

Commerce Department
Planning Division

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
January 21, 2010
7:00 P.M.
Board of Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval/Correction of November 10, 2009 Special Meeting Minutes
3. New Business – Planning Board Function:
 - A. **Petition C2009-22(R)** Zoning Atlas Amendment – RZON2009-00028.
Petitioner, Kelly Chatman; property is located at 9550 Rocky River Road,
Harrisburg, NC.

Request: The applicant is requesting to rezone this property, approximately 3.54 acres,
from OI – Office Institutional to LDR – Low Density Residential

4. Directors Report
 - Revised Rules and Procedures (First Reading)
5. Adjournment

Staff Use Only:
Approved: _____
Denied: _____
Table: _____

**PLANNING STAFF REPORT
TO CABARRUS COUNTY PLANNING AND ZONING COMMISSION
January 21, 2010**

Petition: C2009-22 (R) Zoning Atlas Amendment
RZON2009-00028

Applicant: Kelly Chatman
9550 Rocky River Road
Harrisburg, NC 28075

Property Owner: Kelly Chatman

Existing Zoning: Office/Institutional (OI)

Proposed Zoning: Low Density Residential (LDR)

PIN#: 5506-32-8673

Area: +/- 3.543 acres

Description: The subject property is located on the north side of Rocky River Road. The house was moved to the subject property in January of 2000. The applicant is requesting that the property be rezoned to LDR. The OI zoning designation does not permit single family detached residential development. Therefore, the current use of the property is not permitted in the district.

Zoning History: The property was rezoned during the June 2005 county-wide rezoning and was changed from MDR - Medium Density Residential to OI – Office/Institutional.

Surrounding Zoning: North: OI – Office/Institutional
South: CR – Countryside Residential
East: LDR - Low Density Residential
West: OI – Office/Institutional

Adjacent Land Uses: The subject property is surrounded by similar properties on all sides. Farm, forested, or residential uses are present on adjacent properties.

Infrastructure: The subject property receives water and sewer services from Carolina Water Utilities, a private water and sewer

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

provider. The subject property is located in the Harrisburg Utility Service District.

- Exhibits:
1. Current Zoning Map – submitted by Staff
 2. Aerial Map – submitted by Staff
 3. Future Land Use Map – submitted by Staff
 4. Leak-Goforth Study Information (Site K Map) – submitted by Staff
 5. List of Permitted Uses in OI – submitted by Staff
 6. List of Permitted Uses in LDR – submitted by Staff
 7. Letter from Harrisburg Planning – submitted by Staff

Submitted by: Jeff Huss, Planner

Intent of Zoning Districts:

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. Single family detached residential is not a permitted use in the Office/Institutional district.

Low Density Residential: This district is intended to permit development with a low density residential community character. This district allows conventional, open space and amenity subdivisions. These zones are located where public utilities either are available or are envisioned to be available within the next two to five years. Densities permitted in the LDR Zoning District are one unit per two acres or up to two units per acre if the amenity design option is used for the subdivision. Minor subdivisions are permitted in the LDR zoning district. Governmental water and sewer are optional in the LDR zoning district.

Area Plan Consideration:

Harrisburg Plan Area: The subject property is designated Suburban Residential in the adopted Harrisburg Area Plan. The Suburban Residential district is a single family residential district located north of Rocky River Road in the Town of Harrisburg's current utility service area and south of Highway 24/27 near that area's future employment district. The Harrisburg Area Plan states that appropriate densities for this land use designation are two to four units per acre. The intent of the Suburban Residential district is to maintain low to medium density suburban style development around the Town of Harrisburg.

Additional Considerations:

According to the *Strategic Plan for Economic Development* by Leak-Goforth, the subject property lies inside a proposed site for development, identified as Site K – Rocky River Road/County Line. According to the study, property characteristics for this area include attractive, residential estate-style flat to rolling open land. Further, properties in this area have

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

the potential to be developed as amenity-oriented office parks with mid-rise office, flex-office, and commercial services.

Comments:

Alley, Williams, Carmen & King – Jeff Moody

- No comments.

**Cabarrus County Environmental Protection –
Thomas Smith**

- An erosion and sedimentation control plan must be submitted for review and approval before commencement of any land disturbing activities.

Cabarrus County Fire Marshal – Steven Langer

- No comments.

**Cabarrus County Health Alliance (CHA) –
David Troutman**

- In 2008 CHA determined that the property was not suitable for a septic system.
- Before any rezoning is done there should be a determination as to whether or not there is adequate waste water disposal on site.

Cabarrus County Schools – Robert Kluttz

- No comments.

Cabarrus County Sheriff – Ray Gilleland

- No comments.

**Cabarrus Soil and Water Conservation District –
Dennis Testerman**

- No comments.

Harrisburg Planning Department – Joshua Watkins

- No comments. (See Exhibit #7)

**NC Department of Transportation (NCDOT) –
Leah Wagner**

- No comments at this time. However, it would be beneficial for Chatman and the Carolinas Medical Center (abutting neighbor to the west) to develop a shared entrance directly across from Starwood Drive.

Staff Use Only:

Approved: _____

Denied: _____

Tabled: _____

**Water & Sewer Authority of Cabarrus County
(WSACC) – Tom Bach**

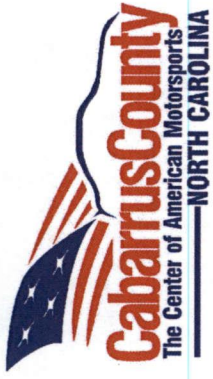
- If the existing privately owned water and sewer facilities become publicly owned or they are replaced with new public facilities, the facilities must meet Town of Harrisburg requirements.
- If new development occurs on this site through the rezoning process, note that WSACC Capital Recovery Fees are required for each service to the development. Fees are collected at the time the building permit is issued, and is separate from any connection or tap fees required by any jurisdictional sewer provider.

Staff Analysis:

This is a conventional rezoning request. All uses permitted in the LDR zoning designation would be permitted on the subject property if the request to rezone is approved.

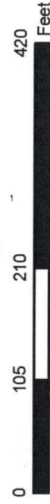
**Consideration of Proposed
Rezoning:**

Based on the land use designation assigned by the Harrisburg Area Plan, Suburban Residential, the proposed rezoning from OI to LDR is consistent with the densities discussed in the plan. The current use of the property is not consistent with uses permitted in the OI district. The use, however, is a legal non-conforming use at this time. The Planning and Zoning Commission should review the information and facts presented to determine if the proposed zoning map amendment is consistent with the Commission's goals and vision for this area of Cabarrus County.



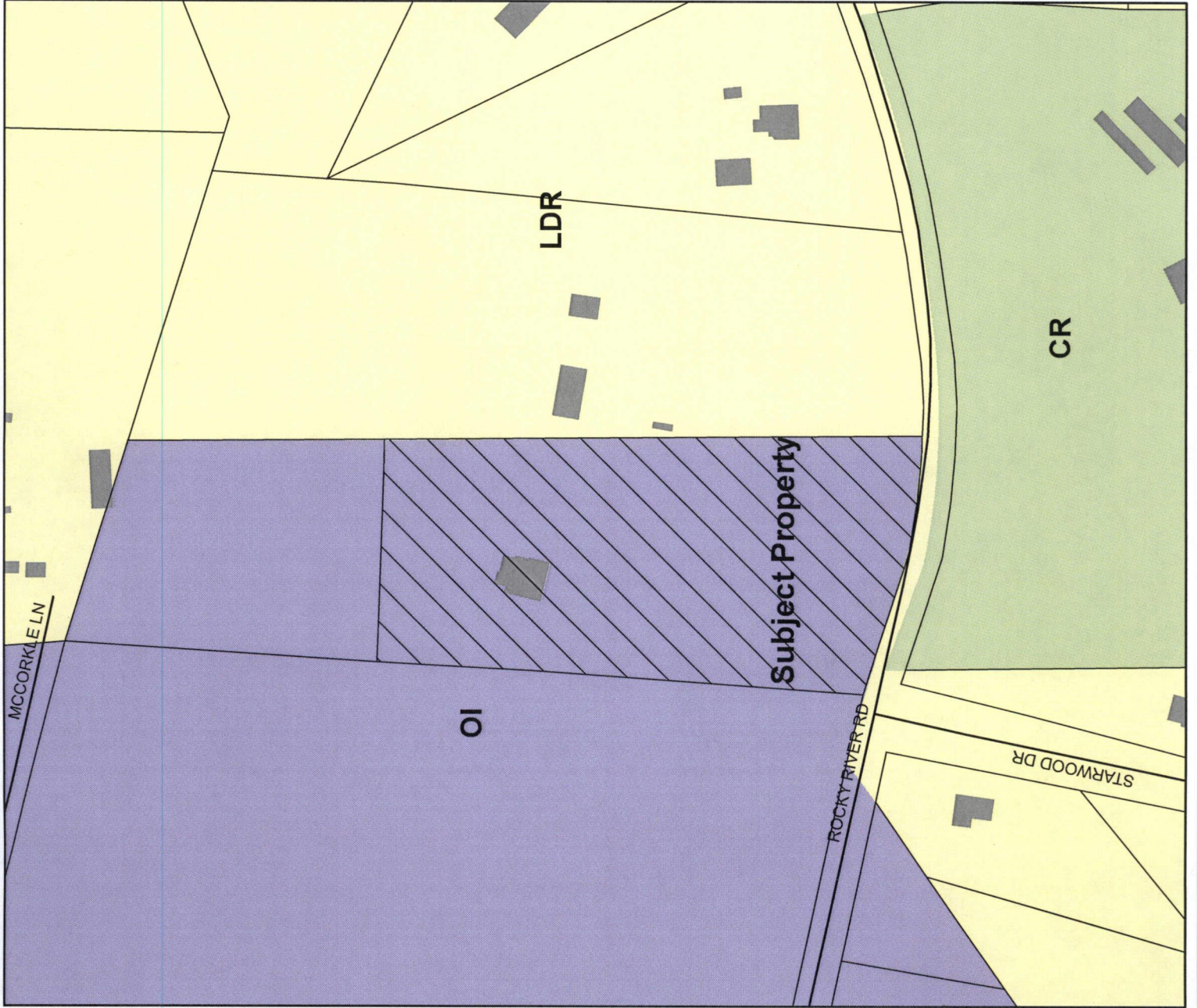
Zoning Map
Applicant: Kelly Chatman
Case: RZON2009-00028
Existing Zoning: OI - Office/Institutional
Proposed Zoning: LDR - Low Density Residential
Parcel ID#: 5506-32-8673

Legend	
	Tax Parcels
	Structures
	Streets
	CR - Countryside Residential
	LDR - Low Density Residential
	OI - Office Institutional
	Subject Property



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

Map Prepared by Cabarrus County Planning Services, January 2010.





Aerial Map

Applicant: Kelly Chatman

Case: RZON2009-00028

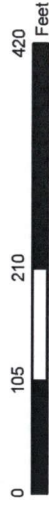
Existing Zoning: OI - Office/Institutional

Proposed Zoning: LDR - Low Density Residential

Parcel ID#: 5506-32-8673

Legend

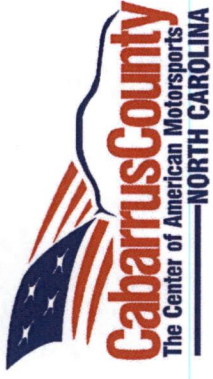
— Streets



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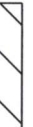


Future Land Use Plan Map
Applicant: Kelly Chatman
Case: RZON2009-00028
Existing Zoning: OI - Office/Institutional
Proposed Zoning: LDR - Low Density Residential
Parcel ID#: 5506-32-8673

Legend

-  Tax Parcels
-  Streets

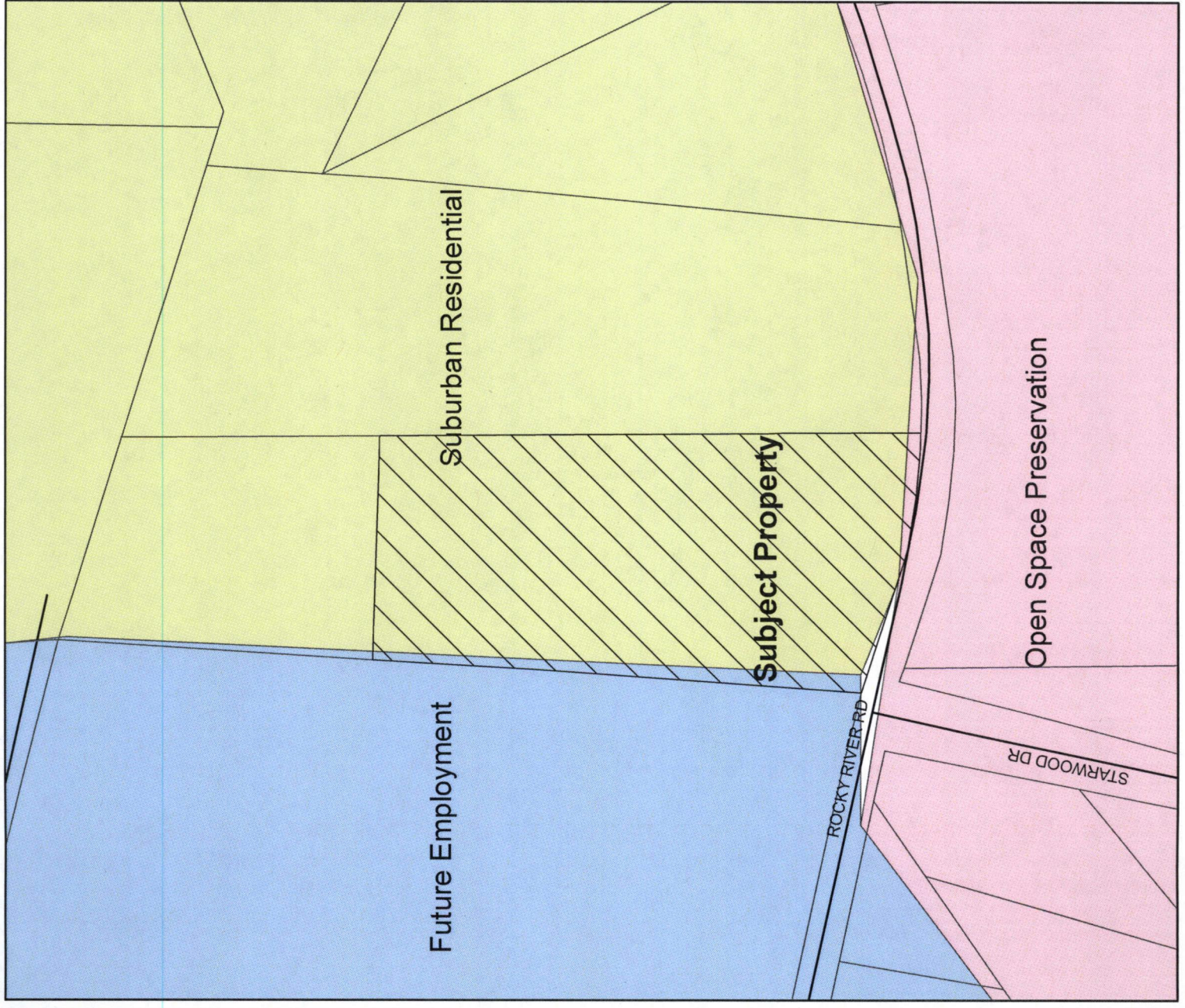
Harrisburg Area Land Use Plan

-  Future Employment
-  Open Space Preservation
-  Suburban Residential
-  Subject Property



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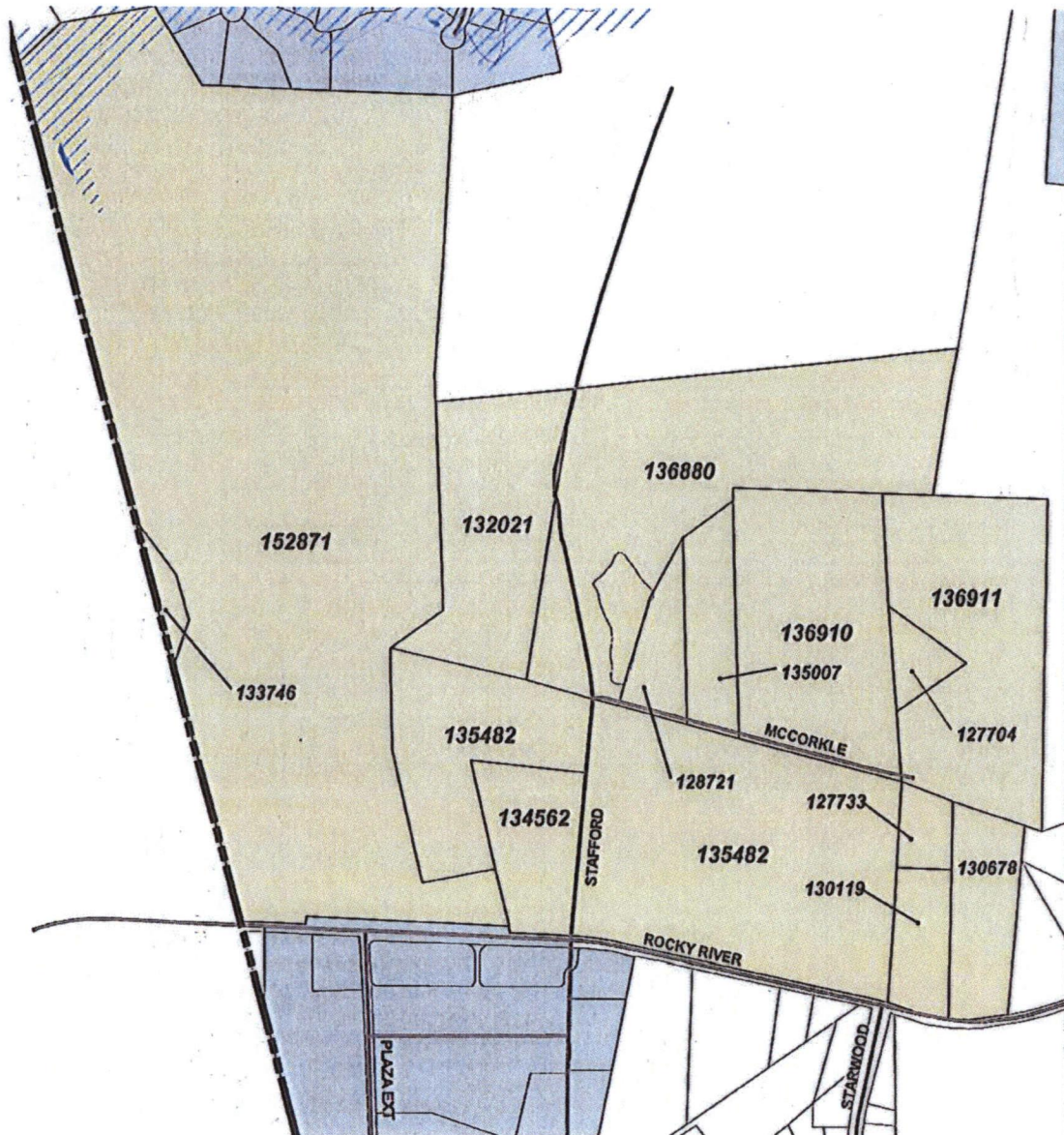
Map Prepared by Cabarrus County Planning Services, January 2010.






Site K - Rocky River Road/County Line

- Location:** North side of Rocky River Road at county line; distance from I-485 interchange B 0.25 miles
- Size:** 300-400 acres
- Character:** Attractive residential estate-style flat to slightly rolling open land; new well-designed village shopping center on south side of Rocky River Road
- Jurisdiction:** Cabarrus County
- Zoning:** 75-100 acres on County line zoned PUD (planned unit development); 300+ acres zoned MDR (medium density residential)
- Potential:** Amenity-oriented office park with mid-rise office, flex-office, commercial services; prime location for a Cabarrus County Technology Park, including land adjacent to the I-485 interchange in Mecklenburg County
- Other:** Very susceptible to residential development; limited local roads (two-lane rural)



Site K - Rocky River Road/County Line

 **City of Harrisburg**

PARCEL	PROPERTY OWNER	ACRES	LAND VALUE	BLDG VALUE	TOTAL VALUE
127704	HAWKINS PERRY E	1.67	35080.00	47050.00	84310.00
130119	CHATMAN KELLY RENEE	3.54	80780.00	67810.00	152150.00
127733	SPEARS IVEY S	1.79	41520.00	0.00	41520.00
133746	APS INVESTMENTS LLC A NC LLC	1.17	0.00	0.00	0.00
128721	REYNOLDS FRANKLIN H &	3.12	68220.00	0.00	68220.00
134562	COCHRANE EUGENE W & WIFE	6.11	155440.00	104410.00	275060.00
135007	REYNOLDS FRANKLIN H &	4.64	66270.00	253370.00	324660.00
135482	COCHRANE EUGENE W JR	49.38	892580.00	0.00	892580.00
130678	SCHOENEMAN JOHN PATRICK	5.83	93420.00	73530.00	169760.00
136880	STAFFORD DOROTHY M	30.63	284180.00	62130.00	346710.00
132021	COCHRANE EUGENE W JR	121.71	1525130.00	160.00	1525290.00
136910	MCCORKLE ELLIS M	17.82	186820.00	143470.00	332980.00
136911	HAWKINS PERRY E	18.72	175780.00	64520.00	260760.00
152871	APS INVESTMENTS LLC A NC LLC	111.21	4730430.00	0.00	4730430.00
TOTAL		377.35	\$8,335,650.00	\$816,450.00	\$9,204,430.00

Permitted Uses: OI – Office Institutional

Permitted Uses

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

Permitted based on Standards (PBS)

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

Conditional Uses

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

Permitted Uses: LDR – Low Density Residential

Permitted

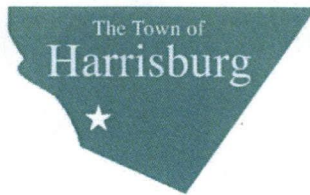
Agriculture, excluding livestock
Family care home
Group care facility
Nursery/Greenhouse
Semi-attached house
Single family detached residential

Permitted Based on Standards (PBS)

Accessory apartment
Agriculture, including livestock
Bank/financial institution/ATM
Bed and breakfast
Cemetery
Civic organization facility
Convenience store with petroleum sales
Convenience store without petroleum sales
Gas station
Home occupation
Home occupation, rural
Landfill, demolition (one acre or less)
Mobile home class I
Mobile office, temporary
Nursery/daycare
Public cultural facility
Religious institution (total seating capacity 350 or less)
Rest/convalescent home with 10 beds or less
Restaurant, excluding drive-thru
Stables, commercial

Conditional

Colleges & universities
Elementary & secondary schools
Public service facility
Public use facility
Recreational facility, outdoor
Religious institution (total seating capacity 351 or more)
Religious institution including school
Rest/convalescent home with more than 10 beds



January 11, 2010

Kelly Chatman
9550 Rocky River Road
Harrisburg, NC 28075

Ref: Kelly Chatman Rezoning, PIN: 5506-32-8673

Dear Mrs. Chatman:

The Town of Harrisburg has reviewed the Chatman Rezoning (Petition # C2009-22(R)) submittal, for the property located at 9550 Rocky River Road. Harrisburg Planning has no comments on the proposed rezoning from OI – Office/Institutional to LDR – Low Density Residential. The property is located within the Harrisburg Future Land Use Plan; however at this time Harrisburg has no plans to annex this property. Further, water and sewer utilities will not be extended to the subject property.

This letter is not a contract, nor does it establish any property rights or town services.

If we can be of further assistance, feel free to contact us with your questions.

Sincerely,
Town of Harrisburg

Joshua R. Watkins, CZO
Planning Director

cc: Jeff Huss, Planner – Cabarrus County Commerce Department

“Working Together For A Successful Future”



Memo

To: Planning and Zoning Commission
Cc: Susie Morris, Planning and Zoning Manager
From: Lynn Roberts, Clerk to the Planning and Zoning Commission
Date: January 14, 2010
Re: Proposed Amendments to the Cabarrus County Planning and Zoning Commission Rules and Procedures

This will be the first reading to add language to the Cabarrus County Planning and Zoning Rules and Procedures.

The second reading and vote to amend the Rules and Procedures will occur at the following Planning and Zoning Commission meeting.

Below are procedures that we currently follow, however, they need to be officially added to the Rules and Procedures for the Planning and Zoning Commission. Item #3 is from the Cabarrus County Board of Commissioners Procedures for Appointments to Boards, Committees and Commissions.

Proposed amendments to the Planning and Zoning Commission Rules and Procedures:

1. Organizational Meeting

- a. As the third order of business, the Commission shall elect a member from among the regular members to serve as Chair in the absence of both the Chair and Vice Chair.

2. Duties and Responsibilities of Membership

- a. The Chair's term of office shall be one year and until a successor is elected. The Vice Chair shall be selected in the same manner and for the same term. Likewise, for the member chosen to serve as Chair during the absence of the Chair and Vice-Chair.

3. LIMITS TO TERMS OF SERVICE

- a. Except in extraordinary circumstances or where otherwise restricted by legislative authority creating or authorizing the creation of County boards, committees, commissions, or councils, it shall be the policy of the Board of Commissioners of Cabarrus County that terms of membership on County boards, committees, commissions and councils shall be staggered and that regular members shall not serve more than six consecutive years. Time served as alternate member prior to the appointment as a regular member does not count as a part of the six consecutive years of service. The preferred length of terms is three years, with terms staggered such that appointments are made each year. With three-year terms, an individual would normally serve a maximum of two terms. An individual whose initial appointment was to fill an unexpired term shall be eligible to serve the number of full-length terms other members are eligible to serve unless prior to the time for reappointment that individual has already served six consecutive years.

PLANNING AND ZONING COMMISSION RULES AND PROCEDURES

ORGANIZATIONAL MEETING

On the date and at the time of the first regular meeting in September of each year, the newly appointed members shall take and subscribe the oath of office as the first order of business. As the second order of business, the Commission shall elect a Chair and a Vice Chair from among the regular members. The Director of Planning and Zoning shall preside during the election process for Chair. As the Third order of business, the Commission shall elect a member from among the regular members to serve as Chair in the absence of both the Chair and Vice Chair.

A simple majority of those present shall be necessary to elect the Chair or Vice Chair. The Chair's term of office shall be one year and until a successor is elected. The Vice Chair shall be selected in the same manner and for the same term. Likewise, for the member selected to serve as Chair during the absence of the Chair and Vice-Chair.

DUTIES OF CHAIR AND VICE CHAIR

The Chair shall in an orderly fashion preside at all meetings, which includes conducting all scheduled business and public hearings, deciding all points of order and procedure, appointing all standing and ad hoc committees, administer oaths to witnesses, and soliciting public comments at each meeting. The Chair may take part in deliberations and vote on all issues.

Additionally, the Chair is expected to present Planning and Zoning Commission recommendations to the Cabarrus County Board of Commissioners. Said presentations are to reflect the vote of the Board and the character of the decision-making process that was used by the Board. The Chair may, with the voting approval of the other members, appoint a parliamentarian.

The Vice Chair shall serve in the absence of the Chair and may serve as parliamentarian. Should both the chair and vice chair be vacant for a meeting, the Chair shall designate a regular member to preside.

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DUTIES AND RESPONSIBILITIES OF MEMBERSHIP

Members shall be appointed by the Board of County Commissioners according to law.

Regular members may be removed by the Board of County Commissioners for good cause, including but not limited to, failure to attend at least two-thirds of the regularly scheduled monthly meetings of the calendar year. Alternate members may be removed for good cause, including but not limited to, repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures.

If a regular planning and zoning member moves outside of the area in which he or she represents or an alternate moves outside of Cabarrus County, that shall constitute a resignation from the commission, effective upon the date a replacement is appointed by the Board of County Commissioners.

Planning and Zoning Commission members shall be adequately prepared to act on a particular case in front of them at the meeting. This involves reading the meeting packet in advance, carefully listening to evidence and testimony and reports presented at the meetings, and carefully deliberating the issues.

Members are encouraged to review issues with the knowledgeable Planning, Zoning and Building Inspection Department personnel. Members are encouraged to visit all sites under review in advance. Members are cautioned not to discuss the merits or flaws of that issue with any potentially related party prior to the hearing or meeting in which the pertinent information is to be presented. Furthermore, members shall not express individual opinions on the proper judgment of any case in which the decision is quasi-judicial in nature. A member shall not intentionally attend an outside meeting (i.e., a non-Cabarrus County Planning and Zoning Commission meeting) to discuss scheduled agenda items unless all other members have been invited, or it is disclosed to the Chair or the Director of Planning and Zoning, and Building Inspection.

LIMITS TO TERMS OF SERVICE

Except in extraordinary circumstances or where otherwise restricted by legislative authority creating or authorizing the creation of County boards, committees, commissions, or councils, it shall be the policy of the Board of Commissioners of Cabarrus County that terms of membership on County boards, committees, commissions and councils shall be staggered and that regular members shall not serve more than six consecutive years. Time served as alternate member prior to the appointment as a regular member does not count as a part of the six consecutive years of service. The preferred length of terms is three years, with terms staggered such that appointments are made each year. With three-year terms, an individual would normally serve a maximum of two terms. An individual whose initial appointment was to fill an unexpired term shall be eligible to serve the number of full-length terms other members are eligible to serve

unless prior to the time for reappointment that individual has already served six consecutive years.

PRESIDING OFFICER WHEN CHAIR IS IN ACTIVE DEBATE

The Chair shall preside at meetings of the Commission unless he or she becomes actively engaged in debate on a particular proposal, In which case he or she shall designate another Commission member to preside over the debate. The Chair shall resume presiding as soon as action on the matter is concluded.

ACTION BY THE COMMISSION

The Commission shall proceed by motion. Any member may make a motion.

SECOND REQUIRED

A motion shall require a second.

ONE MOTION AT A TIME

A member may make only one motion at a time.

SUBSTANTIVE MOTIONS

A substantive motion is out of order while another substantive motion is pending.

ADOPTION BY MAJORITY VOTE

A motion shall be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these rules or the laws of North Carolina.

VOTING BY WRITTEN BALLOT

The Commission may choose by majority to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the Commission shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the Clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

DEBATE

The Chair shall state the motion and then open the floor to debate on it. The Chair shall preside over the debate according to the following general principles:

- (a) The introducer (the member who makes the motion) is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- (c) To the extent possible, the debate shall alternate between opponents and proponents of the measure.

PROCEDURAL MOTIONS

In addition to substantive proposals, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption.

In order of priority (if applicable), the procedural motions are:

- (1) **To Adjourn.** The motion may be made only at the conclusion of action of a pending substantive matter; it cannot interrupt deliberation of a pending matter.
- (2) **To Recess to a Time and Place Certain.** The motion shall state the time and place when the meeting shall reconvene and no further notice need be given of a recessed session of a properly called meeting.
- (3) **To Take a Brief Recess.** This motion is in order at any time. The Chair may call a brief recess without a motion or vote.
- (4) **Call to Follow the Agenda.** The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.
- (5) **To Suspend the Rules.** The motion requires for adoption a vote equal to two-thirds of the actual membership of the Commission. The Commission may not suspend provisions of the rules that State requirements impose by law on the Commission.
- (6) **To Divide a Complex Motion and Consider it by Paragraph.** This motion is debatable.
- (7) **To Defer Consideration.** A substantive motion the consideration of which is deferred expires after one hundred (100) days have elapsed following the day of deferral unless a motion to revive consideration is

adopted. This motion is similar to, but differs from, a motion to lay on the table.

- (8) **Call of the Previous Question.** The motion is not in order until there have been at least twenty (20) minutes of debate, and every member has had opportunity to speak once.
- (9) **To Postpone to a Certain Time or Day.** This motion is appropriate prior to consideration of a matter when more information is necessary or more time is needed. It differs from a recess after consideration has begun and differs from a motion to defer consideration.
- (10) **To Refer to a Committee.** Sixty (60) days or more after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Commission, whether or not the committee has reported the matter to the Commission.
- (11) **To Amend.** An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the amended motion has the same effect as rejection of the original motion.

A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

- (12) **To Revive Consideration.** The motion is in order at any time within the one hundred (100) days after the day of a vote to defer consideration. A substantive motion on which the consideration has been deferred expires after one hundred (100) days have elapsed following the deferral unless a motion to revive consideration is adopted.

- (13) **To Reconsider.** The motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken, including any continuation of that meeting through a recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting. In the event a motion is reconsidered and the meeting at which the evidence is heard is recessed to a time and place certain, the Commission shall be reconvened by the same members who heard the evidence at the previous meeting.

(14)To Rescind or Repeal. The motion is not in order if rescission or repeal of an action is forbidden by law.

WITHDRAWAL OF MOTION

A motion may be withdrawn by the introducer at any time before a vote.

DUTY TO VOTE

Every member must vote unless excused by the remaining members. A member who wishes to be excused from voting shall so inform the Chair, who shall take a vote of the remaining members. No member shall be excused from voting except upon matters involving the consideration of his or her own financial interests or official conduct. In all other cases, a failure to vote by a member who is physically present in the Commission chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

If, prior to a meeting, a member knows or believes that there may be a conflict of interest, bias, or prejudice, the member shall inform the Chair or the Director who shall arrange for an alternate member to attend the meeting in the member's place for the particular issue or for the entire meeting at the direction of the recused member. By timely informing the Chair or the Director of a potential conflict, prior to a meeting so that an alternate member can be present, a member may recuse (excuse because of interest or prejudice) himself or herself without a majority vote of the Commission.

If a member knows or believes that there may be a conflict of interest, bias, or prejudice, a declaration of that possible conflict shall be made and the Commission shall determine whether or not a conflict in fact exists. Any person in attendance may also issue a challenge of existence of a conflict of interest. Should this occur, the Chair shall immediately review the allegations by hearing sworn testimony and competent evidence. The Commission shall then make a final determination as to the existence of a conflict of interest, bias, or prejudice by a majority vote.

A member may be excused from voting on a particular issue by a majority vote if there is a conflict of interest, bias, or prejudice. The member shall state the conflict and refrain from any and all deliberations. At the discretion of the Chair, the member may be asked to leave the room until the issue has been voted upon. A member may be allowed to withdraw from the remainder of a meeting for any good and sufficient reason, and with the majority vote of the remaining members present. In any matter in which a member is excused or recused and an applicant is necessarily prejudiced or requests that the matter be recessed to

a time and place certain, said matter shall be recessed to a time and place certain, and the excused member shall be replaced by an alternate member for that meeting.

FINALITY OF ACTIONS

Unless otherwise stated in the Cabarrus County Zoning Ordinance or according to law, all actions of the Planning and Zoning Commission become final with the approval of the minutes in which the meeting was held or through the issuance of a zoning permit obtained in good faith and reliance on a commission action.

QUORUM

Five members of the Commission shall constitute a quorum. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

MEETINGS

Regular business meetings of the Cabarrus County Planning and Zoning Commission shall be held on the third Thursday of each month at 7:00 p.m. in the Commissioners Room of the Cabarrus County Governmental Center. In the event that this date falls on a holiday, the meeting is to be scheduled on the second Thursday of that month. On rare occasions, there may be a need to hold additional meetings. When this occurs, the meeting will be scheduled by the Chair and termed (1) an emergency meeting if an unexpected circumstance has arisen which requires immediate consideration by the Commission, (2) a special meeting, or (3) a continued meeting.

All meetings shall be conducted upon prior public notice in accordance with the requirements of the open meetings laws pursuant to N.C.G.S. 143-318.12 and in accordance with the notice and advertising requirements of the Zoning Ordinance.

By a majority vote of the Commission, the Commission may move into closed executive session to discuss any proper purpose defined by N.C.G.S. 143-318-11 including but not limited to litigation, industrial/business located or expansion, specific personnel matters, state and/or federally required confidential information, and investigations. Before entering into closed executive session, the general nature of the business to be discussed must be stated. The Commission may not discuss matters in closed executive session which were not of the nature announced to the public prior to moving into the closed executive session. An executive session shall include only Planning and Zoning

Commission members, the Commission secretary, the Commission attorney, the Director of Planning, Zoning, and Building Inspection, and anyone specifically invited by the Commission who are necessary or appropriate to conduct the business of the executive session.

PUBLIC HEARINGS

The Chair may apply rules (subject to a contrary majority vote of the Commission) appropriate to the proper conduct of a public hearing. The Commission must provide a reasonable amount of time for a petitioner to introduce all the evidence required by the ordinance to approve an application. The rules may include, but are not limited to, rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made for those excluded from the hall to listen to the hearing); and (d) provide for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the Open Meetings Law applicable to Commission meetings shall also apply to public hearings at which a majority of the Commission is present. A public hearing for which any notices required by the Open Meetings Law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of the Rule concerning Recessed Meetings shall be followed in continuing a hearing at which a majority of the Commission is present.

At the time appointed for the hearing, the Chair or his or her designee shall call the meeting to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the presiding officer shall declare the hearing ended.

QUORUM AT PUBLIC HEARINGS

A quorum of the Commission shall be required at all public hearings required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular Commission meeting without further advertisement.

MINUTES

Full and accurate minutes of the Commission proceedings shall be kept and shall be open to the inspection of the public, except as otherwise provided in this rule.

The results of each vote shall be recorded in the minutes, and on the request of any member of the Commission, the "aye's" and "no's" upon any question shall be taken.

Full and accurate minutes shall be kept of all actions taken during executive sessions. Minutes and other records of an executive session may be withheld from public inspection so long as public inspection would frustrate the purpose of the executive session.

REFERENCE TO ROBERT'S RULES OF ORDER

To the extent not provided for in these rules, and to the extent it does not conflict with North Carolina law or with the spirit of these rules, the Commission shall refer to Robert's Rules of Order, Revised, to answer unresolved procedural questions.

AMENDMENTS

These Rules and Procedures may be amended at any time by an affirmative vote of at least seven of the members. Any amendments shall be presented in writing at a regular or special meeting before the meeting in which the vote is taken.

REFUNDS

It is the policy of the Commerce Department and the Planning and Zoning Commission that refunds of fees paid for Planning and Zoning Commission and Board Adjustment matters shall not be given if these matters have been properly noticed and properly processed by staff.

Appeal of this policy shall be heard by the Planning and Zoning Commission.



Cabarrus County Government

Planning and Zoning Commission Minutes
January 21, 2010
7:00 P.M.

Mr. Todd Berg, Chair, called the meeting to order at 7:09 p.m. Members present, in addition to the Chair, were, Ms. Brenda Cook, Mr. Eugene Divine, Mr. Larry Ensley, Mr. Danny Fesperman, Mr. Larry Griffin, Mr. Ted Kluttz, Mr. Tommy Porter, and Mr. Barry Shoemaker. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Board, Mr. Richard Koch, County Attorney.

Roll Call

Approval of Minutes

Mr. Larry Ensley, **MOTIONED, SECONDED** by Mr. Barry Shoemaker to **APPROVE** the November 10, 2009, meeting minutes. The vote was unanimous.

Planning Board Function:

The Chair introduced Petition C2009-22(R) – Zoning Atlas Amendment – RZON2009-00028 – Request to rezone 3.54 acres from Office Institutional (OI) to Low Density Residential (LDR)

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating this is a request for rezoning. The applicant is Ms. Kelly Chatman; the property is located at 9550 Rocky River Road, Harrisburg NC. Ms. Morris would like to go on the record with this case that the sign is posted across the street from the subject property and the applicant is here this evening to testify to the fact that her property does extend slightly across the street. Ms Morris said when our General Services staff went out to post the sign, the applicant asked them to move it across the street because of where her driveway is located; the GIS does not reflect that, but she does have a copy of the survey. The majority of the property is on the north side of the road and the applicant is requesting that the property be returned to Low Density Residential (LDR) zoning.

Ms. Morris said in 2005, when the mass rezoning was done, this particular property was part of a site that was identified in the Leak Goforth Study, as a potential economic development site. The property is currently zoned Office Institutional (OI) and it does not allow a residence; the applicant is requesting that the property be returned to Low Density Residential (LDR) so that she can proceed with refinancing with the bank on this particular parcel.

Mr. Shoemaker asked if the strip across the street from the majority of the property is Countryside Residential (CR) or is it Office Institutional (OI). He said the maps show it as CR.

Ms. Morris said it would still be Countryside (CR) and it probably is questionable as to whether the right of way actually encompasses all of that property when you look at it. She said the applicant did have a survey done for the refinancing.

Mr. Berg said the issue with the piece of property across the street is that we thought initially that the sign may have been improperly placed, because it was not on the property. He does not think that is as relevant to the rezoning issue as it is being legal with the sign posting.

Ms. Morris said based on the applicant's application, she is asking for her property to be put back to Low Density Residential (LDR); this particular request did not include any of the property that is Countryside Residential (CR). Our GIS was not reflecting the fact that the applicant actually owned that small piece across the street. Ms. Morris showed the Rocky River public maintenance right-of-way, the utility lines and an easement on the survey. She showed the pictures of the posted sign. She said based on the survey, where the sign was posted, it would be inclusive. She said it is zoned Countryside Residential (CR) on that side of the street, however, the house is on the other side of the street and it does include this. She said if it is determined that her property does extend or cross into the right-of-way, or pass that right-of-way, she would still have property zoned Countryside Residential (CR).

Ms. Morris said for permitting purposes, if the applicant came in to us, we would be looking to determine setbacks and things like that from the piece on the north side of Rocky River.

Ms. Morris said one person showed up tonight for this Petition, and because we thought the sign was on the wrong side of the road, she told him the case may be tabled. He was familiar with the property and once she explained that it was going from Office Institutional (OI) to Low Density Residential (LDR), (because you are not allowed to have a house in OI) he had no issues with the rezoning. She said because of where the sign is posted, folks think that there is something happening in the Cabarrus Woods Subdivision; which it is not. The majority of the calls received were from folks who thought something was happening at the entrance to their subdivision.

Mr. Shoemaker said for clarification, if the Board chooses to go with what the applicant has requested, the property across the street will not be involved with this. If we were to grant this, we would not be creating a Low Density Residential (LDR) leg into that Countryside Residential (CR).

Ms. Morris said the majority of the parcel is Low Density Residential (LDR); the Countryside (CR) is still a residential zoning district. If it is determined that that property does come across the street, she would have the dual zoning, but as far as set backs and

things like that, that would be determined from the other side of Rocky River; from the right-of-way. She does not think it would cause an issue; it is still residential and residential.

Ms. Kelly Chatman, 9550 Rocky River Road, Harrisburg, NC, addressed the Board stating that this is her primary residence. She said it is an old farm house, the old Cochran House. She had it moved in 1999 to save the house; it is one parcel of 4.13 acres. She said there is a sharp curve there and they have a problem getting out of their drive way and did not want any obstructions. She had a fire hydrant placed on that property in 1999 when the house was moved. She said when they came out to post the sign, she told them her property extended pass the fire hydrant and asked them to place the sign in front of the fire hydrant. She said the rebar corner of her property is to the fire hydrant.

The Chair asked Ms. Chatman if she understood the issue with the little piece being Countryside Residential (CR), that it will remain Countryside Residential (CR); and if she was okay with that.

Ms. Chatman said yes, she is fine with that.

The Chair said this is a straight rezoning and anything permitted in Low Density Residential (LDR) would be permitted.

Mr. Shoemaker asked about a comment from David Troutman that stated before any rezoning is done there should be a determination as to whether or not there is adequate waste water disposal for this site.

Ms. Morris said the subject property receives water and sewer services from Carolina Water Utilities, a private water and sewer provider.

There being no further discussion, Mr. Larry Griffin, **MOTIONED, SECONDED** by Mr. Larry Ensley to **Approve** Petition C2009-22(R) Zoning Atlas Amendment. The vote was unanimous.

Consistency Statement:

The proposed rezoning is consistent with the densities in the Harrisburg Area Land Use Plan and is reasonable and in the public interest.

It was the consensus of the Board to approve the consistency statement.

Directors Report

Ms. Susie Morris, Planning and Zoning Manager addressed the Board stating that the Planning and Zoning Commission Rules of Procedures need to be revised. She said currently we do not have anything that relates to the Board of Commissioners policy, as

far as the terms to clarify what the Planning and Zoning terms are. She said the terms do run with the same policy as the Board of Commissioners, but it is better to have it all in one place.

She said this will add in the part about adding the third person to chair the meetings if the Chair and Vice-Chair are absent. It is also adding the limits to terms of service. She said if anyone wanted to seek a term past the six years, you would have to get permission from the Board of Commissioners to stay on the board. She said this is just to clean them up and to make them consistent. We have to do two readings of this. This will be the first reading; you have been provided with the edits and we will bring it back for the second reading at our next meeting.

The Chair said because of the change over from the old board to the new board, they started with staggered terms, some of us had one year terms, and some two and some three year, he asked how that factored in to all of this.

Ms. Morris said according to the Clerk to the Board of Commissioners, the policy states that you would be able to complete your term. She said if you wanted to stay on after you completed your term, you would need special permission from the Board of Commissioners.

Mr. Griffin pointed out a typo on page five of the rules and procedures, item # 13, fifth line down, the word “nay” should be “any”.

Mr. Koch said the change that is being proposed to elect the person who would chair the meeting in the absence of the regular Chair and Vice-Chair; we need to delete the last sentence of the third paragraph under Duties of the Chair and Vice-Chair. He said it is inconsistent with the change of electing that person as is contained in the first paragraph of the Organization Meeting part (page 1 of 9).

Mr. Koch said just for clarification, Item 2a in the memo should be listed under the Organizational Meeting section and not under Duties and Responsibilities of membership.

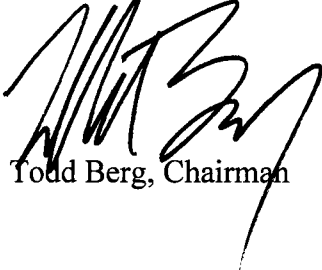
Ms. Morris said we will make those corrections and bring them back to the Board for the second reading and for the vote.

Ms. Morris reminded the Board that the next Appointed and Elected Officials meeting for the Harrisburg Area Land Use Plan update will be February 11, 2010, 5:30 p.m. to 7:30 p.m. in the Multipurpose Room. She asked the Board members to let her know if they will be attending. She said a public meeting was held at the elementary school in Harrisburg and approximately 160 people attended. She said there have also been some work sessions and we received some very good feedback. She informed the Board that there is a website where all the information is being posted. When she updates the website, she will email the Board to let them know that the website has updates posted. She said there is also a calendar posted where you can keep track of all of the meetings.

Ms. Morris said the next public meeting will be March 3, 2010, and it will be a Community meeting. The week of February 15th, we will be at Harrisburg Town Hall for a charrette. It will mainly be staff, but there will also be a community input session as a part of that charrette process. She said this is very different from what we did for the Central Area Plan. The community will actually come in as part of the charrette process; that brain storming process and have input the first day, the second day will be the refinements, and then a week and a half later is when we will have the next public meeting. She said that will be on Tuesday, February 16, 2010, 4:30 p.m. to 6:00 p.m. She said as we are posting things on the website, we are also trying to post the schedules. We would love to have the Board attend and to hear this Board thoughts on where Harrisburg should be going.


There being no further discussion, Mr. Larry Griffin, **MOTIONED, SECONDED** by Mr. Barry Shoemaker to **Adjourn** the meeting. The vote was unanimous. The meeting ended at 7:29 p.m.

APPROVED BY:



Todd Berg, Chairman

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager