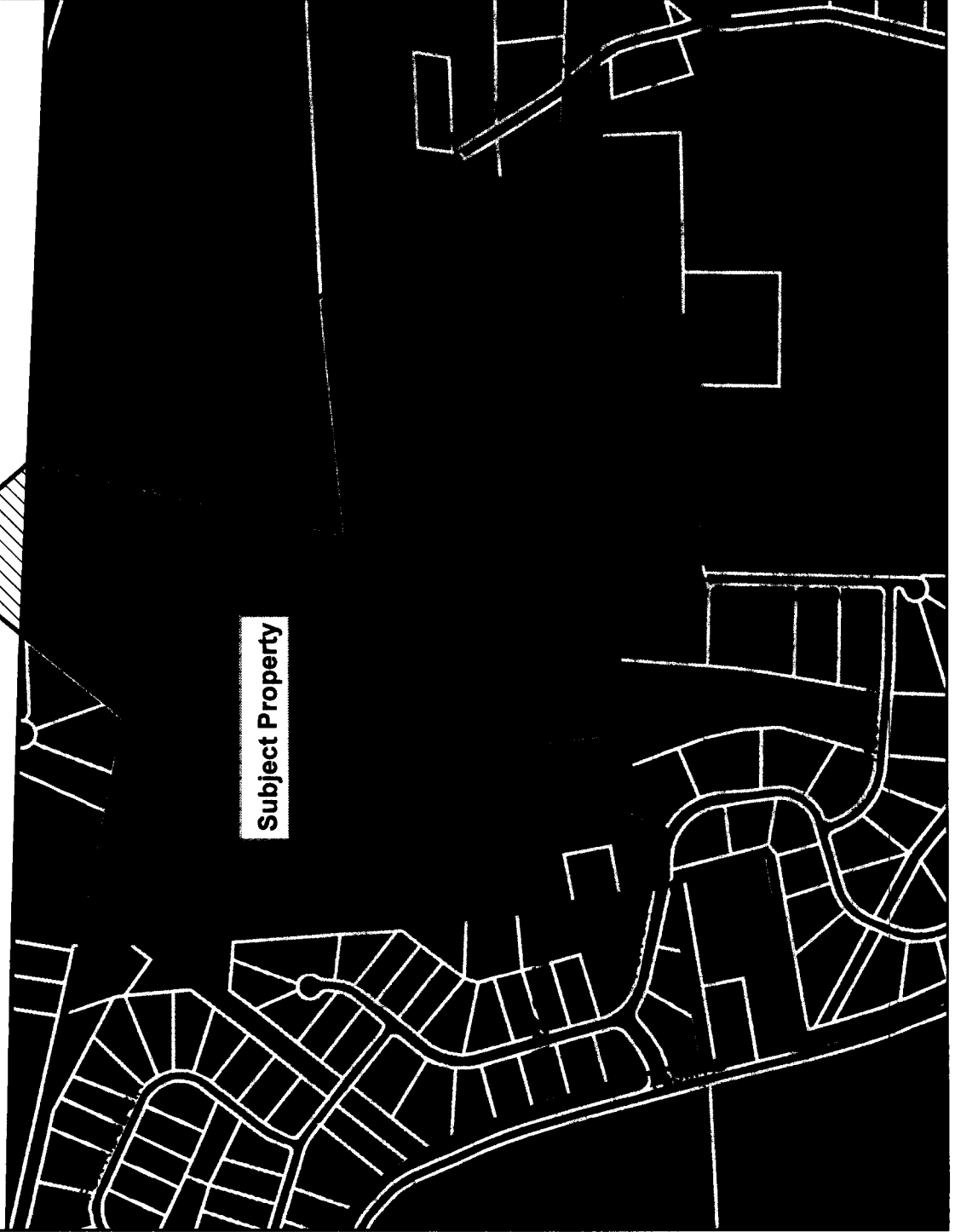


Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. This data cannot be construed to be a legal document. Primary sources from which these data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

Map prepared by Cabarrus County Planning Services, September 2008.

Rowan County

Subject Property



Adequate Public Facility Worksheet - Schools

Please fill out the following questionnaire regarding the **Park Creek Phase III subdivision preliminary plat**. This project is identified as pin # 4694-12-1281 and is located off Plum Road. Your response is required by Wednesday, May 28, 2008 for inclusion in the staff report to the Cabarrus County Planning and Zoning Commission.

Please see the enclosed proposed site plan for location and information regarding the proposed development. If you need additional information for this project please contact **Colleen Nelson at 704-920-2149 or email at canelson@cabarruscounty.us.**

Questions

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

Elementary - Boger

Middle - Northwest Cabarrus

High - Northwest Cabarrus

2. Using the most recent attendance figures, these schools are at what percent of their stated capacity? **Month 7, April 11, 2008.**

Elementary - 78.14%

Middle - 108.12%

High - 118.63%

3. How many students are expected from this development?

Based on 39 lots

Elementary - 12

Middle - 5

High - 5

The impact on these schools will be at what percent of their stated capacity when the proposed development is completed?

Note: this does not include other subdivisions that have already been approved for these attendance areas.

Elementary - 79.63%
Middle - 108.71%
High - 118.98%

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

Elementary - 132.05%
Middle - 138.00%
High - 170.00%

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

Note: In the 15-Year Facilities Plan, Cox Mill High School is projected to open in 2009 in the western part of the county to relieve Northwest Cabarrus and Jay M. Robinson. In the Capital Improvement Plan revised in January 2008, a new middle school is proposed in 2010 in the south central part of the county that would relieve Northwest Cabarrus and Harris Road. A 200 seat addition is proposed for 2010 to relieve Boger. An addition/renovation at NMCMS in 2012 would add an additional 175 seats.

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

Additional capital funding is needed by 2010 for a new middle school in the south central part of the county. An addition at Boger is needed in 2010 to address the growth from already approved subdivisions/apartments in its attendance area. An addition at NWCMS in 2012 is needed to address the projected growth in its attendance area.

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

The Boger and NWCMS additions and a new middle school mentioned in question 7 have been included in the Capital Improvement Plan revised January 2008.. **Funding has not been identified for the Boger and NWCMS additions and a new middle school, nor has land been secured for the middle school.**

This form was completed by: Robert C. Kluttz Date: May 27, 2008

The Capital Improvement Plan addresses the capacity issue in the western part of the county where we are experiencing rapid growth as follows:

Cox Mill High School – (1500 seats – 1200 to NW & 300 to JMR) we would expect this new school to draw students from the west side of Lake Howell/Coddle Creek from the current Northwest Cabarrus attendance area. Approximately two thirds of the approved lots in the current Subdivision Inventory are located west of Lake Howell. Therefore, with the opening of the new high school we would expect the capacity at Northwest Cabarrus to be reduced to approximately eighty to ninety per cent. This will ultimately be determined by how the boundary is created and how much relief we can give Jay M. Robinson High School.

This percentage was determined by adding the capacity at Cox Mill High School and Northwest Cabarrus, then dividing by the number of students projected from the approved lots in the Subdivision Inventory. With redistricting the potential impact could drop the per cent of capacity to 85.67%.

South Central Middle School (1200 seats – 200 to NWM & 1000 to Harris Road)– we would expect this new school to draw 200 students from Northwest Cabarrus Middle School further reducing the per cent of capacity to 113.06%. The remainder of the students utilizing the 1200 seats is projected to come from Harris Road Middle School.

Charles E. Boger (200 seat addition to Boger in 2010) – a two hundred seat addition would bring the capacity to less than 110%. Any additional subdivision approvals by either the county or City of Kannapolis would alter this plan.

The 200 seat addition at Boger will increase the capacity to 1005. If this addition occurs within the next 5 years of the plan the capacity at Boger should be at 105.78%.

Northwest Cabarrus Middle School (175 seat addition to NWM in 2012) – this would increase the capacity to 1025 seats and would reduce the per cent of capacity to 94.93%.

Boundaries have not been created nor approved by the BOE at this time for the above mentioned projects. Therefore, it is very difficult to determine accurate figures for each individual school that will be impacted by the mentioned projects. The figures mentioned were derived by using the March Subdivision Inventory and determining the impact on the elementary, middle, and high school by each approved project.



September 11, 2008

Wayne Brothers Inc.
c/o Mr. Carl Anderson
8819 Columbus Street
Davidson, NC 28036

Dear Mr. Anderson:

On September 11, 2008 an evaluation was completed on the revised plat of Park Creek Subdivision phase 3 sections A & B. It appears that, with the utilization of off-site areas, lots 1-7 and 9-39 should have areas for ground absorption sewage disposal systems.

It should be noted that some of the lots will be restricted to the size of the residence, the number of bedrooms, the location of the structures etc.

Lot 8 was not evaluated due to the fact that it is in Rowan County.

This letter is for informational purposes only and does not guarantee a permit will be issued on each individual lot.

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

Sincerely,

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

mdt

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

MEMORANDUM

TO: Colleen Nelson, Senior Planner, Cabarrus County Planning and Zoning Services

THROUGH: Ned Y. Hudson, Chair Darrell Furr, Vice-Chair
Board of Supervisors Watershed Improvement Commission

FROM: Dennis Testerman, Resource Conservation Specialist

COPIES: Susie Morris, Cabarrus County Commerce Department—Planning
 Thomas Smith, Cabarrus County Commerce Department— Environmental Protection
 Tony Johnson, Cabarrus County Commerce Department— Environmental Protection
 Robbie Foxx, Cabarrus County Commerce Department—Zoning
 Jay Lowe, Cabarrus County Commerce Department—Zoning
 Peggy Finley, NCDENR, DWQ—Aquifer Protection Sect./Groundwater, Mooresville Regional Office
 Alan Johnson, NCDENR, Div. of Water Quality, Mooresville Regional Office
 Cyndi Karoly, NCDENR, Div. of Water Quality, Wetlands Unit, Raleigh
 Robin Dolin, NCDENR, Ecosystem Enhancement Program
 Ron Linville, NCDENR, Wildlife Resources Commission-Habitat Conservation Prog., W-S Reg. Office
 Ray Furr, Water and Sewer Authority of Cabarrus County
 Steve Lund, US Army Corps of Engineers, Asheville Regulatory Field Office
 Nancy White, USDA-FSA, Cabarrus-Mecklenburg Service Center Office
 Shawn Smith, USDA-NRCS, Dallas Field Office

NAME OF PLAN: Park Creek S/D Phase 2 **PLAN TYPE:** Residential **JURISDICTION:** County

LOCATION: Tuckaseegee and Pleasant Grove Roads **ZONING:** AO

OWNER: Michael Allison, 986 Odell School Rd., Concord, NC 28027

DEVELOPER: Park Creek, LLC, 195 Erwin Woods Dr., Kannapolis, NC 28081; 704-933-7275

DESIGN CONSULTANT: David Tibbals, Keck & Wood, 10800 Sikes Place, Ste 360, Charlotte, NC 28227; 704-200-2060

DATE SUBMITTED: 5/16/08; Rev. 8/6/08 (Ph. 2 ESC Plan 6/28/05) **DATE REVIEWED:** 6/12/08 (Ph, 2 ESC Plan 6/30/05)

PARCEL #: 4694121281 **TRACT#:** 90319 **ACRES:** 97.8 (101.6)

USGS TOPO QUAD MAP: Enochville **LATITUDE/LONGITUDE:**

RECEIVING WATERS: Park Creek **WATERSHED:** HU 03040105020040 (NR-1)

PERENNIAL OR INTERMITTENT STREAMS PRESENT: Yes No

SOIL TYPE(S): Cecil sandy clay loam (CcB2, Chewacla sandy loam (Ch), Pacolet sandy loam (PaF)

HYDRIC SOILS: Yes * as possible inclusions in Chewacla No

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

<input type="checkbox"/> Location Map	<input checked="" type="checkbox"/> Open space covenant document
<input checked="" type="checkbox"/> Legend *incomplete	<input checked="" type="checkbox"/> River Stream Overlay Zone *on tributary
<input type="checkbox"/> Start & Completion Dates	<input checked="" type="checkbox"/> Environmental reviews
<input checked="" type="checkbox"/> Soil Type(s)	<input checked="" type="checkbox"/> 401/404 wetland permits
<input type="checkbox"/> Floodplain boundaries	<input checked="" type="checkbox"/> Location of existing structures and <u>trees</u>

ONSITE INSPECTION: Yes No

PLAN COMMENTS:

- ❑ Pre-submittal meeting between developer and/or designer and reviewers is highly recommended, preferably onsite.
- ❑ Waterbody buffer zone on Park Creek is indicated as required by the Subdivision/Zoning Ordinance and permit CESAW-CO88-N-013-0061 issued under Section 404 of the U. S. Clean Water Act (33 U.S.C. 1413) by the US Army Corps of Engineers. **Buffer on tributary is not indicated.** Buffer should extend outside the 100-year floodplain to filter pollutants from stormwater runoff during 100-year flood events.
- ❑ Lots 9-15, 22-23 and 27-29 should not be platted into the waterbody buffer zone. Buffer on lots 27-29 should be included in open space and protected by a conservation easement.
- ❑ Unless developer has prior authorization from appropriate federal and state authorities to impact jurisdictional waters or wetlands, the proposed project will be in violation federal and/or state law. Permits for disturbance of streams and other wetlands must be requested from N. C. Division of Water Quality and U. S. Army Corps of Engineers prior to any impacts. Please submit documentation to planners and Cabarrus Soil and Water Conservation District.
- ❑ A conservation easement on some or all open space is requested by Cabarrus Soil and Water Conservation District as part of the countywide open space initiative supported by the City of Concord. See brochure "This Land is Our Land. . . A Guide for Preserving Your Land for Generations to Come." 24.2 acres of open space is indicated. All open space is in the Class II Water Supply Watershed area and should be conserved for water quality. Primary open space should prioritize waterbody buffers and also prime farmland soils for conservation easements. Open space should be maximized by taking advantage of conservation subdivision design elements in open space amenity subdivision option in county ordinance. Open space management plan should be compiled in consultation with Cabarrus Soil and Water Conservation District.
- ❑ This project is within a hydrological unit (HU) included in the North Carolina Ecosystem Enhancement Program's (EEP) Upper Rocky River Watershed Plan area. Recommendations in the plan document were made by the local stakeholders in consultation with EEP staff and the project consultants. This stakeholders group included Cabarrus County staff. Every effort should be made to use recommended best management practices to prevent water quality impairment. Use of low impact development practices are recommended, including 1) Wet Stormwater Detention Ponds; 2) Bio-Retention Areas; 3) Reinforced Grass Swales; and 4) Level Spreaders in conjunction with Riparian Buffers.
- ❑ The erosion and sedimentation control plan for this site should be followed closely once it has been submitted and approved. Proposed detention pond indicated at the back of lots 16, 19 and 20 cannot be located inside the waterbody buffer zone.
- ❑ Cumulative and secondary impacts associated with this proposed development are not known and should be assessed prior to final plan approval.
- ❑ The following prime farmland soils will be removed from production: CcB2 and Ch. Farmland Conversion Impact Rating form (AD-1006) must be filed if federal funds are involved. Redesign of plan to provide for more open space protection of these soils is encouraged.
- ❑ The following soil is classified as important state farmland soil and will be removed from production: CcD2.
- ❑ The information in this table indicates the dominant soil condition, but does not eliminate the need for onsite investigation. The numbers in the value column range from 0.01 to 1.00. The larger the value, the greater the potential limitation. Limiting features in this report are limited to the top 5 limitations. Additional limitations may exist.

Map Symbol	Soil Name	Pct of Map Unit	Dwellings without Basements	Local Roads and Streets	Lawns and Landscaping	Dwellings with Basements
			Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value
CcB2	Cecil	80	Not limited	Somewhat limited Low strength - 0	Not limited	Not limited
CcD2	Cecil	80	Somewhat limited Slope - 0.63	Somewhat limited Slope - 0.63 Low strength - 0	Somewhat limited Slope - 0.63	Somewhat limited Slope - 0.63
Ch	Chewacla	80	Very limited Flooding - 1 Depth to saturated zone - 1	Very limited Flooding - 1 Depth to saturated zone - 0.94	Very limited Flooding - 1 Depth to saturated zone - 0.94	Very limited Flooding - 1 Depth to saturated zone - 1
PaF	Pacolet	75	Very limited Slope - 1	Very limited Slope - 1 Low strength - 0	Very limited Slope - 1	Very limited Slope - 1

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

- ❑ Lots 5-23 appear to be on soil type PaF, which has slopes ranging from 15-35%. Grading of these lots will present a real erosion control challenge on the slopes above waterways that are within the WSII water supply watershed on Coddle Creek.
- ❑ Development of site will remove existing forestland from production, result in loss of environmental services from forest land cover, and accelerate the rate of loss of green infrastructure in the county.

- ❑ Private well was likely associated with existing/abandoned homestead on Lot 36. NC form GW-30 must be filed with the Groundwater Section of the N.C. Dept. of Environment and Natural Resources when abandoning a well.
- ❑ On-site wastewater system associated with abandoned homestead is required to be decommissioned according to procedures recommended by Cabarrus Health Alliance (see attachment).
- ❑ Underground utilities including, but not limited, communications, electricity, natural gas and/or petroleum, wastewater and water may exist on site. Verify status before disturbing site by observation and by calling the NC One Call Center, 1-800-632-4949. Unmarked graves, underground mine shafts and historic Native American sites are not uncommon in Cabarrus County. Construction crews should be vigilant for the presence of these cultural and historical sites. Construction must be halted and appropriate authorities notified when any of these sites are uncovered.
- ❑ Additional field visits by Cabarrus SWCD and/or its conservation partners may be required, including but not limited to sedimentation and erosion control plan review.

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

CONTACT(S):

Cabarrus County, Commerce Department, Susie Morris, 704-920-2858
 Cabarrus County Commerce Department—Environmental Protection, Thomas Smith, 704-920-2411
 Cabarrus County Commerce Department—Environmental Protection, Tony Johnson, 704-920-2835
 Cabarrus County Commerce Department—Zoning, Robbie Foxx, 704-920-2138
 Cabarrus County Commerce Department—Zoning, Jay Lowe, 704-920-2140
 Cabarrus Health Alliance, Environmental Health, David Troutman, 704-920-1207
 Cabarrus SWCD & Watershed Improvement Commission, Dennis Testerman, 704-920-3303
 NC DENR Div. of Forest Resources, Robert Ward, 704-782-6371
 NCDENR-Mooresville Regional Office, Groundwater Section, Peggy Finley, 704-663-1699
 NCDENR, Div. of Water Quality, Mooresville Reg. Office, Alan Johnson, 704-663-1699
 NCDENR, Div. of Water Quality, Raleigh, Cyndi Karoly, 919-733-9721
 NCDENR, Ecosystem Enhancement Program, Robin Dolin, 919-715-5836
 NCDENR, Wildlife Resources Commission-Habitat Conservation Prog., W-S Reg. Office, Ron Linville, 336-769-9453
 Water and Sewer Authority of Cabarrus County, Ray Furr, 704-788-4164 x 11
 U. S. Army Corps of Engineers, Asheville Regulatory Field Office, Steve Lund, 828-271-7980 x223
 USDA-FSA, Cabarrus-Mecklenburg Service Center Office, Nancy White, 704-782-2107
 USDA-NRCS, Concord Field Office, Shawn Smith, 704-788-2107

REFERENCES:

- “Avoiding Tree Damage During Construction.” Consumer Information Program Fact Sheet. International Society of Arboriculture.
 [<http://www.isa-arbor.com/consumer/avoiding.html>]
- “Conservation-Based Subdivision Design: Protecting Water Quality and Scenic Resources in NC Mountains.” Conservation Trust for North Carolina. 1997
- “Erosion and Sedimentation on Construction Sites.” Soil Quality—Urban Technical Note No. 1. USDA, NRCS.
 [<http://www.statlab.iastate.edu/survey/SQI/pdf/u01d.pdf>]
- “401 Water Quality Certification Program – The Basics.” N.C. DENR. Div. of Water Quality, Wetlands Section.
 [<http://h2o.enr.state.nc.us/nwetlands/basic401.html>]
- “North Carolina Ecosystem Enhancement Program’s Upper Rocky River Watershed Plan.”
 [http://www.nceep.net/services/lwps/Clarke_Creek/Upper_Rocky.pdf]
- “Protecting Urban Soil Quality: Examples for Landscape Codes and Specifications.” [<http://soils.usda.gov/sqi/files/UrbanSQ.pdf>]
- “Recognizing Wetlands.” Informational Pamphlet. US Army Corps of Engineers
 [<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/rw-bro.htm>]
- “Seeding Specifications.” Sect. 6.10 & 6.11 in Erosion and Sediment Control Planning and Design Manual. N. C. NRCD.
- “Soil Sampling for Home Lawns & Gardens.” N.C. Dept. of Agriculture & Consumer Services.
 [<http://www.ncagr.com/agronomi/samhome.htm>]

- “This Land is Our Land. . . A Guide to Preserving Your Land for Generations to Come.” [<http://www.cabarruscounty.us/Easements/>]
- “Topsoiling Specifications.” Sect. 6.04 in Erosion and Sediment Control Planning and Design Manual. N. C. NRCD.
- “Urban Soil Compaction.” Soil Quality—Urban Technical Note No. 2. USDA, Natural Resources Conservation Service. [<http://www.statlab.iastate.edu/survey/SQL/pdf/u02d.pdf>]
- “Well Abandonment.” Brochure. N.C. DENR. Div. of Water Quality, Groundwater Section. [<http://h2o.enr.state.nc.us/documents/Bro-WellAbandon.pdf>]
- “Well Decommissioning.” Field Office Tech. Guide, USDA, Natural Resources Conservation Service. [http://h2o.enr.state.nc.us/aps/gpu/documents/Well_decom.pdf]
- “Yadkin-Pee Dee River Basinwide Water Quality Plan.” N.C. DENR. Div. of Water Quality—Planning Sect., Basinwide Planning Prog. 2003. [http://h2o.enr.state.nc.us/basinwide/yadkin/YadkinPD_wq_dt_management_plan0103.htm]
- “Watershed Management Plans & Recommendations: Lower Yadkin / Upper Rocky River Basin Local Watershed Planning (Phase Two). NCDENR, Ecosystem Enhancement Program. 2004. [http://www.ces.ncsu.edu/depts/agecon/WECO/rocky_river/URR2_WMP.pdf]

Jeff Huss

From: Stewart, Shane A. [Shane.Stewart@rowancountync.gov]
Sent: Wednesday, September 10, 2008 1:20 PM
To: Jeff Huss
Subject: RE: Park Creek Subdivision
Attachments: Park Creek Table 12.pdf

Jeff

As I indicated previously, the main concern our office would have is in regard to the flood plain information. The surveyor should identify the BFE to the 1/10 ft accuracy and the non-encroachment width as depicted on table 12 (see attached). Our community ID number is 370351 while the panel number is 4694 based on the preliminary issuance date of May 30, 2007. Should the surveyor need any additional info, direct them to www.ncfilodrainage.com. If the streets are intended to be offered to the local NCDOT and an HOA will be set up for the responsibility of the common areas, we are fine with the project.

Thanks for the heads-up.

Shane A. Stewart
Senior Planner
Rowan County Department of
Planning & Development
402 N Main St
Salisbury, NC 28144
Phone 704.216.8588
Fax 704.638.3130
Email Shane.Stewart@rowancountync.gov
Web <http://www.rowancountync.gov>

From: Jeff Huss [mailto:JMHuss@cabarruscounty.us]
Sent: Wednesday, September 10, 2008 10:44 AM
To: Stewart, Shane A.
Subject: Park Creek Subdivision

Shane,

I have attached the PDFs for you to review. I attached all four sheets, just in case, but the lot in question is on 2 & 4. Preciate your help. Let me know if you need anything. Thanks.

Jeff Huss
Planner
Cabarrus County Commerce Department
65 Church Street SE
Concord, NC 28026
704.920.2204

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Table 12—Limited Detailed Flood Hazard Data

Cross Section ¹	Stream Station ²	Flood Discharge (cfs)	1% Annual Chance Water-Surface Elevation (feet NAVD 88)	Non-Encroachment Width ³ (feet)
NORTH SECOND CREEK (continued)				
539	53,853	8,593	668.8	285 / 168
544	54,406	8,593	669.6	69 / 270
550	55,000	8,593	670.5	289 / 160
555	55,500	8,593	671.0	307 / 150
560	56,000	8,593	671.5	296 / 168
565	56,500	8,593	671.8	161 / 152
567	56,716	8,593	672.0	48 / 127
PARK CREEK				
092	9,191	1,920	678.5	109 / 12
096	9,629	1,920	679.9	105 / 21
099	9,925	1,920	681.2	11 / 58
105	10,501	1,785	684.0	23 / 100
111	11,129	1,785	686.0	25 / 31
116	11,629	1,785	688.9	22 / 49
121	12,129	1,785	691.6	53 / 72
126	12,612	1,785	693.7	57 / 60
131	13,129	1,785	695.6	11 / 54
136	13,629	1,507	698.4	19 / 140
141	14,129	1,507	699.6	13 / 117
144	14,385	1,507	701.0	27 / 72
148	14,750	1,507	702.7	111 / 28
152	15,222	1,507	705.8	45 / 9
156	15,629	1,507	708.6	10 / 85
159	15,902	1,507	709.7	21 / 42
161	16,120	1,507	714.9	8 / 27
163	16,313	1,507	722.0	20 / 22
166	16,629	1,507	732.2	25 / 12
168	16,849	1,366	738.2	14 / 23
172	17,171	1,366	742.1	23 / 34
180	18,039	1,366	747.7	14 / 119
184	18,380	1,366	749.4	45 / 70
186	18,634	1,366	750.5	9 / 83
188	18,845	1,366	751.2	14 / 54
192	19,152	1,366	753.7	18 / 68
196	19,634	1,198	755.6	42 / 69
199	19,880	1,198	756.2	32 / 35
201	20,089	1,198	756.8	20 / 70
204	20,359	1,198	758.0	11 / 60
206	20,618	1,198	759.7	6 / 106
211	21,139	1,198	761.8	13 / 34
217	21,680	1,198	764.9	30 / 12
221	22,137	1,198	767.6	176 / 9
226	22,640	1,198	769.8	96 / 8

Jeff Huss

From: Colleen Nelson
Sent: Thursday, September 11, 2008 3:32 PM
To: Jeff Huss
Subject: FW: Park Creek Comments

From: Wagner, Leah P [mailto:lwagner@ncdot.gov]

Sent: Monday, June 02, 2008 11:50 AM

To: Colleen Nelson

Cc: Wagner, Leah P

Subject: RE: Park Creek Comments

Colleen,

In concept, the plat is fine; however, there are a few items that are going to have to be addressed:

- Show 10'x70' sight distance triangles.
- Remove "terminate intersection per meeting w/ NCDOT".
- Remove "new access to Pleasant Grove Baptist Church".
- Show "street turnout" for access to existing Pleasant Grove Road - to the homes that currently utilize the existing road. Include sight distance triangles at this intersection location.
- NCDOT must receive confirmation from the Church as to their preferred means of access.
- Is Fox Tail Lane to be public between Pleasant Grove Road and Tuckaseegee Road in light of replacing Pleasant Grove Road access to homes??? If it is the intent of this street to be maintained by NCDOT, a complete set of construction plans must be submitted for review.
- It will be necessary for the existing portion of Pleasant Grove Road between Tuckaseegee and Fox Tail Lane to be abandoned from NCDOT maintenance upon acceptance of the new road.

NCDOT reserves the right to modify comments pending subsequent plan submittal and review.

Thanks, Leah

From: Colleen Nelson [mailto:CANelson@cabarruscounty.us]

Sent: Monday, June 02, 2008 8:24 AM

To: Wagner, Leah P; Dennis Testerman

Subject: Park Creek Comments

Importance: High

This plat's comments were due last week. I need to have the comments to the applicant ASAP so that they can revise the plat and have copies to me by Thursday. Please let me know the status on this project.

Thank you.

Colleen Nelson, Senior Planner

Cabarrus County

Commerce Department

Planning Division

Jeff Huss

From: Childress, Brian L [bchildress@ncdot.gov]
Sent: Wednesday, September 10, 2008 2:54 PM
To: Jeff Huss
Subject: RE: Park Creek Subdivision

Jeff

I talked with my supervisor Chris Corriher and the District office for Cabarrus Co. can review the plans but if they wants to look at the plans let me know

Brian

From: Jeff Huss [mailto:JMhuss@cabarruscounty.us]
Sent: Wednesday, September 10, 2008 2:31 PM
To: Childress, Brian L
Subject: Park Creek Subdivision

Mr. Childress,

I have attached PDF versions for your review. Let me know if you have any questions. Thanks.

Jeff Huss
Planner
Cabarrus County Commerce Department
65 Church Street SE
Concord, NC 28026
704.920.2204

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Park Creek Phase 3 Area Calculations - Corrected 9/11/08

	Section 3A	Section #B	
Total	95.44	43.85	51.59
without		39.28	26.07 Lots
Rowan			19.07 Open Space
Area	4.57	4.95	Roads
2.39 Ac		1.5	Septic
	43.85	51.59	95.44

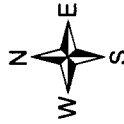
	Section 3A	Section #B
Total area:	97.83	53.98

Park Creek Phase III

Petition: C2008-01(S)
Petitioner: Keith Wayne
Zoning: AO
Conventional Subdivision
& Open Space Subdivision
Proposed lots: 39
Approximately +/- 97.83 acres

Legend

-  Park Creek Phase III
-  Subdivisions
-  Parcel
-  Cabarrus County Boundary



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. This 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, September, 2008.









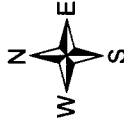
Rowan County

Park Creek Phase III

Petition: C2008-01(S)
Petitioner: Keith Wayne
Zoning: AO
Conventional Subdivision
& Open Space Subdivision
Proposed lots: 39
Approximately +/- 97.83 acres

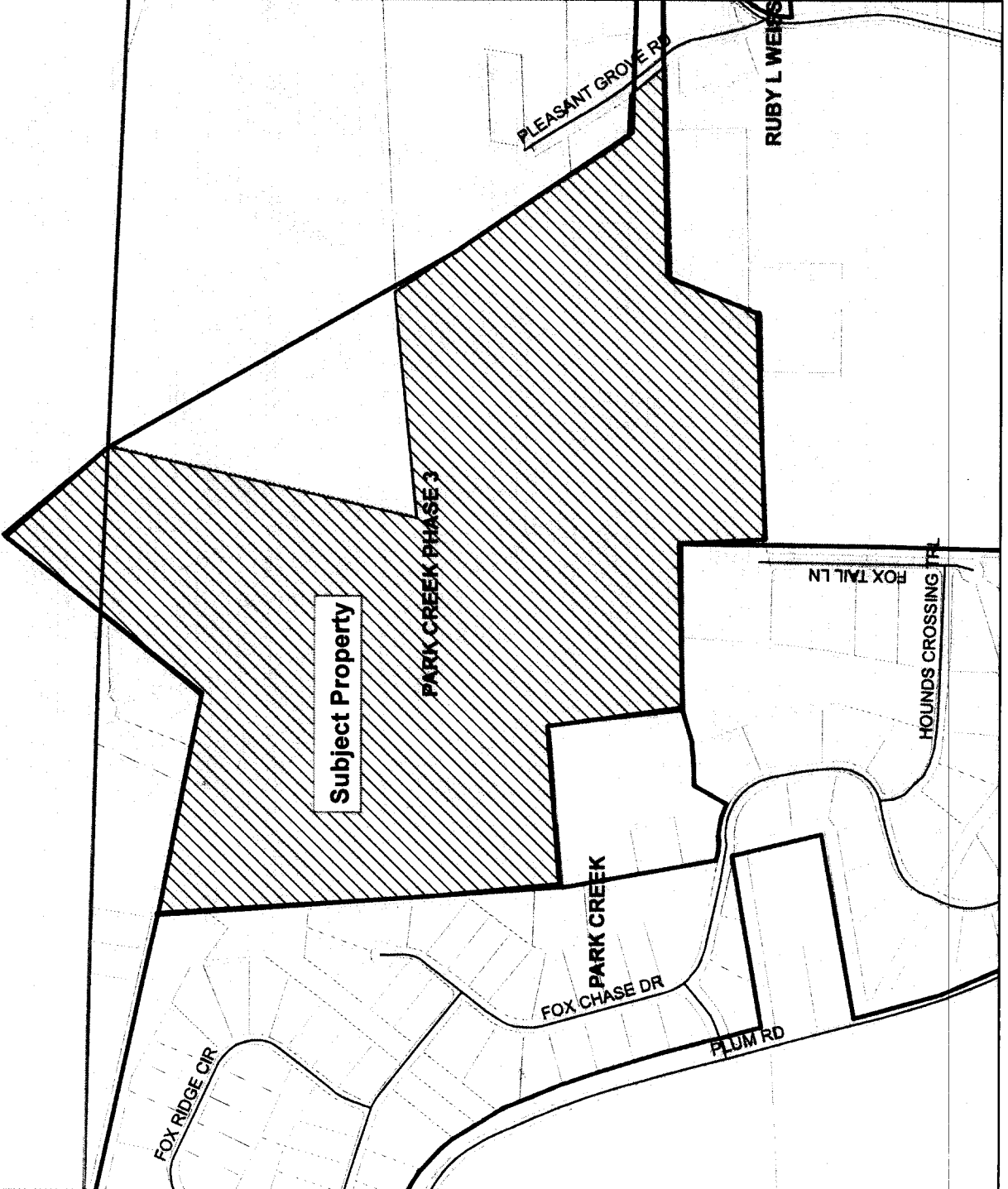
Legend

-  Subdivisions
-  Park Creek Phase III
-  Local Roads
-  Parcel
-  Watershed - Protected Area
-  Cabarrus County Boundary



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. This 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, September 2008.



Memo

To: Cabarrus County Planning and Zoning Board
From: Jeff Huss, Planner
CC: File
Date: 9/4/08
Re: C2008-04-ZT – Proposed Recreational Therapy Center (Rural Center)

- Attached you will find proposed text addressing Recreational Therapist Centers (rural setting). This amendment is necessary because the Cabarrus County Zoning Ordinance does not adequately classify or set standards for recreational therapist centers in a rural setting.
- At the August 21st Planning and Zoning meeting the proposed text was discussed and the use was designated a conditional use.
- You will be asked to provide a recommendation to the County Commissioners regarding the proposed change.
- Please look over the materials and be prepared to discuss the changes at the meeting.

Proposed Text

Recreational Therapy Facility (Rural Setting)

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
 - projected number of users per weekday and weekend days, with the maximum number expected at any one event
 - client profile: projected client enrollment, years of enrollment, age of clients, etc
 - description of curriculum/treatment methods
 - total number of employees, both full-time and part-time (including volunteers)
 - evidence that the facility has achieved accreditation from a nationally recognized organization in the therapeutic field of choice
 - site plan showing layout of all buildings, parking areas, landscape, buffers, play areas, barns, riding trails, abutting properties and the land use for these properties, impervious area calculations, water bodies, etc
 - types of accessory structures used or envisioned to be used on the site
 - building elevations
 - 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 twenty-five (25) acres.
- 2) Access. The parcel must have frontage on a major or minor thoroughfare. Proposed access points must be approved by NCDOT.
- 3) Structures. Building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located. New construction must meet commercial design standards.

Proposed Text

- 4) **Setbacks.** All structures, viewing areas, seating areas, etc. shall be set back at least 100 feet from any property line. All animal enclosures must be 150 feet from parcel boundary lines.
- 5) **Lighting.** All access ways shall be adequately lighted. Outdoor lights must be shielded to direct light and glare only onto the facilities' premises and may be of sufficient intensity to encourage security and safety. 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.** A Level Two Bufferyard is required when the Recreational Therapy Use abuts a residential use. However, if residential dwellings are located 200 feet or greater from the property line, buffering shall not be required. See Chapter Nine, Landscaping and Buffer Requirements.
- 9) **Parking.** The facility must provide, at a minimum, parking spaces to accommodate the staff, clients and visitors. Service providers and vehicles (buses, tractors, trucks and trailers, caterers, therapy providers, etc) should be included in this calculation. Designated areas for special event parking shall also be included in the parking plan. A maximum of ten (10) parking spaces, including handicap accessible spaces, shall be an improved surface, the remainder must be grassed (no impervious coverage). 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 special events or therapy sessions, 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 clients of the principal use:
 - playground

Proposed Text

- bathroom facilities
- aesthetic (gazebo, barn, etc.) features
- barns, animal interaction arenas
- physical therapy course/apparatus
- multi-purpose building or room

12) Signage. Signs for Recreational Therapy 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

14) Additional Requirements.

- The number of animals (livestock) boarded outside or partially outside shall not exceed one animal per acre. Those boarded entirely inside shall not be counted as part of this limitation.
- Public address systems shall be permitted outside and within a building when the speakers are at least fifty (50) feet from adjacent property lines. Further, noise at any property line shall not exceed thirty-five (35) decibels.

Proposed Text

Recreational Therapy Facility (Rural Setting)

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
 - projected number of users per weekday and weekend days, with the maximum number expected at any one event
 - client profile: projected client enrollment, years of enrollment, age of clients, etc
 - description of curriculum/treatment methods
 - total number of employees, both full-time and part-time (including volunteers)
 - evidence that the facility has achieved accreditation from a nationally recognized organization in the therapeutic field of choice *Contribution*
 - site plan showing layout of all buildings, parking areas, landscape, buffers, play areas, barns, riding trails, abutting properties and the land use for these properties, impervious area calculations, water bodies, etc
 - types of accessory structures used or envisioned to be used on the site
 - building elevations
 - 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 twenty-five (25) acres.

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Proposed Text

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Proposed Text

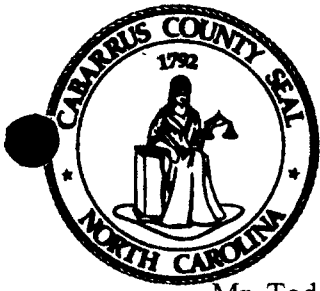
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- Public address systems shall be permitted outside and within a building when the speakers are at least fifty (50) feet from adjacent property lines. Further, noise at any property line shall not exceed thirty-five (35) decibels.



Planning and Zoning Commission Minutes
September 18, 2008
7:00 P.M.

Mr. Todd Berg, Vice-Chairman, called the meeting to order at 7:01 p.m. Members present, in addition to the Chair, were, Mr. David Baucom, Ms. Brenda Cook, Mr. Eugene Divine, Mr. Larry Ensley, Mr. Danny Fesperman, Mr. Larry Griffin, Mr. Ted Kluttz, Mr. Ian Prince, Mr. Barry Shoemaker and Mr. Dennis Yates. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Jeff Huss, Planner, Ms. Arlena Roberts, Clerk to the Board, Mr. Richard Koch, County Attorney.

The Oath of Office was administered to reappointed members; Mr. Barry Shoemaker, Mr. Eugene Divine and newly appointed member Mr. David Baucom.

There being no further nominations, Mr. Larry Griffin, **MOTIONED, SECONDED** by Mr. Ian Prince to have Mr. Todd Berg appointed as the Chairman of the Planning and Zoning Commission. The vote was unanimous.

There being no further nominations, Mr. Danny Fesperman, **MOTIONED, SECONDED** by Mr. Larry Griffin to have Mr. Ian Prince appointed as the Vice-Chairman of the Planning and Zoning Commission. The vote was unanimous.

There being no further nominations, Mr. Danny Fesperman, **MOTIONED, SECONDED** by Mr. Barry Shoemaker to appoint Mr. Larry Griffin to Chair the Board in the absence of both the Chair and Vice Chair of the Planning and Zoning Commission. The vote was unanimous.

Roll Call

Approval of Minutes

Mr. Barry Shoemaker, **MOTIONED, SECONDED** by Mr. Larry Griffin to **APPROVE** the August 21, 2008, meeting minutes. The vote was unanimous.

The Chair introduced the first item on the agenda, Petition C2008-04(R) Central Area Land Use Plan Implementation Rezoning.

Mr. Larry Griffin **MOTIONED, SECONDED** by Danny Fesperman for a 5 minute **RECESS** to establish Suggested Rules of Procedure for the Central Area Land Use Plan Implementation Rezoning. The vote was unanimous.

The Chair called the meeting back to order at 7:14 p.m. He said we have a lot of people here tonight and everyone wants to speak. We are going to try to make sure that happens. We have some suggested procedures that the Board needs to act on first.
(See attached Suggested Rules of Procedure)

Mr. Barry Shoemaker **MOTIONED, SECONDED** by Mr. Larry Griffin to adopt the Rules of Procedure for the Central Area Land Use Plan. The vote was unanimous.

The Chair asked for those speaking generally for or against the rezoning to organize so that we can limit it to 15 minutes and everybody will have a chance to speak. If not everyone will be give a 3 minute time limit.

Mr. Jerry Newton addressed the Board stating that if the Board gives them the opportunity to have a 5 minutes recess with the understanding that there is so much hatred and that they have not met as group to talk about this and he thinks it is unfair but if they are given at least 5 minutes to figure out if they can move forward that way.

The Chair said that is fair enough. We will recess for another 5 minutes to see if you can come up with a plan and spokesperson to speak for 15 minutes, if you can't, then we will allow everyone to speak for 3 minutes. Recess

The Chair asked if they were able to come up with a spokesperson.

Mr. Newton said yes, he would be the spokesperson.

New Business – Planning Board Function: Petition C2008-04(R) Central Area Land Use Plan Implementation Rezoning

Ms. Susie Morris addressed the Board presenting the Staff Report. She said this is Petition C2008-04(R) Zoning Atlas Amendment for the Central Area land Use Plan Implementation Rezoning. She said if the Board remembers, we worked on the Land Use Plan and it was adopted by the Cabarrus County Board of Commissioners on August 18, 2008. She said this is the last step of that process in implementing the required densities that the plan called for. There are multiple property owners involved in this process, and multiple zoning designations. The proposed zoning designations are Agriculture Open Space (AO), Limited Industrial (LI), Office Institutional (OI), Low Density Residential (LDR) and Countryside Residential (CR) all county zoning designations. The total area is approximately 24,500 acres and that does include approximately 2,100 parcels that would be rezoned and about 795 adjacent owners that were also a part of this process. Properties in this area must incur zoning changes in order for densities to correspond to the densities in the adopted plan. The properties subject to zoning changes will be subject to changes to less dense zoning classifications. We are not performing any up-zoning as part of this process.

Ms. Morris said the zoning designations currently in place were a result of the rezoning that took place in 2005, in order to direct growth to the areas where infrastructure supports growth. This process simply refines that process and again redirects that growth to where the infrastructure is available or will be available.

She said the staff report is divided into sections. It was divided into the different areas so that the Board would understand what was happening in those areas.

Area 1 is the area north of Highway 73; that particular area calls for it to be rezoned to the Agricultural Open Space (AO), that does correspond to the rural residential classification on the Land Use Plan. The property that is the Mixed Use component at the top, none of the zoning in that particular area is proposed to be changed, so it is strictly the Low Density Residential (LDR) area and the Countryside Residential (CR) area that are proposed to go to Agriculture Open Space (AO) and then the Countryside Residential (CR) area to Office Institutional (OI) are institutional uses that already exists in that particular area.

Area 2 is South of Highway 73 and North of Highway 49. She said that particular area does have a small portion in it that is going from Low Density Residential (LDR) to Agriculture Open Space (AO) and another part that is going from Limited Commercial (LC) to Agriculture Open Space (AO) and the portion that is blacked out is already in the city of Concord's ETJ (Extra Territorial Jurisdiction) area and is not subject to any type of rezoning.

Area 3 is South of Highway 49, east of the Utility Service Boundary. She said in June 2008 the County and the City of Concord entered into the Inter-Local Agreement using the Land Use Plan as a basis for those densities to be permitted, also establishing the utility service boundary line, where they would not go over that line with utilities unless the City and the County agreed on it. She said that is the defining line for that particular section. Again, in that particular area the property will need to be rezoned from LDR to CR or from CR to AO in order to be consistent with the densities that are called for in the plan.

Area 4 is South of Highway 200 and East of the Utility Service Boundary line, that entire area is proposed to be Agriculture Open Space (AO). She said there were some parcels above that area that had some Office Institutional (OI) there along Highway 601, so that is proposed to be Agriculture Open Space (AO).

Area 5 is west of the Utility Service Boundary Line, that area has several different zoning designations. Some of those areas going to Office Institutional (OI) are existing parks, or schools and the other areas are areas where the densities that were currently in place were higher densities than what is actually permitted by the plan; within that Utility Service Boundary Line that will become the new annexation area where the City of Concord prior to this their annexation area extended to the boundary, they have pulled back on that particular area and it is now pretty much the utility service boundary line for the next 15 years. She said there are not that many rezonings within that area; in order to receive the densities that are permitted in the Land Use Plan in that particular area, they would be required to annex in to the City of Concord in order to receive utilities, and then they would also have the zoning designation placed on them by the City that was appropriate with what ever the proposed density was for that area.

She said the Board was provided the intent of the Zoning Districts, as far as the ones being implemented. She said as far as the area plan, the properties discussed in the rezoning proposal are part of the Central Area Land Use Plan. The proposed zoning

changes are consistent with the Central Area Land Use Plan and are a necessary component of the implementation of the plan as adopted by the Cabarrus County Board of Commissioners on August 18, 2008. It is also consistent with the Inter-local Agreement that the City and County signed and also refers to those densities. This is a conventional rezoning request so all uses permitted in the AO, CR, LI, OI and MDR zoning designations would be permitted on the subject properties if they are rezoned. The proposed zoning changes are consistent with the adopted Central Area Land Use Plan and are in keeping with the intent of the proposed Zoning Districts and the Zoning Ordinance as defined in the Cabarrus County Zoning Ordinance.

The Chair asked if there were any questions concerning the staff report presented by Ms. Morris.

There being no questions the Chair asked if there was anyone speaking in favor of the rezoning. There were no speakers in favor of the rezoning.

The Chair asked for the spokesperson speaking in opposition to the rezoning to come forward.

Mr. Jerry Newton, 1776 Songwood Road, Concord, NC, addressed the Board. He lives with his family on seven acres across the subdivision road from seven, one acre lots with seven houses. He lives in an area proposed as Agricultural Open (AO) where his property could only be divided one time compared to the seven lots that could have been platted when he bought and built his house in 1992. He lives in an area that was down zoned three years ago and was taken out of the Low Density Residential (LDR) and put into Countryside Residential (CR). He said the current zoning requires two acres to build. He stayed quiet then, he probably should not have been silent because of the existing lots of record becoming nonconforming. He said now it is being proposed that the subdivision community that he lives in and other subdivisions be changed to the rural planning tier Zoning District of Agricultural Open (AO). This Zoning District does not accurately match the character of our area. The Agricultural Open (AO) district requires three acres per house, there are two significant exceptions found in the ordinance, minor plat permitting one house per acre, which is good, and if the property owner is willing to give up more of their property rights, which can be good or bad, they can create an open space subdivision of one house per two acres. He said creating an open space subdivision requires many other significant stipulations; such as requiring trails per county imposed standards and either giving away the open space or keeping it, but only after being required to give it to the Cabarrus County Water and Soil Conservation District. He said an easement over the land is provided to the county with a management plan that someone in the County has to review and approve; legal documents created perpetually give away conservation easements or create restrictive covenants designed for the benefit of government.

He does not believe that is a good scenario for property owners who already by the current zoning do not have to give any of their property away to develop and put one house per two acres.

Mr. Newton said he stayed quiet when the County put zoning regulations in that authorized a building permit to be withheld if the new home looks too much like any new home near the proposed house. He remained quiet as garage locations and placement requirements and size of garage doors and prohibiting front loaded garages with doors exceeding 12 feet were put in as requirements to build on lots of less than an acre. Tonight, he no longer remains quiet as a massive down-zoning effort is being presented under the pretense of addressing school overcrowding and of following sound zoning principles. This proposal neither addresses school overcrowding nor is it sound planning. It is over the top government regulations taking property rights without compensation and it is plain wrong. It is a continuation of manipulating the zoning regulations and taking away rights when it is not justified.

Mr. Newton re-presented himself. He is Jerry Newton, he and his family moved here in 1990 after being recruited by the County Manager to be this County's Planning Director. He has a Bachelor Degree and Masters Degree in Geography, concentration in planning and was honored to be named the top graduate student in Geography in the Country in 1983. He has been involved in planning and real estate since 1982. He left Cabarrus County in 1996 under very good terms as the Planning and Development Area Manager and over saw Planning, Zoning, Building Inspection, Transportation and the Utilities Department. We put in place the Agricultural Open District in December 1993, to help the farmers, and in working with Mt. Pleasant and the unincorporated area of Rimer, along with the county in placing it where no public water or sewer services were going to be planned or extended. He said never was AO Zoning District intended to be placed where water and sewer lines already existed or where it was identified to be placed in official plans or in an area that was to be annexed.

Mr. Newton said since leaving the County he has turned down the opportunity to be the County Manager. He left because the newly hired County Manager in 1996, met with him on his first day on the job and told him that he had been told that Mr. Newton ran the county and that we were going to down-zone the whole County and make everyone come through us to do anything. Mr. Newton told the County Manager that he heard wrong and that is not how things are done in Cabarrus County. He said little could he have known the slow boil that had begun, but that was exactly what was happening.

Mr. Newton said the regulations are continuing to change both in text and map and more and more rights are being removed and restrictions are being imposed on every property owner. Zoning Districts are to represent both what exists, that is wanted on the property and to push for what is wanted in the future. He said down-zoning with the intended purpose of holding land for a reasonable use and forcing rezoning request is generally not an acceptable practice of sound land planning.

He left the County and continued the planning in real estate and the private sector. Over the past 12 years, he has worked for a large national retailer and a regional developer. He has owned a large real estate company and he teaches real estate at the Community College. He has developed subdivisions, built buildings and brokered real estate site plan and been a real estate consultant for many years. He has worked for cities on planning

studies and he has worked hard and he has worked hard to stay quiet as to the planning being done in the County and the course that is being followed by the County. He shares his background to point out that he understands real estate, planning, regulations, market and values and how they impact each other; he is not simply speaking without having given thought to his words.

Mr. Newton presented 16 points and 10 recommendations:

1. He recognizes the tremendous effort made by the Commerce Department and he strenuously disagrees with the fundamental points and attempted implementation of a mass rezoning. Nevertheless, he thanks the planners for their vision and concern about the future of the County. He said they have done much that he agrees with over the years, this however is one that has really missed the mark in terms of fundamental sound planning. He trusts the planners and more importantly you as the Board and the Commissioners ultimately, recognize our similar resolve to keep and continue to improve Cabarrus County. These regulatory proposals do not advance nor protect the future good.
2. The comprehensive zoning district changes proposed are bad for Cabarrus County and the majority of the property owners. Placing zoning districts upon existing subdivisions and further creating nonconforming properties is done when a community is trying to eliminate the nonconformity. Our subdivisions, our homes that sit on less than three acres are what the County has wanted and continue to state as appropriate. It seems odd if not unfair that a land plan recommendation can sweep so many properties owners aside as being unwanted.
3. The comprehensive zoning district changes proposed are unnecessary to "control growth" and in fact create a ruse which without later text amendments would in reality create more problems for the County by allowing dissimilar uses to co-exist side by side while treating existing lots as nonconforming properties and subjecting them to additional regulations.
4. Many of the areas of the existing zoning districts are appropriate and achieve the stated intent of the Central Area Plan. The Central Areas Plan's land use recommendation 3 calls for 4 residential districts and state regulatory standards without any justification as to where those numbers came from. This massive rezoning of nearly 30,000 acres is being based on this one recommendations section of that area plan. This seems to be very shaky justification and it appears to be circular assumption and reasoning by a few planners. Further this recommendation section does not call for down-zoning industrial land, so there is no basis to change any of the industrial zoning classifications. Developing regulations with the plan and then changing the regulations to match the plan reminds him of the great archer in the woods who is asked the secret as to how he always hits the bull's-eye on the tree in the woods; his answer was, it's easy, I find each arrow that hit a tree and I paint a circle around it. The idea of changing

zoning districts to match the plan's recommendation is an archer's circling its arrows.

5. The January 21, 2006 Concord/Cabarrus County Agreement that settled at taxpayers expense of a Government versus a Government lawsuit that was referenced, has been over simplified and overstated as justification of the mass rezoning. (Which he said is found in all these points, which he has foot noted and sourced. He said that is found on the Internet Cabarrus County Central Area Plan Why a New Land Use Plan is Being Created.) That agreement laid out a frame work for Concord and Cabarrus County to provide public water and public sewer service to developments and subdivisions without imposing City land use regulations "unless the County had amended its Zoning and Development Ordinance from the form in which they existed at the date of this agreement." The agreement addressed connections to existing public water and sewer lines and consistency of land use and development regulations. The statement and primary premise of the Central Area Plan states "with an agreement in place that requires the City of Concord to allow developers to tap into City water and sewer lines, neither the County nor the City have any control over the extension of utilities lines in the area and therefore have little control over growth". He said this statement and primary premise for the down-zoning proposal is false. He said Concord and Cabarrus County have a lot of controls and the adopted area plan even points out that the extension of water and sewer line is done by the Water and Sewer Authority of Cabarrus County (WSACC). Additionally, utility line locations can be determined by Cabarrus Water and Sewer District which is the Cabarrus County Board of Commissioners.
6. If the County and City do not want development in areas they simply have to continue to withhold the extension of public water and sewer services to those areas. He said down-zoning is neither necessary nor appropriate to control growth in this area.
7. Changing Zoning Districts from General Industrial (GI) to Limited Industrial (LI) dramatically changes permitted uses, hurts in business recruiting and site selection and is an extensive, excessive limiting of use for no land use identified reason of that plan.
8. Farmers and those in agricultural production have a series of ways to currently protect their property from being developed, not the least of which is deed restricting and not selling. He said there is not a need to have the Government regulate this, bonafide farms are already exempt from the Zoning Ordinance.
9. Without changes to the Zoning Text and Table of Uses, a real mix of mess of development and activity could result. For example, housing areas and long standing subdivisions of no agrarian bent could be neighbors to land fills, slaughter houses, auction houses, hatcheries and auto and tractor repair garages.

He said these uses make sense given existing zoning boundaries and locations, but not under the proposed changes.

10. Properties with public water lines running their land could be forced to drill for water wells as stated in the Zoning Ordinance. According to the Commerce Department, there are no planned text changes at this time. Similarly then, according to the posted Zoning Ordinance online, Sections 3 and 7 of the Ordinance, addresses how mobile homes are to be treated. Allowing them in the AO Zoning District, but then in the use chart refers to Chapter 4, Manufactured Housing Overlay District. He said this major inconsistency in the AO Zoning District will only be compounded with so much land being proposed as AO.
11. Taking away 1/3 to 1/2 the property owners existing bundle of property rights with out compensation for the benefit of other land owners and residents of other areas of the County, again, without compensation is not right. For many of us development rights were taken away only 3 years ago when the broad sweep of countywide rezoning occurred. It seemed that over the past several years, more and more rights have been taken and more regulations have been added to us as property owners. He said it is like the gas station owner raising the price of gas and writing a note on the pump that says because of the current gas shortage, I'm still going to charge you \$5.00 a gallon so I can put gas in my car. Or, it is like a store owner writing a note and placing it on the door for two weeks that reads: its employees are permitted to take groceries out of your cart and you are expected to pay for all those groceries, you did not need them anyway and we will give them back, or maybe some time in the future if you can fill out a few forms, pay us and are willing to do what we say and give up a few more groceries. We would never stand for this at a gas station or store, but somehow we are suppose to stay quiet while individual sticks of our bundle of rights as property owners are being cut, plucked out and replaced with lesser quality rights.
12. Why are other areas including the landfill that is proposed to be up-zoned to Office Institutional (OI)?
13. There will not be any tax evaluation adjustment to coincide with the loss of development and property rights, and the change of government regulations and uses of each parcel since tax assessments are based on documented market factors. This entire issue seems to have been very poorly addressed, it was not mentioned in the Land Use Plan as an affect, nor is it being addressed by Cabarrus County or wasn't be addressed by Cabarrus County until residents began asking if there lands property taxes would be lowered in relation to the diminish use of that land; which the answer was no because we have to look at and documented closings.
14. The approved Central Area Plan calls for "zoning and other growth management tools for use by all affected jurisdictions' to consistently guide development in accordance with the plan". It then defines rural residential areas as determined to

remain agrarian in the future, and the plan continues to state residential uses may be allowed but only to support agrarian purposes and are not to predominate use.

15. Much of the land area stated to change to the AO is not agrarian and is purely residential and should not be changed. Almost all of the land shown in the Agricultural Open (AO) is within the 5 year annexation plan of Concord, which they had adopted on March 14, 2005. He said Ms. Morris has sense identified that they have since changed that. He still read the note: If it is going to be zoned in land planned to be agricultural then it should not be identified as being annexed to the City, where agricultural activities are heavily regulated out of use. Further, zoning agricultural land areas right next to the urban service area neither matches existing subdivisions, existing housing nor makes sense. He said it is inconsistent with the City of Concord's Five Year Annexation Plan that was adopted by the City on or about March 14, 2005.
16. The second paragraph of the notification letter addresses the zoning change as a foregone conclusion and then invites the effected property owners to a public hearing where the letter continues to assert that "the zoning classifications will be changed" in the next paragraph. This bold of a statement asserting that our land is being rezoned without consideration of input of us is offensive and it seems to bring into question the credibility of a public hearing for which a decision is then to be made.

Mr. Newton remains fundamentally opposed to having more property rights taken from landowners and unnecessary government regulations. He said Concord and Cabarrus County already have agreements and measures in place to control growth in this area. Most all of the area proposed to be changed Agricultural Open (AO) is not based on sound planning practices but rather is a form of pure regulating and government control. He said the rezoning is not necessary to be good stewards of the County and its continued growth and it hurts the residents.

Mr. Newton understands and recognizes that the Board has a very difficult job in front of them. He said we appreciate that as lay people you have agreed to serve on this Board, but we are also asking that you very carefully consider the decision that will affect nearly 30,000 acres, and asking us to rush this through in 20 minutes, our position.

Mr. Newton presented 10 recommendations to the Commission. (Recommendations are attached).

The Chair asked if there were any questions.

Mr. Griffin asked where everybody was when the Land Use Plan was being developed. He counted over 120 people opposing this rezoning tonight.

Mr. Newton thinks there were a lot of people who were there and he thinks there are a lot of good things in that plan; the plan has 24 recommendations. He talked with people who

were on the advisory committee; they had no idea that something of this nature would be proposed. He thinks it is one thing to ask where the people were then, but he thinks it is significant to notice who is here now.

The Chair said we will move to those with specific parcels.

Ms. Judy Goodman, 462 Wilhelm Place NE, Concord, NC, addressed the Board. She and her brother recently inherited jointly 3 parcels of land, they are all adjoined and they total just a little over 12 acres. They are on the west side of Ashland Road, just off Irish Potato Road on the northern part of the county almost on the Rowan County line. It is currently zoned Countryside Residential (CR) and that allows 1 unit per acre. It is her understanding that her land will be changed to Agricultural Open (AO), which only allows 1 unit per 3 acres. She looked on the map and behind her land is Mixed Use Land, which puts a bummer on what she wants to do with her land. Her brother would help her fight this battle but he is fighting his own battle with death right now in Atlanta. Her brother wants to sell the land, and she agrees. We cannot sell the land with it backing up to Mixed Use Land and expect somebody to buy 3 acres to put a million dollar home. She said most people cannot even afford 3 acres anymore; most people are limited to an acre at the most or a half acre. After seeing this she would like for land to be designated Low Density Residential (LDR) or Mixed Use like the land behind her.

She said this is land that has been in her family for years and years and she does not really care to sell it but there is no way she can keep it. It is not farming land and it has not been farmed in over 70 years, nobody wants to get it just to farm. She does not think people want to buy 3 acres that might back up to anything.

Mr. Laurent Beaudry, 195 Union Street N, Concord, NC, addressed the Board. He is going to take a specific property of industrial land that is currently zoned General Industrial and is attempting to be rezoned Light Industrial or Limited Industrial. The example he chooses is the concrete plant on Stowe Road. Currently, it owns a piece of property; it does concrete, it has an immense yard of concrete, forms and stuff that they do there. They bought land next door to expand one day, if you rezone them from I1, they will have a permitted or grandfathered use for the plant they are using right now, but if they want to extend, they will be told no because the zone is I1 and you cannot use that property for I1. Therefore, they will probably move away.

He contacted Ameri-Chem this week; they own about 15 acres on Commercial Park Drive and the County is planning to rezone 5 of it from I-2 to I-1. He said as you know Ameri-Chem needs I-2 property. They told him this week that they don't care because in Georgia they have a plant there and if need to expand they can always go there. There are many more examples of what can happen when you down zone land. The other thing is we do not have a lot of industrial land; we had a residential push but there is not a lot left so why mess with it. He thinks we need more industrial and he has 54 seconds to finish explaining how you lose jobs.

Mr. Russell Moose, 12611 Highway 601, Midland, NC, addressed the Board. He is speaking on behalf of his father Paul Moose. The property they are concerned with is the 5.80 acres on Zion Church Road. It is currently zoned General Industrial and proposed to go to Limited Industrial. There is General Industrial (GI) bordering the outside of it and it was just recently rezoned to that (approximately 3 months ago). He said the County has done a good job of putting an Office Institutional (OI) buffer there before you get to the residential areas of the County. He said all of the blue that is around it is in the City Limits and it is all I-2; so the current zoning is not out of place and he does not understand why the County would want to change it. The land was purchased in 1965, by his mother and father, it was zoned Industrial in the early 80's when Troy Cooke developed Armentrout Drive. He said they paid the highest price taxes on it that they could possibly pay with that zoning since probably the early 80's. He said it is vacant land and they received no benefit whatsoever with it being zoned General Industrial other than the value of the land was great enough you did not have to go appeal the property taxes because you would not sell it for what it was valued. He said there was never an argument out of us. He said now we are looking at down-zoning it. In the last 25 years there have probably been 25 to 30 people who were legitimate money business people that weren't fishing, that were sincere about wanting to buy some of this property and it was never for sale. He promises that if it changes to Limited Industrial (LI) those 25 people will not be there because they were interested in was the zoning. He said the value and the market that you could possibly sell it for now is cut probably 70%. He would like an explanation as to why it needs to be down-zoned. He said the property is in a deferred tax program as farm use, tax does not matter any more. They busted there butts to build a fence, put it in a farm program, made hay off of it just so they could keep it, and now they have kept it to watch it dwindle. He said it is not out of place with the current zoning and he does not understand where we are going with this. If you do not allow a company to come in here to build on something like that because it is not attractive, you are running jobs off and it is not as sweet a piece of pie as it was before. He would appreciate it if the Board would consider leaving it as it is and maybe one day they can reap the harvest of paying all these high taxes all these years.

Mr. Randol Tilghman, 2324 Potter Downs, Waxsaw, NC, addressed the Board. He is here on a specific parcel on Flowe Store Road across from Mexico Road. They received Preliminary Site Plan Approval on this site on March 2007, and they have a valid Consent Agreement that was signed in May 2007. They spent thousands of dollars getting preliminary plans pulled together based on the zoning and site plans that they have now. They had engineering done, and have had feasibility studies, preliminary engineering plans have been reviewed by the Engineering Department, WSACC is currently installing a sewer trunk main that will serve sewer to this property, and water is in front of this property. They currently have the project on hold due to the economic conditions that they are in right now and he questions why the zoning on this property would need to be changed.

Mr. Henry Kivett, 4808 Fonwick Place, Concord, NC, addressed the Board. He said it is a plan and the thing that concerns him most is the entities of Mt. Pleasant, Kannapolis, Concord and Harrisburg signing on to this plan. He said if two of these do not sign on

then this thing is worthless. The biggest fear they have is voluntary annexation; to categorize that, go back look at what as happen in the western part of the county, it looks like Sherman's march to the sea. There is a scorched earth policy over there. He said the plan that we have now proposed for you is a decent plan, it has flaws, it does not address inheritance land, it does not address existing and it does not allow for the infrastructure that is needed to support any development that goes on out there and to keep Concord from annexing anything that goes on out there. He said volunteer annexation is probably the most hated word in the English speaking language, just as soon as they do it, this plan if it calls for example 2 to 3 houses per acre or 2 houses per acre then the developer is going in there and ask for volunteer annexation in a waiver and then he will put 4 on an acre and then we are right back in a slum division. He wants to make sure that the plan, once it is approved is not going to be waived and every Tom, Dick and Harry is going to come in here and ask for a waiver. He said other than addressing inheritance land; this is where a guy has land and he has kids and he wants to pass it on. He thinks that needs to be put in there somewhere, at least allow the inheritance to be built on without regard to 1 house per 3 acres. He has 5 kids it is going to be tough to do that on 10 acres and give it to his kids. He thinks that needs to be addressed.

He said it is a decent plan it has flaws but overall it is a plan and it is better than what we had on the western part of the County. The task we have is will it hold up. He attended all of the meetings prior to this, and one of the things he wanted to ask was it best to have this plan approved by the people who would vote or through the County Commissioners. Which would hold up more? Which would stand the test of a court? He said some of this is going to go to court, because the developers are anxious to get a hold of this land, it is undeveloped, it's virgin territory and as soon as water and sewer hits it, it is over, they are coming. He said we would like to have the growth but it needs to be controlled, it does not need to be rapid or we will be right back in the same boat. He said it is a plan; it is a start, now what you do with it is up to you.

Mr. Sam Davis 446 Winfield Blvd, Concord, NC, addressed the Board. He is here tonight on behalf of Davis Co which is a family corporation; all of the shareholders are members of his family and extended family and also on behalf of Mitchell Hartsell and George Troutman who are adjoining landowners. He the property they are addressing is at the intersection of Cold Springs Road and Highway 49, frontage on Highway 49 directly across from the Cabarrus Arena and Events Center and Old Airport Road. He said the Hartsell property and the Troutman property is all family land, Mitchell and his wife are the son-in-law and daughter of George Troutman. This land is currently zoned Office Institutional (OI) along the front, and the rest is zoned Low Density Residential (LDR). They are asking that the Low Density Residential (LDR) land remains Low Density Residential (LDR) and that the Office Institutional (OI) land certainly not be Down-Zoned, but if anything that is appropriate for current zoning principles and where this land is located, that it be zoned to Office Limited Commercial (OLC).

Mr. Davis showed a map indicating the Hartsell, Davis and Troutman properties. He said the surrounding area is directly across the road from Highway 49 from the Cabarrus Events Center, MacDonald's General Store and City zoned property that is zoned

General Commercial (GC). There is a signal at the intersection of Highway 49 and Cold Springs Road. Highway 49 is a 4 lane highway divided by a grass median; the Davis Co property has access to Highway 49 directly across from Old Airport Road intersection which is a crossover intersection. The Hartsell property and the Troutman property have frontage on Highway 49 and the center of the intersection.

He said it is not required by zoning principles or even the Land Use Plan. He came to the Land Use Plan meetings that he was able to come too and no serious consideration was given to any particular parcels. He submitted a written objection to the County Planning Staff asking to be transmitted to this Board, to the City of Concord and also to the Board of Commissioners. He said very low residential does not compel Low Density Residential (LDR), if you look at the description for Low Density Residential (LDR) the densities are permitted in the very low residential district under the Land Use Plan. The land does not fit the description because of the current use; it is flanked by subdivisions already, some half acre densities to the South with water and sewer and there are 1 acre subdivision lots, Heritage Springs to the East, there is industrial property along Highway 49.

He said the description for very low density residential says "characterized by 2 lane roads with side ditches." We front on a 4 lane divided highway with cross over medians and signaled intersection, we across from the Cabarrus Arena and Events Center. The description of Countryside Residential (CR) says "to preserve a rural countryside lifestyle". He said that is not on a 4 lane road and it is certainly not across from the Event Center.

He said finally, Cabarrus County and these landowners are in partnership because we have common interest. He said the Arena is there and if you talk with the Arena Manager, he will tell you they need a hotel out there and more supporting services and conveniences; restaurants and those kinds of things to support use of the Arena. He said you are not going to get that unless you allow some development right in that area with some Mixed Use, Commercial and some Residential.

Mr. Davis and the Troutman's are working on a joint transportation development plan which would provide for through transportation from Highway 49 across from the events center accessing over to Cold Springs Road and have the outlet back onto Highway 49 from the centered intersection.

Mr. Davis said the Land Use Plan and this zoning has been on a pretty accelerated pace. He said with the way the economy and everything else is going now it is not an opportunity to develop the Land Use Plan, it is probably immature right now. He thinks that the plan needs to recognize that this is not Countryside Residential property; it certainly should not be down-zoned. It should recognize the development in the area, the interest in the County in having development adjacent to the Cabarrus Arena and Events Center.

Mr. Wallace Helms, 2808 Country Home Road, Concord, NC, addressed the Board. His grandmother sold him 2 acres of land, and just this year he put a house on one of them. He has been paying taxes on the land since 2001, and the taxes have been incrementally going up and up. He intentionally subdivided the two acres into two separate lots because he thought one day maybe he would build a house on it. If this new zoning plan is ratified, he is definitely looking at being two acres shy of being able to build another home. He said less than a mile from his two acres, across his grandmothers land is a mobile home park (across Cold Coldwater Creek). The land he is surrounded by stands little to no chance of ever being able to be used for million dollar homes across from the mobile home park. He agrees with Mr. Newton who spoke on behalf of most everybody who stepped out that door earlier tonight. He thinks that the zoning plan looks like a very shot gun approach to a problem with many many intricate details. There are all kinds of problems with a blanket approach to a total rezoning of that much land, and he thinks that Cabarrus County in the long term and in the very short term could really really suffer economically from adopting that plan.

Mr. George Helms, 2820 Country Home Road, Concord, NC, addressed the Board. He was born and bred here, with an active ministry for the past 45 years; back home to take care of his Mom who will be 97 years old this Halloween, and is bedfast but has a good mind, good spirits and is a warrior. He often saw his dad walk the property, at that time was 50 acres of land and prayed to ask God what he would desire for that property. He is the sole survivor. He speaks for his Dad who is in glory, and his Mother who is about to go to glory; this is hallowed ground to them. It is also his only inheritance; he implores the Board to think very deeply about changing back to the previous Countryside Residential (CR), as it was before. He said there is no way that anyone would be able to purchase 3 acres of land in the parcel that his Mom owns to build such a large home.

He thinks he is speaking mostly for the Senior Citizens who are gathered here, people who have worked hard. His Mom and Dad for 55 years paid property taxes, and to the best of his ability has discerned that they have paid \$50,000 plus in taxes. He thinks they have more than taken care of the human resources and educational process here in Cabarrus County. Senior Citizens who have been loyal to Cabarrus County all their life, born and bred here and have gone to school here, he thinks they deserve better than this. They are asking for grace and mercy. He said there are some things that supersede a proposal, its veracity, its righteousness, its truth, its being honest and its being above board about all areas of business and life. He assumes that the Board has been active towards attaining these requirements. He asks on behalf of those who find themselves in this stress because of limited Social Security. He said this is the only thing they have to say is ours. He said please do not diminish it and please do not take it away from them, he implores in the name of Jesus.

Mr. Larry Griffin said the first step in this process that we are going through tonight involves creating a Land Use Plan and it involved meetings around this whole central area for people to come and provide comments. He asked Mr. Helms if he attended those meetings.

Mr. Helms said he did not receive an invitation.

Mr. Griffin said it was advertised in the newspaper, and peoples whose property is being affected were notified. He said the Land Use Plan is significant, and it drives the proposed rezoning and the night that the Board was presented the Land Use Plan the only objection we had to the whole Land Use Plan was from the City of Kannapolis. There wasn't an individual person in the room to speak against it and we had a public hearing that night for the Land Use Plan.

Mr. Darrell Furr, 3800 Cold Springs Road S., Concord, NC, addressed the Board. He said this is a zoning shell game we are playing here. He said you here down-zoning and his neighbors land is being purchased by the school system to put A.T. Allen School which is within 500 feet of his parents land. He said its like money, who ever has the cheapest land is going to try and buy it and that is what you are trying to do make it cheap land.

Mr. Scott Robertson, 113 Cabarrus Avenue East, Concord, NC, addressed the Board. His concern is a 13 acre tract on the corner of Buffalo Hills Drive and Highway 49. He put the first 9 acres under contract in 2005. He said at the time of the negotiations the records he pulled showed Medium Low Density Residential (MDR), he has been told tonight that was changed to Low Density Residential (LDR) during the year of 2005 and he does not dispute that that probably happened and that it is zoned Low Density Residential (LDR) now.

He prepared some copies and he said the numbers do not match up, the parcel numbers that he cites with what is on the printout is from 2005, He assures the Board what he is describing is 13 acres, 9 of which he put under contract in 2005 and bought individually; the remaining acreage of that 13 he purchased in late 2007 is zoned Low Density Residential (LDR) and it is understanding there are at least 4 houses, maybe 5 depending on whose determining what they are used. He does not want to see it Down-Zoned. When he was noticed of the community meetings he was told those south of Highway 49 were to go to the second session of community meeting. He skipped the first session of the Community Meeting One thinking he only belonged to the Community Meeting Two, being on the south side of Highway 49. At that meeting he saw where this was going, as he asked questions he was not told he would have an opportunity to be heard at a zoning meeting, he was told that the plan was being developed such as it was because that is what the people was asking for, despite him voicing his objection. He spoke up at least at one of the Community Meetings.

He went to a Board of Commissioners meeting where the City of Concord Council was present and he believes some members of the City of Kannapolis, the meeting took place at the Cabarrus Arena and Events Center, and he spoke his opposition. He was at the August 18, 2008 Board of Commissioners meeting and was one of two people who spoke in opposition when the Commissioners approved that plan. He has been rather vocal although he hopes cordial and respectful about his opposition. He urged the Board not to do this to his family. It is on the same divided highway as that Sam Davis spoke of, it

does not meet Countryside Residential (CR), and it is on a corner. He asks the Board for various reasons spoken by various people not to down-zone his parcel. He said by the way there is lots of development near by.

Mr. Gaillard Mervin 8598 Flowe Store Road, Concord, NC, addressed the Board. The area he is discussing is at the very southerly fringe of the rezoning area. He said there is currently 262 acres of property that is located on Flowe Store Road that has a current approved Preliminary Subdivision Plan and an approved Consent Agreement that is being zoned from Low Density Residential (LDR) to Countryside Residential (CR). He cannot image that this parcel had it been looked at carefully, having an approved plan currently to subdivide the property, would be down-zoned to Countryside Residential (CR). He said it affects him because he has property that adjoins this property, he has 56 acres. He said the Subdivision Ordinance today requires that if you want to subdivide a piece property, you are required to stub roads to adjoining property. This given, Roycroft Subdivision has such a road stubbed and it happens to be coming to his property; nothing that he did, it is the way their process worked. He believes that in some point and time, that subdivision will be built, he believes that in some point in time a road will be stubbed into his property and he believes in some point in time there will water and sewer there.

He said if this zoning takes place and that property, Roycroft Subdivision, is down-zoned to Countryside Residential, it still will not stop them from being able to build it in a nonconforming way; but what will happen is it will be very difficult for him to do anything with his property with a road there and water and sewer there because he is adjacent to Countryside Residential (CR).

Mr. Mervin finds it very odd that the Water and Sewer Authority of Cabarrus County is currently putting a huge pump station at Rocky River, just 100 yards, $\frac{1}{4}$ of a mile from this property. This pump station has been designed to capacity to serve the whole Reedy Creek Basin. He said there are a lot of inconsistencies between zoning and utilities that are being placed within this area. He assumes that the Water and Sewer Authority of Cabarrus County and the Board of Commissioners and Planners will talk and know what is going on. He said under construction right now is a pump station that will serve this whole drain basin. He said this whole area right now that is Low Density Residential (LDR) is going to Countryside Residential (CR) and in the Countryside Residential (CR) Zoning District you cannot have sewer. He thinks there are some fallacies that need to be addressed in this plan. He thinks perhaps we need to look where utilities are available, that land owners can use them.

There being no further comments the Chair closed the Public Hearing.

The Chair said as he sees it the options are to approve the rezoning in mass, to reject the rezoning. Potentially we could pull specific parcels out or we can table it for further study and discussion.

Mr. Prince said we are looking at rezoning approximately 25,000 acres. He asked Ms. Morris how many of those were individual property owners?

Ms. Morris said the letter went out to about 2,100 folks.

Ms. Prince asked how many acres were involved in the 2005 Rezoning.

Ms. Morris cannot answer that question, she said it was county wide and included property from west to east and she is not sure how many acres were included.

Mr. Prince asked if it were safe to say it was larger.

Ms. Morris said yes.

Mr. Larry Griffin, **MOTIONED, SECONDED** by Mr. Ted Klutz to **TABLE** Petition C2008-04(R) Central Area Land Use Plan Implementation Rezoning. The vote was 8 to 1 with Mr. Larry Ensley voting against.

Mr. Koch, County Attorney, said it may be helpful to the folks that are here tonight if they have some understanding of the length of time that it will be tabled, is it to be tabled to the next meeting of the Commission or for some other period of time?

The Chair said, personally it is a lot of information to try to get through by the next meeting. He proposes at least 60 days or to the November meeting.

It was the **CONSENSUS** of the Board to Table Petition C2008-04(R) Central Area Land Use Plan Implementation Rezoning until the November 20, 2008, Planning and Zoning Meeting.

The Chair introduced the Second item on the agenda, Petition C2008-01(S) – Preliminary Plat Approval – Park Creek, Phase III, Section A and B

Mr. Jeff Huss, Planner addressed the Board stating this is Petition C2008-01(S), Preliminary Plat Approval for Park Creek, Phase III. It is divided into two sections, Section A is the Conventional Residential Subdivision and Section B is the Open Space Subdivision. The owner is Mr. Michael Allison; the applicant is Mr. Keith Wayne.

Mr. Huss said the zoning for the property is Agriculture Open Space (AO); it is in Township Number 3. He said Section A has 13 proposed lots and Section B has 25 proposed lots. The Agriculture Open Space where this subdivision is located is a residential zoning district, it is the lowest permitted density. The proposed density for Section A is 0.296 units per acre and Section B is 0.485 units per acre. The developers of the Park Creek Phase III Subdivision are proposing a conventional subdivision (Section A on the plat) on the western portion of the property and an Open Space subdivision (Section B on the plat) for the eastern portion of the property. The dividing line between the two different subdivisions is the perennial stream: Park Creek. He said they have

buffered following the requirements of the River Stream Overlay Zone (RSOZ), the Park Creek. He said Lot 8 is located in Rowan County and will require the approval of Rowan County.

Mr. Huss said Mr. David Tibbals, Architect and Mr. Carl Anderson were present if there were any questions.

The Chair asked how the parcel in Rowan County been figured in the calculations or has it.

Mr. Huss said it has been taken out of the calculations, the overall acreage; overall density calculations have been removed.

The Chair asked if there were any questions about the Staff Report.

The Chair said his questions mostly have to do with the stream and the buffers and the protection of the stream. He said there were a couple of streams that were delineated. He asked what the process has been for identifying those as intermittent or perennial and can we be assured there aren't other streams on the property that have not been identified.

Mr. David Tibbals, 8111 Sealey Court, Charlotte NC, addressed the Board. He said the applicant had a wetlands consultant do a full evaluation of the site, along the identified streams was Park Creek as well as the stream feeding Park Creek. He said in that evaluation there were specific channels located and they took the added measure and added a buffer on the channel that was dry at the time, but is a wet weather ditch basically. They have taken additional measures to buffer that with the same buffers as a River Stream Overlay. He said due to the fact that it slopes on the site, the majority of that stream has the maximum buffer allowed on that stream. He feels confident that with the other professional evaluation and their efforts to protect the stream they have gone beyond the requirements as far as buffering the stream.

The Chair said related to that, the trail was shown at times very close to the stream and stream bank. He thinks the Ordinance has changed some since you began this process and currently it would be required to be at least 60 feet away. He asked Mr. Tibbals to address the routing of that trail.

Mr. Tibbals believes they have addressed that as a specific note in open space according to where the trail would be located; that they would follow the guidelines set forth in the Ordinance as the trail may change or need to in the future as far as any other changes to protect the stream and the like. They would follow the guidelines set forth in the current Ordinance.

The Chair said the Cabarrus Soil and Water Conservation District in their report requested that a conservation easement be placed on that stream. He asked if there had been any discussions on that.

Mr. Tibbals said there has been significant discussion with the developer on that item and there is potential consideration at the next staging, the platting process. He said at this stage it is not a regulatory requirement for the zoning but it is a part of the policy of the County to allow for a conservation easement to be placed. He thinks there are definite tax advantages and that would be a consideration, but at this point in the process they wanted to remain owners. He said they submitted an open space management plan per the Zoning Ordinance and he feels confident they can reach agreement with the Soil and Water District Official to help reach that at the next level and time.

Mr. Fesperman asked if they were doing okay with NCDOT about the confirmation from Pleasant Grove Church.

Mr. Tibbals said they have received positive feed back from the existing condition there; Pleasant Grove is a rather dangerous intersection, it will be up to the NCDOT to make that final decision if that intersection changes or goes away. He said NCDOT is happy with their location to come further east on Tuckaseegee to the Second Phase.

The Chair reminded the Board that the Staff Report does include 10 recommended conditions, and asked Mr. Huss to read the 10 recommended conditions.

Mr. Jeff Huss said after discussing the 60 ft trail the Board would have to state that for the record if they want it as a condition. Mr. Huss read the following conditions:

1. The developer shall enter into a Consent Agreement with the Cabarrus County Board of Commissioners to address school adequacy.
2. The developer must obtain an NCDOT driveway permit and must post a performance bond to cover roadway improvements. The driveway permit will not be issued until all right of ways are in place.
3. Developer agrees to secure any necessary permits required by Federal or State law prior to disturbing any wetlands on the site.
4. All lots must be served internally.
5. Permits for the disturbance of streams and other wetlands must be requested from the North Carolina Division of Water Quality and U.S. Army Corps of Engineers prior to any impacts.
6. Provide corrected plat seven days from the date of the Cabarrus County Planning and Zoning Meeting. Corrections shall include the proper housing densities for each subdivision type, corrected area acreage calculations, removal of the partial curve table, and any other recommendations from the Planning and Zoning Board.
7. NCDOT must receive confirmation from Pleasant Grove Church as to their preferred means of access. It will be necessary for the existing portion of Pleasant Grove Road

between Tuckaseegee and Fox Tail Lane to be abandoned from NCDOT maintenance upon acceptance of the new road. NCDOT reserves the right to modify comments pending subsequent plan submittal and review.

8. North Carolina form GW-30 must be filled with the Groundwater Section of the N.C. Department of Environment and Natural Resources when abandoning a well.
9. On-site wastewater system associated with abandoned homestead is required to be decommissioned according to procedures recommended by Cabarrus Health Alliance.
10. The part of the project located in Rowan County shall be approved by Rowan County prior to any final plats being processed by Cabarrus County.

The Chair said the question was asked if the owner had any problems with accepting these conditions.

Mr. Tibbals said they have a challenge as far as the Rowan County approval; to have the Board approve it, and to have the changes done, they do not have the assurance through the coordination yet with Rowan County. They have had some discussion with the Commerce Department Director, Jonathan Marshall, getting confirmation of process to date. Mr. Tibbals thinks it would be prudent to request a 30 day stay to make sure they can get their arms around it and making sure they can have Rowan County on board with the request and not to push it and not be able to meet it for some reason.

The Chair wants to make sure he understands Mr. Tibbals correctly. He asked if Mr. Tibbals was suggesting a 30 day delay and not to act on this proposal to give them time to get that squared away.

Mr. Tibbals said that it correct. He thinks they are comfortable with all of the other items. He said the challenge is where roughly 2.4 acres of the property sits in Rowan County, this property has been paying taxes in Cabarrus County and there is some discussion that the County Line may adjust for certain instances like this where it is not being served by Rowan County and it would make sense for it to move over into Cabarrus County. He said it is simply where they fall in the lineation; they request a 30 day delay for them to get this, as it did not come up in the previous part of their process until this last horse show where we are today.

Mr. Carl Anderson, Development Manager, Park Creek, 2507 Langshire Court, Concord, NC, addressed the Board. He said the concern comes from Item #6, which says we have to make the corrections within 7 days of approval. He said if we do not know how Rowan County is going to handle those 2.7 acres on their side of the border. He cannot guarantee they can get the corrections made within 7 days, and so they needed to get an extension of the correction date or we can table.

Mr. Berg asked if Mr. Anderson thought tabling until the next meeting would give him enough time to get that squared away.

Mr. Anderson said Mr. Marshall was working on it on Wednesday, but had to leave for a conference, he left Mr. Anderson a message stating that he had worked with Land Mapping and with Rowan County and they were headed in that direction. Mr. Anderson has not been able to talk with Mr. Marshall about it because he has been out of the office. He said it is their goal that they would be able to do that, but he does not know until he talks with Mr. Marshall.

The Chair said a suggestion has been made that we table this until the next meeting to give them time to satisfy condition #10 of the Staff Report.

Mr. Danny Fesperman **MOTIONED, SECONDED** by Mr. Larry Ensley to TABLE Petition C2008-01(S) Preliminary Plat Approval, Park Creek, Phase III, Section A and B. The vote was unanimous.

Old Business – Planning Board Function:

Proposed Text Amendment: C2008-04 ZT – Proposed Recreational Therapy Center (Rural)

Mr. Huss said since the last meeting he has made the corrections to the text from the suggestions that were made at the previous Planning and Zoning Commission meeting. He said there was one change on the buffer requirements, Item #7, in the Staff Report. (See below)

Buffer. A Level Two Bufferyard is required when the Recreational Therapy Use abuts a residential use. However, if residential dwellings are located 200 feet or greater from the property line, buffering shall not be required. See Chapter 9, Landscaping and Buffer Requirements.

He said this suggests what was spoken at the last Planning and Zoning meeting when we were talking about a substantial requirement of screening; the trees and the shrubs, and how many would have to go into a substantial property like some of these would be.

The Chair asked if there were any questions. This was discussed at length at the last meeting. He said based on the notes he has it seems that everything has been addressed.

Mr. Prince thought the discussion on the parking area was that parking on the grass was probably not the best thing.

The Chair remembers talking about paving 10 spaces, there was some discussion about grass versus gravel. He recalls that for the few events that they have where they have more than just the routine people visiting, parking on the grass would be acceptable.

Mr. Shoemaker said that is the way he understood it. It seems like the grass was more for extraordinary events rather ordinary day to day parking.

Mr. Prince said okay. He said in Section 1, at the bulletin point that reads: evidence that the facility has achieved accreditation from a nationally recognized organization in the therapeutic field of choice”, after doing a little bit of research, a lot of people use accreditation as a synonym for certification, accreditation is actually the process of receiving the certification. He proposes that accreditation be replaced with the word Certification.

Mr. Huss said he can make that change. He said the Mr. Cronin called him after the last Planning and Zoning meeting about the Public Address (PA) system and after he thought about it, he sees the advantages of having an outdoor Public Address (PA) system. He said Item #14; the second bullet point is new; addressing the Public Address (PA) system. (See below)

Public address systems shall be permitted outside and within a building when the speakers are at least fifty (50) feet from adjacent property lines. Further, noise at any property line shall not exceed thirty-five (35) decibels.

There being no further discussion Mr. Barry Shoemaker, **MOTIONED, SECONDED** by Mr. Ian Prince to **APPROVE** Text Amendment, C2008-04 Proposed Recreational Therapy Center as written with the exception of Section 1, at the bulletin point that reads: evidence that the facility has achieved accreditation; change the word Accreditation to Certification. The vote was unanimous.

Mr. Koch asked if the Board had anything in particular for staff to do in terms of providing additional information to help the Board in looking at the Central Area Plan over the next 60 days.

The Chair said as each Board member wades through this individually, they may have some legal questions and asked if it were okay for them to call staff about those.

Mr. Koch said absolutely. He said the Rezoning is a legislative process, so you are not bound to just consider the matter within the confines of this room, you can discuss it among yourselves. He said people may want to lobby you and are free to do so since it is legislative and not quasi judicial.

Ms. Morris said she did not have any thing for the Director’s Report. She asked what direction the Board wanted to go in and if they needed anything from staff. She said as far as the actual implementation of the plan, those are the rezonings that are called for. She said the Land Use Plan densities were a part of the agreement with the City of Concord. She asked if the board wanted to look at it for 60 days and come back or if there was something specific they wanted to look at.

Mr. Berg asked that the densities in relationship to the City of Concord be explained.

Mr. Koch said Paragraph 4 of the terms of the agreement states that the parties each agree to rezone the effective properties in the Central Area Plan in their respective jurisdictions

to that zoning classification that matches the Land Use and densities recommended in the revised Central Area Plan. He said that is what the agreement says.

Mr. Griffin asked what are we sitting here for and why did we have this meeting for public comments.

Mr. Koch said because you are required to have it when you rezone property.

Mr. Griffin said but in effect our agreement tells us it is for no sensible purpose. He said that our choice per that agreement, as he understands it, that this rezoning be approved and these folks can come back and fight it out about up-zoning for individual parcels and other things.

Mr. Berg said there was a lot of discussion about the industrial properties, how does that factor into what was just read about densities, or does it?

Mr. Koch said the Inter-Local Agreement that he just read does not specifically address residential as opposed to industrial. He said the intention of the Inter-local Agreement was to try to get the City of Concord and the County to work in tandem on a plan that makes sense for that area. He does not think it necessarily precludes making some adjustments to some of the parcels that are under consideration for rezoning. He said it may affect what how Concord would perceive it, in terms of adherence to the agreement if there's some rezoning that are different from what had been recommended in the plan. He said it may constitute an issue between the two local governments if the rezoning is different. He said it may cause Concord to decide that they want to do something different, in the event that the rezoning is not consistent with the plan.

Mr. Prince said then end result being if we vote this rezoning down, then that make the plan null and void and have to start over.

Mr. Koch thinks you will still have a plan, it would affect the agreement that we have with Concord; the County still has an approved plan. He said you would have arguably a breach of the agreement with Concord if you do not rezone consistent with the plan and that might cause the whole thing to come undone. He thinks that could be a result; they have been dealing with problem in Concord on their own.

Mr. Griffin personally thinks the fact that we had to mail individual notices to all the people whose property would be affected by this rezoning was a really good thing. Otherwise you would not have had this crown here tonight and you would not have heard some of their frustrations from the property owners and how we are costing them money, taking property rights away from them and there maybe something awakening in this County to that fact. That when these things happen and you do not participate then you are subject to having the County restrict your property rights and take money out of your pocket.

Mr. Koch said that is something this Board recommended last time and the County Commission approved.

Mr. Griffin understands and he thinks that is a good thing; not that we can change it, but he thinks it was a good recommendation that we re-notice the people.

The Chair said it certainly was not the public comment when we recommended the plan and when the Commissioners approved the plan, that we had tonight. He does not know if that was a result of getting a notice in the mail personally.

Mr. Shoemaker said the frustration seem to be some of Jerry's circular logic, but you come here for a rezoning and the plan has already been approved, and you heard Mr. Beaudry asking what is this, is it the plan or is this the rezoning and the agreement sounds like the plan is the rezoning.

Mr. Koch said the agreement was an attempt to get the County and the City of Concord particularly; there is a part that affects Kannapolis, but the majority of it relates to the City of Concord, was to try and get both of those local governments moving in the same direction, but the agreement cannot supersede or supplant the requirements under the State Statutes and the ordinance for how you go about adopting a plan and doing a rezoning. He said you still have to follow those rules and that is why we are doing what we are doing. He said depending on what ends up happening, it could have some effect on this agreement.

Mr. Griffin said the agreement can be revised.

Mr. Koch said that is correct. He thinks Concord is probably dealing with some of the same issues with reference to their part of it

Mr. Prince said there are two fundamental questions: Do we feel as a Board that this rezoning is going to be an integral part of that area plan, to make that work. He said if we decide that is does or does not, that may have impacts on the agreement with City of Concord. He said if we decide that it is an integral part, you also have to think about the 2000 of the silent majority that were not here that were in attendance.

Mr. Griffin said the same statement is true of all the meetings that were held. There were only a few hundred folks that participated in those. Mr. Griffin said some of the people here were talking about how they brought their stuff up and nobody paid any attention to it and said they could address it at the meeting tonight.

Mr. Prince said the meetings he attended were pretty heavily attended. He said if the Board feels that this rezoning is consistent with the plan, the people that are going to be affected are going to be a very small percentage. He asked the question about the 2005 rezoning because in the past 3 years we have had how many people come before us that we have looked at and used good judgment and said that really does not make sense, that we understand that you were caught up in the 2005 rezoning and we flipped it back and

made the correct decisions. He does not know if it will be more or less this time, you can only do so much. He said it is like with the revaluations this year, everybody's taxes went up considerably and less than 3% appealed those revaluations.

Ms. Morris said the zoning designations that you see reflected on the plan for the rezoning are essentially consistent with the densities that are proposed for those areas in the Land Use Plan. She said where you see the Low Density Residential (LDR) to Countryside Residential (CR), LDR is one unit per 2 acres under conventional or 2 units per acre but that allows utilities; so the CR is what happens near the Arena because that is the zoning designation, it does not permit utilities and based on the Agreement and the line, no utilities are going to go south of Highway 49.

Ms. Morris said what the Board has in front of them is how, through our County Ordinance, we would implement the zoning designations. She said in the white area, the Concord area, if you look at the Land Use Plan in relations to the west side of that line, Area 5, there are higher densities permitted in that area they are not up-zonings and she does not know if Concord is going to up-zone. She said those densities would happen when folks ask for utilities, then the subsequent annexation, and they would then follow the Concord Development Ordinance (CDO) and get the zoning designation in Concord that had the comparable density. So, based on our Zoning Ordinance these would be the districts that would be the same as what the plan calls for. She said right now, the Low Density Residential (LDR) allows a lot more than the Agriculture Open (AO) does, but when you all are faced with a rezoning petition and staff gives you that statement in your staff report about the Land Use Plan and whether or not it is consistent with the density, that is what is going to be consistent.

Mr. Griffin understands that; what he heard tonight was a lot of frustration about where we are and how we got there, with the adoption of the Land Use Plan itself.

The Chair said when he thinks back to Susie's original question, is there anything specifically that we want staff to do at this point? He hopes the 60 days that we have put this off we will spend wisely and try to wade through this and address the concerns. He made some notes about certain questions and some of the specific parcels and plans to contact staff to discuss them. He said if some one has a better plan or if we want to talk about it jointly that is fine as well.

Mr. Fesperman thinks that Jerry Newton had some good points, he would like for staff to look over those, particularly on the General Industrial, and it is a Limited Industrial.

The Chair said a lot of what was said had to do with densities but Industrial does not really factor into that.

Ms. Morris said she can address that question now. The people said that they did not want heavy industrial in that area. They thought it was more appropriate for those uses to be located along Interstate 85 and in the industrial parks, understanding that there are currently existing parks. She said if you look at your map there are approximately 17

parcels out of the whole area that are scheduled to go to Limited Industrial (LI). Some of them are surrounded by Concord; when they develop they will be taken into Concord. She said the plan does call for Light Industrial; there is no heavy industrial component of this plan. Her answer is that the plan calls for Light Industrial, so we were taking it to the Light Industrial designation that the plan calls for.

Mr. Griffin said the owners of those properties bought them expecting that they could use them for the purpose of which they were zoned before. It seems to him that we should give significant weight to the folks who had those expectations.

The Chair said unless there is another suggestion he thinks the Board should deal with it individually or talk with each other and to staff as they go through it.

Mr. Koch reminded the Board that they cannot have a quorum when they meet because it would violate the opens meeting law.

There being no further discussion, Mr. Fesperman **MOTIONED, SECONDED** by Mr. Shoemaker to **Adjourn** the meeting. The vote was unanimous. The meeting ended at 9:40 p.m.

APPROVED BY:



Todd Berg, Chairman

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager