



## **Cabarrus County Government**

Cabarrus County Planning and Zoning Commission  
Tuesday, March 14, 2023 @ 6:30 p.m.  
Board of Commissioners Meeting Room  
Cabarrus County Governmental Center

### Agenda

1. Oath of Office to Re-Appointed Member and to New Appointed Member
2. Roll Call
3. Approval of October 11, 2022, PZ Meeting Minutes
4. Approval of the Granting Order with Finding of Facts for SUSE22022-00014 – Special Use Permit request for Wireless Communications Tower. Applicant is PeakNet, LLC.
5. New Business Board of Adjustment Function:
  - RZON2023-00001 – Rezone property from Office/Institutional (OI) to Agricultural/Open Space (AO). Owner/applicant is Clement Hammill, Hammill Logging. Address is 15730 Glenmore Road (PIN: 6603-89-3130).
6. Legal Update
7. Director's Report
8. Adjourn

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Mr. Adam Dagenhart, Chair, called the meeting to order at 6:31 p.m. Members present, in addition to the Chair, were Mr. Jeff Corley, Ms. Holly Grimsley, Mr. David Hudspeth, Ms. Ingrid Nurse, Mr. Charles Paxton, Mr. Chris Pinto, Mr. Brent Rockett, and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Mr. Phillip Collins, Sr. Planner, Ms. Sandy Howell, Planner, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Board, and Mr. David Goldberg, Deputy County Attorney.

**Roll Call**

**Approval of Minutes**

Approval of September 13, 2022, Planning and Zoning Commission Meeting Minutes.

There being no corrections or additions to the minutes, Mr. Jeff Corley **MOTIONED**, **SECONDED** by Ms. Holly Grimsley to **APPROVE** the September 13, 2022, meeting minutes. The vote was unanimous.

The Chair read the suggested Rules of Procedures

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 chooses 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.



7. 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.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Brent Rockett **MOTIONED, SECONDED** by Mr. Stephen Wise to **ADOPT** the Rules of Procedures. The vote was unanimous.

**New Business Planning Board Function:**

RZON2022-00004 – Request to rezone property from Limited Commercial (LC) district to Countryside Residential (CR) District. Owners are Larry and Regina Lewis. Applicant is Jerry Lewis. Address is 672 NC Highway 24/27 E. Midland, NC, (PIN:5534-38-9978).

The Chair asked if there were any Board members that have any conflicts of interest, or any information related to the case that needs to be disclosed at this time. There being none, the Chair called on Mr. Phillip Collins to present the Staff report.

Mr. Phillip Collins, Senior Planner addressed the Board presenting the Staff report for RZON2022-00004. He pointed out that even though it states that the owner is Larry and Regina Lewis, the property changed hands on October 4, 2022, and the owner is now Jerry Lewis.

The subject property is approximately .92 acres in size. Access to the property is currently provided through a 60-foot right of way adjacent to the subject property. Two storage buildings are located towards the rear of the property. The driveway for the residence on the adjoining property to the east traverses the subject property.

The subject property is surrounded by vacant properties, agricultural, residential, and commercial uses. Surrounding zoning consists of properties zoned Limited Commercial (LC), Countryside Residential (CR), Midland Single-family Residential (SFR).

Currently, the subject property is not served by public sewer. Public water is available, and the applicant intends to tap on.

The Ordinance states that lands in the Countryside Residential district have a strong rural, pastoral feel. Natural environmental elements such as tree lines, small ponds, rock formations, and manmade elements such as pasture fencing are to be retained, if possible. Although the area is capable of handling higher densities of development, development is kept at very low overall densities. Development includes only the standard single-family detached dwelling.

This land use district was created as a direct result of the County's systematic area planning process. As a reaction to the growth of the past decade, many residents are anxious to see their areas retain the appeal that inspired the resident to make his or her original investment. The district helps implement a growth management philosophy before the fact, rather than after. In summary, the principal purpose of this district is to provide some land area in the County for a permanent country, rural residential life style.

The subject property is located within the boundaries of the County's Planning Area for Midland. The Midland Area Land Use Plan (MALUP) recommends the subject property be developed with limited commercial uses. The MALUP states that the Limited Commercial district is reflective of the existing commercial uses in Midland. These areas shall be a variety of commercial uses ranging in intensity and will not incorporate residential areas. Large-scale commercial development in these areas should be considered carefully on a case-by-case basis.

The front portion of the site is currently vacant; however, as he stated before, the rear of the site is occupied by two storage buildings.

According to aerial photo data, the front of the subject property has always been vacant, and the two accessory buildings appear to have been placed on the subject property sometime between 2001 and 2005.

The rear portion of the subject property is zoned CR while the front portion of the subject property is zoned LC. It has been zoned this way since 2003 when the rear portion of the lot was zoned Low Density Residential (LDR).

In reference to this next sentence in the Staff report, he would like to clarify that the map from 1987, was actually from the land use plan at that time, so the entire property was recommended for Low Density Residential uses at that time, and not actually zoned as such.

Currently, the front portion of the lot would be considered a conforming lot under the LC zoning designation. However, if the entire lot were rezoned to CR, it would no longer be considered a conforming lot as it is less than one acre in size and the minimum average lot width is less than 150 feet.

Rezoning the subject property would allow the property owner to construct a residence on the property.

The applicant states in his application that the lot is too small to accommodate a commercial use and that a commercial use is not consistent with the surrounding properties.

According to the historic zoning maps, the front portion of the subject property appears to have been zoned LC since 1993. The rear portion of the subject property was zoned LDR until 2005 when it was changed to CR. The LC zoning district does not permit single-family residential uses.

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As stated earlier, there are two storage buildings located on the rear of the subject property. There are no permits on file for the buildings; therefore, these structures are considered non-conforming uses. Rezoning of the subject property to CR would allow the property owner to construct a residence and permit the storage buildings as accessory uses eliminating this non-conforming feature of the subject property.

The proposed rezoning request is inconsistent with the recommendations of the Midland Area Land Use Plan for the subject property. However, single-family detached residential uses are not permitted within the Limited Commercial (LC) district and the applicant is proposing to construct a residence on the property.

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

The Chair asked if there were any question for Mr. Collins.

Mr. Charles Paxton understands that Midland group is opposed to this rezoning. It is in the unincorporated part of Cabarrus County, correct?

Mr. Collins said right.

Mr. Paxton said the front part they have a say so over?

Mr. Collins said no. The property is entirely under the County's jurisdiction. Typically, we just ask the nearest town what their take is on the rezoning.

Mr. Paxton said, and they are opposed to it?

Mr. Collins said yes, even though the Land Use Plan would be consistent with their Land Use Plan.

Mr. Jeff Corley said it appears there are some neighboring residential uses that are already within this zoning district, are they nonconforming?

Mr. Collins said do you mean in the LC District?

Mr. Corley said yes.

Mr. Collins said yes, it would be nonconforming use if it is in the LC.

The Chair said if those property owners wanted to do something to those properties, they would have to do the same thing?

Mr. Collins said yes.

The Chair asked if there were any questions for Mr. Collins. There being none the Chair called on the Applicant.

Mr. Jerry Lewis, Applicant, 1548 Mark Drive, Concord, NC, addressed the Board. He said all he wants to do is build a house there to live in it. But the neighbors are thinking that he is going to build a house to sell it, which it does not matter, it is his property. He is building it to live in, not to sell.

The Chair asked if anyone had any questions for Mr. Lewis. There being none, the Chair opened the Public Hearing. He asked if there was any one speaking in favor of this rezoning. There were none. He asked if there were anyone speaking against the rezoning.

Mr. Gary Barnhill, 676 Highway 24/27 East, Midland, NC, addressed the Board. He said it is a very weirdly shaped property. The story behind it is there was a family squabble. We bought the property the looks kind of white there (on the diagram) a few years ago, assuming that we were going to purchase this land at some point, because everyone we spoke to said nothing could really be built there. Who was going to want to buy it other than me or one of the neighbors? It originally was a part of the property that we bought, but because of the family squabble, or whatever, it does not really matter.

So now, his brother sold it to him. Mr. Barnhill spoke with Mr. Lewis and the area that he says he wants to build in, that he has staked off right now is only 45 feet on one side, and on the other side about 75 or 80 feet. He does not see how that would be possible unless he is going to stick a trailer on it, even that, if the setback is 20 feet on each side and you have a five-foot trailer. Aside from that, even if you built the house somewhere else, lower down the hill, if that could work out with the sewer and everything else, then the back is right in my house. Then he wants to put a garage in the back he says. So, anytime he, the kids, and he just became a grandfather, are in the backyard we are surrounded by a house right on top of us, in the back also surrounded.

We moved out there to have open land and be free. You are at least probably 100 yards from each neighbor on each side. This is a nightmare for us, he understands things happen, it is not his fault that the property was sold in that shape. But he does not see how it is possible for him to build a house and meet the parameters he has to for one; it is a nightmare for him and his family.

The Chair asked if there were questions for the applicant or Staff.

Mr. Jeff Corley asked Mr. Collins what kind of setbacks would CR have on this property? This is a weird shape.

Mr. Collins said it is, like he mentioned in his report, it makes it a nonconforming zoning designation. When a lot does not conform to a zoning district, they are allowed to meet the MDR setbacks, which are five on the sides, 25 in the front and 20 on the rear. It would create a little

more of a pocket for them to build in. He does not know if a survey has been done or anything like that.

The Chair asked if we know if a septic permit has been applied for? The Chair asked Mr. Lewis if had applied for a septic permit.

Mr. Lewis said yes from the audience.

Mr. Paxton said just to repeat that Mr. Collins, you are saying it could be buildable?

Mr. Collins said it would appear that way. We would prefer they meet the CR setbacks if they can, but because it is a nonconforming lot, if it is rezoned, MDR setbacks are now in play.

Mr. Corley said help him understand the driveway situation here. there appears to be one driveway going to Mr. Barnhill's house that kind of meanders, maybe even off this property we are talking about. Has that been discussed with you on how that will work? He asked Mr. Barnhill to come back up.

Mr. Barnhill said what is your question exactly?

Mr. Corley said, looking at the driveway it appears that maybe your driveway to your home kind of meanders onto this property and then back to your home. Has this been discussed; that will be resolved?

Mr. Barnhill said he does not know. We have discussed it and he (Mr. Lewis) was saying he could just use the other driveway beside it, which there is another cut through. The neighbor who owns most of the land behind me, he owns a strip of land right there to make sure he had access back to his land and he is not happy with this, and he does not want his land being crossed.

Mr. Barnhill said essentially, a new drive is going to have to be built. Because mine starts at the beginning, and if it comes to this, I will have to put one in and then he would have to build a new one, which there is a tree line at the road, so there will have to be a new driveway put in through there.

The Chair asked if there were any other questions. There being none, the Chair said the Board needs to discuss the proposed request and come up with a motion to approve or deny the request. We also need to establish findings in support of our decision either for or against.

Mr. Paxton said if he is not allowed to build a house, he agrees that there is not going to be any commercial use. Therefore, there is going to be dead land, and he does not think that is fair to the property owner.

The Chair said before we move on, we need to close the Public Hearing.

Mr. Paxton **MOTIONED, SECONDED** by Ms. Holly Grimsley to close the Public Hearing. The vote was unanimous.

Mr. Paxton probably agrees with him that it is not a buildable commercial piece of property and if he is not allowed to build a single-family home what value would the land be to him?

Mr. Corley thinks it is unique with the split zoning. If a portion of this property was not already CR, he would probably have some reservations. He feels like going to CR is a much less intense zoning. He understands and appreciates Mr. Barnhill's comments and understand the situation of living right next door to this. But, when you say no to something, you are saying yes to something else, right? So, anything within that current zoning could be plopped there today and would potentially be much more disruptive than one single-family home, whether he is going to live in it or sell. Again, with the neighboring uses of existing single-family residential, it feels like it makes sense to him.

The Chair asked Mr. Collins if he said if it were a nonconforming lot, and it does not meet the lot standard for CR it goes to?

Mr. Collins said MDR – Medium Density Residential.

The Chair said the tables that we were given showing LC to CR do those uses change or are they still the same and they just have to meet the setback?

Mr. Collins said yes, he thinks there was a mass rezoning in the County and a lot of the lots became nonconforming. So, that section was put in the Ordinance at that time.

The Chair did not know if it would pare the list down or expand it.

Mr. Collins said no.

Mr. Jeff Corley added that with the existing structures on the property, the construction of a primary residential structure would bring the site into better compliance than it is today.

The Chair said while it is not consistent with the land use classification, there are adjacent residential properties adjacent to it so that would put in more in line.

Ms. Barnhill asked to speak.

The Chair said we have already closed the Public Hearing and you have not filled out a card. He asked if anyone had any objections to reopening the Public Hearing. She asked Ms. Barnhill to complete a blue card.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Charles Paxton to reopen the Public Hearing. The vote was unanimous.

Ms. Hannah Barnhill, 676 Highway 24/27 E. Midland, NC, addressed the Board. She said if you could see this in person you would never, ever say yes to this. His driveway, that is my driveway, you would be like this is ridiculous. It is not as crisp as this, it is more like this, and it surrounds my home. When I walk out of my house every day, I will be seeing this man, literally, where my driveway used to be. She does not feel comfortable with it, and she does not want this to happen. None of the neighbors do, this is family land around us. We got lucky to get this house. The twenty acres behind us is all family, both sides are all family. We got very lucky to get it because they had a squabble. But we never expected after living there for two and a half years, for someone to show up and start giving us demands and threatening to put up fences and building a house in our driveway.

First of all, we took care of that land for two and a half years. We did not see this man for two and a half years and he shows up, his brother, saying that he is going to press charges on us for trespassing because we were doing his yard work for two and a half years.

The frustration of the situation is weighing on my family, and when she walks out the door every morning, she is angry because not only is she seeing his trashy cars and his pick-up truck going through her yard. She is also seeing him burn things and leaving it burning for three days and smoldering her back yard and her house. He is rude and disrespectful, and she does not want him around.

My husband is trying to be nice about it, but she is tired of walking outside and being pissed-off that our dream house is now being ruined. That is all she wanted to say. She apologizes, but she is very frustrated.

Mr. Corley would like to make a motion to close the Public Hearing.

Mr. David Hudspeth wants to ask a question. Where is her house located on this? He is having trouble understanding this.

The Chair asked Mr. Collins to point it the house.

Ms. Barnhill showed where her house is located on the diagram. She said our back fence is where the red pin is. What he has is two sheds at our back fence. When we walk out our back door we see two sheds, his junk cars and all of that. Over here is where our driveway comes up from the highway. (She shows on the diagram). This is our back door, our back gate, there is a circular driveway right here. It is his land literally, the guy we did not see for two and a half years. You come up here, a circular driveway next to the back fence. This is the back of our back fence. There are two sheds. He had moved it, it was somewhere else, it belonged to the people who owned her house. We did not care if he took it or what happened to it because it was on his land and my land she believes. He had originally put some junk cars so when we walked out of our back door that is what we saw. He has taken out our tree line back here. There is a field behind it so there were trees, but now just a few trees and it has just kind of ruined our whole backyard.

Mr. Hudspeth does not know that it matters, do you have a legal right of way to that driveway?

Ms. Barnhill said we were told that he was not going to do that when we bought the house. She does not think there was any type of agreement. She knows there was some kind of easement agreement, is that right? (to Mr. Barnhill)

Mr. Barnhill said there is nothing.

Ms. Barnhill said we bought it and he never showed up. We thought that we could discuss buying it. When we finally met him last year (the brother), he said we could have this property for \$20,000. We were going through financial trouble and could not buy it and now he is saying in order to get rid of him it is going to cost us \$80,000. We paid \$180,000 for the house, do you think we can come up with \$80,000 for the rest of our yard?

Mr. Paxton said when you purchased the property, did you know there was an easement there? He is sure someone advised you.

Mr. Barnhill said yes, we did know. We always assumed we would be able to purchase the property because we were told that you could not build anything on it. They told us the family history and what happened. His intent was to always to buy it.

He was going to buy it earlier this year and he and his wife split up and his lawyer told him to hold off until we got everything settled. A couple of months later he starts moving stuff around and tells me that he has sold it to someone.

Mr. Hudspeth asked if he has an easement to the driveway through your property?

Mr. Barnhill said no, he does not have an easement through ours.

Ms. Barnhill said we will have to completely build a driveway through our front yard instead of going around the side.

Mr. Barnhill said right now, Mr. Lewis does not have a legal entrance. He has to cross my property on one side and George's property on the other side right now, that is how he is getting onto the property.

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board saying to clarify, right now, the access for this particular piece of property, it mentions this right of way (showed on diagram). There is no recorded right of way. This property also has frontage on 24/27, there is not a driveway there.

The property that these folks live on is actually in the Town of Midland. Doing the deed research, Mr. Collins did find that this one mentions the 60 foot right of way and then this also is



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a 60 foot right of way for this property in the back. So, he is surrounded on two sides by right of way, on this side by 24/27 and the then the adjacent parcel (showed on the diagram).

Mr. Hudspeth said to be clear, he does not have a right to use that driveway, it goes through their property?

Ms. Morris said to be clear, the driveway for the adjacent property is coming across this gentlemen's property.

Mr. Hudspeth understands that. But in the future, he will not be able to use theirs and they will not be able to use his?

Ms. Morris said that is between them. The issue before the Board tonight is whether or not the zoning is appropriate.

Mr. Hudspeth is just trying to understand what is going on, that is all.

Ms. Barnhill said they were told that after this meeting, that he is putting fence up and we would not have a driveway anymore so.

Ms. Nurse said her concern is the driveway. They are saying that what he is getting ready to put on there is an eyesore to them. She is trying to figure out the disagreement you are having.

Ms. Barnhill said there is a driveway and there is a big round about. When you come out of our front door, his house will basically be in our front yard. So, we do not want it there in our front yard, but it is also going to take the driveway and we will have to build a whole other driveway. If you saw it in person, you would know he is right on top of us.

Mr. Goldberg and Mr. Collins put up a different aerial map showing the cadastral lines.

Ms. Barnhill said part of their plan was to buy the strip and we were told we could purchase it. The person who owns all that land behind our house, she believes it is over 20 acres, we were going to share the driveway, so he has another access to his property. We really just want to increase our backyard, so we have full view and did not have something in our backyard. We wanted to be able share the driveway with that man, so that he has more than one access to all of that property. He talked about doing some different things back there, but he only has one driveway. So, it is not just to our benefit that this would happen, it would be to the benefit to the all the neighbors as well because none of us want to see this happen. She spoke with him, but he was not able to make tonight, HVAC people are very busy this time of year.

Mr. Goldberg showed the aerial and said you should be able to see the driveways better there.

Ms. Barnhill said our driveway was the original wagon road to Charlotte is what we were told when we bought the property. This road use to take wagons all the way into the city.

Mr. Barnhill said right here in this picture was the garage. We moved in, got the permits, and turned it into another bedroom. So, our master bedroom and bath are right in here (showed on aerial).

So, what Mr. Lewis is talking about is he is going to have to build, because of the septic having to be put over here. This would be the only place, in his opinion. You could put a house here, (showed on aerial) it is going downhill but it is the widest area. He is saying because the septic has to be here, the house is going to be right here. Like he said earlier, right here is like 45 feet and 75 feet to 45 feet right here. This is where he said he is going to put his house with the septic running this way. It is right out under our window.

Then this panhandle piece back here, which technically put him off because my fence technically goes through his property now, which is a problem. These two buildings are not here now, and he has moved this building over here. But he is going to put a numerous car garage (he is not sure of the size exactly). He has numerous old junk cars that he is saying he works on. So, he is wanting to put a garage to cover this area back here. He has already taken out the trees. There was a little small tree line forest back here that is gone now. He said it will a big garage to our back and a house to the side and looking out of our window.

Ms. Barnhill said it is half way surrounding our entire property.

Mr. Barnhill said who is going to want to buy this in the future.

Mr. Hudspeth said cannot really see your house. How close are you to the line? Your house?

Mr. Barnhill said it is right on it.

Mr. Hudspeth asked if he was within the setback.

The Chair said it looks like there house is halfway into the lot, of their lot. So, it is in those trees. You cannot see it because of the tree canopy.

Mr. Barnhill said the roof is here, (showed on the aerial) and there is a little building here, an open shed that sticks out right here and then the actual house is back in there.

Mr. Corley said it is fair to say that you are not against him building a house. You are against anything going on that a property at all? Is that fair to say?

Mr. Barnhill said in reality yes. But if he could build a house down here (showed on aerial), that would make more sense as far as everything. Everything about this is disjointed and that is why he is wanting to put a garage back here because there is not enough room to connect to the house.

The Chair said there are setbacks and development standards that will have to be met regardless. But we cannot control, obviously, where that home goes as long as it meets the ordinance.

Ms. Barnhill said there is only one place for the septic on the whole property, so it has to go with that.

Mr. Corley said he still has to meet those standards where ever he is. So, there are some places, obviously that small little point he obviously could not put it back there. He will have to develop to the same standards that your home was developed to, so the rules are the same, even if the rules are too close. Does that make sense?

Mr. Barnhill said what are the rules. He cannot find what the exact setbacks are for countryside residential on the website.

Mr. Collins said the countryside residential setbacks are 75 feet front, 20 feet side and 30 feet rear. He said because the lot would not be conforming to the countryside residential dimensional standards the setbacks become those of the MDR district, which is 25 feet on the front, 5 feet on the side and 20 feet in the rear.

Mr. Corley said all of those dimensions change even if he technically could meet.

Mr. Collins said we would prefer that he meet the CR, but the ordinance allows him to meet the MDR.

Ms. Grimsley has a question for the landowner. She asked what his reasoning was for where he is locating the house.

Mr. Lewis said it is the only place he could put it on the lot.

Ms. Grimsley said because of topography?

Mr. Lewis said he was going to put it closer down towards the road but when he had Cabarrus County come out for the perc test, the guy said he has to take the whole hill for the perc test.

Ms. Grimsley said is that a hill where the perc?

Mr. Lewis said yes. There is a hill right in front of their house (showed on diagram). He was going to put his house there, but he had to back it up. Instead of putting a 44 x 44 with a garage, he is down to a 30 x 44, and then putting the garage out back which he does not mind. He was going to put his garage with the house above it out back, but because of their attitude, I was like no, I am going to put my house up here like I want it and they will just have to deal with it.

Ms. Grimsley knows it is personal, but she asked if he is paying cash for it or are you getting a construction loan. What are you doing to finance that house? The reason is asking is because most construction loans will not allow you to cross someone else's driveway to get to your own. Have you vetted that to make sure that you can actually do it?

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Mr. Lewis has talked with the bank.

Ms. Grimsley said do they realize that you are crossing someone else's driveway back and forth?

Mr. Lewis said they said as long as there is an easement.

Ms. Grimsley thought you all said there was no easement written anywhere.

Mr. Lewis said there is an easement, there is two easements.

Ms. Grimsley said and easement or a right of way?

Mr. Lewis said there is an easement and a right of way. The right of way goes up the side of his property. She was saying that George behind me owns some land, and he wanted my land to get to his land. Well, he has a 60 foot right of way to get to his land.

The Chair thinks the question she is trying to ask you is if you are planning to use the Barnhill's driveway for your access or are you going to create a new driveway access for your lot off either Highway 24/27 or one of those other right of ways?

Mr. Lewis said he is not using the existing driveway.

The Chair asked Ms. Grimsley if that answered her question.

Ms. Grimsley said it does, but she is curious and asked where he is going to put it. How are you going to access your house not using their driveway?

Mr. Lewis said (showed on the diagram) on this land right here, I can cut these trees down and have my driveway come in here. Right now, I am coming up through here, using the right of way here to come in because he does to want to cross their property. So, I do not come down this way and come in, I come in from here because Mark Morgan who lives here, gave me permission to use the right of way, the easement there because he has right to use it. He said (Mark Morgan) as far as he is concerned, I can come through here too.

He said Mark the one right there on the other side of me, he is kin to George who lives behind me. The Barnhill's are not. Mark said he does not have a problem with me cutting across right here (showed on diagram).

Ms. Grimsley asked Mr. Lewis to show her where the perc site is located.

Mr. Lewis said right here at this oak tree, this whole bottom part right here (showed on diagram), that whole field. He was going to put his house right there, but now he has to back it up to here.

Ms. Grimsley asked why he had to back it up.

Mr. Lewis said they said I could not put it but so far from my drain field.

Ms. Grimsley said what kind of septic system do you have? Your box system is only going to be five feet off your house. What does your repair field look like, is it a big repair field?

Mr. Lewis thinks he said 1000 gallon. He forgot what he said.

Ms. Grimsley said show us the layout of that. Do you have an idea where all those lines are going?

Mr. Lewis said yes, they are marked.

Ms. Grimsley asked Mr. Lewis to give the Board an idea of how much land he is using for the repair field.

Mr. Lewis said he is using this whole thing (showed on the diagram), that is why he cannot build down that way.

Ms. Grimsley said thank you.

Mr. Lewis said this weekend he is taking down this oak tree and another tree and part of this other one (showed on diagram) so he can get his house in there because he cannot with the limbs hanging over.

He said this right here, is a right of way to get to the land behind me. So, you do not need my land to get back there. You already have a 60 foot right of way.

The Chair said thank you Mr. Lewis.

Mr. Corley said one of the things that is mentioned is what type of construction could potentially be built here. He asked Mr. Collins to clarify what types of construction would be allowed.

Mr. Collins said currently?

Mr. Corley said with the zoning change, could a trailer or a manufactured home be put on this property?

Mr. Collins said on the screen the Mobile Home overlay is represented on the screen in pink shading. He would not be allowed to do a mobile home.

Mr. Corley said he would not.

The Chair said it would have to be conventional construction.

Mr. Collins said either that or a modular home.

The Chair asked if there were any more questions. He reminded the Board that the Public Hearing is still open, and a motion would need to be made to close the Public Hearing if we are done.

Mr. Charles Paxton **MOTIONED**, to close the Public Hearing.

Mr. Barnhill (was in audible) he said the only place that he could put a house is there because that is the only place he could get to perc. The top, he cannot put a house, it is 75 feet, how is that possible. He does not see how you are saying this can be done.

The Chair said he has to meet the setbacks. So, whatever he can squeeze in there he can.

Mr. Barnhill said he can't.

Ms. Barnhill said right here is where we park our cars. There is a well here, an abandoned well. She is not sure what he is going to do with that. Is he going to put septic and a house right here? She does not know how that is going to work, she is not in construction. She does not know if he is aware that there is a very large well right here and there is one right here too, (showed on diagram). They are both abandoned and inoperable. She does not know if that matters.

Mr. Corley said it may be true that there a lot of challenges left for him, but we are addressing one of the pieces. When he comes in for building permitting and other things, if those hurdles come up, that is going to be up to him, as it is for every property owner to figure out how he can comply with those standards.

The Chair said if this is approved, this would be just one of many steps he still has to go through to be able to apply and meet the requirements to build a house.

Mr. Goldberg reminded the Chair there was a motion made to close the public hearing, no action was taken on it.

Mr. Brett Rockett, **SECONDED**, the motion to close the Public Hearing. The vote was unanimous.

The Chair asked if there were any further discussion?

Mr. Hudspeth said there are two zonings on this property, correct?

The Chair said right.

Mr. Hudspeth asked if where he is wanting to build the house already CR?

The Chair said Mr. Collins is shaking his head no.

Ms. Morris turned on the zoning on the diagram so everyone can see. This line right here is the CR line. This is the property, it comes down and it wraps around the purple property. The green is where it is currently zoned commercial, so anything in the LC that is listed as a commercial use can go on this property. The back part is zoned CR, it has dual zoning. The back part can be developed as anything that is in CR. The request is for the entire property to be consistently zoned, and continued with that CR zoning designation, so that it can be developed for residential.

The Chair asked if there was any further discussion. There being none, he said anyone making a motion to please give reasons to approve or deny the request.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Charles Paxton to **APPROVE** RZON2022-00004 rezoning request based on the reasons stated during our discussion, which include that while not consistent with the land use plan classification, the adjacent properties are developed as residential. The proposed single-family home is compatible with how the surrounding properties are being used. Part of the property is already zoned CR, and the applicant is asking for the same classification to be applied to the remainder of the property to build a single-family home. There are currently some buildings on the site already and adding a primary structure would bring the site into better compliance with the Ordinance. The vote was unanimous.

Mr. David Goldberg said actually you do not need to make a consistency statement because it is inconsistent with the plan. So, by rezoning it you are implicitly amending the land use. Do the motion, just know that essentially you are doing a motion to amend the Midland Plan.

Ms. Morris advised the Board to proceed with the consistency statement, which should include something to the affect like you said, that all though it is not consistent, it is potentially reasonable and in the public interest to make the decision that you are making this evening. That is the conclusion that you are trying to come to with you consistency statement.

#### **Consistency Statement:**

Mr. Jeff Corley said this rezoning request is reasonable and in the public interest, and although not consistent with the land use classification, adjacent properties are developed as residential. It does not meet the intent of the land use plan, but the adjacent properties are residential. It meets the intent of the proposed zoning district. A single-family home is being proposed, part of the property is already zoned CR. The applicant is asking for the same classification to be applied to the remainder of the property to build a single-family home. There are multiple buildings on the site already and no primary structure, the addition of a primary dwelling would bring the site into better compliance with the Ordinance.

Mr. Jeff Corley, **MOTIONED, SECONDED** by Mr. Brent Rockett to **APPROVE** the Consistency Statement. The vote was unanimous.

**New Business Board of Adjustment Function:**

The Chair said anyone wishing to speak on this case or testify during the public hearing for this case must be sworn in. If you wish to speak, we need to have a completed blue card. Provide it to the Clerk.

The Chair asked anyone wishing to speak or testify to stand, and he administered the oath.

The Chair introduced SUSE2022-000014 – Request to construct a Wireless Telecommunications Tower (WTC). Applicant is PeakNet, Owner is Edward D. Mesimer Trust. Address is 7615 Tuckaseegee Road, Kannapolis, NC, (PIN4693-26-5101).

The Chair asked if there were any Board members that have any conflict of interest, or any information related to the case that needs to be disclosed at this time. There being none, he called on Ms. Sandy Howell, Planner, to present staff report.

Ms. Sandy Howell, Planner, addressed the Board presenting the staff report. She said the purpose of this request is to construct a 235-foot tall Wireless Telecommunications (WTC) Tower to include the 230-foot monopole tower, plus a 5-foot lightning rod on the subject property.

The property is currently zoned Agricultural/Open Space (AO) district. WTC towers are permitted in the AO district with the issuance of a Special Use Permit.

The current land use of the subject property is agricultural and single-family residential.

The applicant provided documentation compliant with Section 8-3 of the Cabarrus County Zoning Ordinance, petitioning for a Special Use Permit.

The applicant submitted a complete application including a "Project Narrative and Statement of Compliance" sheet along with a site plan.

The subject property is approximately 129.2 acres in size. The lease area is approximately 2,500 square feet in size.

Currently, a residence and several agricultural structures occupy a portion of the subject property alongside Tuckaseegee Road.

The applicant is proposing to add to an existing connection off Tuckaseegee Road and has provided the NCDOT driveway permit as required.

The FAA has issued a Determination of No Hazard to Air Navigation for this site that expires on March 1, 2024, unless otherwise stated in the Determination. At the time of the review, the applicant requested the height based off the tower height and has since requested an increase to 235 to account for the 5-foot lighting rod.



The FAA placed a condition on the approval of the tower that the lights meet the FAA specifications.

The subject property is partially located within Coddle Creek WS-II Protected and Critical watershed areas. A small portion of the fall zone buffer will be located with the Critical Area. The cell tower and the compound will be located outside the Critical Area.

The cabinets are approximately 5'11.76" in height and approximately 59 square feet. These measurements have been converted from the metric measurements found on the plan set.

Should the Board of Adjustment grant approval of the Special 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 in order 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 for the property and prior to zoning permitting.
3. The applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting.
4. Any proposed future expansion of the 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 Special Use Permit.
5. The applicant shall provide copies of all state, local, and federal permits for the permanent project file prior to zoning permitting.
6. The Applicant shall comply with all applicable terms of NCDOT Driveway Permit C-1913.
7. Prior to zoning permitting, the applicant shall have the Determination of No Hazard letter from the FAA updated to address the current proposed tower height to include the five-foot lightning rod.
8. The applicant shall file the 7460-2 form with the FAA if the project is abandoned or within five days after construction reaches its greatest height. A copy of said filing shall be provided to Planning for the project file.
9. The applicant shall submit a bond in the amount to accommodate 1.25 times the amount of the estimate as required by Chapter 8, Number 36, Section 11 of the Cabarrus County Development Ordinance. The estimated cost of removal and to return the site to its

natural condition is \$105,178; therefore, the bond will need to be in the amount of \$131,472.50. The bond shall be submitted prior to zoning permitting.

10. Per the approved plans, the driveway will be increased to 26 feet wide, and a Knox Lock or Knox Box shall be installed for Fire Department access.

The Chair asked if there were any questions for Ms. Howell.

Mr. Paxton said most cell towers we see come through are about 150 feet high. Did they give you any explanation as to why this one is so much higher?

Ms. Howell will let the applicant answer that during their presentation. They plan to have a presentation with their AT&T Maps.

The Chair asked if there were any more questions. There being none, he called on the applicant to make their presentation.

Mr. Thomas H. Johnson, Jr., Attorney, Williams Mullens, 301 Fayetteville Street, Suite 1700, Raleigh, NC, addressed the Board. He is here on behalf of the applicant PeakNet. He asked that the application and all of the associated documents that have been submitted with it be admitted into evidence in support our application. He also concurs and agrees with the conditions that Ms. Howell set forth in her presentation.

He has to say that Ms. Howell has been very diligent in working with us to check all the boxes with the Ordinance, there are a lot of requirements. We worked really hard to get to that point, plus we had a FAA backup because of some additional applications that are being submitted right now related to 5G coverage that got us behind. We are hoping we can get that amended FAA, with the additional five feet back pretty soon. That is what kept us from getting on the agenda for a while. But we did get that in at 230 feet, and it will come back at 235 once we get that amendment back, and we know that is a condition that we accept.

He has with him tonight representatives from AT&T, an appraiser Michael Berkowitz whose impact study is part of the record that you have before you; he is here to testify. The property

owner is here, as well as Mr. Philip Evans, Tower Engineering Professionals, who prepared the engineering documents, he can speak to those if there are any questions on those.

He would like to do an overview of the relevant factors, through a brief presentation, and he may have Mr. Berkowitz give a brief summary of his report.

A question was asked about coverage and coverage plots or about the height of the tower. This is a very rural area, so you need the height in order to do the connection and he thinks you will see right now.

This is existing coverage, but the tower is being moved further to the north and it provides better coverage between the two existing sites. He said the one to the left, the W and ends in 483R3 and the one up near Enochville, that is what we are trying to cover more. You can see what the difference is, the red and the white is not what you want. You want at least yellow and some of the light blue and the green (showed a diagram).

This is current coverage, when this shifts, you can see how the coverage improves to the north and to the northeast as well as some to the northwest as well. So, that is what the difference in coverage is, going back and forth as you can see. Because of the rural nature of the area, we need the height in order to get there. There are some challenges to here as was mentioned earlier. There is the critical watershed where we cannot put a tower, therefore you have to have a taller tower to be able to cover the critical watershed area as well.

He has the RF Engineer who can come talk about this further if you have further questions. As you can see this is current and with the new one you eliminate a lot of that red in between the site to the northeast as well as properties to the north that don't have coverage at this point.

He showed an aerial of the site. He said there is an existing driveway right here. It is being used and will have to be widened to meet fire requirements to 26 feet. But then basically the tower is going to be down here in the open field here. This is the site plan that more specifically shows that. We have a hammer head turn around here for the fire department. This is the compound and the tower right here and these are the existing buildings that the property owner has on site.

Ms. Howell spoke to the watershed issue. He wanted to show this a little bit. This is basically the watershed line right here. This is the 235-foot radius which if the tower fell flat as a pancake, it still will not touch the critical watershed line. The 285-foot would be here, but that is a setback. Under the ordinance, the setback requirement is from a property line or a residential structure which this meets. Even though it may go into the critical watershed line, the ordinance does not speak to it being from the watershed line it is just the property line or residential uses.

We also have a fall zone letter by Sabre Tower who would construct the tower, in the file that says really in any event, the tower would not fall outside of a 90-foot radius even if it were to fail. Even if you take the most generous at 235-feet, if it fell flat, it still is not going to get into the critical watershed and all the commercial components are outside the watershed.

This is the profile of the tower. It has the current proposed user which will be AT&T, plus room for future co-locaters on the site and there is plenty of room with in the compound to accommodate those additional users in the future.

He is available to answer any questions on that part, but he would like for Mr. Berkowitz to come up and summarize his impact study just briefly.

Mr. Michael Berkowitz, 1100 Sundance Drive, Concord, NC, Appraiser, addressed the Board stating given the impact study he was asked to determine in accordance with the special use

permit whether the tower as proposed would maintain or enhance the property values of surrounding properties. Given that, then what he provided was a quantitative analysis with others, there was Wyndham Estates, there is Skybrook, and there were several examples in which he was able to gather adequate data to provide a quantitative analysis that provides no empirical evidence that the tower would injure values of adjacent properties.

Also, from a qualitative standpoint, the iron maidens that are out there, and the electrical transmission lines, he would say that it is consistent with that area, and that above ground infrastructure is much more of a visual impact than this proposed tower. He would be happy to answer any questions that the Board may have.

There were no questions for Mr. Berkowitz.

Mr. Johnson said he can have the RF Engineer come up and speak to the maps if there are questions regarding those, or anybody from our team if you have questions regarding the engineered drawings, which are in the record or any other questions of the team. He proposes that to the Board, and have them available for questions, otherwise it is in the record.

Mr. Corley does have a question but does not know who on your team might need to answer. He said the height of the transmission line towers, that are running sort of across this property already, do we know how tall those are?

Mr. Johnson said great question. Typically, they are shorter than this, obviously they are not 235 feet. Typically, maybe 90 feet or more, 90 to 100 feet approximately. The thing about those is they just have more things hanging out or off of them. A monopole tower does not have much at all hanging off of it. The electrical transmission lines are just more of a visual impact because of the appurtenances that are necessary for those transmission lines. That was basically what Mr. Berkowitz was pointing out in his report.

His analysis goes through taking existing towers, looking at how the property sold before and after, or those that could see or not see the tower and did an analysis. The fortunate thing is, there have been a lot of recent towers that have been put in place in Cabarrus County. So, there were some good comparables that he could use in doing his analysis, which was very helpful.

Mr. Johnson asked if there were any other questions the Board may have regarding the design or anything like that.

The Chair said in your presentation you noted there was an existing tower, this tower replaces an existing tower? You are collocated on another tower?

Mr. Johnson said AT&T is collocated on another tower, we needed to move it further so we could cover those other two towers better. The separation is still there, the separation requirements under the ordinance.

Mr. Charles Paxton said on some of these towers we see that the County is provided access to it over this new Homeland Security rule. Does that apply here too?

Mr. Johnson said that is not a requirement as he recalls under your ordinance. He will say that, and some of the AT&T folks can get up here and speak to it. AT&T is responsible for the FirstNet contract. The FirstNet network that they are building across the country. It is an agreement with the federal governmental to provide basic service across the country. AT&T is a provider that has been awarded that. That will be a part of this process as well. But, as far as a requirement that EMS be able to locate on it or anything like that, there is not a requirement. But, on the other hand if it is needed, it is available for that as well. PeakNet would be glad to discuss, with any governmental agency that may need it and that often times happens.

He said it really is a challenge here because you have the critical watershed. There are not many locations where you can put a tower around here. So, you have to be very careful about it and that is why you end up with more of the height, to cover a larger area. If you think about it, the things you think about as far as safety related to a tower; access to 911 for folks from their homes, that sort of thing. But then with water nearby, there are often times people may have some emergency on the water and need to get cell service to be able to get emergency services there.

He has spoken the same thing with Lake Norman, in doing a tower he recently did in Cornelius, it was the same type of thing. You talk about them needing access to good service in order to be able to that, for a variety of reasons. Plus, emergency service providers also use the cellular network.

The Chair asked if there were any other questions for the applicant. There was none.

Mr. Johnson knows there are others here to speak, he would like the opportunity for rebuttal and summary at the end.

The Chair said that is fine.

The Chair opened the Public Hearing. He called on those who are generally in favor of the request. He has a lot of cards, and he is assuming these are your support.

Mr. Johnson said he can speak to that.

The Chair said Connie Goodman.

Mr. Johnson said Connie Goodman is not part of his team, she is separate.

The Chair called Ms. Connie Goodman.

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Ms. Connie Goodman, 6760 Mooresville Road, Kannapolis, NC, addressed the Board. She asked

how many Board members and how many in the audience have a land line? More than she thought, she still has hers. But the cell phone is back there in her purse. What do we want? We want to be able to have that cell phone work. Sometimes when she goes to Enochville it doesn't, and that is four miles from her house, and she cannot get service. She has AT&T, and it drops. She wants to have the service to call 911 if she needs it.

The other thing is, Mr. Mesimer is a farmer, and you know how much, Phil you have worked with me. We own a good bit of property also, right around the corner from him. In order to keep this land in Cabarrus County and for you to enjoy that land, we have to keep it in a farm bank. We have to have some way to make revenue, ours is leased by Christy's Nursery, that is how we keep it.

Mr. Mesimer has cows, that is how he keeps it, here in the farm bank. He needs more some more revenue. This is a way for him to get it without hurting the environment. He could start selling it and building homes.

She set back there during the first case, and she was talking about he is going to be touching close. Get into some of these developments, you can barely walk between the houses like this (stretched our arms). Which do we want, to be able to help our County stay a County and keep some green space? Helping us, the local landowners helping us to maintain what we want for this County. She asked if anyone had any questions for her.

The Chair asked if there was anyone else in favor of the special use that wanted to address the Board. There being none, he called those speaking in opposition of the special use. He called on Mr. Cory Patterson.

Mr. Cory Patterson, Attorney, Nelson Mullins Firm, 301 South College Street, Charlotte, NC, addressed the Board representing SBA Communications. He believes to Mr. Chairman's question, we have the collocation for AT&T, it is the distance apart needed for the application. He believes it is 1800 feet. He apologized, he has allergies and that is why he sounds like Barry White, but he promises not to sing.

We are asking for the Commission this evening to deny the application, or in the alternative, at least seek a third-party technical review under Chapter 10 of the Ordinances. He said looking at the application, and then looking at the Exhibit A to the application, the standard is the application must maintain or enhance the public, health, safety, and general welfare or maintain the value of the contingent property. In terms of what was submitted for the application, at the very least, this is a duplicative cover scheme.

The current coverage that AT&T has, he would say that AT&T is a co-applicant of PeakNet, it does not change much. He believes Mr. Johnson's presentation you did not see much change in

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that. In terms that there is already AT&T coverage and there is no need for there to be a 235-foot pole to be erected that will increase coverage in any sizeable way, in terms of cell-coverage.

He brought a picture to submit to the Commission just so you can see the distance that we are dealing with at this point that will show the existing collocation pole and what is proposed.

Mr. Patterson handed out a diagram to the Board. He said as you can see this is the proposed metro pole, the 235 and the collocation right now, which is the SBA pole that was established 22 years ago. That particular pole, just to give it context with the Commission, is about at 73 percent capacity. Right now, AT&T is located there at 180 feet. There is room to go higher which would be less of a burden then building an entirely new communications line. He would also like to submit a letter to the Commission from Jason Laskey, Zoning Manager for SBA Communications.

Mr. Johnson objects and asked if Mr. Laskey was present.

Mr. Patterson said he is not.

(From the audience) Mr. Johnson objects if he is not present to speak to it, it is hearsay if he is trying to use it as expert testimony. (inaudible)

Mr. Patterson said it is not for any expert testimony. It is more background information for the Commission to consider.

(From the audience) Mr. Johnson said again, that is hearsay if he is not here to provide that background information.

Mr. Goldberg said his legal recommendation for the Commission would be that if the person is not here to make the statement himself and to be subject to cross examination, it would probably be considered hearsay, and not admissible. The Board is required to generally follow the rules of evidence and general admissibility and hearsay where appropriate. He said the Chair may determine whether that evidence should be admissible or not and that is subject to appeal to the full Commission if necessary.

(From the audience) Mr. Johnson said the other grounds would be relevance, as well. It is speaking to the existing tower and not the new tower, why is this relevant.

Mr. Goldberg said if you are going to object you need to come to the mic.

Mr. Johnson apologized, and said his objection is twofold. One is hearsay, you do not have the person here to speak about it, who did the letter, and the other part is relevance. Why even going down this direction. He questions whether it is even relevant to what we are applying for here. The new tower meets the separation requirement, and he has presented the evidence from the RF

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Engineer who is present for cross examination with respect to the improvement in coverage by this tower.

Mr. Hudspeth said when he is finished, he would like to ask the RF Engineer a question.

Mr. Johnson said he is available to do that, he just spoke to him about doing that. Mr. Johnson was not anticipating this, but that would be part of his rebuttal.

Mr. Goldberg said we do have a request to admit a piece of evidence into the record that has been objected to. The Chair needs to make a decision one way or the other to move forward. He also brings up questions of relevance, so just as a general parameter of that, usually evidence should be more probative, more helpful than prejudicial, so something that is not relevant or interferes with supporting the conclusion.

Mr. Patterson would like to respond to the relevance objection. He said relevant evidence is any evidence that has the tendency to make a fact a consequence more likely than not. The only reason for submitting this letter to the Commission is just to show essentially, that AT&T has coverage already. The duplicativeness of building the 235-foot monopole, it is not enhancing anything, outside of the fact that it is just expanding a very small coverage.

Mr. Goldberg said to the Chair since there is a discussion of whether this evidence should be admitted, it is kind of tricky because you are making a decision in hearing the evidence. You make want to keep that in mind as he continues.

Mr. Patterson said that is all he will say about.

Mr. Johnson has a concern about what he was saying, because he is saying a lot of things. But unless he is an expert on the coverage and the coverage maps, he would say that is irrelevant to the Board as well. He would need to have his own RF expert up here to testify to these particular items about coverage. Which we have provided certified maps from and RF Engineer in that regard.

Mr. Corley said Mr. Chairman, not that you need his opinion at all, but from the relevancy standpoint, he feels like that is our determination. He feels like if this is related to our decision making on whether we are going to permit this new tower, he frankly would like to hear it. He does not believe the gentleman has attempted to make witness testimony. If the other side has some rebuttal from an expert witness, he would appreciate hearing that as a rebuttal as well. But perhaps it is not appropriate to enter a letter into evidence but the content as long as it is not being given to us as expert testimony.

Mr. Goldberg said there are two objections, one is hearsay, an out of court statement made to the truth of the matter, that is the first objection. Normally, you would have a witness who would tender evidence and would be able to be cross examined and we have seen what that looks like. If you choose to sustain that objection we would not have to go further. If you over rule that



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objection, then it would be a question of relevance as has been stated as well. Maybe you would want to ask if this is a hearsay statement. He thinks that would be helpful in your decision making.

Mr. Johnson said that is his concern. He is going to be speaking to a letter someone else prepared about something that is not within his personal knowledge. That is his problem with this, is that you start talking about facts on a piece of paper by somebody where this gentleman is not a witness and has not gone out there and seen it. You would need the person who wrote this letter to speak to the facts that are in there. The law is pretty clear that those witnesses to be available for cross examination when that is presented and that is pretty clear in the zoning law under quasi-judicial decisions.

The Chair said since the writer of letter is not here to cross examine, then the letter will not be admissible.

Mr. Goldberg said you would be sustaining his objection for hearsay. The instruction would be that you would not be able to tender that letter as evidence.

Mr. Patterson said Mr. Chair, and for the members of the Commission as well, he knows we stated at least that the application was complete. But he would at least like to point out some missing documents from the application. There are certain things that were not present within the application itself. If he were to do that, he would at least like to show a coverage map, so that the Commission can see just the level of coverage.

Mr. Johnson said again, he would object, unless there was somebody here that prepared that map just to show the coverage. The same situation as the letter.

Mr. Goldberg said usually in evidentiary matters, you would ask to provide a foundation for submission of that evidence. You would usually tender that this is where this came from, this is how it developed, and this is what it says. In quasi-judicial matters, the question you have in this way is present competent, material, and substantial evidence, as not as repetitive as allowed by the Board. He said you may have some leeway on that one. But up to the Board, substantial and competent evidence.

The Chair will allow the map.

Mr. Patterson thanked the Chair. He said as you can see, this is a map of the property itself. This is existing coverage for AT&T, and this is at 180 feet. What they are proposing is that at roughly 225-feet, they are still at the same 700 megahertz, which will handle the majority of your 5G communications. Again, there is no enhancement of any public health or safety or general welfare. That does not enhance much of anything in terms of the public welfare or the wireless connection that is centered around in the area.

He said in terms of the application and what is missing from the application, in Chapter 8, Section 6 for Special Use Permits, it requires the availability of suitable existing towers, other

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structures or alternative technology. That has not been produced to you all. It was not in their package, and it was not in the application, in terms of the collocation of the SBA Metropole. So,

there has not been any documentation that has been presented to this body that was submitted within the application itself.

The separation distance from the other towers pursuant to Table 1, shall be shown at the site plan or map, that was also not provided. He recognizes that Mr. Johnson has his witnesses here so he is assuming that will be provided to you today in testimony. In terms of a description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provide through the use of a proposed new tower.

He believes that is pertinent for this body, just because there is already an existing tower. It makes no sense to build something when you already have a pole that is going to allow the exact same coverage. AT&T would be allowed to go higher upon that metropole and get to the same amount of coverage without building a new pole. He thinks that their application lacks meeting that particular portion of the ordinances.

A description of a feasible alternative location, a future tower, or antennas within the County based upon physical engineering and technological or geographical limitations in the event the proposed tower is erected. In terms of presented the application to the Commission, again he says that AT&T should be a co-applicant. They should be able to present to the Commission exactly where future towers will be and kind of what the plan and build out is. That is something that was missing from the application. Again, he recognizes that there are folks here, maybe they will be able to testify to those particular plans.

The next would be a statement of compliance with the Federal Communications Act as amended and the replicable rules promulgated by the Communications Act. That was also not received as part of the application as well.

One thing also for the Commission's consideration, something for the Commission to ask the particular experts that are here to push this application through, to get the FAA certification, he noticed in the application, that generally some of the coordinates were off. It was off by 150-feet. With being off by that much, they had to move it. He is assuming it was amended back on October 3<sup>rd</sup> to actually comply with the FAA. However, in terms of moving those particular coordinates, the applicant would still have to comply with the State Historic Preservation Office and whether this is close to anything historical such as Mint Hill. Which he actually believes is close by there and so they would have to get clearance in terms of that as well.

Again, some of the things he did want to submit, he recognize would be hearsay, so he will not put that forth to the Commission. However, we wish that the Commission would consider at least doing a third-party review under Chapter 10 just to make sure that this does actually meet the

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requirements that are required by the ordinances. He is available for the Commission if you should have any.

The Chair asked if there were any questions for Mr. Patterson.

Mr. Paxton wants to be sure of this. At the present time they are on your tower?

Mr. Patterson said yes that is correct.

Mr. Paxton said a suspicious person might ask the question, are you doing this just because you want to keep them on the tower or are you in the public interest.

Mr. Patterson said it would be in the public interest. He says that particularly because obviously, building another metropole, finances aside, that is what the question is really, finances aside it does not change much of any. It is just the fact that they are going to be on a different pole, a higher pole. And so, they have to comply with the FAA, and they are going to put a light on it and all that stuff. But at the end of the day, they can get the same coverage at the same pole that they are already on. Maybe it is splitting hairs, but in terms of looking at the ordinance itself, does it meet the general welfare and public safety, and whether there is a reasonable alternative. The alternative is just to move higher on the pole that you are already on, as opposed to building another 235-foot pole or 285-foot pole. It would be that it does not meet the application standard

Mr. Hudspeth said you say they can do the same thing on your pole. How high can they go on you pole?

Mr. Patterson said they could go up to 235 feet if they wanted to.

Mr. Hudspeth said how tall is yours?

Mr. Patterson said right now it is 220 feet and he thinks it has the capability of going a little higher.

Mr. Stephen Wise said this says it is 190-feet.

Mr. Patterson said they are at 190 feet.

Mr. Wise said if they leave what happens to that pole? Is there another provider on that pole?

Mr. Patterson there are other providers on the pole.

Mr. Hudspeth asked how far apart are these two poles?

Mr. Patterson believes they are 1,804 feet.

Mr. Hudspeth said that is allowed by the County Ordinance.

Mr. Patterson said that is correct, yes sir.

Mr. Hudspeth has a question for the RF Engineer.

The Chair said can we finish with the speakers.

Mr. Johnson said is glad to do it in any order that you want but he thinks there are other people who may speak in opposition and then he will come back with rebuttal and that is fine.

The Chair said there are, lets finish the public hearing first. He called on Lance Brown.

Mr. Lance Brown, 210 Horsepower Lane, China Grove, NC, addressed the Board stating that he owns property on Tuckaseegee Road, and he is against the tower. He does not see anything to gain, they already have one tower. Just like the gentleman said back here, he does not see anything to gain by it.

The Chair called on Kevin Gilman, 2367 Oxford Drive, Kannapolis, NC, addressed the Board stating that some of his questions have already been answered by the statements. One question he had for Mr. Johnson is what is the monetary value is going to be by placing a new tower on the proposed site for that landowner?

This seems to be a battle of monetary, from one tower to the next tower. What is the reasoning behind that, if there is an opportunity to use the existing tower and go higher? His one reason to be against it, is because it is right in our back yard. We have our neighbors here. The height of it will stick out like an eyesore. It is an open field with that, and then two being in the radius of all the RF signals that they are putting out with us being closer.

We understand there is a tower across the street, across the road, whatever. But the meter readings are subject low and are within normal range. Our concern is with the tower being this close, it could go from normal to medium or even to high. He is wondering if the proposed company has done any RF studies on that and what those signals may look like for us.

Another question he has is what affect this tower will have for a monetary value on the property at Westgate. A comment was made that it would have an increase value on properties or neighborhoods that are to the north of us a little bit so with it being in our backyard what type of affect will it have on us, whether it is positive or negative.

Another thing he would like to point out is Coddle Creek Reservoir is not usable for recreation, so it has no effect of use on the waterways. It is not going to help anything like that, it cannot be used. The tower being closer to the watershed or having better coverage is not going to matter for

the water and safety of anybody with that. That is basically all he had, everything else was kind of covered.

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The Chair asked if there was anyone to speak against the case that had not filled out a blue card. There being none, he asked if there were any additional comments or questions for the applicant or Staff before closing the Public Hearing.

Mr. Johnson asked if the rebuttal needs to be part of the Public Hearing. He just wants to make sure.

Mr. Goldberg said they will close the Public Hearing and you will have a chance to resume your presentation.

Mr. Johnson understands, he just wanted to clarify that.

Mr. Corley would like to ask just a few questions, and these may be redundant, but he would like to get the answers to these on the record for you. He said AT&T is on the pole just to the south, correct?

Mr. Johnson said correct, and he shared that with the RF maps earlier.

Mr. Corley said how high are they on that pole?

Mr. Johnson thinks it is 180 or 190 feet north. He said 190.

Mr. Corley asked how long has AT&T been on that pole?

Mr. Johnson said that he does not know.

Mr. Corley will redirect his question.

Mr. Patterson said 20 years.

Mr. Corley asked if they have investigated going higher on the existing pole? He said from an alternatives analysis, have you investigated going taller on the existing pole?

Mr. Johnson said the existing pole is not that tall, but he can have the RF Engineer speak to the difference between the two. That is exactly what we did with the propagation maps, to show the improvement. And again, we have already had Ms. Moore speak, that she does not have good service.

Mr. Corley is asking what other alternatives you considered besides building this new taller pole.

Mr. Johnson said right, no, he understands, but the area we have to look, is the area that was within the search ring which he can get them to speak too.

Mr. Corley said is the answer no, you did not consider any other alternatives?

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Mr. Johnson said no, he is saying that he needs AT&T to speak to that, he cannot speak to that. That was his point.

Mr. Corley said sure.

The Chair asked if there was anyone else on the Board wanting to speak.

Mr. Wise would like to hear what AT&T has to say about Mr. Corley's question.

Mr. Goldberg thinks the best way to do it is to go ahead and close the Public Hearing and the applicant will be able to resume the rebuttal period and you will be able to have that interchange.

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

Mr. Johnson did want to speak with Mr. Corley. One thing that he did not mention is there is a collocation statement affidavit in the file that speaks directly to that, that other alternatives were looked at. It speaks to that, looking at other alternatives within the area that AT&T was searching, so that is in there. The other Attorney had mentioned that it was not, but that is in there.

The Chair said there are 168 pages, he asked if Mr. Johnson could pull that up.

Mr. Goldberg said on the PDF it is page 67, on the listing it is Exhibit E.

Mr. Corley said that is the Certificate of Compliance.

Mr. Johnson said that is the Certificate of Compliance with the FCC rules that the other Attorney mentioned, that was in the record. The collocation certification is on page 68 and the State Historic Office approval is right here (showed on the slide). He mentioned that that was not included and that is in the record on page 146.

Mr. Paxton said what about the question on coordinates.

Mr. Johnson will explain that that is a great question. There was an earlier FAA done for a site on this property. But it did not meet the 285-foot setback, so we had to resubmit, which we did. The resubmission was at 230-feet instead of 235, but it had new coordinates, so that is where the confusion came from as he saw that earlier FAA report. For the earlier location we had to change it and when you change it you have to resubmit.

It is because the way the Ordinance is written, which is unusual. It is written that the setback is 285-feet from the outside of the compound to any residential property or property line or

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adjoining property line. It has to be set back that far. So, when we did that, we ended up having to go further into Mr. Mesimer's vacant parcel there. So, we resubmitted for the FAA and that accurate FAA is in the record.

Mr. Johnson said the Ordinance speaks to the plan or any other towers. It speaks to PeakNet

towers, and we dealt with that, where there were no other PeakNet towers in the area, as far as that plan is concerned, and that is what the ordinance requires.

But he thinks otherwise that he needs to have the RF Engineer from AT&T come up and speak. He wants to try to take this in order. He is glad to go to Mr. Gilman's question if the Board would like for him to go to those first or have the RF Engineer to go first.

The Chair said why don't we answer Mr. Gilman's questions first.

Mr. Johnson said monetary value is irrelevant. What the monetary agreement maybe between PeakNet and the property owner is really irrelevant to these proceedings and would not have to be shared.

He said the RF again, exposure is contrary to the law. The law in North Carolina says that health effects of RF exposure are not to be considered by this Board in making a decision. That is specifically from Chapter 160D of the General Statutes. The Impact Study speaks for itself in terms of the impact on property values. It was done on an analysis on other sites in Cabarrus County, where you could see the tower and could not see the tower and Mr. Berkowitz concluded there was no adverse impact on property values. Unless there is contrary evidence, which there is not, that has to stand. You would have to have expert testimony in that respect. He thinks that covers Mr. Gilman's question as he had them. If there is another question related to what Mr. Gilman stated that he missed, he is happy to address that.

Mr. Johnson asked Mr. Paul Prychodko, RF Engineer with AT&T to come forward to speak about the collocation and the improvement in service. He thinks it would be helpful to have the propagation maps up.

Mr. Paul Prychodko, Senior, RAN Design Engineer, AT&T, 208 N. Caldwell Street, Charlotte NC, asked if anyone had a question about the coverage.

Mr. Hudspeth asked if this had anything to do with going to 5G, he guesses it is a higher frequency, is it not?

Mr. Prychodko said typically not. The reason we need to go to 275 is because the current coverage is 190, and we moved in 1800 feet further up north. When you move up north you are going to lose that coverage to the south if you do not go higher. Plus, we have a lot of dropped calls in the area to the north. You can see on the aerial where we have that big white spot, we have a lot of dropped calls around that area.

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The Chair asked Mr. Prychodko to point that out on the map.

Mr. Prychodko showed on the map. He said right around here you have red to white which is pretty much no coverage and that is indoors, and you are going to gain that coverage going up there. You have different factors, you have terrain, you have elevation from the current site to

the other one, add to those changes what direction are those antennae pointing. The antennae are what makes a big difference on the extra gain in capacity and coverage where you need it.

The Chair said can you just turn the antennae that you have currently?

Mr. Prychodko said it is too far, it will not cover that far up because of terrain, plus it is 40 feet lower than what we would be at 225, we are only at 190 right now. The line of sight and the terrain is going to depend on that. That is why we need to move it higher at that new location.

Mr. Hudspeth asked if FirstNet use the same signals that you use on the regular cell phone.

Mr. Prychodko said FirstNet is 700 megahertz, that will be on our antennas when we design the site, it is going to have FirstNet coverage on it. We will be deploying FirstNet plus all our other carriers on there, which include 5G has well.

Mr. Hudspeth said will this enhance FirstNet?

Mr. Prychodko said yes it will, typically we do not have any of the FirstNet back in the north area, back in there where we have no coverage. A lot of our dropped calls are in that area right there that we see for customers. It will definitely improve the customers in the FirstNet and responders in that area.

The Chair said when you toggle back and forth, he does not see a lot of coverage differences in Cabarrus County. He sees a little bit in Rowan, why would it not make more sense to move the tower further north? Have you all looked at that? To pick up better coverage north. It does not seem like you are picking up that much difference.

Mr. Prychodko said you mean to go further north.

The Chair said yes.

Mr. Prychodko said if we do that, we will lose the current coverage where we are. We will lose our current footprint basically, to the south.

The Chair said you are proposing a new tower and coming off the existing tower?

Mr. Prychodko said yes. In order to keep the current footprint and the customers we have we need to go up higher, so we do not lose those customers



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The Chair said could you not just move the tower further north and stay on the same one instead of having two towers?

Mr. Prychodko said no, we cannot do that, it would cause too much interference and stuff between our frequencies and what not. Typically, when we do a design, you can see the sites around it

and we typically do it two to three miles apart. It depends on terrain, but you do not want sites on top of each other because it is bad performance basically.

Mr. Hudspeth said you will be coming off of the tower that you are on now?

Mr. Prychodko said yes, that is correct.

The Chair asked if this new tower would have any impact on the existing tower and the providers that stay?

Mr. Prychodko said no, it will not.

The Chair said you can speak for other carriers?

Mr. Prychodko said no, just for AT&T. We collocate with them all the time in same site, so it is not affecting anything.

Mr. Brett Rockett said to the Chair's point about being very difficult to decipher the differences in the colors in these maps. Obviously, he sees the red moves and the yellow moves and so on. Is there a better way to quantify to help us to understand what impact that truly has, in terms of available customers or properties that are impacted positively, in terms of the signal that AT&T will be able to provide?

Mr. Prychodko said we have data input from other sources, and stuff that says we have dropped calls in this area to the north, where our customers are living basically and driving through. We had dropped calls in those areas, the service has been improved to the north.

Mr. Goldberg said just so the Board knows, there are some restrictions on the evidence that you can consider or ask of them. He said 160D-933, subsection B reads as follows:

A local government's review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the local government may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A local government may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A local government may not require proprietary, confidential, or other business information to justify the

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need for the new wireless support structure, including propagation maps and telecommunication traffic studies.

He said the applicant has tendered some of that information voluntarily and he would not begrudge them that, but he would caution the Board about soliciting information like that or considering the answers or non-answers regarding those business aspects of their decision

making. The Statute urges you to confine your analysis to the public safety implications, the aesthetics, and the traditional zoning issues you would have with compatibility of uses and what not.

Mr. Patterson said in terms of considering the evidence that the Commission has before it. He understands this is a quasi-judicial hearing, but if we were in court, once you open the door to the evidence, it is out there. So, in this attorney's opinion, once the applicant puts forth the coverage, they put forth all of this information for the Commission to consider, he thinks it is fair for the Commission to ask questions regarding it.

In terms of asking questions, one question would be the coverage, in terms of, this is the current coverage for that particular pole. But there has been nothing presented to this Commission in terms of the coverage on the pole that they currently have and if there has been any study on if they went higher, what type of coverage they would receive.

Mr. Goldberg thinks the point is taken on that, in that he is right, there has been evidence proffered in support of their application that may cross into those things, and he would say that was voluntary. You have the ability to essentially cross examine that information. He thinks the boundaries here would not be urging or soliciting information beyond what they have volunteered in that way. Though you (the Board) do have plenty of room to evaluate the credibility of that information that they have tendered so far through the asking of questions.

Mr. Johnson said he would concur with that. He said the propagation maps and what was spoken about dropped calls you can ask about, beyond that you really can't. The best example that he gives is if a restaurant decides that they want to locate at this intersection versus that one, it is a business decision. Like your zoning decisions you do, you don't go behind to see if that restaurant is going to be successful at that location. You do not look ever look at that. You determine whether or not it fits with the zoning rules. You have a very extensive tower ordinance, and we have checked all of those boxes on the tower ordinance. You have a very competent staff to deal with that, and they have dealt with that and looked at checking those boxes. That is the point of the Statute and why it says what it says. That would be his point in that regard.

He believes, and he knows this question was asked, and he has dealt with this in one other circumstance, where he has another competing tower company trying to come in and create questions about a new tower that is being built. He questions the ability of them really having standing, to question that. In other words, do they even have a dog in the fight? The most dog in

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the fight that they have is what Mr. Paxton pointed out, and that is monetary. It is the monetary issue. They are here because they are not going to be getting any money from AT&T for that location, it is true they are indeed doing it. But this falls within the parameters of the Ordinance and improves the service to the north where there are dropped calls and maintains the service to the south.

Whether or not you could go build a new, taller tower at the existing location is not relevant

because there is no proposal to build a new tower at that location. What we have to look at is the existing towers and that is exactly what AT&T did, looked at the existing situation. The existing coverage map is already here. There is no requirement that we speculate, that if you put a new tower there that is 235-feet, what would it do? It is not there, so your ordinance does not require that, it talks about existing structures. That is his point on that.

He hates that we are going down this path because he thinks you are going down a path that is something that is irrelevant to the ordinance. It is somebody who is losing money and wants to keep that money and that is by its very nature biased and you have someone coming in here objecting but with no teeth to it. Where is the evidence, where is the sworn testimony, where is any of that that is really relevant to the situation? We have none of that.

The standards that are before you are health and safety. We have met those requirements in terms of fall zones, in terms of providing better service, better 911 service, and better FirstNet service. We met that requirement.

Second, impact on property values. The only expert testimony here is from Mr. Berkowitz, who is a certified appraiser, and he says no impact. We do not have any other evidence to the contrary with respect to that concern.

The other is, is it in harmony? It is in harmony because as Ms. Howell mentioned, it is allowed as a Special Use Permit in this district. By definition, under state law, the presumption is it is harmonious because it is allowed by the ordinance in that district.

The final thing is do we meet the requirements of the ordinance and we have checked all those boxes and submitted all those documents. Despite the questions about that, he did point out where they are there. Including on page C14 of the drawings, there is an aerial map that shows the separation distance between the towers and that is in the record and has been from the beginning.

He does not want to belabor it unless there are further questions, that is our position with respect to our application. We have met the requirements and there is no expert testimony, since this is quasi-judicial, to the contrary.

Mr. Corley asked that someone from Staff explain this third-party review option that was mentioned. He would like to understand what that is and is not.

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Ms. Morris would need a minute to look at that. But historically, back in the day, the applicant was required to have a third-party review when they were submitting cell towers to the County, to prove some of those things that maybe back then you could not show using resources that might be available now. She would be happy to take a look at it to see what the current language states. If there was something like that, it would not be at the County's expense, it would have to be at the expense of the applicant.

She has been here for close to twenty years, and that has never been something that has been employed, except for when cell phones were first coming about, and people were not receptive to those towers. There was a lot more of a fight, to determine where those towers were going to go at that time, and that technical piece is what those agencies provided.

It says, in the event a dispute arises as to whether an applicant has exercised good faith in accommodating other users, the administrator may require the applicant to obtain a third-party technical study at the applicants expense. The administrator may review any information submitted by the applicant in determining whether good faith has been exercised.

Again, that is not something typically that has been used. Once those statutory changes were made, the State kind of told us here is what you need to look at, x y and z when it comes to a new tower location. But this really is in relation to collocation, not necessarily to new towers.

Mr. Gilman said one thing that he would like to point out is the reason that Mr. Johnson is here on behalf of AT&T is a monetary gain. He is sure there are fees and premiums that they will be hosting AT&T's tower. Obviously, the other gentleman will be losing theirs, so that is what he sees is the real battle.

He would like to know what AT&T's Plan B is if zoning declines this. Obviously, it has been pointed out that there is room to go higher on the existing tower, so he would like to know what the Plan B would be for them if this is their Plan A.

Mr. Goldberg said Mr. Chair we are heading in that direction of it beginning proprietary business decision making in that line of inquiry. He would caution in that way.

The Chair said duly noted. He asked if there were any other questions or comments. There being none he said the Board will move into discussion.

Mr. Paxton asked Ms. Howell to correct him if he is wrong. His only comment would be that the applicant has presented the evidence that meets the ordinance, is that correct?

Mr. Goldberg said you may want to rephrase that a little bit. The Board is going to decide whether there is competent, substantial evidence that the applicant has presented. Another way to present it is in Staff's opinion, has there been sufficient evidence. Staff does not usually provide an opinion as to that.

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Mr. Paxton said let me ask it this way. Is there anything missing in their application that has caused you concern?

Ms. Howell said as we do not give recommendations to approve or decline, the check list was checked off.

Mr. Corley will answer Mr. Paxton's question. Personally, he can barely tell any difference in these maps. But unfortunately, he is not a network coverage specialist. As strange as this case feels to him, just strange, like we went some weird places. He does think that they have met the Ordinance. It is strange that the ordinance allows another tower so close, just a little bit higher. But that is the game that the ordinance allows people to play unfortunately.

For the folks who are going to have to live next to this thing, he hates that this is even allowable, but he has to separate his personal feelings for the decision we are being asked to make. In his opinion they have met everything that they have been required to meet and they had expert testimony to answer all the questions that he had and that is where he is.

Mr. Rockett would second that. He said based on the evidence that was presented to us, it appears to him that everything that is required to be met, has been met. All factors have been considered that have to be considered in his opinion, and therefore it appears to him that it does meet, if not exceeds, the standards of the ordinance.

Ms. Nurse asked if it meets the coverage proof to build a new tower? Her concern is that we have one and there is not that much difference.

The Chair does not think that we can put that into our decision or our discussion.

Ms. Nurse said is he supposed to prove that before we make a decision or should we table it.

Mr. Rockett said it is a matter of meeting the ordinance more so than proving that one is better the other. His opinion is if you believe it meets the ordinance, all the factors that are necessary within the ordinance, then whether or not it drastically improves one particular neighborhoods service or not is not necessary.

Mr. Goldberg said to help maybe to frame this, it has been a while since we have done a Special Use Permit. The first general requirement that they have to meet is, must find that the use is not detrimental to public health safety or general welfare. So, they need to have substantial competent evidence to support that on the record. The Board must find that the uses proposed are appropriately located with respect to transportation facilities, water supply, police protection, fire, waste disposal, etc. The third factor is, the Board must find the uses as proposed will not violate neighborhood character nor adversely affect surrounding land uses. The fourth factor is it will comply with general plans for the physical development of the County or Town as embodied by the Zoning Ordinance or any area plans that have been adopted.

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He said those are the four requirements that you need to find if you so choose to approve this decision. There needs to be evidence on the record to support those findings. Then there will need to be substantial and competent evidence to support the findings for the specific requirements. Those specific requirements are found in the Ordinance replicable to the Special Use, the Wireless Communications Tower. So, then you have to work through those to make

sure, there is sufficient evidence to support a finding, to allow you to conclude as a matter of law that those have been followed. That is the decision-making framing before you.

The Chair asked if anybody else had anything. There being no further comments the Chair asked if there is a motion to approve or deny.

Mr. Jeff Corley said the communication tower will benefit public health safety and welfare, while providing improved wireless service in the area. Very limited transportation and infrastructure need but there is an existing driveway that will be widened to accommodate access to this new site. Wireless infrastructure is critical to the public for both telephone communications and wireless internet access.

He believes the Board has handled all of the other ones through our conversations. He believes they have fully met the Ordinance and their expert witnesses provided sufficient answers to some of our concerns.

Mr. Charles Paxton **MOTIONED, SECONDED** by Mr. Jeff Corley to **APPROVE** SUSE2022-000014 – Request for to construct a Wireless Telecommunications Tower (WTC), with conditions recommended by Staff. It is in the public interest and with the statements made by Mr. Corley. The vote was 8 to 1 to Approve with Ms. Ingrid Nurse voting against.

The Chair introduced APPL2020-00002 – Appeal of Notice of Violation for operating an illegal salvage yard, landfill, and fill in the SFHA. Appellants are John C. and Michelle McGraw. Property address is 7005 Flowes Store Road, Concord, NC, PIN 5537-56-4049.

Ms. Susie Morris addressed the Board stating that this is an appeal of a Notice of Violation. This particular violation is for an illegal salvage yard, a land fill and for filling in the floodplain. The applicant's attorney was going to be out of the country and provided documentation that he filed with the court for said out of country visit. So, they are asking that it be tabled until next month. If something should change, we will be back before the Board to let you know. But at this point, they feel like that will be enough time to make a decision one way or the another.

There being no further discussion the Chair asked if there was a motion to table.

Ms. Holly Grimsley **MOTIONED, SECONDED** by Mr. Steve Wise to **TABLE** APPL2020-00002 – Appeal of Notice of Violation for operating an illegal salvage yard, landfill, and fill in the SFHA until November 2022. The vote was unanimous.

## **Legal Update**

Mr. Goldberg said just as a reminder on any outstanding cases. If someone approaches you to discuss a case that may have been decided or it stands the chance through the appeal process of being returned to the Board for further consideration, and if you were to receive ex parte, or out of hearing information that could interfere with your ability to be able to make a decision if it were to return, that continues to be an ongoing concern in certain matters. He said this is just a reminder on a legal perspective.

## **Directors Report**

Ms. Morris said the Board of Commissioners is considering the map that we looked at, it is on their agenda for Monday. It is a consent agenda item, so hopefully, we will have their blessing on that and then we can move forward with the shuffling that we talked about and then also soliciting some additional members.

We do still have some ongoing court cases. They are making their way through different stages. We have some appeals that are in court, we have some other appeals where we are trying to move them along using the court. We do still have those out there.

She still has not gotten the new registration straightened out for the new modules. As soon as we can make that happen, we can start working on the modules again. Any new members are going to be required to provide documentation that they completed that training, and then will also be expected to attend those additional trainings like the current Board has done.

There being no further discussion, Ms. Holly Grimsley **MOTIONED, SECONDED** by Ms. Ingrid Nurse to adjourn the meeting at 8:59 p.m. The vote was unanimous.

## **APPROVED BY:**

Mr. Adam Dagenhart

## **SUBMITTED BY:**

Arlena B. Roberts

## **ATTEST BY:**

Susie Morris, Planning and Zoning Manager

STATE OF NORTH CAROLINA	)	CABARRUS COUNTY PLANNING AND
	)	ZONING COMMISSION
COUNTY OF CABARRUS	)	FILE NUMBER: SUSE2022-00014
	)	
	)	
IN RE: Cabarrus County, North Carolina	)	
Special Use Permit Application	)	
	)	<b>ORDER GRANTING SPECIAL USE</b>
	)	<b>PERMIT</b>
Subject Property:	)	
7615 Tuckaseegee Rd., Kannapolis, NC	)	
28081 (PIN 46932651010000)	)	
	)	

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THIS MATTER came before the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, on October 11, 2022, on the application submitted by Peaknet, LLC for a Special Use Permit for the property located at 7615 Tuckaseegee Rd., Kannapolis, NC 28081 (PIN 46932651010000) (“Subject Property”).

Notice was given to Cabarrus County and to adjacent property owners as required by law. A full complement of nine board members was present to hear this application. All of the witnesses were duly sworn, and documents were received in evidence.

### FINDINGS OF FACT

After hearing and receiving the evidence, the Board makes the following Findings of Fact:

1. The Subject Property is located at 7580 Tuckaseegee Rd., Kannapolis, NC 28081 and is identified by the Cabarrus County Tax Department as PIN 46932651010000.
2. The Subject Property is owned by the Edward D. Mesimer Trust by Edward D. Mesimer, Trustee.



3. The Applicant is Peaknet, LLC, which constructs and operates wireless communication infrastructure. Attorney Thomas H. Johnson, Jr. represents the applicant in this matter.
4. The applicant requests a Special Use Permit authorizing the construction of a 235-foot tall. (230 feet plus a 5-foot lightning rod) Wireless Telecommunications (WTC) Tower on .95 acres of the approximately 129.2 acre Subject Property.
5. The Subject Property is located in the Agricultural/Open Space (AO).
6. The Federal Aviation Administration has issued a Determination of No Hazard to Air Navigation for this site that expires on March 1, 2024, unless otherwise stated in the Determination. At the time of the review the applicant was intending for the tower to be a height of 230 feet and the FAA placed a condition on the approval of the tower that it be lighted to meet the FAA specifications. Since that time the applicant increased the height of the tower to 235 (to account for the 5-foot lighting rod).
7. The Subject Property is partially located within Coddle Creek WS-II Protected and Critical watershed areas. A small portion of the fall zone will be located within the Critical Area. The cell tower and the compound will be located outside the Critical Area.
8. The cabinets accompanying the tower are approximately 5'11.76" in height and approximately 59 square feet.
9. The communication tower will provide improved wireless service in the area, which will support essential communications and access to the internet.
10. The tower will have direct access to Tuckaseegee Road by an existing private road and driveway. The North Carolina Department of Transportation has approved a driveway permit, which was included in the application. Electrical and communications fiber are readily available to service the site. The site access complies with emergency services requirements.

11. The proposed tower will not have an adverse impact on adjoining property values, nor will it have any other material impact on the neighboring areas.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

1. The application for special use permit is properly before the Board.
2. The Applicant provided substantial, material, and competent evidence to the official record to support the permit application.
3. Per Cabarrus County Development Ordinance (CCDO) § 8.3, Special Uses must comply with the following general standards:
  - a. Maintain or enhance the public health, safety and general welfare
  - b. Maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not do so);
  - c. Assure the adequacy of:
    - i. Wastewater disposal
    - ii. Solid waste management
    - iii. On site drinking water and wastewater disposal
    - iv. Governmental water and sewer (if applicable)
    - v. Police, Fire and Emergency Medical Services protection
    - vi. School adequacy (if applicable)
    - vii. Transportation systems (in and around the site) and
    - viii. Other public facilities
  - d. Comply with the general plans for the physical development of the County as embodied in these regulations.
4. Wireless Telecommunications Services special uses must also comply with the special requirements provided in CCDO § 8.4.
5. The proposed use satisfies the first general standard because it will promote the public health, safety, and general welfare by providing enhanced wireless communication services in underserved areas of the county. Such services will include essential 911 emergency communications.
6. The proposed use satisfies the second general standard because the use does not adversely affect the adequacy or is appropriately located with respect to

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. The use is well-served by necessary infrastructure and services necessary for its planned operation, including road access and emergency services access.

7. The proposed use satisfies the third general standard because it will not violate neighborhood character nor adversely affect surrounding land uses. This is supported by the Applicant's expert appraisal showing no impact on neighbors' property values.
8. The proposed use satisfies the fourth general standard because it will comply with the general plans for the physical developments of the County as embodied in the Ordinance or in the Comprehensive Plan.
9. The proposed use satisfies the special standards applicable for Wireless Communications Towers provided in CCDO § 7.4.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a SPECIAL USE PERMIT have been satisfied, it is ORDERED that the application for the issuance of a SPECIAL USE PERMIT be GRANTED, subject to the conditions contained in Exhibit A. The Applicant shall fully comply with all the applicable, specific requirements in the Ordinance. The Master Plan shall be considered the approved site plan at this time, although it is understood and agreed that the Master Plan can be modified in accordance with the conditions contained below. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

Ordered this \_\_\_\_\_ day of March 14, 2023, *nunc pro tunc* to October 11, 2022.

---

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

I Kendall M. Bolton, Notary for Cabarrus County, NC certify that Adam Dagenhart, Chair of the Cabarrus Planning and Zoning Commission appeared before me on this day and signed the foregoing document.

---

Kendall M. Bolton, Notary Public  
My Commission expires: 09/27/2027

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 2**  
**CONDITIONS**  
**APPLICATION SUSE 2022-00014**

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.
2. The Granting Order, stating restrictions and applicable conditions of approval shall be recorded with the deed for the property and prior to zoning permitting.
3. The Applicant shall procure any and all federal, state, and local permits prior to zoning permitting.
4. Any proposed future expansion of property, as well as modifications or changes to the approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Special Use Permit.
5. The Applicant shall provide copies of all state, local, and federal permits for the permanent project file prior to zoning permitting.
6. The Applicant shall comply with all applicable terms of NCDOT Driveway Permit C-1913.
7. Prior to zoning permitting, the Applicant shall have the Determination of No Hazard letter from the FAA updated to address the current proposed tower height. A copy of said filing shall be provided to Planning for the project file.
8. The Applicant shall file the 7460-2 form with the FAA, if the project is abandoned or within five days after construction reaches its greatest height. A copy of said filing shall be provided to Planning for the project file.
9. The Applicant shall submit a bond in the amount to accommodate 1.25 times the amount of the estimate as required by Chapter 8, Number 36, Section 11 of the Cabarrus County Development Ordinance. The estimated cost of removal and to return the site to its natural condition is \$105,178; therefore, the bond will need to be in the amount of \$131,472.50. The bond shall be submitted prior to zoning permitting.
10. Per the approved plans, the driveway will be increased to 26 feet wide, and a Knox Lock or Knox Box shall be installed for Fire Department access.

PLANNING STAFF REPORT  
 CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
 3/1/2023

Staff Use Only:  
 Approved: \_\_\_\_\_  
 Denied: \_\_\_\_\_  
 Tabled: \_\_\_\_\_

**Petition: RZON2023-00001 Rezoning**

Applicant Information:	Clement Hammill Hammill Logging Inc. 6007 St. Stephens Church Rd. Gold Hill, NC 28071
Owner Information:	Clement Hammill Hammill Logging Inc. 6007 St. Stephens Church Rd. Gold Hill, NC 28071
Existing Zoning:	OI (Office/Institutional)
Proposed Zoning:	AO (Agricultural/Open Space)
Existing Permitted Uses:	All uses permitted in the OI zoning district are permitted by right on the subject property.
Proposed Uses:	All uses allowed in the AO zoning district.
Parcel ID Numbers:	6603-89-3130
Property Addresses:	15730 and 15615 Glenmore Road
Area in Acres:	± 51.05 ac
Site Description:	The subject property has been in the forest program for several years and used periodically for timber. A 68-foot Duke Power right-of-way runs diagonally across the property. There is no floodplain located on the subject property and it is not located in a Watershed.
Adjacent Land Use:	North: Agricultural, Vacant, Airstrip (Rowan County) East: Residential, Vacant South: Vacant West: Residential (driveway), Vacant (Vulcan project buffer)
Surrounding Zoning:	North: OI (Office/Institutional) East: AO (Agricultural/Open Space) South: AO (Agricultural/Open Space) West: OI (Office/Institutional)
Utility Service Provider:	Currently, the subject property is served by governmental water and septic.

## Exhibits

EXHIBIT A – Staff Report  
EXHIBIT B – Application  
EXHIBIT C – Property Deed  
EXHIBIT D – Property Maps  
EXHIBIT E – Adjacent Property Owner & Property Owner Letters  
EXHIBIT F – Neighborhood Meeting Information  
EXHIBIT G – Use Comparison Table

## Intent of Zoning Districts

### **PROPOSED DISTRICT: AGRICULTURAL OPEN (AO)**

This district is comprised mostly of lands usually found on the eastern side of the County which, due to physical characteristics such as soil type, topography, etc., should remain agrarian. To a lesser degree, these are also those lands which are conducive to providing recreationally oriented open space. These land areas should remain the farmland and undeveloped/forested land of the County. Public utilities will not be planned for these areas. Consequently, residential uses that support those working and/or owning the land, home occupations allied with existing residences, and very limited business endeavors are envisioned as complementary to the area. In sum, the primary activity of these lands is agricultural - housing and business are typically related to, and supportive of, the practice of modern-day agriculture. It is not, however, improbable that a small hamlet type settlement might evolve in this zoning district. As to those areas constituting open space, manmade uses must take care to enhance and not detract from the essential character of the area.

### **RATIONALE**

Cabarrus County, due largely to its proximity to the Charlotte-Mecklenburg metropolitan area, is in a growth mode which will, in all probability, continue. While the issue of farmland preservation may ultimately be more driven by market economics, it still behooves policy makers to prudently attempt farmland preservation. Less a matter of market economics is the concept of retaining unspoiled, undeveloped lands for future generations to enjoy.

### **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 church business hours, thus, not competing with residential traffic at peak hours. 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.

## Agency Review Comments

### Planning Review:

Staff Report. *Sandy Howell, Planner, Cabarrus County*

### NCDOT Review:

We have no issues with the proposed rezoning. *Marc Morgan, Division Engineer, NCDOT*

### Fire Marshal Review:

No comments. *Jacob Thompson, Cabarrus County Fire Marshal*

### EMS Review:

No comments. *Justin Brines, Cabarrus County EMS Deputy Chief*

### Sheriff's Office Review:

No comments. *Travis McGhee, Cabarrus County Sheriff's Lieutenant Communications*

### Health Alliance Review:

No comments. *Chrystal Swinger, Cabarrus Health Alliance*

### Soil and Water Review:

Preservation of farmland and agricultural use is appreciated.

*Tammi-Sue Remsburg, Resource Conservation Coordinator, Cabarrus Soil & Water Conversation District*

## Land Use Plan Analysis

The subject property is in the Eastern Land Use Planning Area. The Eastern Area Plan (Plan) designates the subject property, and other properties in the northeast corner of the planning area, as Future Employment. The Plan states that these areas are economic opportunities in regard to future employment opportunities and industrial development because of proximity to Highway 52 and the rail line. The Plan goes on to indicate that future improvements to US Highway 52 could be a catalyst for these opportunities and that it should be reserved for industrial development.

*Highway 52 Corridor: Located in the Northeast portion of the planning area, this highway is planned for widening. Eventually, US 52 will be widened from I-85 in Salisbury to US 74 in Wadesboro. The first phase of this project will run from Albemarle south to Wadesboro. The second phase will run north from Albemarle to Salisbury. Given existing uses along this corridor, the portion in Cabarrus County should be reserved for industrial uses.*

- *Determine if an existing utility provider is willing to serve this area with utility service and/or examine the feasibility of providing utilities with wells and a modular wastewater treatment facility similar to the facility in use in Midland.*
- *Ensure that appropriate access management techniques are employed to ensure that the highway will function appropriately.*
- *Work with rail providers to serve this area with freight service and spur lines.*



## Conclusions

- The site is currently used for agricultural purposes and is in the Present Use Value (PUV) Program.
- Agricultural uses are not permitted in the OI district. Therefore, a rezoning of the subject property would decrease the non-conforming status of the property and bring the use of the property into better compliance with the current ordinance.
- In 2005, several properties throughout the County were rezoned to OI as the result of recommendations in the Cabarrus County Strategic Plan for Economic Development (AKA Leak-Goforth Study). This study identified potential sites for Future Employment/Industrial Development. It is assumed that this property was included in the rezoning as an expansion of the area identified in the study as Site Q, US52/Glenmore Road. (See Exhibit D6)
- The Comprehensive Transportation Plan (CTP) Index from the Cabarrus-Rowan Metropolitan Planning Organization (CRMPO) contemplates that the section of Hwy 52 near the subject property will expand from a 60 foot right of way to a 100 foot right of way due to increased traffic volume by 2035.
- A mining operation is present to the east of this property. In 2019, a Conditional Use Permit (CUSE2019-00002) was approved to expand the mining operation. Two neighboring parcels to the east (PINs 6603-68-6964 and 6603-79-4130) were purchased later that year from the mining company from which no site plans have been submitted concerning expansion. In 2021, a Rezoning (RZON2021-00001) was approved to rezone PIN 6603-26-2969 from OI to GI-CU to expand the mining operation area.
- Governmental water provided by Stanly County was extended in the area for public safety purposes. Sewer has not been extended in the area.
- The proposed rezoning is not consistent with the Eastern Land Use Plan. However, the area where the subject property is located has not developed as contemplated in the original Plan. Except for the Gold Hill Quarry, Stalite, and the private airport to the north, properties in this area are developed as residential, a lot of which were constructed prior to the establishment of county zoning. The subject property has also been used for agricultural purposes since prior to the establishment of zoning.

This is a conventional rezoning request; therefore, all uses permitted in the AO zoning district would be allowed on the subject property if approved. The Planning and Zoning Commission should consider all 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#: **RZON2023-00001**  
 Reviewed by: **SDWH**  
 Date: **2.3.23**  
 Amount Paid: **1050.00**

### INSTRUCTIONS/PROCEDURES:

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.
  - Neighborhood meeting documentation (minutes and list of attendees).
  - 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 1 acre or less = \$400.00
  - Residential rezoning request greater than 1 acre = \$400.00 *plus* \$15 per acre
  - Non-residential rezoning request = \$650.00 *plus* \$15 acre
  - (Plus, cost of advertising and engineering fees if applicable)
  - (if a 3<sup>rd</sup> submittal is required, an additional review fee will be assessed)

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 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 6:30 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

**Expedited Vote:** A vote of  $\frac{3}{4}$  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  $\frac{3}{4}$  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 INFORMATION:**

Street Address 15730 Glenmore Rd. Gold Hill, NC 28071

PIN(s) (10 digit #) 6603 -- 89 -- 3130 ; \_\_\_\_\_ -- \_\_\_\_\_ -- \_\_\_\_\_

Deed Reference Book 1039 Page 115

Township # 7

**DESCRIPTION OF SUBJECT PROPERTY:**

Size (square feet or acres) 50 acres

Street Frontage (feet) 1425

Current Land Use of Property Farm Use - Forestry

Surrounding Land Use North Office Institutional (OI)

South Agricultural Open Space (AG)

East Agricultural Open Space (AG)

West Office Institutional (OI)

**REQUEST:**

Change Zoning From Office Institutional (OI) To Agricultural Open Space (AG)

Purpose for Request:

Moving toward AG from OI which AG  
is not allowed in OI.

**LAND USE PLAN CONSISTENCY STATEMENT**

Describe how the proposed rezoning meets the land use plan(s) for the subject parcel(s):

Inconsistent with land use plan

This property lies on the outside of the employment area and would not affect other properties zoned and in industrial uses.

**UTILITY SERVICE:**

Water Supply No Well or ✓ Service Provider County WATER

Wastewater Treatment No Septic Tank(s) or No Service Provider \_\_\_\_\_

Is Applicant the designated Point Of Contact for comments and for billing? Yes ✓ No \_\_\_\_\_

If no, provide POC name, email, phone and address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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**

**AGENT/APPLICANT**

Hammill Logging Inc - Clement Hammill  
NAME

same as owner  
NAME

6007 St Stephen's Ct Rd  
ADDRESS

ADDRESS

Gold Hill Ne - 28071  
CITY, STATE, ZIP CODE

CITY, STATE, ZIP CODE

Home 704-279-0985 - Cell 704-305-0002  
PHONE NUMBER

PHONE NUMBER

NA  
FAX NUMBER

FAX NUMBER

NA  
E-MAIL ADDRESS

E-MAIL ADDRESS

Signature of Property Owner: Clement Hammill Date: 1-29-23

Signature of Property Agent/Applicant: Clement Hammill Date: 1-29-23



8327

BOOK 1039 PAGE 115

CABARRUS COUNTY

06-20-93



\$104.00

Real Estate  
Excise Tax

Excise Tax

104

FILED  
BOOK PAGE

MAY 20 1 48 PM '93

CHARLES B. ROSS  
REGISTER OF DEEDS  
CABARRUS CO., NC

Recording Time, Book and Page

Tax Lot No. Parcel Identifier No. T-7, M-3, P-4  
 Verified by County on the day of , 19  
 by

Mail after recording to Starkey Sharp V, HARTSELL HARTSELL & MILLS, P. A.  
 P. O. Box 368, Concord NC 28026-0368

This instrument was prepared by HARTSELL HARTSELL & MILLS, P. A., Starkey Sharp V

Brief description for the Index

## NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 19th day of May, 1993, by and between

GRANTOR

GRANTEE

CARL SPENCER PLYLER  
 and wife,  
 EUNICE M. PLYLER

HAMMILL LOGGING, INC.,  
 a North Carolina Corporation  
 6007 Stephen's Church Road  
 Gold Hill NC 28071

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of , Number Seven Township, Cabarrus County, North Carolina and more particularly described as follows:

LYING and being in No. 7 Township, Cabarrus County, North Carolina, on the southwest side of the Carolina & Northern Railway and on each side of Glenmore Road (SR 2457) and being more particularly described as follows:

BEGINNING at p.k. nail in the center line of the right-of-way for Carolina & Northern Railway, a corner of James Clifford Ferguson and running thence with the center line of such right-of-way, seven (7) calls as follows: (1) S. 33-37-45 E. 97.87 feet to a p.k. nail; thence (2) S. 37-49-34 E. 111.21 feet to a p.k. nail; thence (3) S. 43-09-44 E. 151.62 feet to a p.k. nail; thence (4) S. 48-13-42 E. 96.66 feet to a p.k. nail; thence (5) S. 51-43-06 E. 78.69 feet to a p.k. nail; thence (6) S. 55-47-47 E. 130.56 feet to a p.k. nail; thence (7) S. 57-52-15 E. 619.87 feet across Glenmore Road to a p.k. nail; thence S. 20-29-41 E. 239.80 feet to an iron stake, passing an iron stake at 48.70 feet; thence with the line of James D. Miller (Deed Book 412, page 531) S. 31-29-41 E. 280 feet to a iron stake; thence with the line of Mary Dunaway (Deed Book 470, page 45), S. 29-19-44 W. 672.43 feet to an iron stake, passing an angle iron at 559.11 feet; thence with the line of Edwin H. Hammill (Deed Book 523, page 492), N. 89-32-06 W. 293.27 feet to an iron stake; thence with the line of Hammill, N. 89-35-03 W. 839.08 feet to an angle iron in the line of James Clifford Ferguson (Deed Book 431, page 57);

BOOK 1039 PAGE 116

thence with the line of Ferguson three (3) calls as follows: (1) S. 89-52-11 W. 399.17 feet to an iron stake; thence (2) N. 13-47-36 E. 1241.10 feet to an iron stake; thence (3) N. 28-22-52 E. 719.47 feet across Glenmore Road to the point of BEGINNING, passing an iron stake at 489.11 feet and an iron stake at 662.87 feet, containing 49.50 acres outside the road right-of-way as surveyed and platted by Robert C. Lowery.

SUBJECT TO a 68 foot right-of-way in favor of Duke Power Company.

SUBJECT TO the right-of-way of Glenmore Road (SR 2457).

SUBJECT TO the right-of-way of Carolina & Northern Railway.

The property hereinabove described was acquired by Grantor by instrument recorded in Deed Book 409, page 136.

A map showing the above described property is recorded in Plat Book page

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

1993 ad valorem taxes.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

BY: Carl Spencer Plyler (Corporate Name) (SEAL)  
Carl Spencer Plyler  
Eunice M. Plyler (SEAL)  
Eunice M. Plyler  
ATTEST: Starkey Sharp (SEAL)  
Starkey Sharp (Corporate Seal) (SEAL)



NORTH CAROLINA, Cabarrus County.  
I, a Notary Public of the County and State aforesaid, certify that Carl Spencer Plyler  
and wife, Eunice M. Plyler Grantor,  
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my  
hand and official stamp or seal, this 19th day of May, 1993.  
My commission expires: 01-17-95 Notary Public

SEAL-STAMP

NORTH CAROLINA, County.  
I, a Notary Public of the County and State aforesaid, certify that  
personally came before me this day and acknowledged that he is Secretary of  
a North Carolina corporation, and that by authority duly  
given and as the act of the corporation, the foregoing instrument was signed in its name by its  
President, sealed with its corporate seal and attested by as its Secretary.  
Witness my hand and official stamp or seal, this day of 19






N.C. Cabarrus  
The foregoing Certificate of Starkey Sharp a notary public  
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the  
first page hereof.  
CHARLES B. ROSS  
REGISTER OF DEEDS  
By Charles B. Ross REGISTER OF DEEDS FOR Cabarrus COUNTY  
5-20-1993  
Deputy/Assistant - Register of Deeds

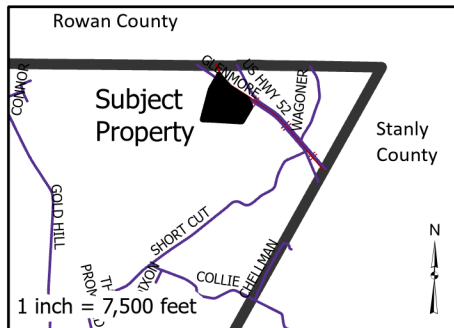


# Eastern Planning Area Aerial Map



Applicant: Clement Hammill  
Hammill Logging  
Owner: Clement Hammill  
Hammill Logging  
Case: RZON2023-00001  
Address: 15730 & 15615 Glenmore Rd  
Purpose: OI to AO  
PIN: 6603-89-3130

-  <all other values>
-  TaxParcels
-  Streets
-  Railroad
-  Cabarrus County



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

Map prepared by  
Cabarrus County Planning and Development  
February 2023

ROWAN COUNTY

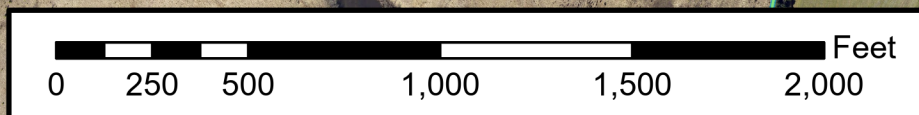
EXHIBIT D1

US HWY 52

GLENMORE RD

**Subject  
Property**

1 inch equals 500 feet

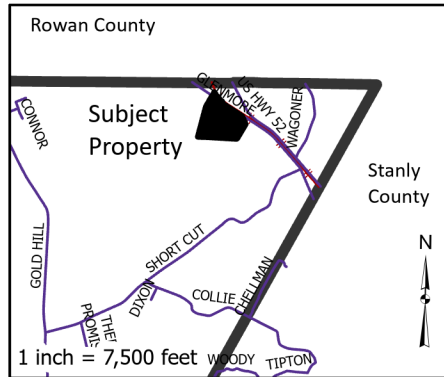




# Eastern Planning Area Zoning Map

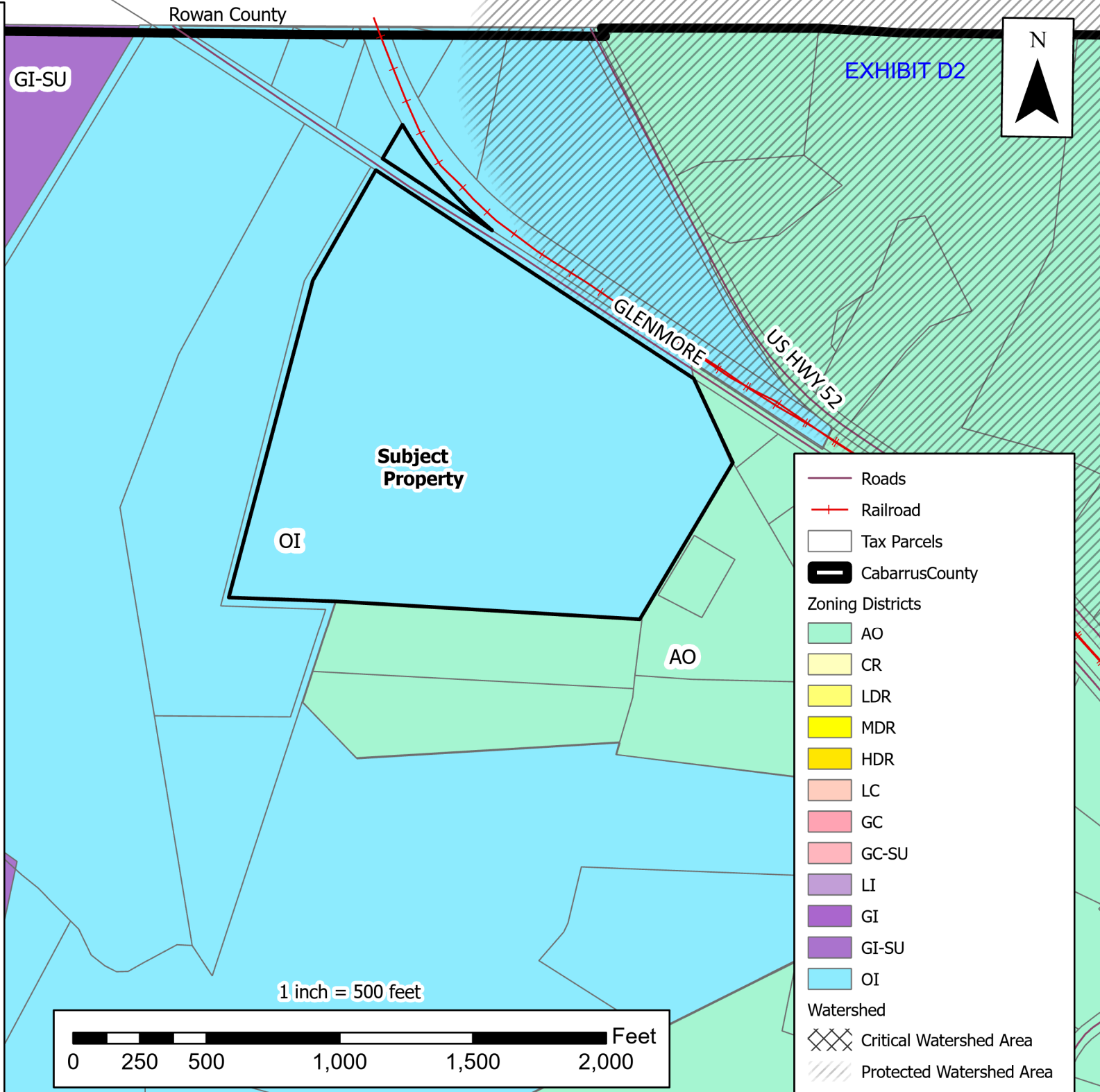


Applicant: Clement Hammill  
Hammill Logging  
Owner: Clement Hammill  
Hammill Logging  
Case: RZON2023-00001  
Address: 15730 & 15615 Glenmore Rd  
Purpose: OI to AO  
PIN: 6603-89-3130



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

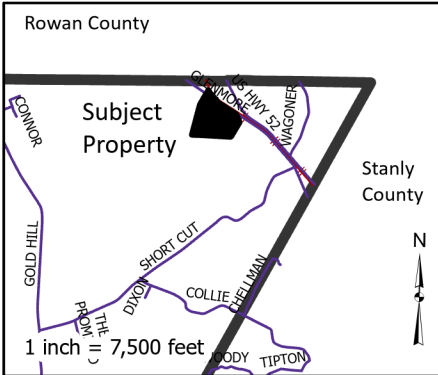
Map prepared by  
Cabarrus County Planning and Development  
February 2023



# Eastern Planning Area Future Land Use Map

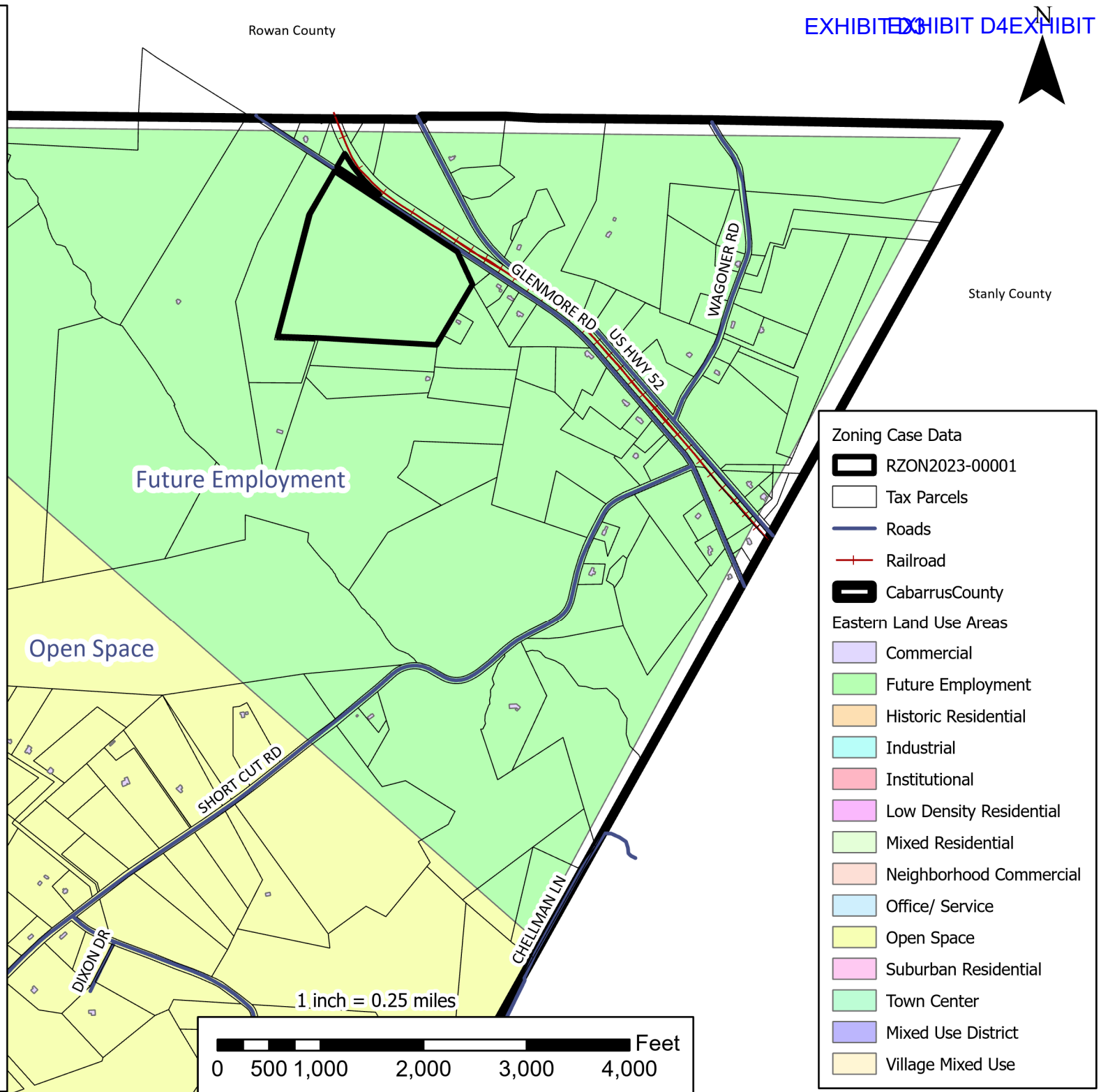


Applicant: Clement Hammill  
 Hammill Logging  
 Owner: Clement Hammill  
 Hammill Logging  
 Case: RZON2023-00001  
 Address: 15730 & 15615 Glenmore Rd  
 Purpose: OI to AO  
 PIN: 6603-89-3130



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

Map prepared by  
 Cabarrus County Planning and Development  
 February 2023



- Zoning Case Data**
- RZON2023-00001
  - Tax Parcels
  - Roads
  - Railroad
  - Cabarrus County
- Eastern Land Use Areas**
- Commercial
  - Future Employment
  - Historic Residential
  - Industrial
  - Institutional
  - Low Density Residential
  - Mixed Residential
  - Neighborhood Commercial
  - Office/ Service
  - Open Space
  - Suburban Residential
  - Town Center
  - Mixed Use District
  - Village Mixed Use

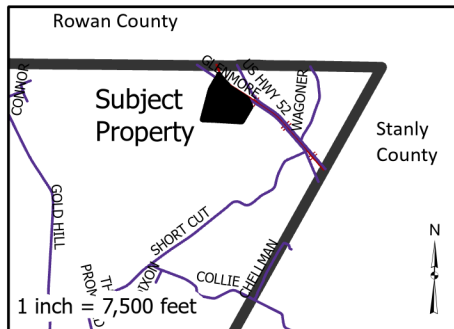


# Eastern Planning Area 2001 Aerial Map



Applicant: Clement Hammill  
Hammill Logging  
Owner: Clement Hammill  
Hammill Logging  
Case: RZON2023-00001  
Address: 15730 & 15615 Glenmore Rd  
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- <all other values>
- TaxParcels
- Streets
- Railroad
- Cabarrus County



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February 2023

ROWAN COUNTY

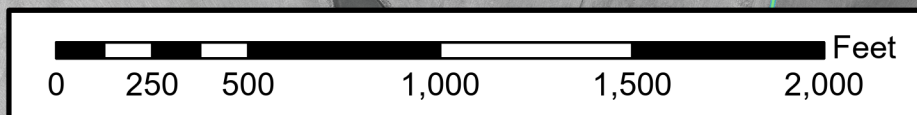
EXHIBIT D4

US HWY 52

GLENMORE RD

**Subject  
Property**

1 inch equals 500 feet

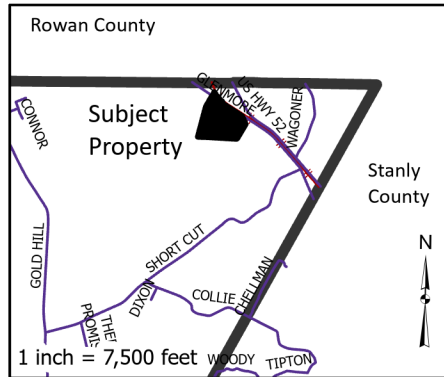




# Eastern Planning Area 2003 Zoning Map

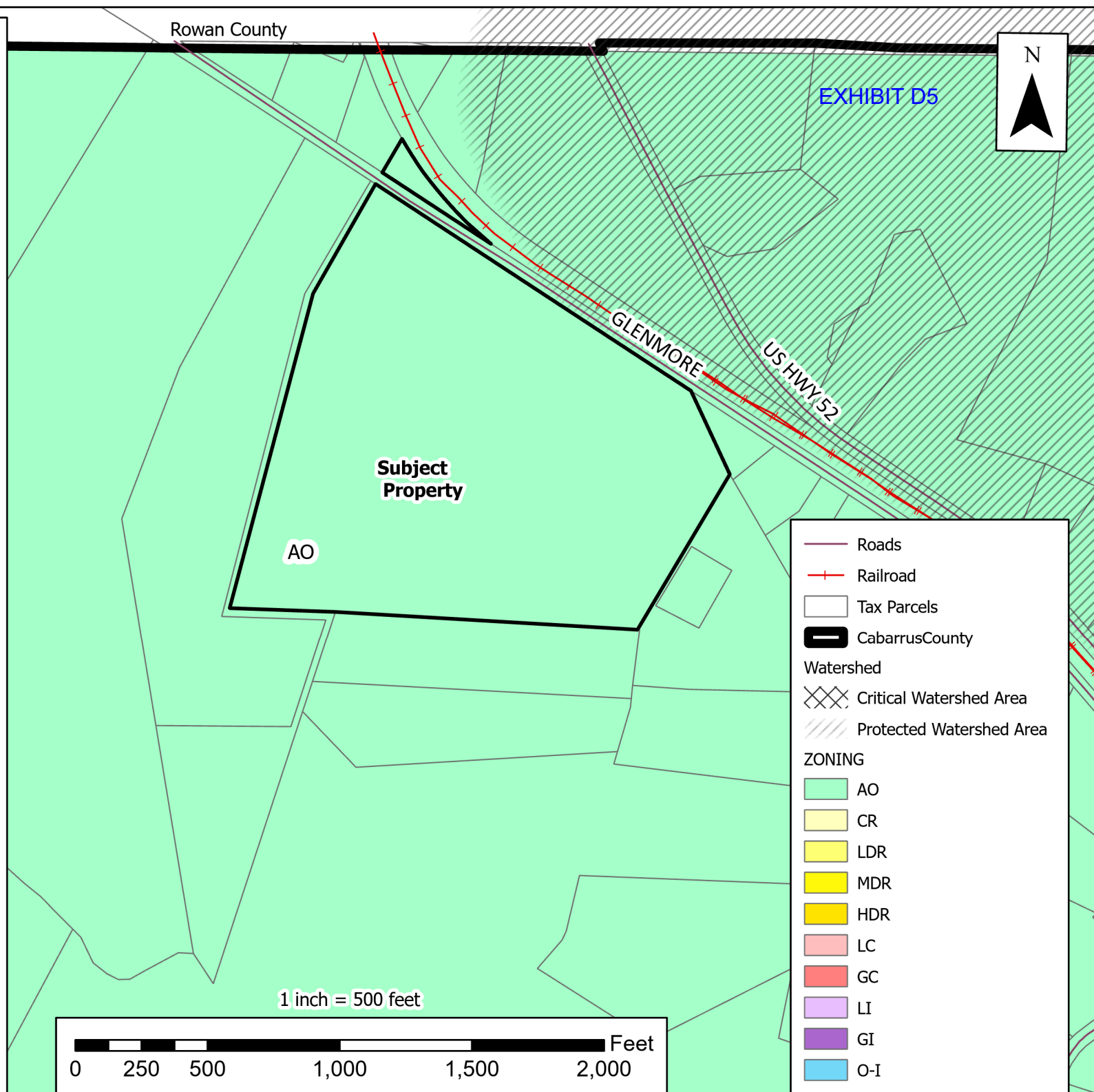


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February 2023



Strategic Plan for  
Economic Development Map

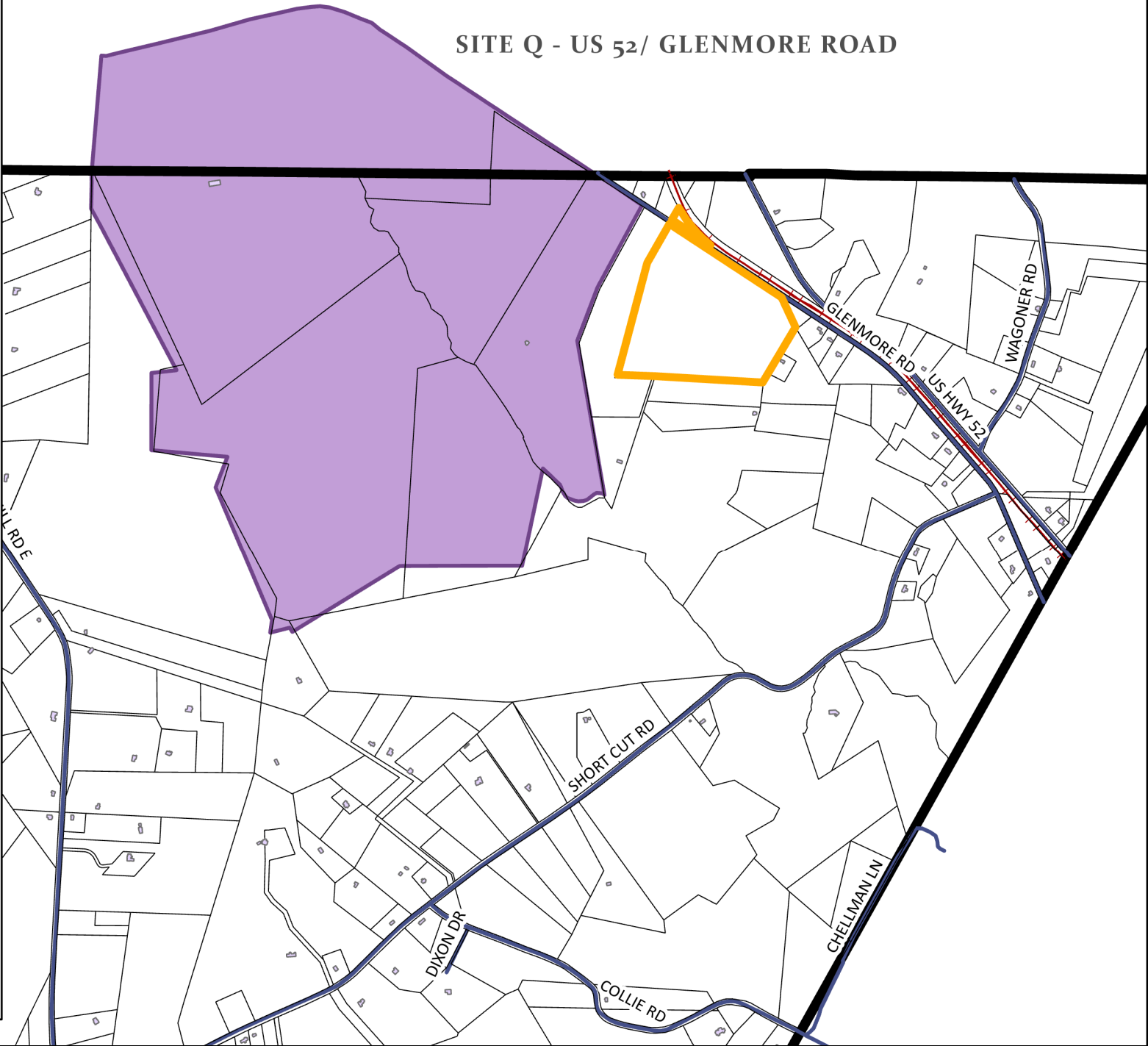
EXHIBIT D6



Applicant: Clement Hammill  
Hammill Logging  
Owner: Clement Hammill  
Hammill Logging  
Case: RZON2023-00001  
Address: 15730 & 15615 Glenmore Rd  
Purpose: OI to AO  
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### *Site Q - Glenmore Road*

PARCEL	PROPERTY OWNER	ACRES	LAND VALUE	BLDG VALUE	TOTAL VALUE
122200	YOUNG JOHN B	105.11	394040.00	125060.00	526000.00
123061	VULCAN LANDS INC	51.41	170370.00	0.00	170370.00
125096	VAUGHN ROBERT F SR	63.99	291840.00	43450.00	335290.00
125883	VULCAN LANDS INC	64.34	228680.00	0.00	228680.00
126913	VAUGHN ROBERT F SR	156.79	456170.00	0.00	456170.00
<b>TOTAL</b>		<b>441.64</b>	<b>1541100.00</b>	<b>168510.00</b>	<b>1716510.00</b>

***US52/Glenmore Road (Site Q)***

Location:	Northeast corner of County, south side of Glenmore Road
Size:	500 acres
Character:	Open rural area with unique mineral resources
Jurisdiction:	Cabarrus County
Zoning:	AO (agricultural open)
Potential:	Mining and production of lightweight structural aggregate; residual dust material can be used for the production of cultured stone
Other:	Site is served by US52, Glenmore Road, and a rail line

***High Priority Site Opportunities***

Of the 17 potential sites evaluated, the following nine stand out as presenting significant opportunities for development:

- I-85/Weddington Road/Pitts School Road (Site A)
- Derita Road (Site B), including Cristenbury Farm
- I-85/Kannapolis Parkway/Goodman Road (Site C)(incl. Afton Ridge project)
- US29/George Lyles Parkway Extension (Site G)
- NC49/Stough Road Area (Site I)
- Rocky River Road/County Line (Site K)
- NC24-27/County Line/Midland Area (Site L)
- Pillowtex Plant Site #6, Concord (Site O)
- Pillowtex Plant Site #1 & #4, Kannapolis (Site P)(proposed NCRC)

***A Cabarrus Technology Park.*** Sites G and K present the best opportunities for development of a Cabarrus Technology Park as a successor to the 3,200-acre University Research Park in Charlotte, which is substantially built out. Meanwhile, UNC Charlotte continues to expand its advanced and applied technology facilities and programs, which in past years have attracted a number of firms to the Research Park. It is an opportune time for Cabarrus County to assert itself as the optimal location for development of the next University-oriented technology park, given the close proximity of the County to UNC Charlotte.

The US29/George Lyles Parkway Extension area (Site G) is an attractive option because of the abundance of undeveloped compatibly zoned land, including the attractive campus-style Philip Morris property, and connections provided by US29 to I-485 and by the future George Lyles Parkway to I-85. The Leak-Goforth team recommends that the





## Cabarrus County Government – Planning and Development Department

February 20, 2023

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, March 14, 2023 at 6:30 PM in the 2<sup>nd</sup> floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S Concord, NC 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about the rezoning request, I encourage you to attend this meeting.

<b>Petitioner</b>	<b>Clement Hammill, Hammill Logging</b>
<b>Petition Number</b>	<b>RZON2023-00001</b>
<b>Property Location</b>	<b>15730 Glenmore Road</b>
<b>Parcel ID Number</b>	<b>6603-89-3130</b>
<b>Existing Zoning</b>	<b>Office/Institutional (OI)</b>
<b>Proposed Zoning Map Change</b>	<b>Agricultural/Open Space (AO)</b>

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2149.

Sincerely,

Sandy Howell, CZO  
Planner  
Cabarrus County Planning and Development  
704.920.2149





## EXHIBIT F

### Cabarrus County Government – Planning and Development Department

---

February 20, 2022

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for property **adjacent** to yours. The specifics of the request are listed below. The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, March 14, 2023 at 6:30 PM in the 2<sup>nd</sup> floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S Concord, NC 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about the rezoning, I encourage you to attend this meeting.

<b>Petitioner</b>	<b>Clement Hammill, Hammill Logging</b>
<b>Petition Number</b>	<b>RZON2023-00001</b>
<b>Property Location</b>	<b>15730 Glenmore Road</b>
<b>Parcel ID Number</b>	<b>6603-89-3130</b>
<b>Existing Zoning</b>	<b>Office/Institutional (OI)</b>
<b>Proposed Zoning Map Change</b>	<b>Agricultural/Open Space (AO)</b>

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2149.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sandy Howell".

Sandy Howell, CZO  
Planner  
Cabarrus County Planning and Development  
704.920.2149

**HAMMILL LOGGING INC.**

6007 ST. STEPHENS CH. RD.  
GOLD HILL, N.C. 28071  
704/279-0886

January 21, 2023

Dear Landowner:

My name is Clement Hammill with Hammill Logging Inc. I own 51.05 acres of land on 15730 Glenmore Rd. Gold Hill. I am in the process of rezoning the land from office institution (OI) back to farming open (A-O), the way the land was zoned when I bought it. Cabarrus County sent me the names and addresses of all the landowners that join my land. This letter is to let you know that I am in the process of trying to rezone. If for some reason you as a land owner joining me would like to speak with me about this rezoning please feel free to contact me @ 704-305-0002. If you have any concerns about this matter please call me before January 31st 2023.

Thank you

Clement Hammill

# HAMMILL LOGGING INC.

6007 ST. STEPHENS CH. RD.  
GOLD HILL, N.C. 28071  
704/279-0886

## 1- Robert Mishak

I spoke with Robert on the 23rd. of January 2023 and he had no problem with rezoning. He is remodeling his house to sell and sees no reason why we could not rezone in his opinion.

## 2- Vulcan Lands Inc.

I spoke with Mrs. Kim Thomas on January 27th, 2023 out of the Winston Salem office. She brought the matter of the rezoning to the board for review. She called to say all was clear with Vulcan Lands Inc. to rezone with no problems.

## 3- Teresa Jacobs

I spoke with Mrs. Jacobs on January 23rd. 2023 and she had no problem with the rezoning. She has some land that she might want to have rezoned so no conflict with rezoning our land.

# HAMMILL LOGGING INC.

6007 ST. STEPHENS CH. RD.  
GOLD HILL, N.C. 28071  
704/279-0886

## 4- Zachary Jones

I spoke with Mr. Jones the morning of January 24th 2023. Mr. Jones just bought the house and land that joins us. He would have liked to have bought the land we own but had already bought his. He likes the land we own. He does not have a problem with our rezoning.

## 5- Gerald Smith

I spoke with Mr. Smith on January 23rd. 2023 that afternoon. He owns approx. 1 1/2 acres joining us. He has a small house and is fixing it up as a weekend getaway for him and his wife. He likes our land and does not see a problem with our rezoning. He also respects our decision to rezone.

# HAMMILL LOGGING INC.

6007 ST. STEPHENS CH. RD.  
GOLD HILL, N.C. 28071  
704/279-0886

6- I spoke with Ruth Hammill on January 23, 2023. She has no problem with us rezoning. She has turned her land over to her daughter Donna Miller + Son in law David Miller to manage since her husband passed away about 3yrs ago. She told me to contact them about this matter. Talked with David the same evening and they have no problem with us rezoning. They are also having land rezoned that they own.

7- Ronnie + Tammy Miller  
No response to our letter

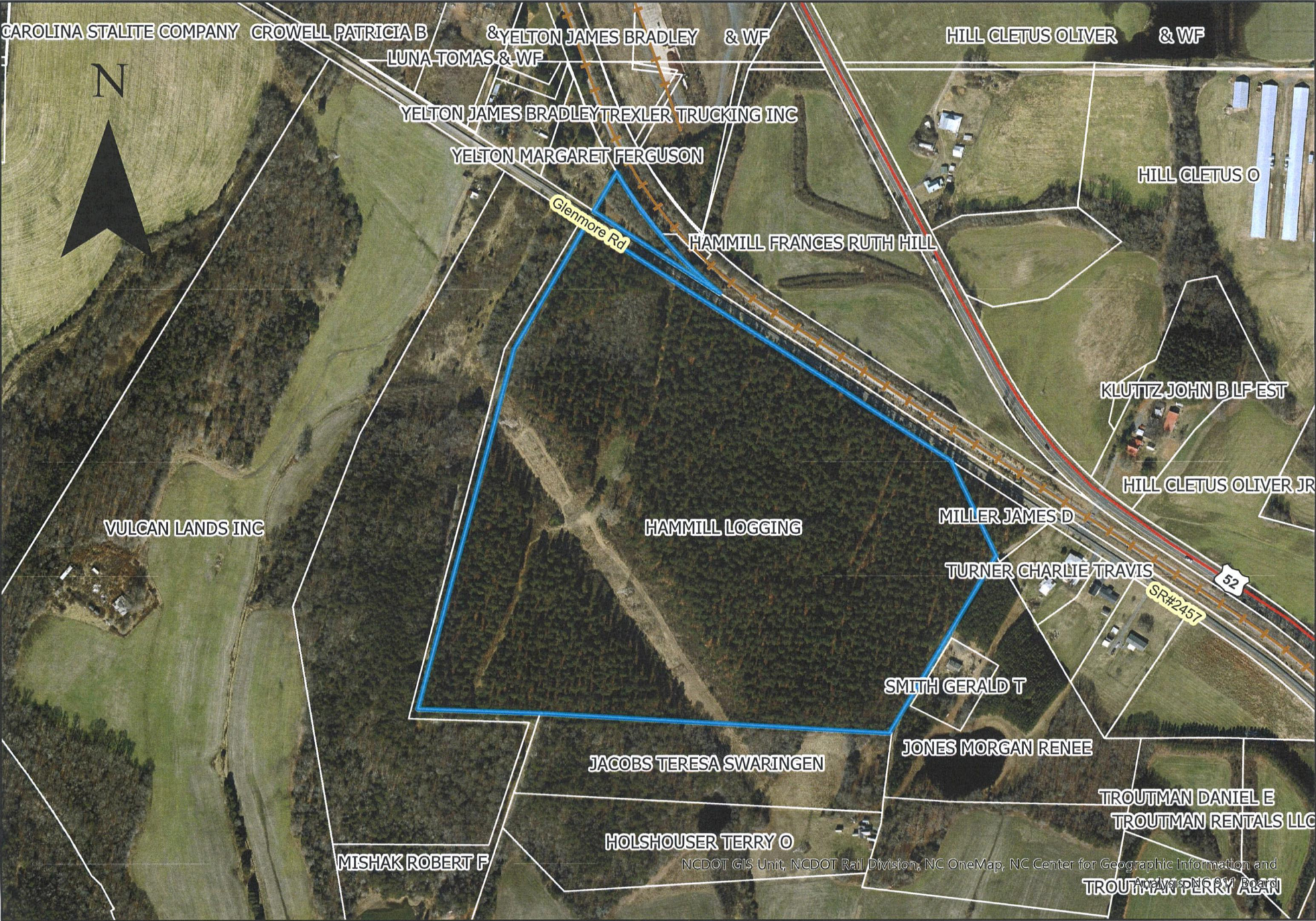
8- Charlie Turner  
No response to our letter

9- James Yelton  
No response to our letter



HAMMILL LOGGING COMPANY, INC.

EXHIBIT G2





## EXHIBIT G3

PIN	Owner	Number	Address	City	State	Zip
6603-77-4504	Robert and Jessica Mishak	15680	Glenmore Rd.	Gold Hill	NC	28071
6603-79-4130	Vulcan Lands Inc	1200	Urban Center Dr.	Vestavia	AL	35242
6603-88-4225	Teresa Jacobs and Rickey Swaringen	755	Barringer Rd.	Salisbury	NC	28147
6603-99-3091	Ronnie and Tammy Miller	605	Pecan St.	Rockwell	NC	28138
6603-98-4407	Zachary and Morgan Jones	15940	Glenmore Rd.	Rockwell	NC	28071
6603-98-5828	Charlie Turner	15900	Glenmore Rd.	Rockwell	NC	28071
6604-70-7388	James Yelton	15501	Glenmore Rd.	Rockwell	NC	28071
6603-98-2511	Gerald and Paula Smith	6836	Clara Circle	Concord	NC	28025
6603-89-9756	Jerry and Frances Hammill	5131	St. Stephens Church Rd.	Gold Hill	NC	28071
6603-89-3130	Hammill Logging	6007	St. Stephens Church Rd.	Gold Hill	NC	28071

PERMITTED USE TABLE		
"P" - Permitted, "C" - Conditional, "PBS" - Permitted Based on Standards		
	AO	OI
<b>RESIDENTIAL USES</b>		
Family Care Home	P	
Group Care Facility		P
Manufactured Home, Single Section or Mobile Home, Multi-Section	Permitted in Residential Districts, Manufactured Home Overlay District Required – see Chapter 4	
Manufactured Home Park (8-4, 14)		
Single Family Detached Residential		
	P	
<b>AGRICULTURAL USES</b>		
Agriculture, Including Livestock (7-3,2A)	P	
Agriculture Excluding Livestock	P	
Agritourism, Accessory to Agriculture	P	
Barn, Greenhouse, as Primary Structure (7-3, 7)	PBS	
Dairy Processing	P	
Livestock Sales	P	
Nursery, Greenhouse	P	
Scientific Research and Development, Accessory to Agriculture (7-3, 52)	PBS	
<b>ACCESSORY USES</b>		
Accessory Dwelling Unit (7-3,1)	PBS	
Accessory Building, (7-3, 1)	PBS	PBS
Airstrip	SU	
Automated Teller Machine (7-3, 6, b)		PBS
Community Garden, as Accessory Use (7-3, 13)	PBS	PBS
Ethanol Fuel Production, Residential District, Private Use Only (7-3, 20)	PBS	
Home Occupation, General (7-3, 27)	PBS	
Home Occupation, Rural (7-3, 28)	PBS	
Ice Production, Dispensing, Accessory to Convenience Store (7-3, 30)	PBS	
Ice Production, Dispensing, Accessory to Gas Station (7-3, 29)	PBS	
Kennel, Private (7-3, 31)	PBS	
Swimming Pool, Accessory to Single Family Residential (7-3,1)	PBS	
Towing Service, Accessory to Automobile Repair (7-3, 60, a-c)	PBS	
Trail Head, Accessory (7-3, 63)	PBS	PBS
Wind Energy Facility, Accessory Use, On Site Use Only (7-3, 66)	PBS	
<b>COMMERCIAL, RETAIL AND OFFICE USES</b>		
Animal Hospital (8-4, 39)	SU	
Auction House (7-3, 3)	PBS	
Bank, Financial Institution, Automated Teller Machine (7-3, 6)		PBS
Banquet Hall		P
Barber, Beauty, Tanning, Nail or Skin Care Salon		P
Bed and Breakfast (7-3, 8)	PBS	
Catering Service (7-3, 9)		PBS
Contractor or Trade Shops (7-3,17)	PBS	
Convenience Store with Petroleum Sales (7-3, 14)	PBS	
Convenience Store without Petroleum Sales (7-3, 15)	PBS	
Country Club with Golf Course (7-3, 16)	PBS	PBS
Crematorium		P
Day Camp, Summer Camp, Civic Group Camp Facility (8-4, 10)	SU	
Duplex, Commercial Use, Individual Lots (7-3, 19)		PBS
Farmer's Market		P
Funeral Home		P



Gas Service Station (7-3,23)	PBS	
Golf Course, Public or Private (7-3, 24)	PBS	PBS
Kennel, Commercial (8-4, 37)	SU	
Nursery, Daycare Center (7-3, 35)	PBS	PBS
Office professional, 30,000 Square Feet or Less		P
Parking Lot, Parking Garage, Commercial or Private		P
Printing and Reprographic Facility		P
Race Shop, Race Team Complex (8-4, 19)	SU	
Reception Facilities (8-4, 21)	SU	
Recreational Facility, Indoor (7-3, 39)		PBS
Recreational Facility, Outdoor (8-4, 22)	SU	SU
Recreational Therapy Facility, Rural Setting (8-4, 23)	SU	
Recyclable Materials Drop Off (7-3, 41)	PBS	PBS
Repair Garage, Automobile (7-3, 43)	PBS	
Repair Shop, Farm Machinery (7-3, 44)	PBS	
Repair Shop, Small Engine (7-3, 45)	PBS	
Restaurant, Excluding Drive-thru (7-3, 47)	PBS	
Retail Sales, Neighborhood Market 1,000 Square Feet or Less (7-3, 49)	PBS	
Sawmill (7-3, 51)	PBS	
Scientific Research and Development (7-3, 53)		PBS
Shooting Range, with Outdoor Target Practice (8-4, 30)	SU	
Sports and Recreation Instruction or Camp (8-4, 31)	SU	
Stables, Commercial (7-3, 58)	P	
Swim Club, Tennis Club, Country Club (7-3, 59)	PBS	PBS
Towing Service, with Towed Vehicle Storage Yard, No Salvage or Part Sales (7-3, 61)		
Veterinarian (8-4, 37)	SU	
Wellness Retreat, Wellness Spa (8-4, 38)	SU	
Wireless Telecommunications Services (8-4, 36)	SU	SU
Wireless Telecommunications Services, Stealth Antennae, 65 Feet or Less (8-4, 36)	P	P
Wireless Telecommunications Services – Co-location (7-3, 67)	PBS	PBS
<b>INSTITUTIONAL, CIVIC AND PUBLIC USES</b>		
Animal Shelter (8-4, 37)	SU	
Cemetery (7-3, 10)	PBS	
Civic Organization Facility (7-3,11)	PBS	P
College, University (8-4, 6)	SU	
College, University		P
Communications Tower, 911 Communications Tower (7-3,12)	PBS	
Communications Tower, 911 Communications Tower (8-4, 7)		SU
Convention Center Facility (8-4, 8)		SU
Correctional Facility (8-4, 9)	SU	
Elementary, Middle and High Schools (8-4,11)	SU	SU
Hospital, Ambulatory Surgical Care Facility		P
Public Cultural Facility (7-3, 38)	PBS	P
Public Service Facility (8-4, 17)	SU	SU
Public Use Facility (8-4, 18)	SU	
Public Use Facility		P
Recreational Trail, Greenway or Blueway, Connector (7-3, 40)	PBS	PBS
Religious Institution with Total Seating Capacity 351 or More (8-4, 24)	SU	SU
Religious Institution with Total Seating Capacity 350 or Less (7-3, 42)	PBS	PBS
Religious Institution with School (8-4, 25)	SU	SU
Rest Home, Convalescent Home with 10 Beds or Less (7-3, 46)	PBS	PBS
Rest Home, Convalescent Home with More Than 10 Beds (8-4, 26)	SU	SU
Trade and Vocational Schools (8-4, 33)	SU	SU

Trail Head, Primary Use Site (7-3, 64)	PBS	PBS
<b>INDUSTRIAL</b>		
Landfill, Demolition, Less Than One Acre (7-3, 32)	PBS	
Landfill, Demolition, One Acre or More (8-4, 13)	SU	
Landfill, Sanitary (8-4, 13)	SU	
Multimedia Production and Distribution Complex (8-4, 15)	SU	
Slaughter House, Meat Packing (8-4, 32)	SU	
<b>TEMPORARY USES</b>		
Auction, Estate or Asset Liquidation	PBS	PBS
Auction, Livestock	PBS	
Dumpsters, Commercial Waste Containers	PBS	PBS
FEMA Trailers, Natural Disaster or Significant Weather Event	PBS	PBS
Mobile Personal Storage Unit, Vacate or Occupy Premise	PBS	PBS
Mobile Personal Storage Unit, Renovation	PBS	PBS
Seasonal Sale of Agriculture Products, Includes Christmas Trees and Pumpkins		PBS
Temporary Residence in Mobile Home During Construction of New Home, Same Site	PBS	
Temporary Tent or Temporary Structure, Including Cell on Wheels		PBS