

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting January 8, 2019 @ 7:00 P.M. Board of Commissioners Meeting Room Cabarrus County Governmental Center

<u>Agenda</u>

- 1. Roll Call
- 2. New Business Planning Board Function:
 - A. <u>Petition RZON2018-00004</u> Request for Rezoning from Office Institutional (OI) District to Limited Industrial (LI) District. Applicant/Owner is Dan Wilcox. The property is located at 1334 NC Highway 24/27 W (PIN 5524-25-8940).

3. Old Business – Board of Adjustment Function:

- A. <u>Petition CUSE2018-00006</u> Conditional Use Permit to file Public Service Facility Master Plan for RRRWTP. Applicant is WSACC. Located at 6400 Breezy Ln (PIN: 5547-06-4548).
- B. <u>Petition CUSE2018-00004 –</u> Proposed amendment to CUSE2017-00001, Conditional Use Permit for Public Service Facility (Solar Farm). Applicant is NC 102 Project, LLC, (FKA McBride Place Energy, LLC). Located at Joyner Rd and Mt. Pleasant Rd South, (PIN: 5557-40-5055 and 5556-25-9058).
- 4. Directors Report Board schedule change
- 5. Legal Update
- 6. Adjourn



Cabarrus County Government - Planning and Development

Planning and Zoning Commission Minutes

January 8, 2019

Mr. Chris Pinto, Chair, called the meeting to order at 7:12 p.m. Members present, in addition to the Chair, were Mr. Jeffrey Corley, Mr. Adam Dagenhart, Ms. Holly Grimsley, Mr. James Litaker, Mr. Andrew Nance, Mr. Charles Paxton, Mr. Brent Rockett and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Joshua Jurius Planner, Mr. Phillip Collins, Sr. Planner, Mr. Wayne Krimminger, Zoning Enforcement Officer, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Roll Call

The Chair said anyone wishing to speak on any of the Board of Adjustment cases need to complete a blue card.

The Chair read the suggested rules of procedures for the Board of Adjustment cases.

- 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. The Applicant may make a presentation to the Board (optional) and will then answer questions from the Commission. There will be a 15 minute time limit on the presentation if the Applicant choses to make a formal presentation. There will be no time limit on questions from the Board following the presentation.
- 3. When the Board is ready to proceed, the proponents (those speaking generally in favor of the case) 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.
- 4. After the proponents finish, the opponents (those speaking generally against the case) 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.
- 5. 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.

- 6. 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. 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.
- 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.
- 8. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Jeff Corley, **MOTIONED**, **SECONDED** by Mr. Adam Dagenhart to **APPROVE** the Rules of Procedures. The vote was unanimous.

New Business – Planning Board Function:

The Chair introduced Petition RZON2018-00004-Request for Rezoning from Office Institutional (OI) District to Limited Industrial (LI) District. Applicant/Owner is Dan Wilcox. The property is located at 1334 NC Highway 24/27 W. (PIN: 5524-25-8940)

The Chair said there has been a request to Table this rezoning.

Mr. Josh Jurius, Planner addressed the Board stating that there has been a miscommunication. The applicant did not make plans to attend tonight. Staff is asking that the Board Table the petition until next month.

There being no further discussion Mr. Brent Rockett, MOTIONED, SECONDED by Ms. Holly Grimsley to Table Petition RZON2018-00004 until next month. The vote was unanimous.

Ms. Susie Morris, Planning and Zoning Manager addressed the Board stating there was a late notice that an additional member would not be able to attend the meeting. The next case coming before the Board will have some members who will need to recuse themselves from that case. That will leave the Board with only seven members. A simple majority will need to be calculated based on seven members instead of the eight that we originally anticipated.

The Chair introduced CUSE-2019-00006, Conditional Use Permit to file Public Service Facility Master Plan for RRWTP. Applicant is WSACC. Located at 6400 Breezy Lane. PIN: 5547-06-4548.

The Chair asked if any Board member has any conflict of interest or any information related to the case that needs to be disclosed.

Mr. Andrew Nance said he has a conflict of interest with this case because he has worked on this project.

Mr. Brent Rockett, **MOTIONED**, **SECONDED** by Mr. Jeff Corley to recuse Mr. Nance. The vote was unanimous.

Mr. Stephen Wise asked to be recused because he has done some work with WSACC and budget numbers in the past year.

Mr. James Litaker **MOTIONED**, **SECONDED** by Mr. Brent Rockett to recuse Mr. Wise. The vote was unanimous.

The Chair said the vote would need a simple majority for the affirmative. He called on staff to present the staff report.

The Chair said anyone wishing to speak on following the Board of Adjustment cases, or to testify during the public hearings, must be sworn in. The Chair administered the Oath.

Mr. Phillip Collins, Senior Planner addressed the Board presenting the staff report for CUSE2018-00006. The owner/applicant of the subject property for this request is the Water and Sewer Authority for Cabarrus County.

The purpose of this request is to amend the existing site plan and create a long-term master plan for a public service facility.

The site is approximately 261.32 acres total and is currently the location of the Rocky River Regional Wastewater Treatment Plant (RRWWTP). The property is bounded to the south by the Rocky River and to the east by Irish Buffalo Creek.

The subject property is currently zoned LDR and is surrounded by residential and agriculture properties. Properties to the north and west are also zoned LDR. Properties to the east, south and west are zoned AO.

The applicant provided correspondence from NCDOT stating that there would not be a need for studies on this request. Because there are no physical upgrades or building projects currently proposed, no stormwater or soil and erosion control plans were submitted with the information provided. The applicant will be required to seek review and approval from NCDEQ when new projects are proposed. This will occur during commercial zoning site plan review and approval.

The applicant submitted the "Findings of Fact" sheet along with a Master Plan showing the proposed locations of treatment areas and building/equipment additions.

The existing wastewater treatment plant currently meets the standards of the zoning ordinance for public service facilities.

The applicant submitted a Stormwater Pollution Prevention Plan that covers the entire site as well as an Emergency Action Plan.

With these proposed additions, approximately 11% of the site will be covered with new structure surfaces and approximately 16% of the site will be covered in impermeable surfaces. The LDR zoning districts permits sites to be covered with up to 20% impermeable surfaces and up to 15% that can be structural.

The applicant is submitting the Master Plan for the Board of Adjustment to consider, to streamline the process when new projects are proposed for the site.

If the Master Plan is approved, in the future, when new buildings or equipment installations are proposed, the Applicant would submit plans for commercial zoning site plan review and approval only. As long as the proposed site plan matches the proposed Master Plan there would be no need to submit a new Conditional Use Permit for Board of Adjustment review.

Should the Board of Adjustment grant approval of the Conditional use Permit, Staff requests the following conditions become part of the approval and case record:

- 1. Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- 2. The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- 3. The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project.
- 4. Any proposed future expansion of property, as well as modifications or changes to the approved Master Plan/Site Plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
- 5. Applicant must submit permits and documentation as required from NCDEQ for stormwater and soil and erosion control permitting with site plans when submitted to zoning for commercial site plan review and approval.

- 6. Applicant must submit Floodplain Development Permits for all development, as defined by FEMA, located in the regulated floodplain.
- 7. Master Plan shows several new building and building expansions. Future Administration Building, current Admin Building Expansion, Blower Building, Main Pumping Station Expansion, Chemical Storage and Feed Facility, Electrical Building, Filter Building, Chemical Contact Basin, HPO2 System Expansion, Odor Control Building, Headworks Building Expansion, Biological Treatment Area, Sludge Thickening and Storage Area, and any additional buildings will require building plans to be submitted for construction.
- 8. Master Plan access roads are adequate as shown. If buildings/structures are moved access roads will need to be addressed further.

The Chair asked if there were any questions for staff. There being no questions for staff, the Chair called on the applicant to make their presentation.

Mr. Tim Kiser, Engineering Director for WSACC, 360 Bailey Avenue, Rockhill, SC, addressed the Board.

The Rocky River Waste Water Treatment Plant was built in 1978. WSACC was formed in 1992 and we took over operation and ownership from the City of Concord. WSACC is an authority under North Carolina General Statutes. He said two or more jurisdictions can make up an authority, but I in this County all of the jurisdictions came together to form WSACC. We are made up of the County and all of the cities; Concord, Kannapolis, Harrisburg and Mt. Pleasant.

The treatment plant serves the wastewater needs of all of Cabarrus County. As a contract customer, we serve just a little bit of wastewater needs for Charlotte water. The capacity at the plant is currently 26.5 million gallons per day. We do not flow that much now, but as we hit certain milestones, North Carolina DEQ would make us come in for an expansion, just under the normal regulations.

Our master plan contemplates that we would expand the plant to 45 MGD over time. This master plan was put together in 2012 and 2013. It took in to account all the future population growth of the county and the density of that growth and we worked hand in hand with all the planning departments in the cities to get the proper densities for that future expansion.

The 45 MGD is established by our masterplan document. We did not submit that, that would be too much information but that work has been done. It was a lot of work that WSSAC undertook with a consulting firm.

WSACC needs to understand that we have the zoning in place to build and maintain the plant and the authority to construct any processes required by new regulations. Recently, we constructed a S02 scrubber at our sewer sludge incinerator, due to stringent air pollution

regulations passed by the EPA. We did not really have a choice; we had a mandate to put in that process to remove all the S02 and the discharge at the sewer sludge incinerator.

As Engineering Director, for WSACC, he wants to know that they have the zoning in place, so that, as the EPA or NCDEQ passes new regulations, we can build those facilities to keep us in compliance. Right now, they would have to come through and get a conditional use permit every time we would do that. He sees that as a problem and WSACC management has met with Cabarrus County management and discussed this. It was suggested that we sit down and develop a master plan for this 45 MGD expansion. To come to the Board and ask for approval of that, as a conditional use, so that each individual project would not have to come back before the Board.

Sometimes, there is a time constraint on the project, and quite frankly, EPA did not finalize the air pollution rules until 30 days before the rules went into effect. But, we knew they were coming and we built the facility and everything; it was on public notice and stuff like that.

He said the project would not be built all at once. The projects will be built over time. There would not be one great big project to build everything. He wants to make a point that the industry is going to a design build model, so that some of the better contractors and engineers work together during the construction process to build projects quicker and cheaper. We would want to take advantage of that, NC General Statute allows us to do that now. That is another reason to have a master plan in place, because we may have a design build project in the future at the plant site

Because of all of this, it is not possible for them to provide exact details of the projects and the exact locations of the structures. The submitted development plan depicts in a schematic way the facilities that we propose to construct, but may not show each individual structure exactly or each new regulatory requirement that may make us build something; like the S02 scrubber. There will be change in regulations along the way and we are looking out for 20 to 30 year period here,

The general approval that we are requesting is that WSACC may build an expansion to 45 MGD and WSACC may build any facilities required by changing regulations.

Mr. Mike Osborne is with Black and Beach and is here tonight. His firm was hired by WSACC to generally size these facilities and lay them out, so that we would have a master plan that we could present to the Board. We did a good deal of work with his firm to come up with this master plan and he will give a general overview of the processes that are laid out on the plan. Upon completion of his presentation Mr. Kiser will be happy to answer any questions.

Mr. Mike Osborne, Project Manager, with Black and Beach, and also a Licensed Professional Engineer, 5624 Warewhip Lane, Charlotte, NC, addressed the Board. WSACC hired them to conduct a planning study to expand the Rocky River Waste Water Treatment plant to 45 MGD. We started with looking at the existing facility to understand the capacities of the basins in the

treatment processes. Then we developed process models and extensive calculations to determine the best methodologies for moving forward to size basins for the 45 MGD expansion.

We looked at various technologies to make sure we had an understanding of footprints; how things would be laid out. Because, it is very important that you consider the treatment process, because it is really driven by the hydraulics, the flow of the water through the process. In other words, you cannot put a facility at the head of the plant, if it is destined to be at the back of the plant. We had to look at the various aspects to see how the wastewater would flow through the facility.

He said during the course of the evaluation, we did evaluate current and possible regulatory environments. Looking at the mpds permits and where that might go, legislation that regulates biosolids, as well as the nutrients and try to accommodate those into the future as well. So, we did a fairly detailed analysis of what possibilities are out there so we could have pretty good idea of what direction the plant would need to go, based on the current understanding of the regulatory environment.

The Chair asked if there were any questions for the applicant. He asked what they did with the ash. He noticed there were three different parcels there that had ash. He does not know if it is being used now. He asked how the incinerator is working?

Mr. Kiser said the sewer sludge incinerator is a multi-hearth incinerator. So, wet sewer sludge or cake it is called sometimes comes in the top. The top two hearths drive the sludge, the next two hearts allows combustion of the sludge, then the bottom two hearths allows it to cool. Then we sluice it out to a storage pond through water and store it in the storage basin. When the basin gets full, then we have land application areas that we have permitted through NCDEQ or we can spread the ash on those areas and basically, land apply it. When those areas are full, we will then use those areas to grow a renewable energy crop to fulfill the sustainability requirements that we are now under, to try to reuse everything.

We have a permit in place that allows us, for those three areas that you see on the plan, to apply ash there. Keep in mind this is nothing like coal ash; this is biosolids ash. It is normal for biosolids to be land applied on the farmers' fields for nutrients and that type of stuff. But, in our case we burn it so, what is left is not as attractive to a farmer, so we cannot land apply it offsite He said we could but it is not a benefit to the end user like regular biosolids would be.

The Chair was just wondering, because there was a big controversy about the sludge coming from Charlotte. It is a clear liquid and it raised a big stink or whatever you want to call it.

Mr. Kiser said there are two ways to do that. You can inject the clear liquid into the ground with a rolling machine or they can dewater it into cake and then it is spread on top of the ground and that is where you get smell and complaints from neighbors.

To elaborate on that a little, we use to have the city and the country, but now, the country is like one big subdivision. You may have a farmer here, that is beside a subdivision and it is not compatible a lot of times to spread sewer sledge. We are blessed to have a sewer/sludge incinerator at our plant. It reduces our cost of biosolids removal.

The Chair asked if they sold that power back.

Mr. Kiser said they have not.

The Chair did not know if they hooked up to the grid or something like that to generate power.

Mr. Kiser said they currently are not generating power at Rock River.

There being no further comments the Chair asked if there was a motion to open the public hearing. Mr. Brent Rockett, **MOTIONED**, **SECONDED** by Ms. Holly Grimsley to open the public hearing. The vote was unanimous.

The Chair asked if there was anyone speaking for or against the request. There were no speakers for or against the request.

Mr. Tim Kiser said, in the conditions of approval, condition #4 is kind of, in conflict with what we are talking about with the general master plan. He introduced his attorney Mr. William Isenhour. He would like to work out that language. We know that the masterplan will change over time, as he has described. He wants to make sure that is not in conflict with condition# 4.

Mr. Dagenhart has a question for staff as it pertains to condition# 4 that Mr. Kiser is questioning. What currently, do we have in the Ordinance, as far as what percent of change to a masterplan is required before it has to go back to the board. How much can be done administratively by staff?

Ms. Morris believes it is ten percent.

The Chair does not know if he can say that. Those conditions were put in place for the conditional use permit. He cannot make that judgment.

Mr. Williams Isenhour, Attorney for WSACC thinks some of it is just clarifying. The first part just says any proposed future expansion of property. Obviously, we know that there is going to be a future expansion that is why we are here today. We are proposing a tweak to that language, saying any proposed future expansion to the property or construction improvements not shown on the approved masterplan, just to clarify that. Then what we would like to do is to have modifications, what we would call nonmaterial, ten percent or whatever that number is, we would like that to be eligible for administrative approval rather than coming back before the Board for another conditional use permit.

We are getting the masterplan approved right now from you. There might be slight deviations. If it were material deviation, then we would have to come back before the Board, but if it is something smaller, then that would be done at the administrative level.

Ms. Morris said to answer the question when it comes to the site plans, whether or not it is a minor change or modification and whether or not the zoning administrator; it can be handled administratively with staff verses having to come back to the Board. The thresholds are as follow:

- 1. Any change in location by more than 20 feet or an increase in the size or number of signs shall constitute a modification.
- 2. Any increase in intensity of use shall constitute a modification.
- 3. An increase in intensity of use shall be considered to be an increase in usable floor area, increase in number of dwelling or lodging units and/or an increase in outside land area devoted to sales, displays or demonstrations.
- 4. Any change in parking areas resulting in an increase or reduction of ten percent or more of the number of spaces approved by the approving agency shall constitute a modification.
- 5. In no case shall the number of spaces be reduced to below the minimum requirements of this ordinance.
- 6. Structural alterations significantly affecting the basic size, form, style, ornamentation and the like of a building as shown on the approved site plan shall be considered a modification.
- 7. Substantial change in the location of open space, recreation facilities or landscape screen shall constitute a modification.
- 8. A decrease in the amount of open space shall be considered a modification.
- 9. A change of use shall constitute a modification.
- 10. Substantial changes in pedestrian or vehicular access or circulation shall be constitute a modification.

Ms. Morris said essentially, we have a leeway of 20 feet either way. If they came to you with a site-specific development plan and this is a conditional use permit, so this is a site-specific development plan that goes along with it. She said that, is the leeway that the ordinance allows for staff. Anything other than that we would be bringing it back to the Board for your approval. In the form of an amendment, just like some of the other cases that the Board is currently working on.

Mr. Isenhour said what they are proposing is a tweak. Like he said before, on any proposed future expansion of the property. We think this is consistent with the above. What we are trying to say is any proposed future expansion of the property, above the 45 million gallons a day, which the masterplan outlines, then that must receive Board of Adjustment approval in the form of an amendment to the conditional use permit.

We would also want in there that if there is any change to the masterplan that is related to a state or federal regulatory change, that that would not require an amendment to the conditional use permit. He said that would be a change outside of WSACC's control.

The Chair said if you move the ash pond 30 feet that would be in your control. He is trying to figure out.

Mr. Isenhour said if we just move it because it is better for us that would be different. If we are moving it because of a change in a federal or state regulation, then that would be permitted without having to come back and get an amendment to the conditional use permit.

The Chair said you would go to Ms. Morris and staff and take care of it there.

Mr. Isenhour said that is right.

Mr. Koch said the provision that Ms. Morris read would still apply to this as well.

Mr. Isenhour said that would apply no matter if it were in a condition or not.

What they were really looking to do is empower staff to be able to work with us more on an administrative level rather than coming back before this body. Obviously, with two hundred million dollars in improvements, we would have to be coming back to the Board pretty regularly.

Mr. Corley said do we need a condition to do things as we normally do. He is a little distressed. He will approve the site plan all day long, and he completely understands what you are trying to accomplish and he thinks it is the way to go and he fully supports it, but he has a hard time adjusting our standard operating procedures for this Board on what we see and do not see. He feels that is a rough precedent to begin to set. He thinks if we approve the site plan and we approve the conditions, the routine processes. If they are less than ten percent, if they do not add enough parking spaces, whatever the ordinance says, will allow them the flexibility within reason to do what they need to do and anything major it would come back.

Mr. Koch thinks that is what they are saying. What he suggested to Mr. Isenhour is that they are asking for up to 45 million gallons per day, so if there was going to be an expansion above that then that should have to come back to this Board for sure. The other thing was the regulatory changes that Mr. Kiser mentioned, if they have to make a change to their site plan because of something that is imposed on them by the state government or federal government that they ought not to have to come back here for that. He said that, would be the only two things that would be outside of our regular ordinance. Such as what Ms. Morris read, they would still be subject to that for any changes that did not come from a change that would be necessitated by a state or federal government.

Mr. Kiser said they would meet all the site plan requirements, whatever parking spaces were required. We are going to meet those, we are not asking for any leeway there. We are going to meet those to the letter. It is ambiguous as to whether they can build a new S02 scrubber or not, do I have the zoning to do that; that is really, what they are trying to get too.

We know for this County, everyone in this county, all the jurisdictions that we represent if we spend 200 million dollars down there, we have the right to be there and to build those facilities as needed. If not, wastewater capacity reaches a certain level and growth in the county stops.

We the people have to have it to survive and prosper and we are just looking for a mechanism in place to assure WSAAC will have the authority to build what we need to build.

Mr. Corley asked that Mr. Isenhour read an entirely new #4 condition.

Mr. Isenhour said this might be a little bit of work in progress. We are saying basically, any proposed future expansion of the property. So that first part and then we are asking for above the 45 MGD as shown in the master plan, must receive board of adjustment approval in the form of an amendment to the conditional use permit. Then there would have to be some kind of language about if it is a state or federal regulatory change.

Mr. Dagenhart said this is zoned LDR, correct? It is a permitted use, why do we need to have a conditional use on it or do we.

Mr. Koch said because it is a conditional use.

Ms. Morris said the use is permitted in any district, but they have to file a conditional use. They are trying to file a master plan so that as these different buildings come in, they do not have to come back to the Board every time. They could just file the site plan. Typically, what happens, is when somebody files a masterplan, when it comes in for site plan review, staff matches that up. They may do a master plan and it may be five phases. We are looking for it to match. If it does not match, we look to the ordinance, to those ten things that it listed. If any one of those is not consistent with the standard established by the ordinance, then it has to come back to the Board.

In this case, if she understands correctly, WSSAC is asking that the typical standard of review, the typical standard condition that is added to projects, to ensure that when they start making these changes and moving things around that it does come back. They are asking that, if it is a project mandated by state or federal regulations, that they do not have to come back to the Board. Which means that that may or may not look the same as the plan that staff has to use as that guide. They are saying that as it expands beyond the 45mgd, then they have to come back.

But, in this case, as far as administering the ordinance and the site plan, staff is looking for the two to match unless they are within that threshold. She thinks what they are asking, is that if the state requires something, that they be allowed to add it to that plan without having to come back

to the Board and then if they needed to do an expansion beyond the 45mgd, then they would come back.

She thinks it gets to semantics, as far as your condition that you have has #4. But, they are asking for somewhat of an exemption to be able to make changes to the plan if it is a state or federally mandated change that they have to make.

Mr. Koch said that is what he understands and also if it goes over 45 MGD, they would have to come back.

Mr. Brent Rockett said the 45mgd, what is the projection as to how far out that would serve our county.

Mr. Kiser said the master plan probably has a year, but he would say in the 30-year range.

Mr. Corley said if these regulatory drivers, if they came to you today and said you have to do this. How long does it take execute. Obviously, you have to design it and build it. We are sort of being asked to approve some dotted lines on a map, as a site plan. His thought is, he knows in a design build environment you need to go, especially with regulatory, you need to go as fast as you can. Having a complete site plan for this Board to look at would add to that process. His thought is if you have a regulatory driver and it is going to add some new process, would it be a burden for this Board to simply come back and see a dotted rectangle on a map again at some point during that process?

He is trying to think of all the possibilities, with all the different industries and businesses and governmental bodies that this Board sort of reviews.

Mr. Kiser said to find a way to make it fit and it really does not fit. The fundamental problem is, he is not afraid of the County and he is not afraid of this Board, but if there is third party litigation that could suspend this process for years, he may not be able to build what he needs to build. That is really his concern. We are building new subdivisions all around the plan right now.

We are in a vague regulatory regime; lots of laws were passed by administrative order through the EPA. The EPA could come in and do all kinds of things to us, but they have not, but they have the tools to do that. We are kind of at their mercy. Now, a lot of that is being unwound by the current administration. It is not a political statement by him. It is a statement that WSACC faces uncertainty of our investment, this whole county's investment in this facility, because we do not have zoning that allows us to build what we need to build.

He is trying to get some kind of zoning in place that gives him a comfort that he can build what he need to build. If he comes in here with a S02 scrubber and somebody does not like it, somebody takes us to court, somebody thinks we are not building it sufficiently and litigates it, it could go on for several years and we would be in a quandary at that point. That is what he

brought up to County Management and County Staff. It is not trying to avoid this process; it is that this process can be extended by others, to an uncomfortable level of risk to WSACC for our investment, all of our investments there.

Mr. Isenhour said we tinkered a little bit with condition #4, so that the Board could have some proposed language. What we were saying is any proposed future expansion of property in access of 45mgd or a modification to the approved master plan, not required by the changes to state or federal regulations must receive Board of Adjustment approval in the form of an amendment to the conditional use permit.

Mr. Koch said they are still subject to what Ms. Morris read and they understand that.

The Chair asked Mr. Koch to prepare the condition. He is uncomfortable with the applicant writing a condition. He knows we are all on the same team.

There being no further discussion, Mr. Jeff Corley, **MOTIONED**, **SECONDED** by Mr. James Litaker to APPROVE CUSE2018-00006 with the conditions proposed by staff and the amendment to condition #4. The vote was unanimous.

Mr. Koch said the amendment to condition #4, will be given to the Clerk. (See attached Findings of Fact and Conditions of Approval)

Mr. Jeff Corley, **MOTIONED**, **SECONDED** by Mr. Adam Dagenhart to reseat Mr. Andrew Nance. The vote was unanimous.

Mr. Corley, **MOTIONED**, **SECONDED** by Mr. Brent Rockett to reseat Mr. Stephen Wise. The vote was unanimous.

EXHIBIT 1 FINDINGS OF FACT CONDITIONAL USE PERMIT APPLICATION APPLICANT: WSACC ROCKY RIVER REGIONAL WASTE WATER TREATMENT PLANT CUSE 2018-00006

FINDINGS OF FACT

1. The use as proposed is not detrimental to the public health, safety or general welfare.

a) See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.

b) The proposed use adds no new additional burden to the property that would affect the public adversely.

2. The use as proposed is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, etc.

a) See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.

b) All such facilities, which are not specifically required for this additional use, are located nearby.

3. The use as proposed will not violate neighborhood character nor adversely affect surrounding land uses.

a) See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.

b) The proposed use adds no new additional burden to the property that would affect the public adversely.

4. The use as proposed will comply with the general plans for the physical development of the County as embodied in the Zoning Ordinance or in the area development plans that have been adopted.

a) See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.

b) The proposed use adds no new additional burden to the property that would affect the public adversely.

EXHIBIT 2 CONDITIONS APPLICATION CUSE 2018-00006

- 1. Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- 2. The granting order, stating the restrictions and applicable conditions of the approval, shall be recorded with the deed of the property.
- 3. Applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project.
- 4. Any proposed future expansion of the subject property in excess of 45 MGD or modification to the approved Master Plan not required by state or federal regulations must receive Board of Adjustment in the form of an amendment to the Conditional Use Permit unless eligible for administrative approval.
- 5. Applicant must submit permits and documentation as required from NCDEQ for stormwater and soil and erosion control permitting with site plans when submitted to zoning for commercial site plan review and approval.
- 6. Applicant must submit Floodplain Development Permits for all development, as defined by FEMA, located in the regulated floodplain.
- 7. Master Plan shows several new building and building expansions. Future Administration Building, current Administrative Building Expansion, Blower Building, Main Pumping Station Expansion, Chemical Storage and Feed Facility, Electrical Building, Filter Building, Chemical Contact Basin, HPO2 System Expansion, Odor Control Building, Headworks Building Expansion, Biological Treatment Area, Sludge Thickening and Storage Area, and any additional buildings will require building plans to be submitted for construction.
- 8. Master Plan access roads are adequate as shown. If buildings/structures are moved, access roads will need to be addressed further.

The Chair introduce Petition CUSE2018-0004, proposed amendment to the CUSE2017-0001, Conditional Use Permit for Public Service Facility (solar farm). The applicant is NC102 Project, LLC (FKA McBride Place Energy, LLC). Located at Joyner Road and Mount Pleasant Road, South. PIN is 5557-40-5055 and 5556-25-9058.

The Chair asked if there are any board members that have any conflicts of interest at this time or anything that needs to be disclosed. The Chair disclosed that he has been by the site several times.

Mr. Adam Dagenhart disclosed that he passes it daily.

The Chair: Anyone else? Seeing none the Chair asked Mr. Benshoff if he has a presentation to add or something.

MR. BENSHOFF: Mr. Pinto, for the record, my name is Albert Benshoff, The Brough Law Firm, 1526 East Franklin Street, Chapel Hill, North Carolina; local address 221 Ravine Circle, Southeast, Concord, North Carolina. I have a few facts to bring to the board's attention and a few more things to put into evidence tonight. And I will --it will be a much shorter presentation than last month's. I do have a few slides.

In December, one of the things that was put into evidence was an as-built survey of the NC 102 Project Solar Farm. This is that survey, with the Union Power co-op power transmission line highlighted; and that is relevant because it borders Joyner Road and Mount Pleasant Road. It is the blue polygon here on Joyner Road and it goes south along Mount Pleasant Road, past the Stewarts' property, a little bit past the substation that has been constructed. This is a power line easement that UPC clears; and this is relevant --and I do not want to mislead the board at all, but this is relevant because in 2017, the proposed buffer and the UPC easement overlap and that will be the subject of the first part of my presentation.

The UPC easement shown here in June of 2015 is clear. Joyner Road is at the top and this --these two yellow lines are the easement along Mount Pleasant Road. Going to the next year, to October 2016, the easement is still cleared. Then in 2017, and this is September 2017, the northern part of the site, the property owned by the McBride family, now Five M's, was timbered and that is showed as cleared, and the UPC power line is shown cleared. The strip of trees here along Mount Pleasant Road, I have been told is the overlap where the 100 foot buffer is outside of the UPC easement. This was in September of 2017, which was about four months before my clients purchased the property.

Moving to 2018, this is the last air photo, this is March, and it shows the clearing along the Stewart property line, which had occurred by then, and the grading for the northern part of the site, which became the solar farm. Because it is March, the trees are not quite as apparent, but they are still along this part of Mount Pleasant Road where the easement and the buffer do not overlap.

So, the result of that, is the plantings that are occurring now along Mount Pleasant Road are the proposed plantings for under power lines; there are no canopy trees planted there. There is a substitution of two understory trees for every canopy tree. The good news is that NC 102 Project has permission to encroach on the power line easement to some extent, and you will see in some of the slides you can see the power lines and you can see the encroachment.

In this picture, the road is behind the photographer, Mount Pleasant Road is behind the photographer. The foreground is the power line easement. I also have to tell you that these plantings are not complete. The buffer installation is in progress. This is the southern part of the buffer close to the Stewart corner, where some of the trees in the background are existing. Those are not planted. Here is a shot of the buffer plants in the power line easement. In fact, at the base of it, and for scale, there is a couple of workers here. The fence is eight feet tall. The trees in the background are the Stewart property.

The new piece of evidence is the applicant proposes a modification to the plan EXLA 1.0. (Exhibit 5 -EXLA 1.0 -Encroachment Exhibit -was marked for identification)

MR. BENSHOFF: The rest of us will have to make do with the digital version. There is an additional buffer added to the overall buffer scheme; it is called B8 on the plan, which I will show you in a minute, and it is a combination of these two buffers. It is the one on the right with the understory trees and the shrubs. In addition to that, a double row of Nellie Stevens hollies, eight to 10 feet tall at planting, planted on 15-foot centers and in a two-row stagger. It is a combination of this one on the left and this one on the right, back to back. This additional buffer is shown in the red line on the drawing; that is this line. It is not added entirely around the perimeter; it is added primarily, in those areas where some of the buffer was cut down. Last month we proposed supplemental plantings and Mr. Guy gave his professional opinion that they would be adequate, they would meet the ordinance; this is in addition to that.

So you will see there is a double row of ten-foot tall hollies proposed along almost all of the north side of Joyner Road and on the south side at the west side and going around the site in a clockwise direction. Most of the Mount Pleasant Road frontage gets this additional treatment. Continuing down Joyner Road, the new B8 buffers will lap most of the corner and they are close to the road here, at the corner of Mount Pleasant and Joyner Road, because the easement takes a jog to the west so they are outside of the power line easement. Going down Mount Pleasant Road, the B8 buffer goes the whole way to the Stewart property buffer, skips over the Stewart property, and then goes along Mount Pleasant Road in front of the substation and picks up again on the southern boundary of the substation, in this area.

Finally, we move to the very southern end of the site where the buffer is proposed, around the encroachment at the Presley property here and around the corner where the property turns around Vanderburg Estates. At the Presley property, going up the Vanderburg Estates line, there is a proposed new buffer between the arrays and Bost Creek, running east to west here. Going up Vanderburg Estates, the first five lots have this treatment, and that parallels the unnamed tributary of Bost Creek. Finally, it is added at this corner of Vanderburg Estates, for those two

and a half lots, and then ends at the Watson and Beatty properties in this area. The plan definition of the B8 buffer says:

"This is an area to be considered for additional plantings, eight to 10 feet tall, American Holly trees or Cabarrus County approved species in similar mature height and width, planted in a double staggered row, spaced 15 feet on center, areas to be field verified for suitable planting and density to provide residential and public screening".

That is the proposed change to EXLA 1.0, which was submitted previously. He asked if there were any questions before he plunges on.

Mr. Adam Dagenhart: Can I get a clarification before you get too far out?

Mr. Benshoff: Sure.

Mr. Dagenhart said is the purple that I'm looking at on this current slide, is that the same shade of purple where you had an alleged field survey buffer encroachment, where you just read that about the plantings for the road?

Mr. Benshoff: Yeah, right below the B8.

Mr. Dagenhart: so that is the same purple, is that what that is designating?

MR. BENSHOFF: Yes; and that has not changed since last month.

Dr. Litaker: What you are talking about, is that what was already proposed in the buffer?

MR. BENSHOFF: No.

DR. LITAKER: Or is what your experts are proposing?

MR. BENSHOFF: It is what the applicant proposes and it is in addition to what was proposed last month. It is new.

MR. CORLEY: So the way I see the colors, we have the purple, which is the encroachment, we have the green, which was the original county buffer replanting to resolve the encroachment, and the red is an additional attempt to further screen?

MR. BENSHOFF: Yes, and the numbers in the circles, the B1, B2, B3, they correspond to the buffer types on the upper right hand corner of the drawing. The 2-D version of those is what I showed you right before I showed you this map. Essentially, where Mr. Guy opined that the supplemental buffer in disturbed areas was sufficient; it has been supplemented.

I have just a few more minutes. So, this plan changes the glare issue and I would like to ask Mr. Thad Wingo, from Burns & McDonald, to come up and answer a few questions about how this plan affects the glare study. You have Mr. Wingo's resume; it was handed out in the black three-ring binder last month. Mr. Wingo was not qualified as an expert last month. He did sign and seal the glare study submitted in the past. I am not qualifying him as an expert witness. I will ask him a few questions and we will have to share the microphone.

MR. WINGO: My name is Thad Wingo; I am a professional engineer in the state of North Carolina. My address is 1000 Central Avenue, Charlotte, North Carolina.

Mr. Benshoff asked Mr. Wingo if he is familiar with the proposed buffer plan, EXLA 1.0 that I have just explained to the board.

Mr. Wingo said yes, he has reviewed that plan.

Mr. Benshoff said would the addition of the supplemental plantings affect the results of the glare study?

Mr. Wingo said it enhances the results of the glare study at this particular time, based on the additional plantings that we have seen.

Mr. Benshoff said what do you mean by enhancement?

Mr. Wingo said it should reduce glare in several areas where previously you could have had some level of intensity.

Mr. Benshoff said the standard or criteria for glare reduction that is measured in your study is what, again?

Mr. Wingo said we use the approved FAA methodology, which comes from federal regulations. They use it for air traffic control on pilots and that was translated into a tool that was created by Sandia National Labs. It has a chart in the report, that basically says there are areas in which there is too much intensity and could cause either damage or significant after glare, or after-vision after seeing the glare in the eye, which could impact the ability of somebody to operate an aircraft. Translating that to somebody driving or sitting at their home, as long as you are in that green or yellow range, you do not have the potential for ocular damage, nor should it provide a significant amount of glare that it would impair somebody's ability to perform everyday functions.

Mr. Benshoff said turning your attention to the intersection of Mount Pleasant and Joyner Roads, are you familiar with this intersection?

Mr. Wingo said he is.

Mr. Benshoff said have you examined the view of the solar farm from this intersection.

Mr. Wingo said he did again today, actually.

Mr. Benshoff said how will glint or glare from the solar farm affect an observer or a driver at that intersection?

Mr. Wingo said, I did drive that again today and compared it to our visible or not visible analysis in the actual report. If you have the report or you are looking at it, you are looking at observation points 1, 17, and 2 in that report. Two of those areas where we previously would have had that, at some level of visibility, with the new landscape architecture plan; you are actually getting a buffer there that previously was not even going to exist per the report. So, you are actually screening off more of the farm than was previously assumed, in those three areas in particular.

Mr. Benshoff said how will the glint or glare from the solar farm affect drivers travelling south on Mount Pleasant Road?

Mr. Wingo said if you are going due south, you should see almost none, because of the angle of the actual arrays at that particular location.

Mr. Benshoff said because they are.

Mr. Wingo said they are angled toward the sun in that case.

Mr. Benshoff said and away from the road?

Mr. Wingo said away from the road, coming in that direction, yes.

Mr. Benshoff said how about travelling north?

Mr. Wingo said north in that report, that is one of the areas where originally you would see some level of glare. Again, it is in the yellow range in which you would possibly see some glare. But again, within standard regulatory limits.

Mr. Benshoff said okay, could you express that in plain English?

Mr. Wingo said if you were driving down the road and you got a reflection off your rearview mirror, it would be more than what you are going to see off of the solar panel. Solar panels are designed to absorb light, not reflect light; ultimately. So anything such as black asphalt or a clear lake are going to reflect more light than what an actual solar panel should, when constructed properly. So, ultimately, yes, could you see some glare off the solar panels? Yeah. The intent is not to completely eliminate the glare off of those panels. It is to make it so that it will not impact the health and safety of the public, which is his primary goal when he is looking at a report and

stamping it as a professional engineer. In his estimation, and based on the information provided, that is not going to happen. You are not going to have anybody that is driving down the road and has so much glint or glare that it is going to impair their ability to drive, much less than if a headlight hit you directly in the eye or reflected right off of your rearview mirror or side-view mirror into your eyes.

Mr. Benshoff said the county standard from the CDO for this project is, "Any glare created from the project will not adversely impact surrounding properties or vehicles travelling in the right-ofway near the site". He said does the Burns & Mac glare study address that point; is the standard met?

Mr. Wingo said again, the standard is relatively ambiguous. Therefore, applying a standard that the FAA deems as acceptable for pilots seems to be applicable to apply to the health and safety of the public in this case, which says you are not adversely impacting. That is normal, in several instances and in several reports that he has read. He said not just from myself, but others, that is the standard that would still be met. He said without more specifics in the particular county ordinance, he would lean on the FAA standard that is approved by the government.

MR. BENSHOFF does not have any more questions for Mr. Wingo. He has two affidavits to hand up when you are done.

Mr. Corley is sort of seeking one clarification that came up last time, and he does not want to put words in anybody's mouth here, but he is going to say it the way he thinks he heard it. The glare study, if he heard it correctly, and call him crazy if he heard it wrong, is that there is an assumption at lower levels, up to ten feet, that there is an impenetrable buffer from zero to ten feet, as part of those studied assumptions. Can you clarify specifically that fact in that assumption in that study; whether that is correct, not correct, close to correct, anything you can clarify for him on that point?

Mr. Wingo said the way it is written, is not quite as strong as impenetrable, as you had said there. You do have the assumption; there are two parts of the analysis. There is the glare analysis, which is independent of that particular assumption. The other assumption is whether or not the farm is actually visible or not visible, based on the site analysis that was performed. So, yes, based on the existing topographical and landscape at the time that the original report was done, that was the assumption that was placed into the data set.

Subsequently, because of the questions that were raised, again, I drove the site today and I looked at the areas where we had an overlap of glare and where we had stated it was not visible. Basically anywhere, where we had stated that the solar farm was not visible and there was glare that was possible, those are still intact, based on my physical observation today as I drove around the farm. So, while that assumption is a little bold today, based on the fact that some of that was removed inadvertently, but the new buffer plan that has been put in place replaces and enhances, actually, in lot of situations. There are probably four or five of the observation points that I observed where we currently have it listed as visible that no longer will it be visible.

Because of the visible observations I made, literally today as I drove around, that is what I was looking for.

Mr. Corley said if that observation point was listed as not visible, it is safe to assume there would not have been a glare issue to begin with.

Mr. Wingo said that is correct. I will point out, though, if you look at the study, even if you removed all of the trees and you looked at just the actual glare analysis itself, none of the glare identified in the report is substantial enough to provide damage to the eye or significant aftervision effects. If there were no trees at all, as far as the health and safety of the public goes, you would still have a safe installation.

MR. CORLEY: Thank you.

Mr. Benshoff: Is it true there is a supplement to the glare report where the observation points from which glare was reported were field checked and that showed no glare from those OPs?

Mr. Wingo: I do not know when that --I would have to look and see when that was performed, based on the current observations I made today.

Mr. Benshoff: It was performed in the fall.

Mr. Wingo: It was a revision to this report and added as a supplement. Yes, that is correct. Okay. Yes, that is true.

Mr. Litaker understands that the solar panels absorb light. What are the surfaces made out of? I know it is not like chrome, it would not be very reflective.

Mr. Wingo: It is a form of glass, depending on the maker, three to five levels of coatings that go on top of that to prevent reflection. The whole intent is to absorb as much as possible, so you are trying to prevent the amount of solar energy that is reflective off the panel.

Mr. Litaker said when you say coating, is it like window tinting type coating.

Mr. Wingo said no, it is more chemical type coating. He is not an expert in that, but based on the literature and the research for this particular topic, that is what they base their software on, the Sandia National Lab software on, which now owned by FORGE.

Mr. Pinto asked if there are any panels that move.

Mr. Wingo: There are, I would have to look to make sure, but I am pretty sure there are two of them that are single tilt. When you have single tilts, you do not have any glare. So if they are tilting --so you have three and one of them are tracking.

MR. PINTO: Where is that; where are they? Down at the bottom?

Mr. Wingo: Oh, you do have it on there, right?

Mr. Benshoff: We can show.

Mr. Wingo: We can just show them on that one. So, it is actually the one all the way south and then the one sandwiched. This one here is the tracking set and then further up this is the other one that is tracking. From those two, you will never have an occurrence of glare or glint.

Mr. Pinto said they face south?

Mr. Wingo: Because they should always face towards the sun, so therefore if they are facing it you have no reflective angle. No angle incident is what it is technically called.

Mr. Pinto: Which way do the panels face now? South, the stationary ones.

Mr. Wingo: I would have to get back there. I cannot answer that right now off the top of my head. There are probably people in the room that could.

Mr. Benshoff: Mr. Jansen, can you answer that please?

Mr. Jansen: Mr. Al Jansen, Canadian Solar Construction Manager, 305 Lampton Lane, Port Lampton, Ontario, Canada. The stationary panels all do face essentially south, a portion or a degree varying from there, but essentially south. The tracker, the single axis tracker, they do track from east to west.

Mr. Pinto: East to west? Okay. It is going the opposite way then

Mr. Jansen: That is correct.

Mr. Rockett: That statement, that there would never be glare from the tracking units is under the assumption that they are always functioning as designed, correct?

Mr. Wingo: Yes, it is.

Mr. Pinto: Are there any other questions for the presenter?

Mr. Wingo: Thank you.

Mr. Benshoff: Some of the findings that you have to make involve the impact of the development on the local water utility, wastewater utility, schools, public safety agencies, and traffic and transportation network. I have an affidavit of the projects manager for Canadian Solar

to hand up to you that states the impact of all these things will be negligible. He states there is no pollution, there's no product moved in or out by truck, there is no workers stationed on the site, so the impact to the local infrastructure is quite small. (Mr. Benshoff presented the original Affidavit of Mr. Don Ling)

Mr. Benshoff: said the other clean up affidavit that I have is the affidavit of Mr. Jansen, who you just heard from, saying that he took the pictures of the substation that was presented to the Board in the three-ring binder in December. The pictures that you will get now are black and white; you got a color picture last month.

I want to thank the Board, the staff, and the County attorney for their time and patience in hearing this so far. Once again, I would also like to say, on behalf of NC 102 Project and myself, that we again, apologize that some of the buffer was cut down that should not have been cut down, which brought us here tonight.

Finally, when we get to the conditions, I would like to be heard on a few of the conditions, as appropriate. He said here is the affidavit for Mr. Albert Jansen.

The Chair: Is it okay if we take a break before we open the public hearing? The Chair said we are going to take a break and open the public meeting when we get back.

The Chair opened the public hearing. He asked if there was anyone here speaking generally in favor of the request. There being none, he asked if there was anyone here speaking generally in opposition of the request?

The Chair asked Mr. Wayne Krimminger, Zoning Officer to approach the Board.

The Chair said he knows this was a new thing proposed tonight and that Mr. Krimminger probably did not get to look at it at all.

Mr. Krimminger said no, sir.

The Chair asked Mr. Krimminger if he could show them where he was when he took the pictures and the videos in the neighborhoods.

Mr. Krimminger said it was along the Vanderburg Estate side. It has been a while since he has been there, so I do not recall the roads. But, all the roads that back up to it. He said it is everything on the left-hand side of this drawing. The supplemental, do cover some. There were some cul-de-sacs. He apologized, for not remember the roads. He does not have them in front of him. There are three different roads that abuts this that he recalls. There was some visibility from the roads that I saw, the cul-de-sacs; any properties that abutted. Some of the long runs the roads do not run the full length of that, they only hit certain areas.

It looks like some of the areas, the supplemental in red, do address some of those because he can tell by the curvature of the lines of the property, that there are cul-de-sacs in some of these and they do hit some of the areas where he took the pictures. To be specific, he apologizes, he cannot. It does appear that they have hit some of those. If he had some time before to actually look at it and do the comparisons with the pictures, he could give a more accurate answer. He apologized for not being prepared for that; he was just was not prepared for this. He apologize for that. He said given a little time, he could absolutely get the streets, and the houses and the pictures to make reference to these additions.

The Chair asked if a site visit would help.

Mr. Krimminger said absolutely, yeah, you bet.

The Chair asked if Mr. Krimminger go down 601 and then go down Joyner and did the whole round.

Mr. Krimminger: Yes, sir. Every road that touched, he was on it.

The Chair said when was that.

Mr. Krimminger: That was roughly, probably two and a half months, three months ago.

The Chair asked if everything was still green.

Mr. Krimminger said somewhat. There was some falling, but a lot of the stuff that was abutting that was evergreens and it really wouldn't affect that much, or there was just nothing there that should have been there, so the visibility was pretty clear through these folks' homes, some more than others. But, all in all, it was pretty thin. It does appear that they have supplemented in the right places and I just cannot be specific. It looks like they did them. They have hit the closest points because there was more vegetation in the long runs versus the curves and it appears they have hit some.

The Chair said when he was looking at the pictures, I did not really see any two, two and a half inch calipers in there; it looked like it was a lot of crepe myrtles.

Mr. Krimminger: Right.

The Chair said you would be able to do that when you do a tree count or a bush count or something like that.

Mr. Krimminger said absolutely. Yeah, I could do a before and after. He logged the streets where the pictures were taken by number and he knows exactly where he was for each shot, so he could duplicate that into a one-to-one comparison.

The Chairs said you have that app, is that what you are saying.

Mr. Krimminger said well no; he could take the pictures with him and line up in the same spot, because he followed a pattern when he did it, a systematic pattern, so he would know where he was from road to road to road and he could retrace that, if need be.

The Chair asked if anybody go with him.

Mr. Krimminger said Mr. Phil Collins, Sr. Planner went with him once and Mr. Josh Jurius, Planner went with him once to do some videos along the way. It would be unsafe to hold it and drive at the same time, so they went with him for that, just for safety. He said that would help too, because we did the same thing, for the pictures. He followed the same route as he did with the videos, so it would be easy to retrieve.

The Chair asked if there were any questions. There were no questions for Mr. Krimminger.

The Chair called on Mr. Wes Webb.

Mr. Wes Webb, Engineer, 4635 Barrier Road, Concord, North Carolina, Alley, Williams, Carmen & King, a consultant for the County addressed the Board.

The Chair asked Mr. Webb what he did for the County.

Mr. Webb said he is a licensed registered professional engineer. As part of our services for the County, we review portions of site plans where there are questions concerning engineering, items related to engineering design or permitting. We do not typically do the full site plan review; the zoning will take care of that. He said if there are questions about floodplain development permits or requirements to those permits, storm water conditions or requirements, those types of issues or items that he would review and make comments on.

The Chair asked Mr. Webb if has ever been on that site?

Mr. Webb has been down Mount Pleasant Road and on Joyner Road and Highway 601, right through there. He has not physically been on the property.

The Chair asked Mr. Webb what he saw from that perspective, when he was driving down. He asked Mr. Webb if he got out and looked.

MR. WEBB: It was just visually, riding down the road; it was not as inspection for the County. It was business within the County. He said there are a lot of solar screens.

The Chair asked if there were questions for Mr. Webb.

Mr. Dagenhart: Obviously, you have not seen what Mr. Benshoff presented us, correct?

Mr. Webb said no, other than on the visual screen here, not able to check dimensions, as far as widths and buffers, to know what is within the easement, what is not within the easement.

Mr. Corley said one of the concerns specifically, with the glare study, were some of those assumptions he thinks, that were made in that plan. He said with the question and answer you heard tonight, does that or, let me restate this. Maybe with the supplementary plantings that they are suggesting, does that give you a better comfort level that those assumptions are reasonable.

Mr. Webb said not particularly. He thinks the profiles that were discussed; shifting the ground elevation up ten feet, to evaluate profile needs to be re-evaluated. He thinks there are a couple of the locations on the sites that need to be looked at, where areas have been removed. The residential subdivision we were just talking about, there are some pictures where you are standing on the road and you can see the panels, due to elevations. He is not sure; he may have missed it. But the new areas, the screeens that are proposed, he does not think anybody mentioned the height of those buffers. But, if you look at the plantings, that were shown tonight, he believes along Mount Pleasant Road, they seem to be average plantings of not a fairly large height.

He said from a screening standpoint, he does not think that is going to potentially, block additional glint and glare, at this stage. It may eventually grow into it, but he does not know that the lifespan will to get to a height that will meet that. Because there are some elevation challenges out there, too, because of the terrain and the size of the site. Those could be re-evaluated, and those locations adjusted. We have made some comments about locations, where it needs to be reviewed.

Mr. Corley said based on the actual conditions that exist today.

Mr. Webb: Correct.

The Chair said what would help that, evergreens?

Mr. Webb said depending on the spacing. There was a mention of plantings, but they did not mention. He thinks they were 15 feet on center and staggered. He said Leyland Cypress are an example of a fast-growing evergreen screen. They grow about a foot a year and within five or ten years, you can have a 15-foot tall screen. They have their own issues with winds and snow. He is not a landscape architect, so he is not the one to promote which plant to use. There are some plants out there, and trees. It would depend on the period of when they were looking at glint and glare, deciduous maybe acceptable in the summer. If it is an issue during the winter, obviously, there is going to be very little blockage from twigs.

He does have some concerns against the neighborhood subdivision. Because of the elevation of the road, as you look over, you can look over the houses and see the solar panels. But, here again, with the solar study, they may have already looked at that; it may not be an issue. He will

have to go back and look at the reports to see what those profiles look like. But, if he remembers correctly, the report was geared more about roads than it was residential structures.

The Chair said, so for like storm water and stuff, would it be better for you to get on the site and take a look?

Mr. Webb: Yes, sir.

The Chair asked if there were any questions.

Mr. Dagenhart does not have any questions per se, but he think Mr. Jansen stated earlier that they were eight to ten-foot mature height at planting of hollies. He said Mr. Jansen is shaking his head yes that is correct.

Mr. Dagenhart would strongly suggest that staff also not recommend any Leyland Cyprus. Granted, they grow fast, but they can become diseased and they die. Once one gets diseased, it spreads, he does not know that is what they are proposing, but he thinks we need to stay away from those.

Mr. Benshoff said he has a question for Mr. Webb.

The Chair told Mr. Benshoff to ask the question through the Board and they would ask the question to Mr. Webb.

Mr. Benshoff said that is how you do it?

Mr. Koch: Yes.

Mr. Benshoff: Thank you, Mr. Koch. He would like to ask Mr. Webb, through the board, what standard he expects NC 102 Project to meet in the perimeter buffer. Because the implication is, that he has heard, is that it is a totally opaque screen around the project and given the grade change and the hills on the site, it could be very difficult to screen the entire farm from any outside vantage point.

The Chair asked Mr. Webb if he wants to answer the question or if he wants the Chair to answer it.

Mr. Webb said he could answer that question. The basis, he was reviewing the report on was based off the consultants' report, which said that it identified areas where there were potential issues and that the screening should be blocked. The visibility was an issue and it should be blocked. It did not say substantially, it did not say partially, it just said blocked. I used his reports and his statements, as what I am basing is an acceptable item. I am not an expert in this field. I

am just using his statements as comparing what the screening should meet and seeing -¬and reviewing it to see if that is the case.

The Chair: Thank you. Suzie, do you want to come up? I guess I will ask you, when was the last time you were out there, since you are the head of the project. When is the last time you were out at that site?

Ms. Morris: The last time that staff was on the actual site was when we made the site visit that Mr. Jansen scheduled for us, which was on May 10th. At that time, Mr. Krimminger and I both went to the site. Staff has made two complete site visits to the site. The first one was in March and that was Mr. Krimminger and I, DEPCOM representatives escorted us around the site. The second time when we went, Mr. Jansen allowed us to have an all-terrain vehicle and we made it around the entire site.

The visit with DEPCOM, we did not see the entire site so we were not aware of some of the additional encroachments that had happened on the site. Any other visits since that time or any other site observations have been made strictly from the road right-of-ways. We have not physically been on to the site since the visit that we had with Mr. Jansen.

Mr. Rockett: Have you made requests to be on the site since that visit in May?

Ms. Morris: Yes, we have. We made two different requests. One was during -¬we have had two very lengthy, for lack of a better term, comment review sessions with Canadian Solar and their various representatives and we have requested two different times, once during the last meeting that we had with various representatives on the phone, and an additional time through our County attorney. Staff has not been granted access to the site at this point, to be able to document anything further for the Commission. The pictures that you had that Mr. Krimminger provided the last time, were from the cul-de-sacs and from the exterior of the site.

Mr. Rockett: Was reasoning provided, as to why you were denied access?

Ms. Morris: We just never received a response. With the stream buffers, those are not at all visible from any type of street right-of-way, so we just did the best that we could to provide updated information to the Board by using the road right-of-ways and the access points that we could.

Mr. Paxton: Susie, did they deny you access orally or you put it in writing and they never responded?

Ms. Morris: We never received a response, and because it is private property that is gated, unless we have the property owner's permission, we typically do not just go on a site. We can, as Zoning Officials and as Sworn-in Public Officials, we can traverse common curtilage, but once it is past that point, then we typically do try to have permission from the property owner or their

representative. Other than that, we have to --we actually have to get a warrant to get on the property.

Mr. Pinto: Any other questions for Susie? I mean, I guess my question is would a site visit help you digest everything that has been put out?

Ms. Morris: I think it probably would. At this point, especially in light of the fact that they have a new landscape plan that has been presented this evening, staff has not reviewed that plan. We were not privy to that plan until you all were presented that plan this evening. It would help to identify whether or not the areas where we saw deficiencies are matching up. As part of this, the Board has to get back to the intent of that original approval and whether or not what they are providing meets the Ordinance and meets that original intent. So that would be helpful, for us to be able to try to document it again for you, making our way around the site, which would probably take us a couple of days maybe to do. I am not sure at this point because, we have not been out there and now that the fence and everything is installed; the fence was not necessarily up the last time we visited. We were able to go in some areas that may or may not be accessible now, especially on the bottom part.

Mr. Pinto: What fire department would go there; is that Georgeville?

MS. MORRIS: Yes, Georgeville would respond there. While I am here, she will answer the questions that you all had the last time, I did follow up on those. So, the Fire Marshal's office, on the original plan there was the ten feet in between the racking and the fence, but that was not required by the Fire Marshal's office. I believe that that was a standard that the applicant was trying to maintain, and they can --I think Mr. Jansen can probably further speak to it -¬something to the effect of the fence has to be a certain amount away from the racking, unless they do other things to ground. The Fire Marshal's Office said that they looked at the plan. They also have not been to the site, so they have not done any inspections. They are not sure whether or not it complies with what they need. But, they did not initially require a ring road around the site of that 10 to 12 feet. I did get clarification on that.

The other question that came up was whether or not the County reviewed soil and erosion control plans. In 2007, the County was tipped in with the State for fees to post-construction permitting. As part of that, any project that comes to the County that disturbs either one acre of property or accumulative one acre of property, that project is subject to post-construction permitting. So, as part of the conditional use process, what we do is, we make sure that that particular plan has been to the State and that it has been reviewed for that phase two standard. They do not review for any of the County standards. So, when we get that certificate, it is just to say that they have been -- because, you know, depending on the storm water controls, that kind of drives how the site is

developed and they have to figure that out first before they come to the County and meet the County standards. That is kind of how that process works. We would not review a soil and erosion control plan for Cabarrus County standards, because we do not have standards. But, that soil and erosion control plan and the site plan that they submit to us should match up, if there is buffer requirements or setback requirements, things like that.

Does that answer your question that you had, Mr. Corley?

Mr. Corley: It does. I guess the responsibility then, for lack of a better word, is on the applicant to make sure that any changes that are caused by any review process are somewhat consolidated into one set of plans that everybody sees, that would be their responsibility.

Ms. Morris said correct.

Mr. Corley: To avoid working off of five separately permitted plans that are completely different.

MS. MORRIS: Correct. I believe that those were the two major items that came up that needed follow up, unless I missed something.

Dr. Litaker: Do you recall the life expectancy of a solar farm, how long it should last?

Ms. Morris: I believe it is 20 to 25 years.

Dr. Litaker: You said 20?

Ms. Morris: 20 to 25 years, I think, depending on the equipment that is used and probably weather conditions, somewhat.

Dr. Litaker: On something like that, if we are trying to build a buffer and you are talking ten years to get to like a Leyland Cyprus, then we lost half of the life expectancy replacing this buffer, so we need to consider that.

Mr. Pinto: Any other questions for Susie?

Ms. Grimsley: I was thinking --I am not sure what we can do at this point, until we get confirmation from a site visit from the staff to confirm or deny what is actually going on or what could come before us to confirm their actual plan.

Mr. Dagenhart: Not only a site visit to determine what the current conditions are, but just even to review what was put before us tonight. I mean, I still have some questions about what was put before us. I mean, there is some areas in purple that I do not understand why you did not add or

why you are not adding any landscaping, but you clearly encroached. Why did you choose areas you chose along the residential?

Mr. Benshoff: I will have to get a witness, Mr. Dagenhart, to answer that. I have a few questions for Susie, which I would like to reserve. But, just let me say that there has been a terrible oversight. I was in at least one of those meetings. I do not remember a request to visit the site. On consultation with my clients, they are dumbfounded that they think we refused a request. I will say if Mr. Koch or Ms. Morris contact me, I will make sure that the County staff gets on the site at their convenience.

Mr. Pinto: All right. We will take you up on that.

Mr. Benshoff: About the question about the encroachment areas, Al?

Mr. Jansen: Prior to answering that question, I also want to reiterate that the County staff is welcome at any time. If they need to contact Mr. Benshoff, they can do that. They also have my phone number. Open arms, they are more than welcome.

Dr. Litaker: So you are saying, that any of us who want to come and visit, we can contact you.

MR. JANSEN: Most certainly. Most certainly.

Dr. Litaker: I would like to.

Mr. Jansen: Definitely.

The Chair: It might clear a lot of the air on both sides.

Mr. Jansen: Pardon me.

Mr. Pinto: It might help clear up on both sides.

Mr. Jansen: Yeah, just to counter the negativity, yeah, definitely, everybody is welcome, please. To Mr. Dagenhart's question in regards to the buffer encroachments, what was demonstrated to you or what you had picked up on, when you look at that area of purple, right there, yeah, it is defined as an encroachment, yes. But that area specifically, was never vegetated, in terms of prior to the project. So, that had been grasslands, even prior to the project development.

Mr. Dagenhart: Sir, are you aware of what the plan is, to do with that there? Is it just going to be grass or are you going to supplement it or what?

Mr. Jansen: So that is where \neg

Mr. Dagenhart: That is not the only location that is purple; there is probably at least a half a dozen, at a quick glance.

Mr. Jansen: Yeah. It does represent B2 buffer area where there is to be code compliance plantings with supplements.

Mr. Dagenhart: Okay. I guess my question --let me clarify or expand on it. I certainly understand why you did the red lines along Joyner and Mount Pleasant.

Mr. Jansen: Yep.

Mr. Dagenhart: But, why did you choose to do those areas along the residential, as opposed to just red line the whole thing? I do not really understand.

Mr. Jansen: Again, that is part of analysis from the site, in regards to where there was some opacity within the buffer itself. This one area right here is --that is a cul-de-sac. There is what we call a super basin, which in itself, yeah, encroached within the buffer. We do recognize that we have to replace the buffer there. There is some additional supplements required.

Mr. Dagenhart: So is it a fair statement -- is this plan ready to submit for staff review as it is?

Mr. Jansen: Yes, it is and even with that, as we talk about the staff visits to site, yeah, we definitely entertain walking through these red line areas with them, with Mr. Krimminger on site, and if there is any additions, it is a discussion worth having.

Mr. Pinto: During the week, is that the best time, best time for staff? I believe the best time would be during the week.

Mr. Jansen: That is true. During the week is the best time, yeah.

Mr. Dagenhart: Can you give a rough percentage of where you are on where you put landscaping in on the completion, as far as whatever you are proposing? So. I guess what I am asking is if there is a site visit, so that people can say, okay, this is what he's talking about.

Mr. Jansen: The portion over on here and a clockwise portion along the southern edge of or southern side of Joyner Road, to the driveway right here, that is 90 percent complete. We have not done anything to do with this red line supplement. We have also worked our way down Mount Pleasant from the corner, right through to here, and continue to do some of the plantings there. Just today, we started work along here. Then later this week, we do intend to go talk to the Stewarts and talk about logistics of beginning plantings along their property in the next week. So, in terms of percentage, 25 percent complete.

Ms. Grimsley: Mr. Chairman, if I may, just for the sake of time, can we just –we are going to have to table this evidently, again to a future date. Can we just make sure that the two of those, the staff and you, get together to schedule a time to go assess the site. Let us know exactly what is going on, what your plan is, if it meets the criteria, great, if it does not, we will have to address that again at a future date anyway; so, we can kind of move this along.

Mr. Rockett: I would also suggest I guess, more in the form of a question to the applicant that members of the Board be able to attend along with staff during the time of that visit.

Mr. Benshoff: Mr. Rockett, the applicants tell me they would be happy to have Board members visit with the staff, or at any other time that is convenient.

Mr. Koch: I do not think we can have more than five go, from the board.

Mr. Rockett: It would have to be an announced meeting in that case; otherwise, it is four. Thank you, Mr. Benshoff.

Mr. Pinto: At this time, is there any more discussion? A motion to close?

Mr. Rockett: I make a motion to Table -- I am sorry, I do not have the number in front of me.

Mr. Koch: Did you close the public hearing?

The Chair asked for a motion to close the Public Hearing.

Mr. Rockett, **MOTIONED**, **SECONDED** by Mr. Dagenhart to close the Public Hearing. The vote was unanimous.

There being no further discussion Mr. Rockett, **MOTIONED**, **SECONDED** by Mr. Stephen Wise to **TABLE** CUSE2018-00004 to February 12, 2019.

Mr. Dagenhart: The next meeting would be February 12th.

Mr. Rockett: Would February 12th be acceptable to staff, to table it until that time, based on the expected agenda on that date?

Ms. Morris: Yes, sir. That is our regular meeting date. I believe that we may or may not have another agenda item. We will have the one that was tabled this evening. We thought we were going to get another case today, but it looks like maybe it did not come in, so we would have the rezoning and then you would have the remainder of the time to work on the solar farm case.

Mr. Pinto: How much time before the meeting would you want to go --like do you want to go a week to the site or ten days to the site and then have 20 days to digest everything?

Ms. Morris: A site visit?

The Chair: How much time would you like to have?

Ms. Morris: If we are going to do a site visit and the Board wants to go too, logistics, I think we would need to figure out if everybody wants to go because we would need to advertise that. We can advertise that, but if everybody wants to go, trying to find a time, where everybody can go, or if you all want to elect some representatives to go, we can help facilitate that. Again, we have not seen this plan so, immediately, if not sooner, on both, so that we can start reviewing it and if they need to make any changes, you know, today is the deadline to start working on things for the next meeting. We would need that information right away to start doing the staff review, to see, you know, in addition what they are providing. We are going to need some time to try to line it up if the Board decides to elect a group, versus everybody putting eyes on it, to be able to kind of explain that and to properly document it so that everybody else understands what all that visit was.

The Chair: Maybe send an e-mail out tomorrow to see who wants to go and who does not want to go.

Mr. Rockett: If it would need to be an announced meeting, what is the length of time that is required for that announcement to go prior to the meeting?

Ms. Morris: If we call a special meeting of the Board, we can advertise it at the Courthouse 48 hours in advance.

Mr. Rockett: Okay.

Ms. Morris: But, one of the questions that I would have for the applicant is, at this point, as far as being on site, do people have to have PPE still or is it a closed out construction site? If the Board members do not have safety boots, a vest, glasses, and a hardhat, that takes you out of the mix. So out of the members up here, who has that stuff?

Mr. Benshoff: The applicant has visitor safety equipment, so we can take care of that for you.

Mr. Jansen: Boots --vests.

Ms. Morris: But, do they need boots?

Mr. Dagenhart: Should not need boots if you do not have heavy equipment out there.

Ms. Morris: The applicant will let us know if you have to have boots or not at this point, for the classification of the project, for their safety people.
Mr. Paxton: Susie, could we ask questions at that time, or would it be observation only?

Ms. Morris: If we advertise it, then you technically could conduct business, but we would have to have our Clerk there or somebody to somehow record that conversation.

Mr. Rockett: You are welcome, Lynn.

Ms. Morris: Lynn does not have PPEs so that is going to be a problem.

Mr. Dagenhart: Is it is better for the applicant if we come as one group? He does not think they have a 20-person SUV for the ride.

Mr. Jansen: Yeah, at the same time.

Ms. Morris: One of the things that we would probably need to try to coordinate too is, the property line versus the buffer, so that you all can see the encroachments and where they are and then match it up to the plan where the new plantings are going to go. Is some of that still in place, Al?

Mr. Jansen: Yes, it is. Just to answer some of the questions, in regards to the visit, yeah, we can accommodate one visit. We would have to have multiple vehicles to do that. I think for the benefit of the staff review of the site itself, it may require a lengthier visit, correct?

Ms. Morris said yes, we might need more observation.

Mr. Jansen: asked what the question was.

Ms. Morris: is it was marked.

Mr. Jansen: there are some markings and there has been some renewed markings also, yes.

Mr. Dagenhart: You will get back with us on what you are requiring for PPE?

Mr. Jansen: Yes, I will.

Ms. Morris: If they stay in the vehicle, would it be an opportunity for people that did not have that to make a site visit?

Mr. Jansen: Yeah, if there are staying in the vehicle, we minimize the PPE requirements at that time.

Ms. Morris: So we will have to find vehicles other than the Prius to make the visit, but that would be an option too. If people want to go, you would just need to stay in the vehicle.

Mr. Rockett: So at this time, I will restate my motion.

There being no further discussion, Mr. Brent Rocket restated his motion.

Mr. Brent Rockett, **MOTIONED**, **SECONDED** by Ms. Holly Grimsley to **TABLE** CUSE2018-00004, until following a site visit by Staff and Board until the date of February 12, 2019. The vote was unanimous.

Directors Report:

Ms. Susie Morris said at the beginning of each year either December or January we try to check in with the Board to see if the time that we are meeting is still appropriate for everyone and if there are any suggestions to move the meeting or the meeting time.

Last year, when we tried to do that we still had some members who were commuting in from Charlotte so the meeting stayed at 7:00 p.m. This year when we sent the poll out to everybody, there was interest in moving the meeting to an earlier time and based on the poll, it does seem that everybody would be available at 6:30 p.m. If the Board would like to move the meetings to then, we had confirmation that everybody thought they could be here at that time.

As part of that conversation as well, one of the topics that came up was if we could establish an end time for our meetings. She checked with the School of Government, and Professor Owens and Professor Lovelady, both confirmed that you could establish an end time for the meetings and that it was very common across the State for people to do that.

Right now, we have to be end the meetings by 10:30 p.m. and be out of the building. If the Board is still interested in moving the meeting time to start earlier and if you want to put a cap on the end time we are clearly able to do that.

Mr. Litaker said they would need a cell phone number to call for if they are stuck in traffic. He said it take 26 minutes to get here if everything is normal.

Ms. Morris said typically, Ms. Roberts and I are both here in the office between the meeting and most of the Board already has her cell number. If there is a problem, just let us know and we can let the others know that you are running late or something like that.

Mr. Litaker said it is hard to get in touch with somebody when you are stuck in traffic.

The Chair said they could text him if they want too.

Ms. Morris said most people have her cell number and if they are late they will text or call. It seems that 6:30 is the way go if the Board wants to start the meetings a little bit earlier.

Mr. Dagenhart is okay with starting early, but his concern is with putting an ending time. For instance, tonight, where we had three items on the agenda, you are going to keep pushing people back. If we have a case that may take long, you could push people back. He does not know that the Board wants an end time right now and is something the Board should look at.

Ms. Morris said that is completely up to the Board. A question was asked, she did the research so the Board would know what their options were. We are good here until about 10:30, but then we need to clear out of here so that the building can be locked and secured.

If the Board wants to talk about that this evening or think about it, is up to the Board. If the Board wants to change the starting time, we will need an official motion so that it is on the record and we would start advertising the meetings at 6:30 instead of 7:00.

There being no further discussion, Mr. Brent Rockett, **MOTIONED**, **SECONDED** by Mr. Stephen Wise, to change the meeting time of the Cabarrus County Planning and Zoning Commission to begin at 6:30 p.m. for the remainder of 2019. The vote was unanimous.

Mr. Morris said if the Board wants to think about having an end time, we could put it on the agenda but you do not necessarily do that tonight if you want to think about it. Again, we are limited until 10:30 anyway.

Mr. Corley said if we adopt an end time; is that a hard end time? Last meeting, we had to be out by 10:30 p.m. we really kind of pushed it. Do we lose that flexibility by saying we are done at 10:00. Are we done at 10:00?

Mr. Koch said that is up to the Board to decide on an individual basis. If it turns out you adopt an end time of 10:00, but you were in the middle of something at a meeting and you want to stay until 10:30 or until we have to leave the building, he does not think having done that in advance keeps the Board from changing it on the fly if you have too.

Mr. Corley thinks it would good to provide a reasonable expectation on when expect to end. As long as that gives us that flexibility to extend as need.

There being no further discussion, Mr. Jeff Corley MOTIONED, SECONDED by Mr. Brent Rockett to adopt an end time of 10:00 p.m. The vote was unanimous.

Mr. Koch said we are starting at 6:30 p.m. next month (February 2019).

Ms. Morris said yes. She said essentially, the reasoning with the School of Government, is that the applicant has the right to be heard, but they do not have the right to be heard tonight. If the Board wants to establish and end time, they can.

As Mr. Koch said, it is up to the Board, if you treat it as a hard and fast or if you continue, but 10:30 p.m. is when we need to be wrapped up, so everyone can get out of the building and it can be locked up because they leave at11:00.

There being no further discussion, Mr. Adam Dagenhart MOTIONED, SECONDED by Mr. Brent Rockett to ADJOURN. The vote was unanimous. The meeting ended at 9:46 p.m.

APPROVED BY:

Mr. Chris Pinto, Chair

SUBMITTED BY:

Arlena B. Roberts

ATTEST BY:

Susie Morris, Planning and Zoning Manager

Memo

- To: Canadian Solar NC102 Project LLC c/o Don Ling 3000 Oak Road, Suite 300 Walnut Creek, CA 94597
- Cc: Phillip Collins, Sr. Planner
- From: Lynn Roberts, Clerk to the Planning and Zoning Commission
- Date: August 14, 2019
- **Re**: <u>Granting Order for Conditional Use Permit CUSE2018-00004</u>, proposed amendment to CUSE 2017-00001 – NC 102 Project, LLC (Canadian Solar, Inc.)

Attached please find the recorded Granting Order for Conditional Use Permit CUSE2018-00004, proposed amendment to CUSE 2017-00001 – NC102 Project (Canadian Solar, Inc.)

A condition of approval for your proposed project is that the Granting Order, stating restrictions and applicable conditions of approval, must be recorded with the deed to the property so that it appears during a due diligence search. The Granting Order has been submitted to the Register of Deeds Office for recordation.

A bill from Cabarrus County Finance will be forwarded to the address you provided for the fees associated with recording documents with the Register of Deeds.

If you have any questions, please call our office at 704-920-2141.

FILED CABARRUS COUNTY NC WAYNE NIXON REGISTER OF DEEDS FILED Aug 14, 2019 AT 03:56 pm BOOK 13660 START PAGE 0147 END PAGE 0154 **INSTRUMENT #** 21179 \$0.00 EXCISE TAX B.W

Prepared by and Return to:

Richard M. Koch Cabarrus County Attorney ROD Box 74

Application Number CUSE 2018-00004

COUNTY OF CABARRUS

STATE OF NORTH CAROLINA

ORDER GRANTING AN AMENDMENT TO A CONDITIONAL USE PERMIT

The Board of Adjustment for the County of Cabarrus, having held a public hearing on November 13, 2018, December 11, 2018, January 8, 2019, February 12, 2019, March 12, 2019, and May 14, 2019 to consider application number CUSE 2018-00004, proposed amendment to CUSE 2017-00001, submitted by NC 102 Project, LLC (Canadian Solar Inc.) (PIN 5557-40-5055 and 5556-25-9058) and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

- 1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
- 2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
- 3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.

sel8

- 4. It is the Board's CONCLUSION that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, the use does not adversely affect the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
- 5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical developments of the County as embodied in the Ordinance or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.
- 6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of an AMENDMENT TO THE CONDITIONAL USE PERMIT have been satisfied, it is ORDERED that the application for the issuance of an AMENDMENT TO THE CONDITIONAL USE PERMIT be GRANTED, subject to the conditions contained in the staff report, if any, and the Findings of Fact and Conclusions of Law. It is also ORDERED that the violations alleged in the NOVs issued against this project by Cabarrus County prior to the date of this Order are considered to have been corrected and satisfied. The applicant shall fully comply with all the applicable, specific requirements in the Ordinance and must develop the property in accordance with the site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

Ordered this <u>13</u> day of August, 2019, *nunc pro tunc* to May 14, 2019.

CHAIR of the CABARRUS COUNTY PLANNING AND ZONING COMMISSION Sitting as the BOARD OF ADJUSTMENT

Jeff-Corley Cause

I, Arlena B. Roberts, Notary for Cabarrus County, NC certify that Chris Pinto, Chair of the Cabarrus Planning and Zoning Commission, appeared before me on this day and signed the foregoing document.

Arlena B. Roberts, Notary Public My Commission expires: <u>Muth 21, 107</u>2



NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 12-25 of the Ordinance.

EXHIBIT 1

FINDINGS OF FACT CONDITIONAL USE PERMIT AMENDMENT APPLICATION APPLICANT: CANADIAN SOLAR INC. CUSE 2018-00004

FINDINGS OF FACT

1. The use as proposed is not detrimental to the public health, safety or general welfare.

a) See Applicant's responses to this requirement, which are incorporated by reference as a Finding of Fact.

b) The proposed change in the buffer and in the screening correct the removal of the existing natural screening such that this use is not detrimental to the public health, safety or general welfare.

2. The use as proposed is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, etc.

a) See Applicant's responses to this requirement, which are incorporated by reference as a Finding of Fact.

b) All such facilities, which are not specifically required for this amended conditional use, are located nearby.

3. The use as proposed will not violate neighborhood character nor adversely affect surrounding land uses.

a) See Applicant's responses to this requirement, which are incorporated by reference as a Finding of Fact.

b) The proposed change in the buffer and in the screening correct the removal of the existing natural screening such that this use will not violate neighborhood character nor adversely affect surrounding land uses.

4. The use as proposed will comply with the general plans for the physical development of the County as embodied in the Zoning Ordinance or in the area development plans that have been adopted.

a) See Applicant's responses to this requirement, which are incorporated by reference as a Finding of Fact.

b) The proposed change in the buffer and in the screening correct the removal of the existing natural screening such that this use will comply with the general plans for the physical development of the County as embodied in the Zoning Ordinance or in the area development plans that have been adopted.

EXHIBIT 2

CONDITIONS

CUSE2018-00004 is subject to the following conditions of approval:

- 1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions. (Zoning)
- 2. The Granting Order stating restrictions and applicable conditions of approval, shall be recorded with the deed for the property. (Zoning)
- 3. The applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting. (Zoning)
- 4. Any proposed future expansion of property, as well as modifications or changes to approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit. (Zoning)
- 5. The applicant shall provide copies of all state, local, and federal permits for the permanent project file prior to zoning permitting. (Zoning)
- 6. Per Stormwater Permit #SW3170403, the overall tract built-upon area percentage for the project must be maintained below 24%, as required by 15A NCAC 2H.1017 of the stormwater rules. (Planning and Zoning)
- Site must meet all conditions set forth in the Soil and Erosion Control Permit #CABAR-2017-050 & #CABAR-2018-061. Inspection reports shall be submitted to Planning Department within 15 days of receipt of report. (Planning)
- 8. The Amended Decommissioning Plan must be recorded within 30 days of the date of this meeting and a copy provided to Cabarrus County Planning. (Planning and Zoning)
- 9. Stream and wetland buffers, as required by Chapter 4 of the Cabarrus County Development Ordinance, shall be delineated in the field prior to any requested site inspections. (Planning and Zoning)
- 10. Wetland and Stream buffers must be restored in accordance with restoration plan and updates provided to Cabarrus County Soil and Water Conservation District Staff (CCSWCD) and Cabarrus County Planning and Zoning as outlined in Chapter 4 of the Cabarrus County Development Ordinance. (CCSWCD)
- 11. Applicant must adhere to the Special Provisions listed in each of the five driveway permits issued by the NC Department of Transportation and must close out permits with NCDOT. (NCDOT)

- 12. A landscape plan that complies with the Cabarrus County Development Ordinance, the original intent of Conditions #6 and 18 from CUSE2017-00001, and that delineates all applicable buffers, including existing vegetation to be used toward buffers, calculations and required plantings must be provided within 30 days of the date of this meeting. This plan must be in the correct format that Staff uses for final site inspections and as outlined in the Ordinance. (Planning and Zoning)
 - The plan needs to be revised to show various colors for the symbols used for plant identification. L1 series was submitted in color but L2 series was not. All landscape pages should be in color. Revise plan.
 - Revise stream buffer plan to divide plantings shown into smaller groupings with a more manageable number of plantings for site inspection. Revise plan.
 - Buffer substitution plantings shown on the landscape plan. However, calculations and tables not updated to reflect changes. Revise plans, tables and calculations as needed.
 - Note on EXLA indicates "areas for consideration" for B8 plantings. B8 plantings have been presented as part of the mitigation measures and must be installed. Remove note.
- 13. The required 100-foot landscape buffer shall be clearly delineated in the field prior to any requested site inspections (Planning and Zoning).
- 14. Applicant must procure required building and trade permits prior to any additional work occurring on the project area located north of Joyner Road (Bost property). (Building)
- 15. Applicant must procure required building and trade permits for the proposed noise wall. (Building)
- 16. All sediment basins to be removed must be identified in the site plans. Applicant has stated that all basins are temporary and will be removed upon completion of construction. If this is not the case, basin design shall be confirmed with County Engineer. (Planning/Engineering)
- 17. Swales shall be permanently stabilized to prevent erosion and offsite sedimentation. Swales that cross internal access roads shall be maintained in a condition that will support emergency vehicles and equipment. (Engineering)
- 18. The developer shall provide a copy of the Site Stormwater BMP inspection documenting that the site has been stabilized and that there is no erosion occurring within the site and a copy of the latest NC DEQ Erosion Control Inspection Report documenting that the basins have been removed and the upstream areas stabilized. (Engineering)
- 19. The disturbed areas of the FEMA 100-year floodplain must be stabilized with a vegetative ground cover. (Engineering)
- 20. The disturbed areas of the Waterbody Buffer Zone must be stabilized per the Landscaping Plan prepared by Kimley-Horn and Associates. (Engineering)
- 21. Applicant must submit updated site plan to address Fire Marshal's comments. Below are items that should be reflected on updated plan. (Cabarrus County FMO)
 - Several lower water crossing areas also needed additional gravel. Show on Plan/Add notes
 - Several current T-Turnarounds needed to be redressed with gravel. Show on Plan/Add notes
 - Access road near array 23 in South America needs to be extended due to possibility of fire truck clipping corner of arrays. Show on plan/revise/clarify.

- 22. The proposed vegetation to be constructed as a screen to reduce glare must match in the landscaping plan and Solar Glare Ocular Impact Analysis. The reports and maps will be revised to use the same materials. The landscaping plans have a double row of American Holly Trees added in areas where additional screening is needed. The Solar Glare Ocular Impact Analysis references Black Gum trees for additional screening along Mt Pleasant Road. If Black Gum trees are needed for screening, the landscape plan shall be revised to include the installation of Black Gum trees outside of the utility right of way. (Engineering)
- 23. The Solar Glare Ocular Impact Analysis will be revised to add Line of Site photos to verify the visibility of solar panels and existing conditions for the following areas:
 - Observation Point #1 View of Panel Section MPE 5
 - Observation Point #3 View of Panel MPE 5 at the entrance into the site.
 - Observation Point #6 View of Panel Section MPE 2
 - Observation Point #7 View of Panel Section MPE 2
 - Observation Point #17 View of Panel Section MPE 6
 - Observation Point #26 View of Panel Section MPE 2
 - Observation Point #39 View of Panel Section MPE 1

(Engineering)

- 24. Sheet EXLA 1.0 shall be revised to show the updated locations of encroachments into the buffer. (Engineering)
- 25. The notes concerning the installation of a B8 buffer plantings shall be revised to remove any reference to "elective" or "area to be considered" for planting. These plantings are proposed, and will be used, to address screening issues and are considered mandatory plantings. (Planning/Engineering)
- 26. Applicant must revise tree study to use linear calculation for the area discussed in the meeting on page L1.3 (See diagram on page 5). Methodology and proposed plantings must be approved by County Engineer. (Board of Adjustment)
- 27. The applicant will have a maximum of 120 days to install all landscape for the project. The 120day timeframe ends on September 27, 2019. (Board of Adjustment)
- 28. Staff shall have access to the site when requested and will be allowed on site to monitor the status of the site every 30 days, regardless of whether or not an inspection has been called in. (Board of Adjustment)
- 29. The Bond provided by the applicant shall remain in place for the duration of the installation of the landscape. If there are deficiencies noted during inspections, the bond will remain in place until said deficiencies are corrected. (Board of Adjustment)
- 30. Applicant is responsible for maintaining the landscape on site. All vegetation must remain healthy. If any of the plantings identified on the landscape plan die, they must be replaced to maintain the buffer density. (Planning and Zoning)

NOTE: The date for compliance for any conditions that have a 30-day time limit is prior to Tuesday, June 11, 2019.



PLANNING STAFF REPORT CABARRUS COUNTY PLANNING AND ZONING COMMISSION 01/08/2019

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

Petition: RZON2018-00004 Rezoning		
Applicant Information:	Daniel Wilcox Wilcox Property Holdings, LLC 1334 Hwy 24/27 Midland, NC 28107	
Owner Information:	Daniel Wilcox Wilcox Property Holdings, LLC 1334 Hwy 24/27 Midland, NC 28107	
Existing Zoning:	OI (Office/Institutional)	
Proposed Zoning:	LI (Limited Industrial)	
Permitted Uses:	All uses permitted in the LI (Limited Industrial) zoning district would be permitted on the subject property.	
Parcel ID Number:	5524-25-8940	
Property Address:	1334 NC HWY 24-27 W., MIDLAND, NC 28107	
Area in Acres:	± 24.956	
Site Description:	The subject parcel is currently occupied by Wilcox Tractor Sales, which is classified as Trucking Equipment, Heavy Equipment Sales and Service with Sales Lot in the permitted use table in Chapter 3.There is no floodplain located on the subject property. The property is not located in a Watershed. No regulated waterbodies are located on the parcel.	
Adjacent Land Use:	Vacant/Heavily Wooded	
Surrounding Zoning:	North: OI (Office/Institutional) and CR (Countryside Residential) East: IND (Industrial, Midland) South: OI (Office/Institutional) and IND (Industrial, Midland) West: OI (Office/Institutional) and CR (Countryside Residential)	
Utility Service Provider:	The applicant states that the subject property is currently served by public water and a private septic tank. If development of the property requires utilities, the City of Concord would be the utility provider.	

Signs Posted:	12/21/2018
Newspaper Notification:	12/26/2018
Newspaper Notification 2:	1/2/2019
Notification Letters:	12/20/2018

Exhibits

EXHIBIT A – Staff Report EXHIBIT B – Application EXHIBIT C – Property Maps EXHIBIT D –Zoning Use Comparison Table EXHIBIT E – Adjacent Property Owner & Property Owner Letters EXHIBIT F – CUP Info and Site Plan EXHIBIT G – Zoning Sign

Intent of Zoning Districts

EXISTING DISTRICT: OFFICE/INSTITUTIONAL (OI)

This district is intended to accommodate relatively low intensity office and institutional uses at intensities complementary to residential land use. This district serves as a transitional district between residential land uses and higher intensity non-residential land uses.

RATIONALE

This district is used to provide for low intensity office and institutional uses that can be complementary to adjacent residential land use. This district features employment options and essential services which require a moderate number of average daily trips. These uses will have a minimum impact on the surrounding area because these trips will generally occur during regular business hours, thus, not competing with residential traffic at peak hours or on weekends. This district should be located adjacent to residential districts or in areas where its use would serve as a transition between residential land uses and higher intensity non-residential land uses. Higher intensity non-residential land uses may include commercial districts, light industrial or mixed use districts. When bordering residential districts or residential developments, care should be taken to assure natural or manmade buffering and architectural compatibility so that the nonresidential activities are not a nuisance to residential use.

PROPOSED DISTRICT: LIMITED INDUSTRIAL (LI)

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 or other potential nuisances/pollutants

for impacting adjoining properties. It is typically located in areas of the county with infrastructure available, including higher volume roadways, water and sewer. Light industrial districts may border the higher density residential districts 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 district be located where the result is industrial or commercial traffic penetrating a residential neighborhood

RATIONALE

This district provides a location for light industrial land uses such as assembly operations, storage and warehousing facilities, offices and other light manufacturing operations.

Agency Review Comments

Planning Review: See Staff Report. Josh Jurius, Planner Cabarrus County

NCDOT Review: No Comments. Marc Morgan, District Engineer, NCDOT District 1

Fire Marshal Review: No Comments. Matthew Hopkins, Fire Marshal's Office

EMS Review: *No comments. Justin Brines, Cabarrus EMS*

Sherriff Review: No Comments. Ray Gilleland, Cabarrus Sherriff's Office

Soil & Water Conservation Review:

No matter what use the land will be used for the rating is 97.2% somewhat limited due to soils. There are no water features to consider. Tammi Remsburg, Resource Conservation Specialist

Midland Planning Review:

No Comments. Kassie Watts, Planner for Midland.

Land Use Plan Analysis

The Midland Area Land Use Plan designates this area as Future Employment. The Future Employment district shows areas reserved for future employment growth. These areas are reserved for the development of industrial, research, large office, and warehouse/distribution uses. This designation allows for some flexibility to account for market demand. On a limited basis, the Future Employment district may be used for the development of mixed use residential and employment developments. The

future employment designation is shown in three (3) locations on the 2003 Midland Future Land Use Map, these areas are listed below.

- 1. Property surrounding the Concord Motorsports Park- This area contains an adequate supply of vacant acreage and would provide an excellent location for motorsports related businesses and activities. Industrial and commercial uses are preferred due to traffic, noise, and public safety issues related to the current operation of the speedway.
- 2. Property located adjacent to the Mecklenburg County Line north of the railroad and south of NC 24/27- This property has been designated as a commercial district since zoning began in Cabarrus County. It features a rare combination of vacant acreage, adequate access to a major thoroughfare and Highway (NC 24/27 and I-485), and railway access. These characteristics present a prime location for large scale, employment-generating operations. Operations of this type would require the extension of utilities to this area. This location serves as a gateway to Cabarrus County and care should be given to ensure that aesthetic value is promoted and not compromised. Development located along either side of NC 24/27 shall be subject to the additional standards prescribed by the Thoroughfare Overlay Zone (TOZ).
- 3. Property located east of "Old Midland" on the north and south side of the railroad- This property is located within close proximity to US Hwy 601 south. It contains large vacant parcels and features unique access to the railroad on both sides. Railroad transportation is once again gaining popularity as cost effective means for transportation of products and raw materials. It is also located adjacent to the existing Midland Enterprise Zone.

Conclusions

- The subject parcel is currently occupied by Wilcox Tractor Sales, which offers tractors and parts for sale. This use falls under the Trucking Equipment, Heavy Equipment Sales and Service with Sales Lot use category which is classified as an Industrial use and is permitted by right in the Limited Industrial (LI) district.
- In 1996, the property was zoned General Commercial (GC). Heavy Equipment Sales was permitted in the GC district with the approval of a Conditional Use Permit. A Conditional Use Permit and a site plan were approved for the use in 1996. However, when the site was developed, the project was not built according to the approved plan. This nullified the Conditional Use Permit.
- The property was rezoned to OI in 2005 as part of a county wide rezoning when the OI district was created.
- This area of 24/27 was called out as the "Future Employment" district in the plan, which was meant to allow for flexibility along the 24/27 corridor for future business development. It falls in Location 2 in the 2003 Midland Area Future Land Use Plan, as defined above.

- Trucking Equipment, Heavy Equipment Sales and Service with Sales Lot is not a permitted use in the Office/Institutional (OI) zoning district. The proposed rezoning would bring the current use of the property into conformance with the ordinance and would allow for additional light industrial uses to be developed on the property.
- The proposed change to Limited Industrial from Office/Institutional would be a change to a more intense zoning district.
- The site currently meets development dimensional standards for both the current zone (OI) and the proposed zone (LI) for setbacks and impervious surface coverage.
- The applicant intends to subdivide the tract and sell the current business if the rezoning is approved. The applicant has indicated that future development on the property would be consistent with the proposed zone.
- If the request is approved, the applicant understands that submittal for commercial site plan review and compliance with the Cabarrus County Development Ordinance is required for any new uses proposed on the subject property.

This is a conventional rezoning request, therefore all uses permitted in the LI zoning district would be allowed on the subject property if approved. The Planning and Zoning Commission should consider all of the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County.

CABARRUS COUNTY REZONING APPLICATION



STAFF USE ONLY:

Application/Accela#:	
Received By:	
Date Filed:	
Amount Paid:	

Instructions

- 1. Schedule a pre-application meeting with Staff to discuss the procedures and requirements for a zoning map amendment request.
- 2. Submit a complete application for an amendment to the official zoning map to the Planning Division. All applications must include the following:
 - Cabarrus County Land Records printout of all adjacent property owners. This includes properties located across the right-of-way and all on-site easement holders. The list must include owner name, address, and Parcel Identification Number.
 - A recent survey or legal description of the property or area of the property to be considered for rezoning.
 - Any additional documents essential for the application to be considered complete. (Determined as part of the pre-application meeting)
- 3. Submit cash, check, or money order made payable to Cabarrus County.
 - Fees: Residential rezoning request less than 5 acres = \$400
 - Residential rezoning request greater than 5 acres = \$400 + \$5 per acre over 5 acres Non-residential rezoning request = \$550 + \$5/acre
 - +3% technology fee based on total application fee

4. The deadline for submittal is always the same day as the Planning and Zoning Commission Meeting which is the second Tuesday of the month. Applications must be submitted before 2:00 PM that day for consideration on the next available agenda.

Incomplete applications will be returned to the applicant and will not be processed.

Process Summary:

- 1. Hold a pre-application meeting with Staff to discuss your rezoning request and the map amendment process.
- 2. Submit a complete Zoning Map Amendment application with the appropriate fees to the Cabarrus County Planning Division.

Staff will review your complete application, prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for rezoning.

Meeting Information: Meetings are held the second Tuesday of each month at 7:00 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

Expedited Vote: A vote of ³/₄ or more of the members of the Planning and Zoning Commission is considered an Expedited Vote and will constitute a final decision. If approval or denial of a rezoning request is by a vote of less than ³/₄ of the members, or if an appeal of the decision is filed within 15 days of the date of the decision, the application will automatically be forwarded to the Board of Commissioners for final consideration at a *de novo* hearing.

Questions: Any questions related to rezoning your property or to the rezoning process may be directed to the Planning Division at 704-920-2141, between 8 AM and 5 PM, Monday through Friday.

Subject Property Informat	ion	
Street Address	1334 Huy 24/27, Midland, NC.	
PIN(s) (10 digit #)	552 _425 _ 8940;	
Deed Reference	Book Page	
Township #	-	
Description of Subject Prop	<u>perty</u>	
Size (square feet or acres)		
Street Frontage (feet)		
Current Land Use of Property		
Surrounding Land Use	North $VACANT$	
	South VACANT	
	East VACANT	
	West VACANT.	
Request		
Change Zoning	From OI To LI	
Purpose for Request Place proper Zoning on current business and allow for future development. of property.		
Utility Service Water Supply Well	orService ProviderService Provider	
Wastewater Treatment	Septic Tank(s) orService Provider	

Page 2 of 3 Updated: 05 30-14

Property Owner/Agent/Applicant Information

It is understood by all parties hereto including owner, petitioner, and/or agents that while this application will be carefully considered and reviewed, the burden of proving its need rests with the below named petitioner(s).

I do hereby certify that the information that I have provided for this application is, to the best of my knowledge, true and correct.

Property Owner	Wileox Property Holdings, 11e.
Address	1334 Hwy 24/27, Midland, NC.
Phone	704 888-1114
Fax	704 888 - 2377
Signature	Daniel Williop
E-mail Address	sales @ wilcox tractor, com
Agent (if any)	
Address	
Phone	
Fax	
Signature	
E-mail Address	
Applicant (if any)	
Address	
Phone	
Fax	
Signature	
E-mail Address	

Aerial Map



Applicant: Dan Wilcox Owner: Dan Wilcox Case: RZON2018-00004 Address: 1334 NC Hwy 24/27 Purpose: Rezone from OI to LI PIN: 5524-25-8940



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

Map Prepared by Cabarrus County Planning & Development - December 2018



Midland Future Land Use



Applicant: Dan Wilcox Owner: Dan Wilcox Case: RZON2018-00004 Address: 1334 NC Hwy 24/27 Purpose: Rezone from OI to LI PIN: 5524-25-8940



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Map Prepared by Cabarrus County Planning & Development - November 2018







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

Map Prepared by Cabarrus County Planning & Development - December 2018



Section 3-8 TABLE OF PERMITTED USES

PERMITTED USE TABLE		
"P" - Permitted, "C" – Conditional, "PBS" – Permitted Based on Standards		
	01	LI
RESIDENTIAL USES		
Group Care Facility	Р	6
Manufactured Home, Single Section (8.4, 29)		
		Ľ
Bulk Grain Storage		P
Dairy Processing		P
Hatchery		P
Nurserv. Greenhouse		P
ACCESSORY USES		
Accessory Dwelling Unit (7-3,1)		PBS
Accessory Building, Lot Less Than 2 Acres (7-3, 1)	PBS	PBS
Accessory Building, Lot 2 Acres or Greater (7-3, 1)	PBS	PBS
Airstrip (8-4, 3)		С
Automated Teller Machine (7-3, 6, b)	PBS	
Community Garden, as Accessory Use (7-3, 13)	PBS	
Ice Production, Dispensing, Accessory to Convenience Store (7-3, 30)		PBS
Ice Production, Dispensing, Accessory to Gas Station (7-3, 29)		PBS
Moving Van, Truck or Trailer Rental, Accessory to Self Storage (7-3, 34, 53)		PBS
Towing Service, Accessory to Automobile Repair (7-3, 60, a-c)		PBS
Trail Head, Accessory (7-3, 63)	PBS	PBS
COMMERCIAL, RETAIL AND OFFICE USES		
Animal Hospital (8-4, 39)		С
Automobile Parts, Tires, Accessories		Р
Automobile Rental (7-3, 4)		Р
Bank, Financial Institution, Automated Teller Machine (7-3, 6)	PBS	
Banquet Hall	Р	
Barber, Beauty, Tanning, Nail or Skin Care Salon	Р	
Boat Works and Sales, with Sales Lot		P
Building and Contractor Supply	 	Р
Building and Contractor Supply with Outdoor Storage	DBC	Р Р
Contractor's Storage Vard	PBS	P
Convenience Store with Petroleum Sales (7-3-14)		P D
Convenience Store without Petroleum Sales (7-3, 15)		P
Country Club with Golf Course (7-3, 16)	PBS	Г.
Dry Cleaning, Laundry Plant	1.55	Р
Duplex, Commercial Use, Individual Lots (7-3, 19)	PBS	-
Equipment Sales and Service		Р
Equipment Sales with Outdoor Storage Area		Р
Farmer's Market	Р	
Farm Supply Sales with Outdoor Storage Area		Р
Funeral Home	Р	
Gas Station (7-3,23)		Р
Golf Course, Public or Private (7-3, 24)	PBS	
Kennel, Commercial (8-4, 37)		С
Moving Van, Truck or Trailer Rental (7-3, 34)		PBS
Nursery, Daycare Center (7-3, 35)	PBS	
Nursery, Daycare Center (8-4, 16)		C
Office professional, 30,000 Square Feet or Less	Р	Р
Office professional, 30,000 Square Feet or More		P
Parking Lot, Parking Garage, Commercial or Private	Р ~	P
	Р	۲ م
Radio and Television Studio		P P
Recreational Facility Indoor (7-3, 39)	DDC	r D
Recreational Facility, Outdoor (8-4, 22)	г вз С	r C
Recreational Vehicle Sales, With Outdoor Storage or Sales Lot		Þ
Recvclable Materials Drop Off (7-3, 41)	PRS	PRS
Repair Garage, Automobile (7-3, 43)	. 55	P
Repair Shop, Farm Machinery (7-3, 44)		P
Repair Shop, Small Engine (7-3, 45)		Р
Restaurant, Excluding Drive-thru (7-3, 47)		Р
Restaurant with Drive-Thru Facility (7-3, 48)		PBS

Section 3-8 TABLE OF PERMITTED USES

PERMITTED USE TABLE		
"P" - Permitted, "C" – Conditional, "PBS" – Permitted Based on Standards		
	OI	LI
Sawmill (7-3, 51)		Р
Scientific Research and Development (7-3, 53)	PBS	PBS
Self-Service Storage Facilities (7-3, 54)		PBS
Shooting Range, Indoor (7-3, 55)		PBS
Shooting Range, with Outdoor Target Practice (8-4, 30)		С
Sports and Recreation Instruction or Camp (7-3, 56)		PBS
Storage Building Sales, with Display Area (7-3, 57)		PBS
Swim Club, Tennis Club, Country Club (7-3, 59)	PBS	
Taxidermy Studio, No Outdoor Processing		Р
Towing Service, with Towed Vehicle Storage Yard, No Salvage or Part Sales (7-3, 61)		Р
Towing Service, No Towed Vehicle Storage Lot, Office Only, Storage of Tow Trucks, Car Haulers		
Permitted On Site		Р
Veterinarian (8-4, 37)		С
Wireless Telecommunications Services (8-4, 36)	C	С
Wireless Telecommunications Services, Stealth Antennae, 65 Feet or Less (8-4, 36)	Р	Р
Wireless Telecommunications Services – Co-location (7-3, 67)	PBS	PBS
INSTITUTIONAL, CIVIC AND PUBLIC USES		
Animal Shelter (8-4, 37)		С
Civic Organization Facility (7-3,11)	Р	
Coliseum, Stadium (8-4, 5)		С
College, University	Р	
Communications Tower, 911 Communications Tower (7-3, 12)		PBS
Communications Tower, 911 Communications Tower (8-4, 7)	С	
Convention Center Facility (8-4, 8)	С	
Correctional Facility (8-4, 9)		С
Elementary, Middle and High Schools (8-4,11)	С	
Government Buildings, Storage Only (7-3, 25)		PBS
Government Buildings, Storage Only with Outdoor Storage Area (7-3, 26)		PBS
Hospital, Ambulatory Surgical Care Facility	Р	
Public Cultural Facility (7-3, 38)	Р	
Public Service Facility (8-4, 17)	C	С
Public Use Facility	P	P
Recreational Trail, Greenway or Blueway, Connector (7-3, 40)	PBS	PBS
Religious Institution with Total Seating Capacity 351 or More (8-4, 24)	C	
Religious Institution with Total Seating Capacity 350 or Less (7-3, 42)	PBS	
Religious Institution with School (8-4, 25)	C	
Rest Home, Convalescent Home with 10 Beds or Less (7-3, 46)	PBS	
Rest Home, Convalescent Home with More Than 10 Beds (8-4, 26)	с . С	
Trade and Vocational Schools (8-4, 33)	C	C
Trail Head, Primary Use Site (7-3, 64)	PBS	PBS
INDUSTRIAL	1.05	1.05
Bottling Works		Р
Cast Concrete Production, Distribution, Storage		P
Freezer, Ice Plant		P
Landfill Demolition Less Than One Acre (7-3-32)	1	PRS
Landfill, Demolition, One Acre or More (8-4, 13)	†	. 55 C
Landfill Sanitary (8-4, 13)	1	с С
Machine Shop		P
Manufacturing		P
Metal Works Metal Processing Fabrication	<u> </u>	P
Multimedia Production and Distribution Complex		P
Bace Track Animal Automobile or Other (8-4, 20)		F C
Slaughter House, Meat Packing	<u> </u>	D
	 	D
Trucking Equinment Heavy Equinment Sales and Service with Sales Lot	+	P D
Warehouse Enclosed Storage	<u> </u>	D
Warehouse with Outside Storage (7-3, 65)	┼───	DDC
Welding Shon	╂────	P D D
	1	r
Auction Estate or Asset Liquidation	DBC	DDC
Dumpstore Commercial Waste Containere	PB5	r 83
EEMA Trailors, Natural Disastor or Significant Weather Sugat	PBC PBS	LR2
Makila Dereanal Storage Unit Maaste er Ossum: Pressie	PBS	PBC PBC
Nobile Personal Storage Unit, Vacate or Occupy Premise	PBS	PB2
Involute Personal Sclored Unit, Kenovation	PBC PBS	PBC PBC
Temperant Temperant Structure Products, includes Christmas Trees and Pumpkins	PBS	PB2
Temporary Tent or Temporary Structure, Including Cell on Wheels	PBS	PBS

Section 3-8 TABLE OF PERMITTED USES

PERMITTED USE TABLE		
"P" - Permitted, "C" – Conditional, "PBS" – Permitted Based on Standards		
	OI	LI
TRANSPORTATION RELATED		
Airport, Commercial (8-4, 2)		С
Tour Bus Company, Travel Agency with On Site Bus Storage		Р
Rail Storage Yard		Р
Taxi Service, Dispatch and Storage		Р
Tour Bus Company, Travel Agency with On Site Bus Storage		Р
Trucking Company, Heavy Equipment Company, Dispatch Facility With Storage (8-4, 36)		С
Truck Stop, Truck Terminal (8-4, 37)		С

Chapter 3-Permitted Use Table



December 20, 2018

Dear Cabarrus County Property Owner:

The Cabarrus County Planning and Development Department has received a request for a **Rezoning** for property located **adjacent** to your property. The specifics of the request are listed below.

The Cabarrus County Planning and Zoning Commission will consider the **Rezoning** request on Tuesday, January 8, 2019 at 7:00 PM. This meeting will be held in the Commissioners Meeting Room located on the second floor of the Governmental Center at 65 Church Street SE, Concord, NC 28025. A Public Hearing will be conducted as part of the consideration of the request and public input will be received during that time. If you have any comments or questions related to the request, you should plan to attend the meeting.

APPLICANT:WILCOX PROPERTY HOLDINGS, LLCCASE NUMBER:RZON2018-00004PROPERTY ADDRESS:1334 HWY 24/27 MIDLAND, NC 28107PARCEL NUMBER:5524-25-8940EXISTING ZONING:OI (OFFICE INSTITUTIONAL)PROPOSED ZONING:LI (LIGHT INDUSTRIAL)DESCRIPTION:Applicant is requesting a rezoning from OI to LI in order to operate a
Heavy Equipment Sales and Service Lot.

If you have any questions regarding this request or the public hearing process please feel free to contact me at (704) 920-2149.

Sincerely,

Junus

Josh Jurius Cabarrus County Planner

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



Cabarrus County Government – Planning and Development Department

December 20, 2018

Dear Cabarrus County Property Owner:

The Cabarrus County Planning and Development Department has received a request for a **Rezoning** for your property. The specifics of the request are listed below.

The Cabarrus County Planning and Zoning Commission will consider the **Rezoning** request on 1/8/2019 at 7:00 PM. This meeting will be held in the Commissioners Meeting Room located on the second floor of the Governmental Center at 65 Church Street SE, Concord, NC 28025. A Public Hearing will be conducted as part of the consideration of the request and public input will be received during that time. If you have any comments or questions related to the request, you should plan to attend the meeting.

APPLICANT: CASE NUMBER: PROPERTY ADDRESS: PARCEL NUMBER: EXISTING ZONING: PROPOSED ZONING: DESCRIPTION: WILCOX PROPERTY HOLDINGS, LLC RZON2018-00004 1334 HWY 24/27 MIDLAND, NC 28107 5524-25-8940 OI (OFFICE INSTITUTIONAL) LI (LIGHT INDUSTRIAL) Applicant is requesting a rezoning from OI to LI in order to operate a Heavy Equipment Sales and Service Lot.

If you have any questions regarding this request or the public hearing process please feel free to contact me at **(704) 920-2149**.

Sincerely,

Josh Jurius, Planner



CABARRUS COUNTY

Post Office Box 707 CONCORD, NORTH CAROLINA 28025

Application Number 203(C)

COUNTY OF CABARRUS STATE OF NORTH CAROLINA

ORDER GRANTING/ MENTING A CONDITIONAL USE PERMIT

The Board of Adjustment for the County of Cabarrus, having held a public hearing on July 18, 1996 to consider application number 203(C) , submitted by Daniel B. Wilcox , a request for a conditional use petmit to use the property located at 1226 Hwy. 24/27, Midland, N.C. 28107 To develop the existing Vacant property to for the purpose of us as a new and used tractor sales lot. , and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

SEE ATTACHED SHEET

SEE ATTACHED SHEET

3. It is the Board's CONCLUSION that the proposed use (does/does(x)(x)(x)(x)) satisfy the second general standard listed in the ordinance, namely, General Standard (B): The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of the contiguous property).

SEE ATTACHED SHEET

SEE ATTACHED SHEET

5. The Board makes the following additional FINDINGS OF FACT:

SEE ATTACHED SHEET

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT (have/XXXXXXX) been satisfied, it is ORDERED that the application for the issuance of a CONDITIONAL USE PERMIT be (GRANTED/XXXXXXXXXXXXXX), subject to the following conditions:

(1) The applicant shall fully comply with all of the specific requirements stated in the ordinance for the proposed use, as well as any additional conditions stated below.

(2) If any of the conditions stated below shall be held invalid, then this permit shall become void and of no effect.

(3) The land and/or structures must be developed in accordance with the site plan submitted and approved.

Ordered this 18th day of July 1996.

Chairman of the Cabar

Board of Adjustment

Secretary

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 8.10 of the Ordinance.

DANIEL B. WILCOX CONDITIONAL USE APPLICATION 203(C)

FINDINGS OF FACT

1. The applicant has submitted a complete application, site plans and the additional information required by the Cabarrus County Zoning Ordinance.

2. The property is zoned General Commercial which allows this use if all of the prescribed conditions are met and if the Board feels that the proposed use will not have any negative effects on the adjacent properties.

3. The property to the north of the proposed use is zoned Countryside Residential and presently vacant. The property to the west is zoned General Commercial. The property to the south is zoned Limited Commercial. The property to the east is zoned General Commercial and will be owned by the applicant.

4. The property is located on and will have access to Highway 24/27 which is presently being widened to four lanes with a median in between. The proposed design of the site will be in compliance with the Thoroughfare Overlay Zone. Prior to issuing any permits the applicant will also need approval from the North Carolina Department of Transportation concerning their driveway access point.

5. Ms. Sarah LaBelle has reviewed the proposed project and finds that the proposed use does not present any significant traffic impacts. (Traffic Impact Summary is included in the packet).

6. The adjacent property owners have been contacted by mail.

7. The public hearing notice was published in the Concord Tribune and Daily Independent.

8. A zoning sign was placed on the property which advertised the time and place of the public hearing.

Additional Finding....

1. Add solid evergreen screening in addition to the 75 foot buffer. The screen shall be placed along the property line which is adjacent to the Countryside Residential zoning district.

2. All vehicles which are to be used for the sale or its salvaged parts must be screened completely from site or adjacent properties.







Staff Use Only:

PLANNING STAFF REPORT CABARRUS COUNTY PLANNING AND ZONING COMMISSION 1/8/2019

Approved: _____ Denied:

Tabled _____

Conditional Use Permit: CUSE2018-00006		
Applicant Information:	Timothy R. Kiser, Agent WSACC 232 Davidson Highway Concord, NC 28026	
Owner(s) Information:	WSACC PO Box 428 Concord, NC 28026	
PIN#s:	5547-06-4548, 5537-98-7403, & 5537-99-6094	
Area in Acres:	+/- 261.32 acres	
Purpose of Request:	The purpose of this request is to amend the existing site plan and create a long term master plan for a public service facility.	
Site Description:	The site is approximately 261.32 acres total and is currently the location of the Rocky River Regional Wastewater Treatment Plant (RRWWTP). The property is bounded to the south by the Rocky River and to the east by Irish Buffalo Creek.	
Current Land Uses:	Public Service Facility	
Adjacent Land Uses:	North: Residential /Agricultural East: Residential/Agricultural South: Residential/Agricultural West: Residential/Vacant	
Permitted Uses:	Any uses permitted in the LDR zoning district	
Existing Zoning:	LDR (Low Density Residential)	
Surrounding Zoning:	North: LDR (Low Density Residential) East: AO (Agriculture / Open Space) South: AO (Agriculture / Open Space) West: AO (Agriculture / Open Space) and LDR (Low Density Residential)	
Signs Posted:	11/20/18	

Exhibit A
Newspaper Notification:	11/28/18
Newspaper Notification 2:	12/05/18
Notification Letters:	12/21/18

Exhibits

Exhibit A – Staff Report Exhibit B – Application Exhibit C – Survey Map Exhibit D – Existing Features Map Exhibit E – Development Plan Map Exhibit F – Maps Exhibit G – Notification Information Exhibit H – Examples of Existing Structures

		Agency Review	w Comments
Review	Approval	Date	Comment
Health Review	Approved	11/14/2018	Cabarrus Health Alliance has no regulatory authority over the facility David Troutman
Sheriff Review	Approved	11/15/2018	No comment – Ray Gilleland
EMS Review	Approved	11/15/2018	No comment – Justin Brines
NCDOT Review	Approved	11/20/2018	As far as NCDOT is concerned, it doesn't appear that you will need any roadway improvements due to these changes – Jeff Burleson

Fire Review	Approved w/ Comments	11/26/2018	Master Plan shows several new building and building expansions. Future Administration Building, current Admin Building Expansion, Blower Building, Main Pumping Station Expansion, Chemical Storage and Feed Facility, Electrical Building, Filter Building, Chemical Contact Basin, HPO2 System Expansion, Odor Control Building, Headworks Building Expansion, Biological Treatment Area, Sludge Thickening and Storage Area, and any additional buildings will require building plans to be submitted for construction.
			shown. If buildings/structures are moved access roads will need to be addressed further. – Matthew Hopkins
Soil – Water Conservation Review	Approved	11/30/2018	The soils present at the site are very limited due to the wet, hydric conditions. They also have high shrink-swell tendencies. This needs to be taken into account when designing and building the additions Tammi Remsburg
Zoning Review	Approved	12/14/2018	Site Plan currently meets the requirements of the Ordinance – Phillip Collins

History / Other Information

- 1. The applicant provided correspondence from NCDOT, stating that there would not be any need for studies on this request.
- Because there are no physical upgrades or building projects currently proposed, no stormwater or soil and erosion control plans were submitted with the information that was provided. The Applicant will be required to seek review and approval from NCDEQ when new projects are proposed. This will occur during commercial zoning site plan review and approval.
- 3. The applicant submitted the "Findings of Fact" sheet along with a Master Plan showing the proposed locations of treatment areas and building/equipment additions.

- 4. An existing Public Service Facility (wastewater treatment plant) occupies the subject property. The facility currently meets the standards of the zoning ordinance.
- 5. The applicant submitted a Stormwater Pollution Prevention Plan that covers the entire site and an Emergency Action Plan.
- 6. The total combined footprint for the total existing impervious area is approximately 700,000 SF (352,000 SF of which is structural coverage). The total combined footprint for the total proposed impervious area is 1,087,375 SF (917,375 SF of which is structural coverage). With these proposed additions, approximately 11% of the site will be covered with new structure surfaces and approximately 16% of the site will be covered in impermeable surfaces. The LDR zoning districts permits sites to be covered with up to 20% impermeable surfaces and up to 15% structural surfaces.
- 7. The applicant is submitting the Master Plan for the Board of Adjustment to consider to streamline the process when new projects are proposed for the site.
- 8. If the Master Plan is approved, in the future, when new buildings or equipment installations are proposed, the Applicant would submit plans for commercial zoning site plan review and approval only. As long as the proposed site plan matches the proposed Master Plan there would be no need to submit a new Conditional Use Permit for Board of Adjustment review.

Conditions of Approval

Should the Board of Adjustment grant approval of the Conditional use Permit, Staff requests the following conditions become part of the approval and case record:

- Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions. (Zoning)
- 2. The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property. (Zoning)
- 3. The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project. (Zoning)
- 4. Any proposed future expansion of property, as well as modifications or changes to the approved Master Plan/Site Plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit. (Zoning)

- 5. Applicant must submit permits and documentation as required from NCDEQ for stormwater and soil and erosion control permitting with site plans when submitted to zoning for commercial site plan review and approval. (Zoning)
- 6. Applicant must submit Floodplain Development Permits for all development, as defined by FEMA, located in the regulated floodplain. (Zoning)
- 7. Master Plan shows several new building and building expansions. Future Administration Building, current Admin Building Expansion, Blower Building, Main Pumping Station Expansion, Chemical Storage and Feed Facility, Electrical Building, Filter Building, Chemical Contact Basin, HPO2 System Expansion, Odor Control Building, Headworks Building Expansion, Biological Treatment Area, Sludge Thickening and Storage Area, and any additional buildings will require building plans to be submitted for construction. (Fire Marshal)
- 8. Master Plan access roads are adequate as shown. If buildings/structures are moved access roads will need to be addressed further. (Fire Marshal)

CONDITIONAL USE PERMIT APPLICATION

Staff Use Only:

Application/Accela#:

Date Filed: Received By: Amount Paid;



Instructions

1. Schedule a pre-application meeting with Staff to discuss the procedures and requirements for a Conditional Use Permit request.

Date of Pre-Application Meeting: 8/9/18 Staff Facilitator(s): Phillip Collins, Suzie Morris

- 2. Submit a complete application to the Planning Division. All applications must include the following:
 - Cabarrus County Land Records printout of all adjacent property owners. This includes properties located across the right-of-way and all on-site easement holders. The list must include owner name, address, and Parcel Identification Number.
 - > A recent survey or legal description of the property.
 - > 15 folded copies of the proposed site plan.
 - Any additional documents essential for the application to be considered complete. (Determined at pre-application meeting)
- 3. Submit cash, check, or money order made payable to Cabarrus County.
 - Fees: Conditional Use Permit \$550.00 +\$5.00 per acre

+3% technology fee based on total application fee

The deadline for submittal is always the same day as the Planning and Zoning Commission Meeting which is the second Tuesday of the month. Applications must be submitted before 2:00 PM that day for consideration on the next available agenda.

Incomplete applications will be returned to the applicant and will not be processed.

Process Summary:

- 1. Hold a pre-application meeting with Staff to discuss your Conditional Use Permit request and the Conditional Use Permit process.
- 2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.

Staff and appropriate agents will review your complete application and site plan and comments will be forwarded to you. You will need to address the comments in writing, revise the site plan accordingly and resubmit a site plan showing that all comments are addressed and errors corrected.

Page 1 of 5 Form date 7.1.2015

- 3. Once advised that the site plan is correct and ready to be presented to the Board of Adjustment, you will need to submit 18 folded copies of the plan.
- 4. When the copies of the plan are received, Staff will begin to prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for the Conditional Use Permit.

Meeting Information: Meetings are held the second Tuesday of each month at 7:00 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

Conditional Use Permit: Conditional Use Permits are considered by the Board of Adjustment during a quasi-judicial hearing. This means that anyone wishing to speak regarding the application must be sworn in. The vote requirement for the Conditional Use Permit to pass is a simple majority. Additional conditions may be added as part of the Conditional Use Permit approval process.

Questions: Any questions related to the Conditional Use Permit process may be directed to the Planning Division at 704-920-2141, between 8 AM and 5 PM, Monday through Friday.

<u>TO THE BOARD OF ADJUSTMENT:</u>

I HEREBY PETITION THE BOARD OF ADJUSTMENT TO GRANT THE ZONING ADMINISTRATOR THE AUTHORITY TO ISSUE A CONDITIONAL USE PERMIT FOR THE USE OF THE PROPERTY AS DESCRIBED BELOW.

Applicant's Name Water and Sewer Authority of Cabarrus County Timothy R. Kiser, PE

Applicant's Address

Applicant's Telephone Number

704-786-1783, ext 224

Property Owner's Name Water and Sewer Authority of Cabarrus County Timothy R. Kiser, PE

Property Owner's Address

232 Davidson Highway

Concord, NC 28027

Property Owner's Telephone Number 704-786-1783, ext 224

Parcel Information

Existing Use of Property Proposed Use of Property Existing Zoning Property Location Property Acreage Parcel Number (PIN) **Public Service Facility**

Public Service Facility

Low-density Residential

6400 Breezy Lane, Concord, NC 28025

261.32 Acres

5547064548, 5537987403, 5537996094

Page 2 of 5 Form date95/2014

Land Use of Adjacent Properties

NORTH Residential		SOUTH Agricultrual				
EAST	Agricultural	WEST_	Agricultural/Residential			

General Requirements

The Zoning Ordinance imposes the following general requirements on the use requested by the applicant. Under each requirement, the applicant should explain, with reference to the attached plans (when applicable) how the proposed use satisfies these requirements.

1. The Board must find that the uses(s) as proposed "are not detrimental to the public health, safety or general welfare."

The proposed use is consistent with the operation of a waste water treatment plant, providing necessary sanitary waste disposal services to the County. The currently implemented site-specific storm water pollution prevention plan and emergency action plan shall be updated as needed as part of design activites.

2. The Board must find that the use(s) as proposed "are appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, etc." The site is located in close proximity to highways 601, 49 and 24/27. The plant expansion will provide additional capacity to better meet the sanitary waste disposal needs of the County.

3. The Board must find that the use(s) as proposed "will not violate neighborhood character nor adversely affect surrounding land uses."

The proposed use is well within the boundaries of the existing plant parcel. All required landscape buffers and setbacks to adjacent properties shall be provided in accordance with the zoning ordinance, and will not adversely affect surrounding land uses.

4. The Board must find that the use(s) as proposed "will comply with the general plans for the physical development of the County or Town, as embodied in the Zoning Ordinance or in the area development plans that have been adopted."

The proposed use is consistent with the existing waste water treatment plant use. All required landscape buffers and setbacks to adjacent properties shall be provided and will not conflict with the Zoning Ordinance graphysical development of surrounding properties.

Specific Requirements

The Zoning Ordinance also imposes SPECIFIC REQUREMENTS on the use(s) requested by the applicant. The applicant should be prepared to demonstrate that, if the land is used in a manner consistent with the plans, specifications, and other information presented to the Board, the proposed use(s) will comply with specific requirements concerning the following:

1

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N	at	ure	of of	use	(ty	γpe,	num	ber	of	units,	and/o	r area):	:
_			-	-	_								

Public Service Facility - Wastewater Treatment Plant, expansion of existing facilities to ultimate capacity

of 45 MGD.

A agencome uses (if any):

	пу):	·····	<u> </u>				
Principle Lise							
Front: <u>141'</u>	Side yard Single: 278'	Side yard Total: 698'	Rear: 329'				
Accessory Use							
Front: N/A	Side yard Single:	Side yard Total:	Rear:				
Height provisions:	Principle Use: 40'	Accessory Use: N/A					
Off street parking an	d loading provisions: (include	calculations)					
Compliance with off-st	reet parking and loading provision	ns are included with the attached	Development Plan				
Map and supporting d	ata.						
Sign provisions: (include sketch drawing with dimensions)							
Provisions for screening landscaping and buffering: (show on site plan)							
Existing vegetation is	used where possible to satisfy bu	ffer requirements.					
Provisions for vehicu	alar circulation and access to s	streets: (provide NCDOT perm	iit and/or TIA)				
<u> </u>							

Page 4 of 5 Formidate05.2014 Adequate and safe design for grades, paved curbs and gutters, drainage systems, and treatment or turf to handle storm waters, prevent erosion, subdue dust:

Appropriate grading, stormwater conveyance, sediment and erosion control features shall be included as part of design activities.

An adequate amount and safe location of play areas for children and other recreational uses according to the concentration of residential property:

Not Applicable.

Compliance with applicable overlay zones: (see Chapter 4 of Zoning Ordinance) No conflicts with overlay zones.

Compliance with the Flood Damage Prevention Ordinance: (see County Code Chapter 38)

Any proposed structures located within 100 year flood boundary shall obtain applicable permits and approvals

in accordances with Flood Damage Prevention Ordinance as part of design activities.

Other requirements may be requested by the applicant or specified by the Board for protection of the public health, safety, welfare, and convenience:

None requested by applicant.

Predefined Standards

Each individual Conditional Use listed in the Zoning Ordinance may have specific standards imposed. Refer to Chapter 8, the Conditional Use section of the Zoning Ordinance for these requirements. Each standard should be addressed in the site plan submitted along with this application.

Certification

I hereby confirm that the information contained herein and herewith is true and correct and that this application shall not be scheduled for official consideration until all of the required contents have been submitted to the Planning and Development Department.

Signature of Applicant

Signature of Owner

Page 5 of 5 Form.date05-2014

Invotte R. Heri Date 11/12/18 Twethy A. Keri Date 11/12/18 Engineering Director ISACC.







OWNER/APPLICANT: WATER & SEWER AUTHORITY OF CABARRUS COUNTY ENGINEER: BLACK & VEATCH

NOTES:

1- THE 100-YR FLOODPLAIN IS BASED ON AUGUST, 30, 2016 PRELIMINARY FLOOD INSURANCE RATE MAPS 2- PROPERTY OWNER DATA TAKEN FROM CABARRUS COUNTY GIS SYSTEM AS OF OCTOBER, 2018.

EXISTING FEATURES MAP, SHEET 1 PLAN PREPARED OCTOBER, 2018





			Ε	xhib	it E
	LEGEND				K APP
		APPROXIMATE PROPERTY BOUNDARY APPROXIMATE 100-YEAR FLOODPLAIN FLOODWAY			NO. BY CHI
		LIMITS OF ASH PLACEMENT 75' BUILDING SETBACK LINE			CORD OF USE
ENE	RAL NOTES:				REVISIONS AND RE
1.	APPLICANT/OWNER: WATER AND SEWER AUTHORITY OF ROCKY RIVER REGIONAL WWTP 232 DAVIDSON HIGHWAY CONCORD, NC 28027	CABARRUS COUNTY			DATE
2.	ENGINEER: BLACK & VEATCH INTERNATIONAL 10715 DAVID TAYLOR DRIVE, STE CHARLOTTE, NC 28262	04-786-1783 COMPANY E 240			
3.	CONTACT: JAMES M. OSBORNE, PL THIS PLAN REFERENCES THE FOLLO "OVERALL MASTER PLAN" PREPARE 14129 BALLANTYNE CORPORATE DATED SEPTEMBER, 2014.	E (704) 510-8451 DWING DOCUMENTS: ED BY CH2MHILL, PLACE, STE 200, CHARLOTTE, NC 28277,			
	"BOUNDARY SURVEY OF WATER & S PREPARED BY CESI LAND DEVELOF 45 SPRING STREET SW, CONCORD,	SEWER AUTHORITY OF CABARRUS COUNTY" PMENT SERVICES, NC 28025, DATED APRIL 9, 2014.		ĊH	ompany
4 -	PREPARED BY BLACK AND VEATCH, PARCELS OWNED BY THE CITY OF (DATED APRIL 2002.		/EAT	опаl С F-0794 , Suite 24 ла 28262
5.	APPLICATION. PRIOR CONDITIONAL USE PERMIT F CUSE2015-00007, CUSE2012-00007	REFERENCE #'S: CUSE2018-00006, 1, CUSE2011-00004, CUSE1986-00091.		ACK & \	Internati License No. Taylor Drive North Carolii
6.	SIZE AND LOCATION OF PROPOSED SUBJECT TO CHANGE BASED ON DET AVAILABLE TECHNOLOGY AT TIME (STRUCTURES SHOWN ON THIS PLAN IS TAILED ENGINEERING DESIGN AND STATE OF DF EACH PROPOSED PROJECT.	ä		& Veatch Business 10715 David Charlotte,
7.	FLOODPLAIN BOUNDARIES ARE SHOW PANELS 5537 & 5547, DATED 11/ 100 YEAR FLOODPLAIN SHALL OBTA PERMITS/APPROVALS IN ACCORDANC ORDINANCE.	WN PER FEMA FLOOD INSURANCE RATE MAP 16/2018. STRUCTURES LOCATED WITHIN THE AIN FLOODPLAIN DEVELOPMENT CE WITH CABARRUS COUNTY FLOOD			Black
8.	REQUIRED BUFFER/SETBACK LINE . ENCROACHMENT OF PROPERTY LINE, RIVER.	IS SHOWN OFFSET FROM THE INWARD MOST , EDGE OF ROADWAY OR EDGE OF ROCKY	NC	0	
9.	REQUIRED EROSION & SEDIMENT CO PART OF DESIGN ACTIVITIES FOR APPROVALS SECURED IN ACCORDANC	ONTROL PROVISIONS SHALL BE PROVIDED AS EACH PROJECT AND ALL REQUIRED AGENCY CE WITH APPLICABLE REGULATIONS.	177,	WW I F D	
10.	EXTERIOR LIGHTING DETAILS WILL ACTIVITIES FOR ZONING SITE PLA ACCORDANCE WITH APPLICABLE REG APPROPRIATE FOR USE OF THE ARD	L BE INCLUDED AS PART OF DESIGN AN APPROVAL FOR EACH PROJECT IN GULATIONS. LIGHTING WILL BE OF A TYPE EA WHERE IT IS INSTALLED.	COUN	UNAL 45 M	AN MAP
11.	LOCATION AND SCREENING OF NEW PROVIDED AS PART OF DESIGN ACT FOR EACH INDIVIDUAL PROJECT.	SOLID WASTE CONTAINERS WILL BE TIVITIES FOR ZONING SITE PLAN APPROVAL	SUS	HEGI I TO	NT PL/
12.	FIRE MARSHAL AND OTHER APPLICA PRIOR TO CONSTRUCTION OF ANY I	ABLE AGENCY APPROVALS WILL BE OBTAINED NEW BUILDING OR BUILDING EXPANSION.	WSA OF CABAR	HOCKY RIVER EXPANSION	DEVELOPME
2	NEW IMPERVIOUS BUILDING CO NEW IMPERVIOUS VEHICULAR TOTAL NEW IMPERVIOUS BUILL MAX. BUILDING HEIGHT: 40 H BUILDING SETBACKS: FRONT YARD: 141' REAR YARD: 329'	DVERAGE AREA: 917,375 SF AREA: 170,000 SF DING/VEHICULAR AREA: 1,087,375 SF FT	DESIGN DETAIL CHECKE APPROV DATE:	IED: ED: D: ID: 12-7-201 0 1	/8 /21
PA MI PL RE	SIDE YARD: 278' RKING SPACES REQUIRED: 1 PER EN NIMUM OF 1 SPACE PER EACH COMP AN ACCOUNTS FOR A MAXIMUM OF 63 SERVED FOR WSACC-OWNED VEHICLES	MPLOYEE AT PEAK SHIFT ALONG WITH A ANY VEHICLE AT PEAK SHIFT. MASTER 5 EMPLOYEES AND 15 ADDITIONAL SPACES S.	IF MEASU N	THIS BA IRE 1" TH NOT TO FU PROJEC 194	r does not en drawing is ill scale CT NO. 235
•	- NOT FOR	CONSTRUCTION		SHE 1 O	ET F 2



Applicant: Timothy R. Kiser Owner: WSACC Case: CUSE2018-00006 Address: 6400 Breezy Lane Purpose: Amendment to existing Conditional Use Permit for a Public Service Facility PINs: 5547-06-4548, 5537-98-7403, & 5537-99-6094



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

Map Prepared by Cabarrus County Planning & Development - December, 2018



Aerial Map



Applicant: Timothy R. Kiser Owner: WSACC Case: CUSE2018-00006 Address: 6400 Breezy Lane Purpose: Amendment to existing Conditional Use Permit for a Public Service Facility PINs: 5547-06-4548, 5537-98-7403, & 5537-99-6094

CabarrusCounty
MunicipalDistrict
Tax Parcels



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Map Prepared by Cabarrus County Planning & Development - December 2018



Central Planning Area Future Land Use



Applicant: Timothy R. Kiser Owner: WSACC Case: CUSE2018-00006 Address: 6400 Breezy Lane Purpose: Amendment to existing Conditional Use Permit for a Public Service Facility PINs: 5547-06-4548, 5537-98-7403, & 5537-99-6094



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

Map Prepared by Cabarrus County Planning & Development - December 2018



PIN14	Property Owner	Address	City	State	Zip
55470925570000	ALLRED TADD E & LORI P	2049 SIMPLICITY ROAD	CONCORD	NC	28025
55378690130000	AUSTIN DAVID B & OTHERS	P O BOX 3067	CONCORD	NC	28025
55472945390000	BRECKNER LUDMILLA C REVOCABLE TRUST	2555 BIGGERS ROAD	CONCORD	NC	28025
55377783930000	BROOKS ANTHONY SCOTT & PATRICIA L	6600 MEXICO RD	CONCORD	NC	28025
55470982290000, 55480083680000	CRAIG WILLIAM S & SUZAN R	2100 SIMPLICITY RD	CONCORD	NC	28025
55379851890000	HILL DONALD T & TAMERA S	6340 BREEZY LANE	CONCORD	NC	28025
55471424810000	KIKER STEVEN J & ALAN T	2575 PARKS LAFFERTY RD	CONCORD	NC	28025
55377893120000	LUJAN ISRAEL LOA	129 WILD DUCK CIR	GREENSBORO	NC	27407
55377890250000	M & W INDUSTRIES INC D/B/A BOSTWOOD ESTATES INC	PO BOX 8	LITTLE RIVER	SC	29566
55377881270000	MILLIGAN LYNDA ESTATE C/O MARY M MILLIGAN	6401 PINCKNEY CT	CONCORD	NC	28025
55379976920000, 55379907850000, 55379947110000	NEWSOME ELAINE C & LEONARD W LF EST	1791 SIMPLICITY RD	CONCORD	NC	28025
55378740140000	PARRISH JOHN M & CONNIE S	6607 MEXICO ROAD	CONCORD	NC	28025
55378848730000	RINEHARDT JEFFREY P & KATHERINE	6160 BREEZY LANE	CONCORD	NC	28025
55377788980000, 55377788980000	RUSS BOBBY JAMES & CLAUDIA M	801 BARTRAM AVE	CONCORD	NC	28025
55378899300000	SHAVER LARRY WAYNE JR & KELLY C	6200 BREEZY LANE	CONCORD	NC	28025
55472675380000	SOSSOMAN KENNETH RAY	6680 ERINBROOK DR	CONCORD	NC	28025
55379819150000, 55379816550000, 55379816550000, 55379960940000, 55378854560000, 55379823150000, 55379832130000, 55379874030000, 55470645480000	WATER AND SEWER AUTHORITY OF CABARRUS COUNTY	PO BOX 428	CONCORD	NC	28026
55471753880000	CITY OF CONCORD	PO BOX 308	CONCORD	NC	28026



Cabarrus County Government – Planning and Development Department

December 20, 2018

Dear Property Owner:

A Conditional Use Permit Application has been filed in our office for property **adjacent** to yours. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday, January 8, 2019 at 7:00 PM in the 2nd floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street SE, Concord, NC 28026. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this request, I encourage you to attend this meeting.

- Petitioner: Water & Sewer Authority of Cabarrus County
- Petition Number: CUSE2018-00006
- Property Location: 6400 Breezy Lane
- Parcel ID Number: 5537-99-6094, 5537-98-7403 & 5547-06-4548
- Existing Zoning: Low Density Residential (LDR)
- Variance Request: Amendment of existing Conditional Use Permit

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

hilf Collins

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



Cabarrus County Government - Planning and Development Department

December 20, 2018

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Sincerely,

Phillip Collins

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









Nov 20, 2018 2:29:04 PM 6489 Breezy Lane Concord Cabarrus County North Carolina



BARRUS COUN ZONING

NOTICE CUSE2018-00006 FOR DETAILS CALL

704 - 920 - 2141