



Cabarrus County Government

Cabarrus County Planning and Zoning Commission
Tuesday, April 8, 2025 @ 6:30 p.m.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval of Meeting Minutes for October 8, 2024.
3. Approval of Meeting Minutes for November 12, 2024.
4. Approval of Meeting Minutes for January 14, 2025.
5. New Business Planning & Zoning Commission:
 - A. **Petition RZON2025-00001**-Request to Place AO Zoning on 2.5 Acres Removed from Mount Pleasant Extra-Territorial Jurisdiction per Town Ordinance. Owners of the property are Thomas & Amanda McKenzie. The address associated with the subject property is 375 Mt. Pleasant Rd. N (PIN:5671-02-9051).
6. New Business Board of Adjustment:
 - A. **Petition VARN2025-00003** –Variance request for setback requirements of Chapter 5 for existing accessory structure. John Tretow and Ellen Carnes are applicants/owners. The address associated with the subject property is 5139 Navion Place (PIN: 5559-67-0264). **REQUEST TO TABLE**
4. Legal Update
5. Director's Report
6. Adjourn

Cabarrus County Government – Planning and Development



Planning and Zoning Commission Minutes October 8, 2024

Mr. Charles Paxton, Chair, called the meeting to order at 6:30 p.m. Members present, in addition to the Chair, were Mr. Jeff Corley, Mr. Adam Dagenhart, Mr. Chris Pinto, Mr. Brent Rockett, Mr. Stephen Wise, Mr. Michael Bywaletz. Attending from the Planning Department were, Mr. Phil Collins, Senior Planner, Ms. Susie Morris, Planning Director and Mr. Chris Chapman, Planner. Also in attendance, were Ms. Lauren Linker, Clerk to the Board of Commissioners. Absent from the meeting were Ms. Holly Edwards, Mr. Andrew Nance and Mr. Mohammed Idlibi.

ROLL CALL

Ms. Susie Morris, Planning & Development Director, called the role.

APPROVAL OF MEETING MINUTES FOR AUGUST 13, 2024

The Chair, Mr. Charles Paxton, asked if there were any corrections or additions. There being none, Mr. Bywaletz, **MOTIONED, SECOND** by Ms. Ingrid Nurse to **APPROVE** the Meeting Minutes for August 13, 2024. The vote was unanimous to **APPROVE**.

APPROVAL OF GRANTING ORDER AND FINDINGS FOR VARN2024-00001

The Chair asked if there were any corrections or additions. There being none, Mr. Corley **MOTIONED, SECOND** by Mr. Dagenhart to **APPROVE** VARN2024-00001. The vote was unanimous to **APPROVE**.

RULES OF PROCEDURE

The Chair asked if there was a motion to approve the Rules of Procedure. Mr. Corley **MOTIONED, SECOND** by Mr. Dagenhart to **APPROVE** the Rules of Procedure. The vote was unanimous to **APPROVE**.

RZON2024-00005-Request to Rezone Property from Office/Institutional (OI) District to Agricultural/Open Space (AO)

The Chair called on Mr. Phil Collins, Senior Planner, to present the Staff Report.

STAFF REPORT

Mr. Collins said, the applicant's name for this rezoning is Wendell Rummage and the owners of the property are Peggy Sams and Bobby Jenkins. The request is to rezone the property from OI (Office/Institutional) to AO (Agricultural/Open Space). Currently all the uses permitted in the allowed district are permitted within the subject property. If the rezoning is successful, all uses permitted within the AO district will be permitted within the subject property. Exhibit F was included in your packet of information to show the different uses comparing the two. The subject property is approximately five acres in size and located on the northwest side of Short Cut Road. It is part of the 59.87-acre parcel. Most of which lies on the southeastern side of Short Cut Road. The entire tract is in the county's Present Use Value Program, more specifically the Forestry Program. The subject property and nine acres on the other side of Short Cut Road were harvested back in 2019. If the subject property is built upon, it will be removed from the PUV Program and the owner will need to reapply to keep the remaining acreage in the Program.

An intermittent stream traverses the front portion of the subject property from a southwesterly to northeasterly direction parallel to Short Cut Road. The stream feeds into Long Creek, just north of the subject property and the subject property is currently vacant. Agriculture uses surround the subject property on all sides. There are also residential uses on the south and west sides. The subject property is surrounded on all sides by AO zoned properties. There are also OI zoned properties to the north and west of the subject property.

The property will need to be served by well and septic, as public utilities are not allowed within the AO District. The Ordinance states the OI District intended to accommodate relatively, low intensity Office/Institutional Uses at intensities complementary to residential land use. The district serves as a transitional district between Residential Land Uses and higher, intense non-residential land uses.

With regards to the AO District, the Ordinance states that the AO District is comprised mostly of land usually found on the eastern side of the county. 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. The primary activity of these lands is agricultural. Housing and business are typically related to and supportive of the practice of modern-day agriculture. However, it is not improbable that a small, hamlet type settlement may evolve in the zoning district.

As to those areas constituting open space, man-made uses must take care to enhance and not distract from the essential character of the area. The Ordinance also offers the following rationale for the AO District:

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 public policy makers to prudently attempt farmland preservation unless a matter of market economics is the concept of retaining unspoiled, undeveloped lands for future generations to enjoy.

During the review, we don't usually provide the comments because there's not a lot. This time the NCDOT commented that the property owner will need a permit from the NCDOT if the subject property is used for commercial, business purposes or if they build a house to sell. The driveway will also need to be placed in a safe location. With this being a conventional rezoning, we can't really place any conditions on that. I mentioned they will have to subdivide and during the subdivision, we will address that.

Also, the Soil and Water Conservation District stated that there is a Conservation Easement across from the property on Short Cut Road, which you can see in Exhibit C. (Pointing to the map) there are also wetlands within the tax parcel on the southeast side. This is the Conservation Easement.

Subject property is located within the vicinity of US-52/Glenmore Road area, which was included in a list of seventeen sites for potential, economic development opportunity in the 2006 Strategic Plan for Economic Development. The US-52/Glenmore Road area was included due to its proximity to US-52 and a rail line and its potential for mining and production of lightweight, structural aggregate. If you look at Exhibit G, you will see that the property is located right there (pointing to map).

The subject property is also in the Eastern Land Use Planning area. The Eastern Land Use Plan designates the subject property and other properties in the northeast corner of the county 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 US-52 and the rail line.

In conclusion, the site is vacant, wooded and zoned OI. The site is currently used for agricultural purposes and is the county's Present Use Value Program. The property has been in the PUV Program since 1984 according to tax records. The subject property is a portion of the larger tract, 59.87-acre tract, located on both sides of Short Cut Road and is zoned Agricultural Open Space District. Agricultural uses are not permitted within the OI District. Therefore, a rezoning of the subject property would be more in line with bringing the current use of the property into compliance with the current in Ordinance.

In 2005, several counties were zoned to the newly, created Office/Institutional District. Creation of the OI District and rezoning was prompted to be the ongoing Leak Goforth Study that identified potential sites for future employment, industrial development opportunity. The study would later be adopted as the Cabarrus County Strategic Plan for Economic Development in March 2006. Subject property was included in the rezoning and expansion of the area was identified in the study as Site Q.

The proposed rezoning is not consistent with 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 Vulcan Quarry to the northwest. For the most part, the remaining properties in this area are used and developed for agricultural and residential purposes. Most residences were constructed and many of the properties were used for agricultural purposes prior to the establishment of county zoning in 1982 and prior to the OI rezoning in 2005. Residentially- zoned properties border the subject property to the northeast, south and west. The property is bordered to the north and northwest by properties zoned OI. Industrially-zoned property lies approximately one-half mile to the northwest of subject property and that's Vulcan.

Again, this is conventional rezoning request. Therefore, all uses permitted within the AO District would be allowed on the subject property, if approved. Planning and Zoning Commission should consider all information provided and determine if the rezoning is consistent with the Commission's vision of this area of Cabarrus County. I will take any questions you might have.

The Chair asked if there were any questions.

Mr. Bywaletz said, on Exhibit C there's a light blue coloring around the triangle. What does that represent?

Mr. Collins replied, the black designates the area to be rezoned. There's OI to the north and to the west. It would all pretty, much just be one AO District.

The Chair called on the applicant to speak.

Mr. Wendel Rummage stated, I'm a real estate agent in this area and I represent Ms. Sams and Mr. Jenkins project. There just wanting to subdivide this property with the intent to sell it on the market and have someone buy it and make a homestead there. We did get a soil scientist to go out and give us some information so we could proceed with the listing. Obviously, we can't list and sell it, if it's OI, for a residential property. So that's why we're here tonight seeking the possibility of getting this rezoned so we can slice off a little piece of that 59 acres and use the property for someone to build a home.

The Chair asked if there were any questions for the applicant. There being none, the Chair opened the public hearing and called on Mr. Bobby Jenkins to speak.

Mr. Jenkins said, we just want to sell it so that we can have it rezoned for a house.

The Chair asked Mr. Jenkins to please state his address.

Mr. Jenkins replied, 533 Crestview Drive, Albemarle, North Carolina. Thank you.

The Chair asked Mr. Rummage if he was speaking in favor or against the request.

Mr. Rummage replied, I live at 3101 Fairmead Drive in Concord and I am for this rezoning.

The Chair asked if there was anyone speaking against the request. There were none.

The Chair asked if there were any additional comments or questions. There were none, the Chair closed the public hearing and opened discussion for the proposed request.

Mr. Corley said, I think the main thing here obviously, is that the current use of the property isn't working. It was not developed the way those original plans thought it was going to. So, the proposed use appears, while inconsistent with the plan, does appear to be consistent with the way the rest of the area has developed. What was mentioned by the applicant appears to certainly be compatible with the surrounding area.

The Chair asked if there were any other comments.

Mr. Dagenhart said, I would also like to add, it's not just the infrastructure, there are no negative impacts on the resident's property.

The Chair asked if there were any other questions or comments. There being none, the Chair asked if there was a motion to approve or deny the request for rezoning.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Adam Dagenhart to **APPROVE** the rezoning request from Office Industrial (OI) to Agricultural/Open Space (AO). The vote was unanimous to **APPROVE**.

CONSISTENCY STATEMENT

The Chair stated that the next step would be the consistency statement.

Mr. Rockett said, I think we got pretty close on that one, so I'll start. This rezoning is reasonable in the public interest. The current use of the property is more compatible with the proposed zoning than the existing zoning. The surrounding area is not developed in the way that the Eastern Area Land Use Plan had anticipated. Although, it is not consistent with Eastern Area Land Use Plan. However, it is consistent with the way the rest of the area has developed, and its use is consistent with the surrounding properties in the area.

Mr. Dagenhart added, it is not detrimental to the infrastructure, character of the area or the creating of any negative impacts.

The Chair asked if there were any other comments. There were none.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** the Consistency Statement. The vote was unanimous to **APPROVE**.

PLOTHER2024-0008-Automatic Amendment to Adopted Land Use Plans Due to Approval of Rezoning Requests by the Planning and Zoning Commission

The Chair stated the next item on the Agenda is the Amendment to Adopted Land Use Plans due to approval of rezoning requests by the Planning and Zoning Commission.

The Chair called on Ms. Susie Morris to present the item.

Ms. Morris said, as you all are aware, prior to 160-D, there were some changes to the legislation that said if you had an adopted land use plan and if you approved something that was inconsistent with that plan, it was considered an automatic amendment to that land use plan. If you remember, we had one batch that came to you in 2021. The item that you have before you this evening is the rezonings that occurred between January 2022 and December 2023. No 2024 cases are included.

You have a list that is color coded to show you the eight proposed rezonings that we had during that time. Out of those, seven were inconsistent with the plans.

If you remember, we had a land use plan committee that we had set up for the last review. The committee did not review the list this time, but Staff did review it and the reason that you all had the cases and proposed zoning changes and approved the changes was because over the course of those two years, you had a lot of rezonings cases that were for properties that existed in areas of the county where the zoning was inconsistent with what they were doing, or with what was built on the property.

At this point, there are no recommendations to change the actual land use plan to accommodate what is happening. It is more to be aware that the proposed and approved, rezonings were to recognize things that already existed, not that there were incompatibility issues or anything like that showing up in the land use plans.

In the Central planning area, we had two rezonings. One was consistent, the other one was not. In the Northwest planning area, we had two, and both of those were inconsistent with the plan. In the Midland Planning area, we had one that was inconsistent with the plan. In the Eastern area, we had two that were inconsistent with the plan. In the Western area, we had one and that was inconsistent with the plan.

As you can see on your list, and some of these may be familiar to you, there's a brief description, with the Central Area Plan, you know one was Alan Volunteer Fire Department and then one was Ms. Sigmon and Ms. Fisher. They were the ones who had that residential property at the corner that was rezoned to commercial. Allen Fire Department, they were over on their impervious and they wanted different signage. These rezonings were corrective actions to fix a lot of those things with those specific properties.

In the Eastern Area, one was the church, where they needed that corrective action again on their impervious and rezoned to OI, and then the other one was an OI to AO closer up to the Vulcan site. If you remember that one, because again that area has not developed as anticipated.

The Midland Area, that one was a change from LC to CR. That was the one where, if you recall, it was the family property and the gentleman wanted to build a house with the access point towards the back.

The Northwest Area Land Use Plan again, one was the church and then, actually both were for churches, that were out of compliance.

With the Western Area Plan, that one is the one that we dealt with several months in a row, Evolution Aquatics, and it was originally proposed and constructed as an indoor recreation facility. They then wanted to add those outdoor facilities. That is the one that's over off of Eastfield by the original Sky Brook.

Essentially, what we did the last time is the same that we will do this time. The list and then the maps that were included in your packet will be provided as a supplement to that particular Land Use Plan. That way we have a record of the rezonings that need to be incorporated into the land use plan the next time that it is updated, but also we have that short list so that if we are doing a staff report for rezoning or if the general public is looking at that information, they will also know that something may be different from what is shown in our actual plan.

Ms. Morris said, the requested action this evening would be a motion to approve the supplements to be added to the individual land use plans, that there is no corrective action, and no further action needed with the overall adopted land use plan documents.

I'd be happy to answer any questions you might have.

The Chair asked if there were any questions. There being none, the Chair called for a motion.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Jeffrey Corley to **APPROVE** the supplements being added to the land use plans. The vote was unanimous to **APPROVE**.

DIRECTOR’S REPORT

The Chair called on Ms. Morris to provide the Director’s Report.

Ms. Morris said, I don't have anything official. I did want to introduce you to our new Planner on staff. His name is Mr. Chris Chapman. He's a graduate of UNCC with a geography degree. He will be presenting staff reports and helping us with our daily business. He has been with us for six or seven weeks now.

We are very happy to have him because those of you that are involved in the hiring process these days know that it can take a very long time to find the right candidate for a position. We are excited to have him and want to officially welcome him.

We do have one other position open, an admin position. If you know anybody that is looking for that type of a position that has a legal background or transcription, the position is posted. That's all I have. Thank you.

The Chair asked if there was any other business to discuss. There being none, he called for a motion to adjourn.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Jeff Corley to adjourn the meeting at 6:57 p.m.

APPROVED BY: Charles Paxton, Chair

SUBMITTED BY: Lisa Johnson, Clerk to the Planning & Zoning Commission

ATTEST BY: Susie Morris, Planning and Development Director

Cabarrus County Government – Planning and Development



**Planning and Zoning Commission Minutes
November 12, 2024**

Mr. Charles Paxton, Chair, called the meeting to order at 6:30 p.m. Members present, in addition to the Chair, were Mr. Jeff Corley, Mr. Adam Dagenhart, Ms. Holly Edwards, Mr. Chris Pinto, Mr. Brent Rockett, Mr. Stephen Wise, Mr. Michael Bywaletz, Ms. Ingrid Nurse and Mr. Mohammed Idlibi. Attending from the Planning Department were, Mr. Phil Collins, Senior Planner, Ms. Susie Morris, Planning Director, Ms. Lauren Linker, Clerk to the Board of Commissioners. Also, in attendance was Mr. Richard Koch, County Attorney and Mr. Evan Lee, Poyner Spruill, LLP. Absent from the meeting was Mr. Andrew Nance.

Roll Call

Ms. Susie Morris, Planning & Development Director, called the roll.

APPROVAL OF RULES OF PROCEDURE

The Chair said, our first item is to consider the Rules of Procedure. At this time, I'm going to read the document so everybody can understand:

The Cabarrus County Planning & Zoning Staff shall first present the Staff report and answer questions from the Commission. There will be no time limit on this presentation. The applicant may make a presentation to the Board and will then answer questions from the Commission. There will be a fifteen-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. When the Board is ready to proceed, the proponents, those generally speaking in favor of the case, will have a total of fifteen minutes to speak and/or present documents in support of their position. The fifteen minute time limit does not include questions directed to the proponents by the Commission. After the proponents are finished, the opponents, generally speaking against the case, will have a total of fifteen minutes to speak or present documents in

support of the opposition. The fifteen minute time limit does not include questions directed to the opponents by the Commission. Each side will then have three minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker from the Board, will not count against the time limit. This will conclude the public hearing portion of the meeting, and the Commission will proceed to deliberation. 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 presentation to ensure that all persons wanting to speak shall have time to do so. If a speaker has questions for a person on the other side, such questions shall be addressed to the Commission members or to be directed to the person to be asked. There will be no questioning from one speaker to another, except through the Commission. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and shall be subject to the offender being removed from the building. Anyone speaking out of order shall likewise be subject to removal. These rules are designed to have a full and fair hearing that is orderly and expeditious and to avoid unnecessary, repetitious presentation.

The Chair called on the Board for a motion to Adopt the Rules. Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Chris Pinto to **APPROVE** the Rules of Procedure. The vote was unanimous to **APPROVE**.

The Chair said, anyone wishing to speak tonight shall stand and we'll have the swearing in.

Ms. Susie Morris said, if there's a remote chance you're going to speak, you need to stand to be sworn in.

BOARD OF ADJUSTMENT CASE SWEARING IN

The Chair gave the oath to the audience members wishing to speak.

NEW BUSINESS BOARD OF ADJUSTMENT

VARN2024-00003-Variance Request for Setback Requirements in Chapter 5 to Allow a Residence to Encroach into the Front Setback

Mr. Charles Paxton, Chair, stated we will now proceed to case number one: Variance 2024-00003. It is a Variance request for setback requirements in Chapter 5 to allow a

residence to encroach into the front setback. Douglas Summer is the applicant and owner. The address associated with the subject property is 1100 Oak Trail Circle.

The Chair stated if there are any board members that have a conflict of interest or information related to the Variance, it should be disclosed at this time. There being none, the Chair called on Mr. Phil Collins, Senior Planner, to present the case.

STAFF REPORT

Mr. Collins said, the purpose of this request is to seek relief from the 50-foot front setback requirement of the Agriculture Open Space District located in Chapter 5-District Development Standards- Section 5-5(b) Dimensional Standards. The applicant was issued permits to build a residence on the subject property in March of this year. That is in your packet as Exhibit E. A plot plan was submitted to zoning for permitting showing the residence outside of the 50-foot front setback. The applicant subsequently proceeded with construction and the contractor began installation of the footings. The Zoning Compliance Officer visited the site on September 10th to confirm that the residence was being constructed as shown on the zoning permit. It was determined at that time that the residence footing was encroaching into the front setback.

A perennial stream traverses the rear of the subject property from north to south and a water body buffer is required along that stream. There is special flood hazard area on the property. The footing of the dwelling under construction is on the outside of the special flood hazard area and the water body buffer. Adjacent land use consists of residential and vacant properties. The current zoning of the property is Agriculture Open Space District and is currently surrounded by AO properties on all sides. During the review process of this request, the Cabarrus Health Alliance submitted the following comments:

The Health Alliance has issued a construction authorization for this lot. Changes from the original design can result in revocation of the construction authorization.

That is also in your packet, part of Exhibit E, I believe. Regarding the history of the subject property, it has been vacant until construction of the residence began earlier this year. The applicant submitted a survey for permitting that confirmed the residence is located outside both the regulated special flood housing area and the water body buffer. It also showed the house located outside the 50-foot front setback. Oak Trail

Circle is not listed on the Cabarrus-Rowan MPO CTP index. Therefore, widening the facility is not scheduled for the foreseeable future.

The application states that the reason for the Variance request is the footing of the house was not poured per the instructions given. The footing is constructed correctly, but is not in the location or dimensions desired. The main body of the house was originally supposed to be 40 feet by 30 feet. It currently measures 39 feet by 31 feet and 9 inches. The footing was misplaced by 10 feet, which results in a portion of the garage being too close to the right-of-way. The application states that in order to correct the mistake made by the contractor, the entire foundation would have to be dug up, removed and soil recompacted. The application further states that the entire building process would have to start over, which is not economically possible and would result in a loss of monies already spent on construction. The applicant states that the location of the house on the subject property is driven by significant drop off to the rear of the lot, approximately 30 feet.

It is the applicant's belief that the contractor was trying to provide as much space as possible between the drop off and the rear of the house, which ultimately caused the setback encroachment. The application states the move was not necessary. However, had the unique topography not been present, the mistake would not have been made. The plans provided to the foundation contractor called for the house to be 40 by 30, but the foundation in fact measures 39 by 31 feet and 9 inches, as it is currently. The corners of the house weren't correctly marked. The contractor miscalculated the size and the location of the house. The applicant contends that the property is on a half-mile loop. There is no thru-traffic and residents are the only consistent users. It is the applicant's opinion that it is highly unlikely Oak Trail Circle would be widened or used as a thoroughfare. It is also the applicant's opinion that the Variance would not change the character of the neighborhood, nor have any negative effect on the immediate area or plans for the county. Should the Board of Adjustment grant approval of the Variance, the following conditions should be considered as part of the case record:

The Granting Order stating restrictions and applicable conditions of approval shall be recorded with the deed of the property.

With that, I'll try to answer any questions you might have.

Mr. Bywaletz asked, what is the impact of the current foundation for the proposed houses, not the same size as the house that is supposed to be built as?

Mr. Collins said, I will let the applicant address that one. He is here.

The Chair asked if there were any other questions.

Mr. Idlibi asked, do you have a footprint of where the foundation is and how far has it encroached?

Mr. Collins (showing on map) said the dashed line on the survey represents the 50-foot setback. Then it's showing right there, 9 feet and 9 inches.

The Chair asked if there were any other questions. There being none, the Chair called on the applicant to make his presentation. The Chair asked the applicant to please state his name and address for the record.

The applicant said, my name is Douglas Summer. My address is 1045 Oak Trail Circle, Concord, NC 28025. Thank you for hearing me tonight and I appreciate your time and consideration. As Phil stated, the house was originally correctly marked dimensionally and within variance of the zoning ordinance requirements. Again, I think the contractor was trying to do a good thing because there's a significant drop-off at the rear of the lot and I think he was trying to avoid that. There was no need to do it, there was plenty of room. It was set up and everything was marked correctly and that was our intention, to be in full compliance with all zoning requirements. When they came out and looked at it and started inspecting, we had a surveyor come out and survey it. The house was dimensionally incorrect. Nobody builds a house that's 39-feet wide. It was supposed to be 40-feet wide and setback where it would be within the requirements set forth by the Zoning Commission, but here we are. So, we are requesting a zoning Variance to allow us to afford building our house, my son's house.

When we first moved to Oak Trail Circle in 1980, it was dirt. They came through and put tar gravel on it. So, it's a tar gravel road. It's a loop off of Penninger Road. There's no thru traffic, and if you pull the county map up, my wife and I own most of what is left undeveloped on Oak Trail Circle. There's not going to be any more houses there, so it is what it is, at this point. I would appreciate and ask for your condolences in granting a variance to allow us to afford building his house, so that he can live on Oak Trail Circle, just like we have. Thank you, any questions?

The Chair asked if anyone had any questions.

Ms. Edwards asked, who was it that pinned and staked your corners, the contractor or the surveyor?

Mr. Summer said, we had a surveyor come out.

Mr. Wise asked, what's in the ground, just the concrete footings or is it foundation?

Mr. Summer said, footings and foundation. Yes, right now, it's just block, foundation and block. We didn't want to go any further until we had permission.

The Chair asked if there were any other questions.

Mr. Bywaletz asked, are you having to do architectural changes then?

Mr. Summers said, yes, we are. We originally planned for the house to be brick. We're trying to build it for him, so it's like a lifetime house. Because of the structure of the foundation, I mean of the footings; in order to make it all work, there's room to put the block, but there's not room to put the brick in front of the block at different points. At one point, the brick would've had a two-inch ledge to sit on if you wanted a straight wall, which we do. Instead of being brick, we were going to go with vinyl siding. So, we've had to change our plans due to the nature of what we've got.

The Board asked if there were any other questions.

Mr. Summer said, thank you very much for your consideration.

Mr. Charles Paxton, the Chair, said, we will open up the public hearing. The first will be those generally speaking in favor.

The Chair asked Mr. Walter to come forward and state his name and address for the record.

Mr. Walter said, Gary Walter, I live at 2301 Penninger Road. I really don't have much of a need to speak other than I do agree that Oak Trail is never going to be through traffic. It's never going to be widened. It's very rural, as Mr. Summer pointed out. I've been out there since 1964 on Penninger with my family. I moved away for a few years, but I've been there now for forty-two years. I'm speaking in favor of making this one exception for them and hope the Board will consider that. Thank you very much.

The Chair asked Mr. Summer if he had any other comments. There being none, the Chair said, at this point, we will have anyone speaking against the Variance.

There were none speaking against the Variance. The Chair asked if there any comments or questions for the applicant or the staff. There being none, the Chair proceeded with the meeting.

The Chair said, before we consider, I'm going to read the Variance request; the issue that we need to have under consideration:

A variance may only be allowed by the Commission in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports the following findings:

1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that in the absence of the Variance, no reasonable use can be made of the property.
2. The hardship resulted from conditions peculiar to the property, such as location, size or topography. Hardship resulting from personal circumstances, as well as hardship resulting from the conditions that are common to the neighborhood, or the general public, may not be the basis of granting a Variance.
3. The hardship did not result from the actions taken by the applicant for the act of purchasing property with knowledge that circumstances exist that may justify the granting of a Variance shall not be regarded as a self-created hardship.
4. The requested Variance is consistent with the spirit, purpose and the intent of the Ordinance, that public safety is secured, and substantial justice is achieved.

All of these findings of fact shall be made in the indicated order by the Commission, which is not empowered to grant a Variance without an affirmative finding of fact on all four categories above. Each finding of fact shall be supported by substantial material and competent evidence in the record of the proceedings before the Commission.

The Commission may impose reasonable conditions upon the granting of any Variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice done. Violation of such condition shall be a violation of this Ordinance.

The Chair said, here is a summary of the requests from the Staff Report:

The Variance request is for relief from the 50-foot setback on Agriculture Open Space Zoning District. The applicant was issued permits to build a residence in March of this year. A plot plan was submitted showing the residence outside of the 50-foot setback. The applicant subsequently proceeded with construction and the contractor began installation of the footings. The zoning officer noticed the footing looked too close to the road; that was confirmed. Footing is constructed correctly but is not in the location or dimension desired or as stated in the plot plan. The main body of the house was originally supposed to be 40 feet by 30 feet. It was dug and poured and currently measures 39 feet by 31.9 feet. The footing was misplaced on the site by 10 feet. This results in an encroachment and the garage part of the home being too close to the right-of-way. The front setback is supposed to be 50 feet.

At this time, we shall go through each of these and review or affirm any votes by the members to the approval. The Variance is supported by 4/5 or 80 percent of the vote.

The Chair asked if any of the Board members would like to start discussion.

Mr. Dagenhart said, I do have a question for the property owner. Is there any living space above the garage?

Mr. Summer replied, no sir. It's just a garage, single story, no living space.

The Chair asked if there were any other comments. There being none, the Chair proceeded to say, I would like to say that based on what I've heard, that it's definitely created a hardship and certainly was not on the part of the homeowner. That's a pretty, important point I'd like to make.

The Chair asked if there were any other questions.

Mr. Bywaletz said, it is true this will most likely not be widened to any kind of thoroughfare. This is a loop road. It will always be an independent area and not connect as a thoroughfare through anywhere. I hate to see the hardship that's caused by a surveyor. I've been through that on a roadway project that was a significant impact. The surveyor had to pay.

The Chair asked if there was any other discussion needed. There being none, the Chair said, I will entertain the motion to approve this.

Mr. Dagenhart said, I think we need to go through each one of these individually. We can't just approve or deny this. We probably need to discuss it more.

The Chair said, the first one is the unnecessary hardship would result from the strict application of the Ordinance and shall not be necessary to demonstrate that in the absence of the Variance, no reasonable use can be made of the property.

Mr. Bywaletz said, I do believe it is unnecessary hardship looking at the location of it. It would take the strict application of the 50-foot going back to 40-foot. Is it unnecessary for that to happen?

Mr. Dagenhart said, yes, but it states it would not make the property reasonable to be used if the Variance or Ordinance was applied.

Ms. Susie Morris addressed the Chair and reminded the board members to turn their microphones on when they are speaking so that it can be recorded.

Mr. Brent Rockett said, I think my struggle with this is it is not the Ordinance that has created the issue. I believe based on what I've heard it was not the surveyor. Based on Ms. Grimsley's question earlier, for clarification. It was clearly the contractor who was employed by the property owner. I am not a contractor so it's not my place to say this, but it appears multiple errors have been made here. One of which has created a hardship for the Ordinance. The Ordinance did not create the hardship. That's very unfortunate, but it's matter of fact.

The Chair asked, any other comments before we move on from number one. There being none, the Chair proceeded with number two.

The hardship resulted from a condition peculiar to the property, such as location, size or topography. Hardship resulting from personal circumstances, as well as hardship resulting from the conditions that are common to the neighborhood, or the general public may not be the basis of granting a variance.

The Chair asked if there were any comments.

Mr. Bywaletz said, I believe it was stated that even though the topography on the lot drops off in the back, there was additional room in the back in order to build the home in the correct location based on what was permitted. That hardship is really not there.

The Chair asked if there were any additional comments.

Mr. Dagenhart said, I would agree with that statement.

The Chair said, we will move on with number three.

The hardship did not result from the actions taken by the applicant for the act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The Chair asked for any comments.

Mr. Dagenhart said, I think Mr. Rockett alluded to that in the first one. That it was a condition created by the surveyor/contractor, not necessarily the property owner. The definition of hardship was not appropriate. Unfortunately, it sounds like a private party issue.

The Chair asked for any additional comments. There being none, the Chair proceeded with number four.

The requested Variance is consistent with the spirit, purpose and the intent of the Ordinance, that public safety is secure and substantial justice is achieved.

The Chair asked for any comments.

Mr. Charles Paxton, the Chair stated, in my opinion since it wasn't an issue that the owner did, I think substantial justice can be achieved by a vote of this Commission.

The Chair asked for any other comments. There being none, the Chair stated, we will entertain a motion to approve or deny the request.

Mr. Bywaletz asked, do we need to do each one individually.

Mr. Evan Lee, General Counsel, stated, just whether to approve the Variance or not to approve it. Then whatever conditions you want to put on that can be a part of the motion or part of the discussion on the motion.

The Chair asked, did everyone hear that? The request is to approve or deny the Variance with any conditions you may or may not want to put on it.

The Chair asked if there was a motion in favor?

Mr. Mohammed Idlibi **MOTIONED, SECOND** by Ms. Ingrid Nurse to **APPROVE** the Variance Request. The majority was in **FAVOR** with Mr. Adam Dagenhart **AGAINST**. The motion to **APPROVE** was carried.

The Chair stated, this case has been adjudicated. We will move on.

The Chair told the applicant that he was free to leave.

VARN2024-00004-Variance Request for Setback Requirements in Chapter 5 for Setback Encroachments of Existing Accessory Structures and Impervious Area that Exceeds the Limit for the Zoning District

Variance request for setback requirements in Chapter 5 for setback encroachments of existing accessory structures and impervious area that exceeds the limit for the zoning district. Frank and Lisa LaRoche are applicants and owners. The address associated with the subject property is 2945 Parks Lafferty Road (PIN: 5547-44-875).

Mr. Charles Paxton, the Chair, stated, we will now take up case number two, which is Variance 2024-00004. A Variance request for setback requirements in Chapter Five for setback encroachments of an existing ancillary structure and impervious area that exceeds the limit for the zoning district. Frank and Lisa LaRoche are the applicants. The address is 2945 Parks Lafferty Road.

The Chair asked, are there any Board members that have information or conflicts in this case? There being none, Mr. Phil Collins, Senior Planner, was called upon to speak.

STAFF REPORT

Mr. Collins stated, the purpose of this request is to seek relief from the setback requirements and the maximum impervious area allowed in the Agricultural Open Space District located in section 5-5b Dimensional Standards of the Development Ordinance. The applicant was engaged in the sale of the subject property. A survey of the property was done showing setback encroachments and excessive impervious area. You can find all of that in Exhibit C in your packets. The applicant then requested a zoning verification letter, and the violations became known to Staff. The applicant was instructed at that time to request variances for these violations.

Therefore, the applicant is before you tonight, requesting the setback encroachments as follows:

Residence: (showing on map) The residence would be this section. According to the appraisal card in Exhibit E, the residence was built in 1997. The property was zoned Medium Density Residential (MDR) district. The home was within the allowable setbacks. The property is zoned Agricultural/Open Space (AO), and the side setback requirement is 20 feet. According to the survey of the property, the residence is 11.59 feet from the western property line.

Accessory Structure #1: (Showing on map) Accessory Structure 1, which is in the back corner. A permit was issued for the accessory building in the right rear corner of the subject property on November 26, 2002. Subject property was zoned MDR at the time. The structure was permitted as a 16'x24' structure. According to the permit, the right-side setback was 5 to 20 feet, and the rear setback was 5 feet. Rear setback requirement for AO zoning is 30 feet now. The survey submitted showed that the structure is 9.03 feet away from the rear property line.

Accessory Structure #2: (Showing on map) Accessory Structure 2 is in the back left-hand corner and the well house is towards the middle. According to the aerial photography, a well house was built around the well and a small, prefabricated storage shed was placed on the subject property sometime between 2010 and 2013. No permits were found in the system for these structures. Sometime between 2015 and 2017, the small, prefabricated storage shed was moved from the rear center of the property over to the left-hand side of the property into the side setback. The survey submitted shows that the structure is 8.85 feet away from the western property line. The side setback requirement in the AO is 20 feet.

Accessory Structure #3: (Showing on Map) Accessory Structure 3 is closer to the house. An application for a zoning permit for a 20'x24' accessory building was submitted on May 16, 2017. It is assumed this was intended for the structure located closest to the residence known as Accessory Structure #3. The zoning permit process for this structure was never completed. The survey submitted shows that this structure is 12.43 feet away from the western property line. The side setback requirement in the AO district is 20 feet.

Accessory Structure #4: (Showing on map) Accessory structure 4 is the largest building in the back center. A permit was issued for a 30'x60' accessory building to be in the center of the property near the rear property line on January 14, 2019. The permit specified that the property was zoned AO, and the rear setback was 30 feet. The survey submitted shows that the structure is 19.54 feet away from the rear property line.

Accessory Structure #5: (Showing on map) Accessory Structure 5 is to the right-hand side of the property. A permit was issued for a 20'x32' accessory building to be located along the eastern property line in front of the existing, accessory structure on June 25, 2020. A permit specifies that the property was zoned Agricultural/Open Space, and the side setback was 20 feet. The survey submitted shows that this structure is 19.32 feet away from the right-side property line.

The applicant is also requesting relief from the maximum impervious area restriction. That information is also in the survey. I have highlighted that information in yellow and outlined in red. The AO zoning district restricts the amount of impervious area to fifteen percent of the parcel. The survey submitted shows that the subject property is 1.14 acres in size. The maximum allowable impermeable area for this size parcel is 7,448.76 feet. The current total impermeable area is 13,607 square feet, which will be a difference of 6,158.25 square feet over the maximum. Two driveways access the property from Parks Lafferty Road. One driveway accesses the principal residence. The other driveway accesses the accessory structures to the rear. The subject property is surrounded by residential and vacant properties. The subject property is surrounded by AO zoning to the east, west and north. There are also CR properties to the south and west.

During the review of these requests, the Fire Marshall submitted the following comments:

Fire would have little or no impact on this Variance. Our only request is that the structures on this property continue to be used for accessory use only. No commercial use unless the proper change of use process is pursued with Construction Standards.

The Cabarrus Health Alliance also submitted the following comments:

The Health Alliance has received applications and issued approvals for accessory structures on this lot. Please see the attached record for details.

That was included in Exhibit H.

Regarding the property's history and in conclusion, the subject property was zoned MDR when the original residence was built and remained MDR until sometime between 2003 and 2005, when it was rezoned to Countryside Residential. The property was rezoned from CR to AO sometime between 2008 and 2009. Subject property has been used for residential purposes since 1997. Subject property is approximately 1.14 acres in size. The recent survey identified the setback encroachments and excess impervious area. The applicant is seeking relief for these violations so that the sale process can be completed.

The application submitted by the applicant states the following:

Zoning regulation, while intending to serve the public good, would unreasonably and negatively affect this property and would not provide any benefit to the surrounding community if adhered to. In the case of the large shop, referred to as Accessory Structure 4, a permit was pulled by a contractor and the building inspector signed off that the locations of the accessory buildings on the property were placed in such a way to both take advantage of the flatter areas of the sloped plot as well as impending water flow during heavy rains. The zoning issues arose during the sales process and prior to that, there was no indication that the property had any violations. The overall spirit of the zoning ordinance will remain intact if this Variance is approved. It is the applicant's belief that these requests should be considered minor, and an approval would not be contrary to the public interest of the community and will not have any effects on the public's safety or welfare.

Should the Board of Adjustment grant an approval of the Variances, the following conditions should be considered as part of the approval and case record:

1. The Granting Order stating restrictions and applicable conditions of approval shall be recorded with the deed of the property.
2. The structures of the subject property, once sold, shall continue to be used for residential accessory purposes only. No commercial use is allowed unless the proper change of use process is pursued with Fire, Zoning and Construction Standards.

Mr. Collins stated, I will answer any questions that you might have.

Mr. Dagenhart asked, concerning Accessory Structure 4, the permit was pulled, but I don't see the date. Do we know the date?

Mr. Collins replied, January 14, 2019.

The Chair asked if there were any other questions for Phil.

Mr. Bywaletz said, this may be a general question because there's also involvedness in the impervious area. Are those reviewed at the time the permit is applied for?

Mr. Collins said, I'm not sure what happened there. We don't permit an impermeable area. Sometimes they'll submit it and it's on the applicant to know that, but a lot of times they don't. It just kind of builds up over time.

Mr. Dagenhart asked, do you know when that became a part of the Ordinance.

Mr. Collins said, that's always been a part of the Ordinance.

Ms. Susie Morris said, we have always had in one way or another, either a structural requirement maximum or a general impervious. Now the Ordinance only has the impervious maximum. Back when some of these were issued, there would have been a maximum on buildings and a maximum on the impervious. It was a percentage of the lot.

Mr. Bywaletz asked, when they got their permits, that would have been viewed at that time?

Ms. Morris replied, I can't give you an exact date, but what I can tell you is at some point people did not actually have to have plot plans that they turned in. It was all speculative; here's what I plan to do; here are the setbacks I plan to meet. Then during construction, things didn't really end up being what they should have been. The more recent buildings would have required a minimum GIS plot plan using their GIS information. Prior to probably 2010, you didn't have to turn in anything like that. It was just all on your honor and people were given permits in good faith that they would actually do what they needed to do.

The Chair asked if there were any other questions for Ms. Morris.

Mr. Dagenhart asked, for Accessory Structure 1, was it Agricultural/Open Space (AO) in 2002 when they went in for the permit.

Mr. Collins replied, I think it was Medium Density Residential (MDR) at the time.

Mr. Dagenhart asked, what was the setback for that?

Mr. Collins said, it would be listed on the permit that's included.

The Chair asked if there were any other questions.

Mr. Dagenhart said, we have already seen a discrepancy based on the zoning. At the time of these permits, do we know what these setbacks were?

Mr. Collins said, it should be listed on the permits. I think the only one that was good was Accessory Structure 1. By the time we got the third accessory structure it was 2017. It was zoned AO at that time.

The Chair asked if there were any other questions.

Mr. Collins said Mr. LaRoche is here, too. He can fill you in on some information as well.

The Chair called on the applicant, Frank LaRoche IV, to speak.

The Chair asked the applicant to state his name and address.

Mr. LaRoche replied, Frank LaRoche IV, 237 Jefferson Avenue NE, Concord, NC 28025. I'm the son of Frank and Lisa LaRoche. They are in Florida and have already been down there for a few months. I guess I should read their statement for the record since they can't be here. They typed this up a day or so ago:

To the Cabarrus County Zoning Board:

With Frank on the organ transplant list, we cannot be at the meeting in person. Our son has agreed to represent us, read this statement, and provide any evidence or help in the process.

We ask that you approve our Variance request because we did what we felt was within our responsibility as property owners. We hired professional builders and required them to get permits and inspections. Mr. Phil Collins informed us that not all buildings were permitted or that one was permitted and did not have a final inspection. Please do not punish us for the failings of contractors we trusted. As for the buildings that passed all inspections, I don't understand why these buildings were approved if there was a square footage on the property and were not within the codes of the county. We have tried to contact the builders but have only been able to track down one. The one who built the largest shop and cover over the container. These were inspected and passed by Cabarrus County.

As for the driveway, there is no barrier, so the water runs right into the ground. We asked that this not be included in the "impervious area" calculation.

Our house sits on a hill, so when it rains, it flows down our backyard. Our son has pictures of how the water flowed prior to the new shop going up. Frank walked Bill Oros around their property when they purchased it and let him know that the property always got a

lot of water, and the previous owners had put in a sump pump and humidifier in the crawl space to help with the water and dampness. Frank also gave Bill concrete blocks to raise his generator off grade level due to the water flow.

We've had no one complain about our property in the 23 years we lived there. I really hope you can see it within your hearts to approve the Variances.

Sincerely,

Mr. & Mrs. Frank LaRoche.

Mr. LaRoche IV continued, I told her hearts don't really have a lot to do with it, but she's my mom. These are the points I hope will help their argument. The first one:

1) In general:

A) In general, just basically to show they did everything in good faith. They hired people they got good references for. They told them they wanted permits; they go by the book. My dad was in the Army and a Sheriff's Deputy here so he's big on going with the rules. Not every homeowner or officer knows all the rules or ordinances in their county. I can tell you that from personal experience with the city and cops just don't know all that stuff. We know ignorance is no excuse from the law, but to further illustrate they always acted in good faith; I was an electrician in Virginia and hadn't got my license yet. I was teaching at the time. So, my dad hired another electrician to wire his shop. Instead of getting me to do it for free, he went by the books and got a permit because he's a rule follower. I just put that in there, so you know they didn't know there was anything wrong with the property until they got a survey from the potential home buyers.

B) Also, complaints anonymous or otherwise, can be called in to the zoning department. They could have been expressed informally to the property owner. No complaints have ever been filed or expressed. Property values were recently re-evaluated as they are often, and no neighbors contested their values based on the buildings on my parents' property.

Furthermore, since the latest neighbors, Bill and Joan Oros arrived in December of 2021, no changes have occurred since they moved in. With the way the neighborhood is now, it's been that way. The last shop was built in 2019 and that's the largest building in the back. That's just in general.

2) Concerning setbacks:

A) This is probably my misunderstanding as far as rights-of-way. I guess rights-of-way are just probably just borders. It might just be the zoning word for borders. Under Frequently Asked Questions, on the Zoning Enforcements page, it states: *Setbacks are determined from the existing or proposed road right-of-way for the property.* The only road that borders the property is Parks Lafferty.

B) Building plans were approved, submitted and passed. The biggest surprise for me came from Exhibit E, page 14. You can see where the plan drawn by the contractor has a setback of only 20 feet on his drawing for that proposed building. The permit was still issued without revision to that plan. The permit I did see does specify there's a 30-foot setback to the rear border. To me, this was an oversight by someone, either the permit issuer or the contractor.

C) No zoning inspector has ever been to the site because if they were, they would have caught a lot of stuff before the latest shop was built.

D) In Exhibit A, the Purpose of the Request states "the applicant then requested a zoning verification letter, and the violations became known to Staff." This must mean that the staff is also aware of the setback zoning violations of the properties adjacent to 2945 Parks Lafferty Road. After reviewing satellite images, any remediations would probably have to be applied to them as well, which would be a hardship on a lot of people.

3) Concerning impervious space, this one caught us all by surprise, as we had never heard of that.

A) To keep things in perspective, we heard that it was Medium Density Residential before. It's not now, but it was. That stands to reason that at some point on this land, it was okay to cover 40 percent. Now it's only okay to cover it 15 percent. We're not sure why it changed, but it did. That's just to keep things in perspective.

B) Right now, the impervious limit is 7,451 square feet. That's 15 percent of 49,673 square feet. Current impervious area on the property is 13,600 (plus). It calculates out to 27.39 percent. So, 12.39 percent more impervious space than it should be.

C) If you look at Exhibit C, the gravel driveway is calculated to have 5,460.92 square feet of impervious area. We all know that rain can percolate through a gravel layer. As you can see in the image, the grass has grown over the entire first part of the driveway. You can still see some gravel in the back part, and you'll see pictures of that later. We're asking that it not be included. That's a huge chunk of the coverage, over 5,400 square feet. There is nothing underneath the gravel. It is just compacted gravel.

That would do away with a lot of the impervious area. We could just let the grass grow over it. We could remove the rocks, but this would probably cause more erosion, and the next steady rain would cause mud to wash down to the Honeycutt's and the Oros's.

I started to do calculations on the document called "Layers", which I included at the end of this document that was given to us kindly by Mr. Collins, done with GIS. Obviously, the survey is more accurate. All these numbers are actually based on the survey.

- 4) Yesterday morning, when I went to take some pictures for you guys, I found Mr. Oros on my parents' property measuring the shed. When I asked him what he was doing, he told me why. That's how I learned that they would be here opposing the Variance.

There is a sump pump in their crawlspace that was installed two owners ago. Ira Kneepel owned the home from 2004-2019. He installed a sump pump that currently sits under the living room. I have been under that house.

Bob Beasley installed a dehumidifier in the crawl space. He was the last owner. Bill actually had me go in there to do some work, as I've been down in their house. I have seen that it was not a great encapsulation job. There is black plastic there. This is just basically to show they've always had water coming onto that property.

In this image that I included, it shows there's a 30-foot drop and it's quite fast, behind the house straight down to the Honeycutt and Oros property. The Honeycutts are the ones at the bottom right of that corner. They also wrote a letter that they're fine with whatever the property is like right now; they're not contesting.

When the new shop was built, it actually diverted a little bit of water towards the front of the shop. The big shop in the back of the property actually takes some of the water to the

front of it now. There's a low point between the old shop and the two-story building in the corner. In front of that is the conex container with the carports on each side of the carport. When I get to the pictures, that might help you see it a little better.

There's the conex with the carports on it. Right in between those two buildings and a little behind it in front of the fence, is a low spot. That's the Huneycutt's fence right there. To the back of that two-story building, there's a line of trees that go all the way to the road. Historically, that's where the water goes down to the road.

I took this picture to show because I heard the height of the building matters. This is the 30x60 shop at the back of the property. That's 15 feet to the ground from that peak. I think the issue arises when you get to the other side of the building. It's really high because they leveled it out on the foundation. At grade level on the left side, it's 15 feet. Obviously, the builder seems to have ignored some stuff when he built the place.

(Plays video) Mr. LaRoche IV continues, this is what we call the cook shed. I believe they got a permit, but never finalized it. They never went through the inspections. I can't remember what kind of builder they call them. The people who make the cheese and the peg-built stuff. They found this guy and he was supposed to be really good. He got the permit, but I guess he never got the inspection.

That's the building they call the cook shed and that's the back of the house. The water is flowing off the horse field because that's what water does. It comes down by the grapevines. Here's a shot looking down the hill and going back to the little shed that sits on the back left of the property. Here is a shot of the water where it finally sits down there. Where you see all the water sitting is kind of where the new shop is now. There's a hump they put right here. I guess so water doesn't go in the front door of the new shop. As all the water comes down the hill, most of it starts flowing in front of that shop now. It still flows underneath the two-story shop and goes down that tree line.

Here's a video my mom took. It must have been 2018 or 2019 before the new shop was built. You can see that the water pools by the Oros building, it's kind of in front right where the new shop sits. You notice there's no water going over there because it runs straight up under that two-story shop and goes down that tree line and alongside the Huneycutt driveway.

That's about all the evidence I have for you and all the points I wanted to make.

Mr. Charles Paxton, Chair, asked if anyone had any questions for the applicant.

Mr. Dagenhart asked, the 30x60 building that's on the middle rear, on the survey, it says 42x24. Is that just a typo? On the Staff Report, it's page 52.

Mr. LaRoche replied, yes, it's 42.14 feet across the front and 24.09 along the side.

Mr. Idlibi asked, is that the building you're calling 30'x60'?

Mr. LaRoche replied, yes, I guess that's because of what I saw on the permit. Maybe the actual building is 30'x60' and the right-hand side is sort of a carport. It's still roofed area so that's probably where that extra footage came in.

Mr. Dagenhart said, I can see where it might be a carport. Is there anything on the front of the building?

Mr. LaRoche replied, you're right, so I don't know.

The Chair asked if there were any other questions.

Mr. Dagenhart said, looking at your pictures it looks like some of these structures are on skids. How many are actual structures that have permanent foundations?

Mr. LaRoche IV replied, the house, obviously I'm just being thorough, and the cook shed right here.

Mr. Dagenhart said, so that would be Accessory Structure 2?

Mr. LaRoche IV replied, this thing right here in the middle of the yard, for some reason my dad thought it would be fun to build my mom a swing area. So that's a huge slab of concrete so she could sit on the swing and watch him work in the shops or something. That's a patio, so that's concrete. That's a foundation without anything on top of it but a swing.

We got a pump house behind the cook shed and that's just concrete blocks with a dirt floor that covers the well and the big, main shop. The conex is just sitting on top of six blocks, three on each side. But then it does have roofing and the pillars that come down from those roofs are concreted into the ground.

Mr. Dagenhart asked, the cook shed is that Accessory 3? It's the one on the left side in the middle of the back yard. So, the cook shed is structure 3?

Mr. LaRoche IV replied, yes sir. Amish builder, that's what it's called. That's what I was thinking it was.

The Chair asked for any additional comments or questions. There being none, the public hearing was opened.

The Chair stated that those speaking "in favor" would go first and invited Mr. Steven Irminger to speak.

Mr. Steven Irminger said, I'm Steve Irminger and I live at 7015 Erinbrook Drive, Concord, NC 28025. I am the neighbor immediately to the left of the LaRoche property. My wife and I have no objection to the Variance request. I think it's important to understand that the land to the west of the LaRoche property is moderately sloped for a long way. I own six acres west of the LaRoche property and to the northwest. All that land is sloped toward this area. You saw from the pictures it's an awful lot of water that winds up going across the property. I looked closely at the GIS for the amount of impervious area.

I would agree with Frank that the impervious area is in excess only by the gravel driveway. If you look at the gravel driveway, I think you could make the argument that it is not truly impervious. It is not packed gravel. It's not maintained, and I think within a year or two it would disappear.

So, it behaves much like impervious or just pervious ground would act. Then finally, I agree, there are some big stormwater issues with this area. But as I understand it, Cabarrus County recognizes the Reasonable Use Act. The LaRoche's have clearly used their property reasonable, and they've not modified the original drainages, except to install buildings that they saw fit. So, I don't see how that should be an issue. That's all I have.

The Chair asked if there were any comments.

The Chair stated that next would be those speaking "against" and invited Ms. Laura Peets to speak.

Ms. Laura Peets stated, Laura Peets, 6980 Erinbrook Drive, Concord, NC 28025. I live on the road that basically runs alongside where Steve Irminger is and then Frank is down below. I'm not against the Variance. I'm against any sort of zoning that would allow this to happen going forward. It's not Frank LaRoche that failed because Frank LaRoche is absolutely by the book as it gets. It's zoning and planning that failed.

Frank LaRoche and the rest of us, we live in open space. We can't have a crap ton of buildings and a tiny piece of land. The new motto that I've come up with in Cabarrus

County is if you can fit it, we'll permit it. So, I'm not against the Variance. I'm against moving forward with this type of thing continuing, without any oversight.

Somebody coming out to inspect, like Frank Jr. said, they did everything they were supposed to do. So, I'm not against the Variance. I'm against up and coming and this continuing.

The Chair stated that the next speaker is Joan Oros.

Ms. Oros stated my name is Joan M. Oros. My husband is William M. Oros. We are the neighbors and have adjacent property. Two of the structures that are adjacent to our property are on our border. They are specifically Structure 4 and Structure 1 and that's what I'll be addressing.

I'm sorry, my address is 7050 Palafox Drive, Concord, NC 28025.

I have a packet for you so that you can follow along with everything I've said. I'll be doing the speaking for the two of us. As was mentioned, we moved here in December of 2021. We have been in residence at the home, and we have noticed water as an issue since we moved in. We have been trying to deal with it.

As far as the structures encroaching on our border, we had no knowledge prior to moving in. We thought everything was in accordance with the rules and the regulations that were set forth by the county. As of October 1st, I was notified by Ms. LaRoche that they had violations. She asked if I would send a letter saying everything was fine. My question back was, would you just tell me what the violations are before asking me to sign off? I did not get a response, so we took it upon ourselves to come here. The building department and the zoning department were very helpful in providing us with the information I have here. We can't ignore these because of the impact on our property.

I provided you with some documentation to show you there was a referral that we had to move our generator up this past March of 2024. We had to get the company to come in and lift it. That meant not only blocking up the generator, but also moving the gas line to accommodate it.

You'll see on the invoice that I provided to you that they did say that it was due to water. We've also noticed water in our crawl space. We've been trying to deal with it because we don't want to deal with mold because that's not something we can live with. We're trying to keep the water away from the house. You'll see the 60x30 building, I gave you some

pictures. If you'll look through there, you'll see the gutters come right at our property. It has a metal roof that runs the water right toward us. You'll also see the same thing with the pictures that we included for the two-story building. Those are the two; Accessory Building 4 and I think it's Accessory Building 1 that are encroaching on our line and providing all the excess water.

I gave you some pictures showing what's happening in the basement as far as water lines where water has been getting into the basement. We're going forward to have that remediated at our expense. As you can see, I gave you a dollar amount as to what it's costing us. Without any remediation on this issue, I don't know that we've done enough. My husband is a gardener. He keeps plants and trees. They help absorb some of the water and yes, the house gets some water from the backyard, but we've been able to divert that.

What we're getting from the side yard, you'll see is even running down to the road where you see a sand river down there. I ask that what I've read as a statement be wrote into your minutes as it is. I want to thank you for your attention and allowing me to provide testimony. If you have any questions, I will make every attempt to answer them.

The Chair asked if there were any questions.

Ms. Oros asked, is there anything with the pictures you have issue with?

Mr. Bywaletz asked, when was the generator initially installed? Was it before you occupied.

Ms. Oros replied, yes it was. I think when I talked to her, she said it went in, in 2019.

The Chair asked if there were any other questions.

Mr. Idlibi said, Ms. Oros, thank you for speaking tonight. When you bought your home in 2021, did you get a survey done for this building?

Ms. Oros replied, no, these buildings were already built. Actually, we have a metal shed that comes along our property line and there was a question that was raised by the neighbor at the time we came over to the county to check things out.

Bill and I figured at this time, we might as well look at our records while we're looking at everybody else's records, to make sure that we were in compliance. I believe the building that was put there, a quonset hut, was dropped on the property sometime in 2017 or thereafter. At the time, because of the size, they said the setback was fine.

Mr. Paxton asked, I don't think I heard. Did you have a survey done when you moved in?

Ms. Oros replied, no.

The Chair asked if there were any other questions before the public hearing was closed.

Mr. Idlibi asked, do we know the square footage of the gravel driveway.

Mr. Collins replied, it should be on the survey.

The Chair asked if there were any other questions. There being none, the public hearing was closed.

Mr. Charles Paxton, Chair, reminded the board that the standards of review that were read and outlined for the last case are the same for this case and they have a copy at their seat.

The Chair read a summary of Variance requests from the Staff Report:

According to the appraisal card, the residence was built in 1997.

Ms. Susie Morris said, I believe the applicant needs more time.

Mr. LaRoche IV said, thank you for reminding me. So, I guess my rebuttal is number one; they have a crawlspace not a basement, it is different. We hate that they get water down there, but they've always gotten water down there. When my dad helped build the blocks to get that generator lifted, Bill never said anything about it being the fault of his buildings. Like I said before, no one has ever complained about anything that's gone on at my parents' house.

Ira Neeples is the one who got that building on their property, and it was about 2016. Okay, that's it.

The Chair asked if there were any other questions.

Ms. Oros said, it was noted there was a sump pump and a dehumidifier in the basement, we've had a lot of work done in the basement. There's no dehumidifier, never was one since we've been there and there is no sump pump. We've had people doing air conditioning, ducting. We've had other basement work done.

Plus, like I said, the paperwork you have in front of you talking about the job that's going to be done to encapsulate, that's when they'll add a sump pump and dehumidifier. There's never been anything since we were there and there's no indication that it had been there prior to our purchase. So, I'm not aware of that being there before us. I apologize I meant to comment on that earlier. Any questions of me?

Ms. Oros said, thank you. I appreciate that.

Mr. Charles Paxton, Chair stated at this time I will review the Staff Report:

According to the appraisal card, the residence was built in 1997. The property was zoned Medium Density Residential (MDR). The property is current zoned Agricultural Open Space (AO), and the side setback is 20 feet. According to the survey of the property, the residence is 11.59 feet from the Western property line.

STANDARDS OF REVIEW FOR THE REQUEST

The Chair stated, at this time we will take up individually, the Standards of Review for the Request:

Unnecessary hardship would result from the strict application of the Ordinance. The Chair asked if there were any comments.

Mr. Bywaletz said, yes, the house is in a location. You're not going to move the house. It was put there per the residential. It was located correctly. We're just talking about the residence right now. It was located correctly at the time it was built. You can't move the house; it's on foundation. I think that would be an undue hardship for sure.

Mr. Dagenhart said, I concur. I pulled the plat for these lots, and it only showed a front setback. Whether or not there were zoning standards at that time, I'm not sure. According to the plat, there's no side setbacks. I think we can approve a variance for the house.

The Chair proceeded to read the second Standard of Review for the Request:

The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

The Chair asked if there were any comments.

Mr. Bywaletz asked, how are we doing this? We have multiple structures that are in noncompliance and impervious.

The Chair said, we can take one vote at a time.

Mr. Dagenhart asked, should we do them structure by structure?

Mr. Bywaletz said, Variance #1 was for the residence is what I'm seeing. And then Variance #2, is for the Accessory Structures, if I'm reading that correctly.

Ms. Susie Morris stated, in order to help you make your way through this, it is split out that the first one would be specifically discussion about the residence, then the accessory buildings, which you can either take up as a group or individually. Then finally, the impervious area because it is a lot. It is up to the Board how you want to make your way through all of those.

The Chair asked if there were any comments.

Mr. Adam Dagenhart stated, I think we kind of started with Variance 1, which was the residence. The discussion started there. It may have stopped, but let's clarify what our thoughts are.

Mr. Charles Paxton, the Chair, asked would you rather vote on that?

Mr. Idlibi replied, I think that is probably the best thing. Does everybody agree?

Mr. Idlibi said, Adam, do you want to make a motion?

Mr. Dagenhart replied, we probably need to build the record in each of these.

Ms. Morris, said, correct, you'll need to build the record. Also, keep in mind there were some Conditions of Approval in the Staff Report that would need to be included in at least one of your motions, or you can wait until the end to approve that as a separate motion along with the conditions of approval that were listed.

Mr. Dagenhart asked, did you say it's possible to do the conditions at the very end as a separate motion, not connected directly to any of the others?

Ms. Morris replied, correct. Just don't forget.

Mr. Evan Lee stated, you can move to adopt the conditions from the Staff Report, like you did on the other one or you can do it piece by piece.

Mr. Dagenhart said, I'll be happy to read them, then proceeded to read the Conditions of Approval:

The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.

The structures on the subject property, once zoned, shall be used for residential accessory purposes only. No commercial use is permitted unless the change of use process is pursued with the Fire Marshall, Zoning and Construction Standards.

VARIANCE #1-RESIDENCE IN SETBACKS

Mr. Charles Paxton, the Chair stated, the motion before us, for or against, is for the residence. Adam, do you want to motion?

Mr. Dagenhart replied, let me think for a second on that.

Mr. Brent Rockett said, let me add that dating back to when the home was originally built, it seemed to fit on all applicable things that were in place at the time. I do believe it would be an unnecessary hardship to do anything to rectify the home at this point. I'm not prepared to make a motion at this point for each one of these items. So, I'll start it off with that.

Mr. Dagenhart said, I would like to add that the hardship is not a result of actions by the property owner. I think it was the home builder before he ever built the house.

Mr. Bywaletz said, yes, it could come to that. The zoning changed after the house was built.

Mr. Dagenhart said, I think that's what Brent was alluding to. It's consistent with the spirit of the neighborhood.

Mr. Bywaletz said, there does not appear to be any topography that would result as a hardship as far as location or size.

The Chair asked if there was any other discussion.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Adam Dagenhart to **APPROVE** the Variance as it relates to the residence specifically. The vote was unanimous to **APPROVE**.

VARIANCE #2-MULTIPLE NON-COMPLIANT ACCESSORY STRUCTURES

Accessory Structure #1

Mr. Charles Paxton, the Chair stated we shall now move on to the outline.

The permit was issued for accessory building in the right rear corner of the property on November 26, 2002. The subject property was zoned MDR at that time. The rear setback requirement for AO zoning is 30 feet. The survey submitted shows that this structure is 9.03 feet away from the rear property line.

The Chair asked if there were any comments.

Mr. Dagenhart stated my concern is we've got a mixture of buildings. We've got some that are permitted, and we've got some that are not. In my mind, the permitted ones, they are what they are. I have heartburn over an applicant asking for a Variance. There should be a little give and take. I feel like a couple of these structures that are not permitted need to be relocated to be in better compliance with the Ordinance. By my calculations, 3 and 4 can't be moved. 5 is really close to being in compliance, so we could probably support that approval. I think 1 and 2 should be moved.

The Chair said, repeat which ones.

Mr. Dagenhart replied, 1 and 2. There was a well house and an accessory structure. I'm not saying the wellhouse, I'm talking about Accessory Structure 2. I think 1 and 2 kind of remains in the middle.

Mr. Rockett said, just to clarify Accessory Structure 1 is the two story?

Mr. Dagenhart said, correct me if I'm wrong, 4 is the large one with the carport? I think 5 is the two story on skids.

Mr. LaRoche replied, Accessory Structure 5 is the conex. Accessory Structure 1 is the two story, it's on blocks.

Mr. Dagenhart said, it can simply be moved and put back on blocks.

Mr. Bywaletz asked, when did it get permitted?

Mr. Dagenhart replied, with the residence back in 2002.

Mr. Bywaletz said, the residence was built in 1997, so it wasn't permitted with it.

Mr. Dagenhart said, part of the issue is we have multiple structures that were built through many zoning designations. Let me clarify, I think 2 should be moved in compliance. I think 1 we can justify that it was based upon the current zoning when it was permitted.

The Chair said, we need to vote on these individually. We need to vote on Accessory Structure #1.

Mr. Adam Dagenhart **MOTIONED** to **APPROVE** the Variance request for Accessory Structure #1 and stated, when the structure was permitted, it was based upon current zoning. **SECOND** by Mr. Michael Bywaletz to **APPROVE**. The vote was unanimous to **APPROVE**.

Accessory Structure #2 and Well House

Mr. Bywaletz asked, is there a Variance request on the well house?

Ms. Susie Morris replied, it's an actual structure, it's included.

Mr. Dagenhart asked, can you help us understand why Accessory Structure #2 and well house were included in one line?

Mr. Phil Collins replied, it was just that those two weren't permitted, so we threw them in there together. They were built about the same time.

The Chair asked if there were any comments.

Mr. Bywaletz said, I would say the condition would be that the well house would need to get permitted, in order to reside over top of it. Accessory Structure 2 needs to have the correct setback.

Mr. Dagenhart said, the issue of the well is it's not a permanent structure. It's not an encroachment, is it?

Mr. Bywaletz replied, it is not, but it was permitted? Can we request that a permit be required for the well house?

Ms. Edwards said, it should be permitted.

Mr. Wise asked, can we get a little more clarification on what an accessory structure is?

Mr. LaRoche replied I didn't take a picture of the well house because it wasn't close to the line. It's just cinderblocks, maybe three or four high and wooden walls.

Mr. Wise said, so a typical well house?

Mr. LaRoche said, yes and he had the roofer do a little, metal roof on top of it.

Mr. Wise asked, how tall is it? How do you access it? Do you lift the roof off?

Mr. LaRoche replied, there's a door, regular height. I guess it's probably a 6-to-7-foot wall on top of the cinder block. It's wooden walls and a sloping back roof. It's maybe 5 feet wide by 3 or 4 feet deep. Accessory Structure 2 is just a prefab shed some guy rolled in on a trailer and we set it on blocks.

The Chair asked, do we want to take these up individually? Well house and Accessory Structure 2 separate?

Mr. Wise said, Accessory Structure 2 could be moved easily. The well house is over the well, that makes no sense to move that.

The Chair stated, let's start with Accessory Structure 2.

Mr. Michael Bywaletz **MOTIONED** to not allow the existing Variance to the setback requirements. The condition would be that Accessory Structure #2 needs to get moved in compliance with the current setback requirements or removed entirely. **SECOND** by Mr. Adam Dagenhart to **APPROVE** the conditions set forth. The vote was unanimous to **APPROVE**.

WELL HOUSE

The Chair stated that the next item would be the vote concerning the well house.

Ms. Holly Edwards **MOTIONED, SECOND** by Mr. Mohammed Idlibi to **APPROVE** the Variance request for well house and a permit for the well house does not need to be obtained. The vote was unanimous to **APPROVE**.

ACCESSORY STRUCTURE #3

The Chair stated an application for a zoning permit for a 20' x 24' accessory building was submitted on May 16, 2017. It is assumed that this was intended for the structure located closest to the residence.

The zoning permit process was never completed.

The side setback requirement in AO is 20 feet.

The survey submitted shows that this structure is 12.43 feet away from the western property line.

The Chair asked if there were any comments.

Mr. Bywaletz said, I would argue that it would create a financial hardship to relocate it.

Mr. Mohammed Idlibi **MOTIONED, SECOND** by Ms. Holly Edwards to **APPROVE** the Variance request for Accessory Structure #3. The vote was unanimous to **APPROVE**.

ACCESSORY STRUCTURE #4

A permit was issued for a 30'x60' building to be in the center of the property near the rear property line on January 14, 2019.

The permit specified that the property was zoned Agricultural/Open Space, and the rear setback was 30 feet.

The survey submitted shows that this structure is 19.54 feet away from the rear property line.

The Chair asked if there was any discussion.

Mr. Dagenhart said, I would say it would be a financial hardship to relocate the building to be in compliance with the Ordinance.

Mr. Stephen Wise **MOTIONED, SECOND** by Mohammed Idlibi to **APPROVE** the Variance request for Accessory Structure 4. The vote was unanimous to **APPROVE**.

ACCESSORY STRUCTURE #5

A permit was issued for a 20'x32' accessory building to be located along the eastern property line in front of the existing accessory structure on June 25, 2020.

The permit specified that property was zoned Agricultural/Open Space, and the side setback was 20 feet.

The survey submitted shows that this structure is 19.32 feet away from the right-side property line.

The Chair asked if there were any comments.

Mr. Michael Bywaletz said, that would be a bit of a hardship to move that one, too, because of the conex roof. Those are mounted in concrete on the sides and it's within six feet of being in compliance of where it should be.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Adam Dagenhart to **APPROVE** the Variance request for Accessory Structure #5. The vote was unanimous to **APPROVE**.

VARIANCE REQUEST #2

Conditions of Approval for Granting Order

Mr. Idlibi said, I have a question for Susie or Phil. Do we have any construction materials to make gravel parking lots more or less impervious based on the size of the stone.

Ms. Susie Morris replied, for the stormwater rules, the only time gravel is considered impervious is it has a fabric underneath it and it is a certain depth. A lot of people think that gravel is impervious, but actually it is not because over time it compacts and it's no different than an actual paved road.

Mr. Dagenhart said, just to clarify, how would we define this as impervious?

Ms. Morris replied, it would have to meet the state stormwater requirements, which are specifically in the statutes, as far as how that area is constructed. Prior to moving on to that, you may want to tackle your conditions.

Mr. Dagenhart asked, the conditions are specific to the structures, not the impervious, right?

Mr. Idlibi said I'd like to make a motion to move to adopt the conditions stated in the Staff Report.

Mr. Dagenhart said, I have a question. What if we have additional comments for number three? Impervious area?

Ms. Morris replied, you can add it to that motion.

Mr. Mohammed Idlibi **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** the Conditions of Approval for Granting Order.

VARIANCE REQUEST #3

IMPERVIOUS AREA

Mr. Adam Dagenhart said, I think the applicant and the neighbors are getting caught up in impervious when they think of stormwater. I think when the Ordinance talks about impervious, it doesn't mean you need to make all of your property impervious. There's not a limitation to how much impervious you can have, so there's not a case like this where there's a lot of structures on a piece of property. I think that word is tossed

around incorrectly in this application. Obviously, there's a stormwater issue, but this is impervious, and it's allowed.

Mr. Michael Bywaletz said, even though there's a lot of impervious area, regarding the roofs and the gravel, a lot of those buildings are actually elevated. Water flows underneath them on pervious soil, even though you have an impervious area where rainfall hits and fills underneath those buildings. It appears they were constructed intentionally that way. As if there was a runoff issue on the property, based on the pictures I saw.

The Chair asked if there were any other comments.

Mr. Dagenhart said, I think we need to put a condition on this one if we choose to approve it.

The Chair asked, that being what?

Mr. Dagenhart said, that no more impervious be allowed on this property, since it greatly exceeds what is allowed. The only caveat would be if the property owner decides to remove some of those temporary structures.

The Chair asked, do you want to make that in the form of a motion?

Ms. Susie Morris stated, I don't know if you all remember, years ago you had a case that was actually in the watershed. If someone was to come to us, in general, and their property was over on the impervious, they had the option to go in and remove some of that. If you all were to place a condition, that it would have to be current, if they wanted to add another structure, they would have to remove one of the other ones. Then what we would do is make sure that it balances out and we could do that through a certificate of nonconformity adjustment, which is how we handled the one that was in the watershed. They wanted to do an addition to the building, so they took up gravel and did the addition. In the end, it was net.

Mr. Brent Rockett asked, if they went over, they would have to come back for a Variance Request?

Ms. Morris replied, correct. Mr. Rockett said, so essentially upon approval this property would never be able to exceed the current percentage. Ms. Morris said, that is correct, if you place that condition on it, then that is how we would look at it from a permitting standpoint.

Mr. Rockett asked, if they came back and did the gravel driveway in such a way that it did meet the requirements, they could come back and add another structure?

Ms. Morris replied, right, we would have to have the survey. If you place a condition on the impervious, it doesn't matter if it's gravel, it doesn't matter if it's a building. From a permitting standpoint, we look at that as the maximum. We don't look at it differently. It doesn't matter if it's a structure or a concrete parking lot.

Mr. Bywaletz said, if they remove Accessory Structure #2 and reduce their amount of impervious area, can we say that it can't be replaced with additional impervious area? If they decide to remove it later on, they couldn't put it back in?

Ms. Morris replied, you could make that a condition.

Mr. Dagenhart said, I don't know that we should approve them and say, we can accept what you have, but we'll let you change it out. I don't think we need to start doing that. The other thing is if they did the gravel, the staff isn't going to go out. There's no permit.

Mr. Dagenhart continued, there's over 5,400 square feet of gravel on there. If they went back and approved at this percentage and corrected the gravel issue; they could build a 5,400 square foot residence on this property. I don't think it's a good idea to entertain this.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Ms. Ingrid Nurse to **APPROVE** Variance Request #3 with the condition that no more impervious shall be allowed than what is currently shown on the survey. Mr. Brent Rockett added that even if something is removed, impervious cannot be replaced. The vote was unanimous to **APPROVE**.

LEGAL UPDATE

Mr. Evan Lee, General Counsel, stated I don't have anything unless Rich has anything. I don't think we have anything pending.

Mr. Richard Koch, County Attorney, said, the only thing I have is we do have a settlement in the Shelley case for the last motion he filed that had no merit. He's going to pay the county back \$40,000 in legal fees and that should completely end the case, if he pays that money. He's agreed to do it but hasn't done it yet. I thought you might want to hear that since we've been dealing with that for so many years.

DIRECTOR'S REPORT

The Chair called on Ms. Susie Morris, Planning and Development Director, to speak.

Ms. Morris said, I do have one thing. In the back is our new Zoning Compliance Officer. His name is Michael Johnson, and he comes to us by way of Indian Trail. He was a Planning Tech at Indian Trail, and we are so excited to have him. We have one more position that we need to fill. I did make an offer, so hopefully, by January we will have a new Planning & Zoning Clerk.

We are very appreciative of Lauren helping us because she might have to be here in December if we have cases. For the record, just wanted to thank her for all her help. We are hopefully on our way to getting that position staffed up. We are very excited about Chris and Michael. They are going to be great members of our team. They will be presenting staff reports and cases.

Mr. Adam Dagenhart asked, should we have asked the applicant if he would accept those choices?

Ms. Morris said, that's a Special Use Permit, where they have to agree.

Ms. Ingrid Nurse **MOTIONED, SECOND** by Mr. Adam Dagenhart to **ADJOURN** the meeting. The vote was unanimous to **ADJOURN** the meeting at 8:20 p.m.

APPROVED BY:

Charles Paxton, Chair

SUBMITTED BY:

Lisa Johnson, Clerk to Planning & Zoning Commission

ATTEST:

Susie Morris, Planning & Development Director

Cabarrus County Government – Planning and Development



Planning and Zoning Commission Minutes January 14, 2025

Mr. Charles Paxton, Chair, called the meeting to order at 6:30 p.m. Members present, in addition to the Chair, were Mr. Jeff Corley, Mr. Adam Dagenhart, Ms. Holly Edwards, Mr. Chris Pinto, Mr. Brent Rockett, Mr. Stephen Wise, Ms. Ingrid Nurse and Mr. Mohammed Idilibi. Attending from the Planning Department were, Mr. Phil Collins, Senior Planner, Ms. Susie Morris, Planning Director, Ms. Lisa Johnson, Clerk to the Planning & Zoning Commission. Also in attendance, were Ms. Lauren Linker, Clerk to the Board of Commissioners and Mr. Evan Lee, Poyner Spruill LLP. Absent from the meeting were Mr. Michael Bywaletz and Mr. Andrew Nance.

Roll Call

Ms. Susie Morris, Planning & Development Director, called the role.

APPROVAL OF GRANTING ORDER AND FINDINGS FOR VARN 2024-00004

Mr. Charles Paxton, the Chair, said, the first order of business is to approve the Order for Granting Variance 2024-00004. Mr. Jeffrey Corley **MOTIONED, SECOND** by Mr. Brent Rockett to **APPROVE** the Granting Order. The vote was unanimous to **APPROVE**.

APPROVAL OF GRANTING ORDER AND FINDINGS FOR VARN 2024-00003

The Chair said, next is the approval or denial of the Granting Order and Findings for Variance 2024-00003. Brent Rockett **MOTIONED, SECOND** by Ms. Holly Edwards to **APPROVE** the Granting Order. The vote was unanimous to **APPROVE**.

APPROVAL OF RULES OF PROCEDURE

The Chair said, the next order of business is to approve the Rules of Procedure for the meeting tonight. Mr. Mohammed Idilibi **MOTIONED, SECOND** by Ms. Ingrid Nurse to **APPROVE** the Rules of Procedure. The vote was unanimous to **APPROVE**.

The Chair asked the audience if there was anybody that had not filled out a blue card that wished to speak. He reminded the audience that it was required. He then moved on to the next item on the Agenda.

RZON2024-00006-Request to Apply Mobile Home Overlay (MH-2) to Low Density Residential (LDR) Zoned Property

The Chair stated, we have a Request to Rezone LDR zoned property to add the MH-2. Jerry Baxter is the owner and applicant. The address is 2436 Miami Church Rd.

The Chair called on Mr. Phil Collins to present the staff report.

Mr. Collins said, the subject property is about 4.56 acres in size and is currently vacant and mostly wooded. Intermittent streams traverse the western side of the property from a northwest to southeast direction and eventually feed into Coldwater Creek. The subject property is surrounded by residential use, vacant properties and LDR zoned properties. The subject property will be served by septic and the applicant intends to request to tap onto City of Concord water. With regards to the proposed Overlay, the purpose of the MH-2 District is to provide for the principal use of land to be developed in harmony with the underlying zoning district regulations. However, permitting the substitution of a manufactured home as a principal building, providing the specific design and/or installation and design regulations appearing in section 4-28 are met. That is in your packet as Exhibit F.

With regards to the underlying zoning district, the LDR district is intended to permit development with a low-density residential character. This district allows conventional and open space subdivisions. The district is located where public utilities are available or are envisioned available within the next two to five years. The subject property is located within the boundary of the Central Area Land Use (Plan). The Plan recommends low-density residential development in this area. The Plan more specifically recommends that this area be developed at a density of up to two to three dwelling units per acre. While the plan recommends a certain density, this request is intended to allow the applicant to place a multi-section manufactured home on an existing lot of record where manufactured homes are currently not permitted as a building type. Therefore, this request will not have any effect on the application of the plan.

As part of the Plan, the City of Concord and Cabarrus County entered into an agreement which splits the Central Area into two areas, Areas A and B. That can be seen on Exhibit J in your packet. The agreement states that Concord will not extend water and sewer into Area A, except under certain circumstances and that Concord may extend utilities at its

sole discretion in Area B. The subject property is located within Area B and as stated before, the applicant intends to request to tap into the City of Concord water.

In conclusion, the subject property is approximately 4.56 acres in size. The subject property is an existing lot of record within the LDR district. The request is not to allow any increases in density. The request does not propose any change to the density. It only proposes allowing the substitution of a manufactured home for a stick built or modular home on the subject property. The request is for the MH-2 Overlay to be applied to the subject property. The MH-2 Overlay restricts the use of manufactured homes to multi-section. The subject property is not adjacent to any properties within the MH-2 Overlay. The nearest property with the MH-2 Overlay is located approximately one-thousand, eight hundred and seventy-five feet to the southeast of the subject property. There are existing mobile homes within the vicinity of the proposal, you can see that in Exhibit I in your packets, which have existed in this area for quite some time. The applicant is requesting to apply the Overlay to the subject property to allow a new, multi-section manufactured home on the property. Again, this is a conventional, rezoning request.

Therefore, all uses permitted within the underlying LDR Zoning District and the proposed MH-2 Overlay would be allowed on subject property if approved. The Planning & Zoning Commission should consider all of the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County. With that, I'll try to answer any questions if you have any.

The Chair asked the Board if anyone had any questions.

Mr. Corley asked, so no use table changes, no density changes? Just simply allowing manufactured housing assuming they conform to 4-28?

Mr. Collins said, right, that's correct.

The Chair asked if there were any other questions. There being none, the Chair called on the applicant to speak.

Ms. Cheryl Baxter, 2422 Miami Church Road, Concord, NC 28025 approached the podium. The land that we have, we want to buy a manufactured home for my daughter and her family and my grandbabies. One is autistic and we're a close-knit family. We want to be together so we can help each other. A manufactured home is what we can afford and that's it.

The Chair asked the Board if there were any questions for the applicant. There being none, the Chair opened the public hearing. There being no one from the audience wishing to speak in favor or against the request, the Chair closed the public hearing. The Chair then opened the floor for discussion.

The Chair asked if anyone had any comments or questions at this time.

The Chair said, I can start by saying it's not going to increase the density in the area so that would be one reason to approve this. There are also existing mobile homes in that area. I think that is something to consider also. The Chair asked if anyone else had a comment.

Mr. Corley said, I think the use and character of the proposed use of this property is generally consistent with what is surrounding. No increase in density, no change in uses. Just allowing supplemental standards to be applied to the specific type of home (multi-section manufactured).

The Chair asked if there were any other comments to help build the record. The Chair said, Adam, what do you think?

Mr. Dagenhart said, I mean you and Jeff already hit it all. They're not really asking for much infrastructure other than water. There's no zoning change.

The Chair asked if there were any other comments. There being none, the Chair explained they would be making two separate votes.

Mr. Jeffrey Corley **MOTIONED, SECOND** by Brent Rockett to **APPROVE** RZON2024-00006 Request to apply Mobile Home Overlay (MH-2) to Low Density Residential (LDR) zoned property. The vote was unanimous to **APPROVE**.

CONSISTENCY STATEMENT

The Chair said, at this point, we need to make a consistency statement as it relates to the land use plan. We need to create the consistency statement so that we won't have any issues down the road. At this time, we probably need to come up with some reasons that could be the same for our consistency statement. I will go back to the density level. It doesn't increase the density and there are also surrounding properties that are the same like and make (manufactured homes).

The Chair asked if there were any other comments.

Mr. Jeffrey Corley said, similar to my comments before, that we're not changing the character of the underlying district. We're just applying an Overlay to allow for the type of structure they wish to use and the supplemental standards of 4-28 to be applied.

The Chair asked if there were any other comments.

Ms. Holly Edwards said, we could just say there's no additional infrastructure or water needed for those (manufactured homes).

The Chair asked if there were any other comments. There being none, he asked if there was a motion to approve.

Ms. Holly Edwards **MOTIONED, SECOND** by Mr. Mohammed Idilibi to **APPROVE**. The vote was unanimous to **APPROVE** the consistency statement for RZON2024-00006.

The Chair said, I would say you got your request.

LEGAL UPDATE

The Chair called on Attorney, Evan Lee to present a legal update.

Mr. Evan Lee said, I do have a couple of things to update the Board on. One, you may have noticed some of the stuff in the news about the Helene Recovery Bill that also had the provision in there about expanding the definitions of down zoning and applying a hundred-and eighty-day retroactive change. It's not going to really affect anything in our ordinance right now. It will just kind of hold things in the status quo. It's been a bigger issue I think for cities than it has been for counties. It's just something to monitor. There's a lot of rumors about what it does and doesn't do. There's a lot of uncertainty. My understanding is that it's going to be addressed either in a Bill or part of a bigger Bill in the longer session. I've talked to Ms. Morris about it, I've been on calls with other jurisdictions about it and things like that.

Really nothing to say other than stay tuned on what it may mean. Just kind of means no new changes to the Development Ordinance right now, no new legislative changes to the Development Ordinance. It won't change things like the zoning request that came before you tonight, because that's a consensual request.

The other thing is, I know some of this Board was part of this. Some of the Board was not. Back in 2021, it's been so long ago. In 2021, there was the Appeal from the Arstarks on Hahn-Scott Road. That came to this Board. This Board issued Findings upheld by a couple of Notices of Violations. That was appealed to Superior Court. Then the Superior Court back in January of last year upheld this Board's Findings of Fact and Conclusions of Law. That was appealed to the North Carolina Court of Appeals. I briefed that case.

There was no oral argument or anything. New Year's Eve, a decision from the Court of Appeals was issued upholding the Board's decision in its entirety and essentially adopting the county position. There is a companion zoning enforcement case that has been filed against Ms. Arstark to keep the issue ripe. I am working with her attorneys right now to settle that and everybody is going to walk away with hopefully, things in status quo. I did want to update the Board on that. That we got it right the first time, and that was affirmed by the Court of Appeals. That case has been very interesting for a lot of people, and I'll leave it at that.

That's all I have from a legal update standpoint. You guys will still continue to see me some, too. Even though I'm in private practice now, Rich and I are going to continue on with the way split things up. I'll be here some, he'll be here some. That's it.

The Chair asked if there were any questions.

The Chair asked, one aside question. You're in private practice doing what? Real estate or anything like that?

Mr. Lee responded, I do land use for developers, but also municipalities. Primarily, my clients are municipalities. I still represent Cabarrus County. I represent Chatham County, City of High Point, Town of Ranlo and a couple of other towns in Gaston County.

The Chair asked Ms. Susie Morris for any comments.

DIRECTOR'S REPORT

Ms. Morris said, just one comment. You'll see a new face. This is Ms. Lisa Johnson; she is our new Administrative Specialist/Planning & Zoning Clerk. I will make sure that you have her contact information, in case you are unable to attend a meeting. If you would continue to let me and her know. That way, we can line up alternates if we need to and make sure that we have a quorum and the vote that we need and enough people to vote, if it is a Board of Adjustment item. As you're aware, if it is a Board of Adjustment item, if it's not a full complement of the Board, we do extend the offer to the applicant to table until a full complement of the Board is available.

Like Evan said, with that legislation, there are several associations that are working on that from the government side. Hopefully, it will get back on the agenda because what it means with a down zoning is, if you all remember when we did the Central Area Plan, everybody said we want this to be lower density, lower density, lower density. So, the county initiated that rezoning. Well now, a government entity cannot initiate that type of a rezoning unless every single person agrees to it. So, that's one.

Number two, is you cannot change a zoning district to a more restrictive district, unless everybody agrees to it. For example, we have been talking about how AO and CR have some of those commercial uses peppered in there, which then becomes inherent conflicts. We no longer have the ability to remove those uses. We only have the ability to add to it. It really has created some challenges for local government and hopefully they will reconsider that language because it was tacked on at the end of the Helene Bill. It was last minute and people were saying, this is not transparent, it was just tacked on there. It was specifically related to a case somewhere else, which should have been dealt with as local legislation, if they really wanted to reverse it or do something with it.

Stay tuned on that one, but for now, those of you who are on the Text Amendment Committee, we're probably not going to be moving forward with that project for now.

The Chair asked if there were any other questions or comments.

There being no further discussion, Mr. Adam Dagenhart **MOTIONED, SECOND** by Ms. Holly Edwards, to adjourn the meeting at 6:56 p.m. The vote was unanimous.

APPROVED BY: Charles Paxton, Chair

SUBMITTED BY: Lisa Johnson, Clerk to the Planning & Zoning Commission

ATTEST BY: Susie Morris, Planning & Development Director

PLANNING STAFF REPORT
 CABARRUS COUNTY PLANNING AND ZONING COMMISSION
 4/8/2025

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

Petition: RZON2025-00001 Rezoning

Applicant Information: Amanda McKenzie

Owner Information: Thomas & Amanda McKenzie

Existing Zoning: Mt Pleasant Agricultural (AG)

Proposed Zoning: Cabarrus County Agricultural/Open Space (AO)

Existing Permitted Uses: All uses permitted in the Mt Pleasant AG zoning district are permitted by right on the subject property.

Proposed Uses: All uses allowed in the AO zoning district.

Parcel ID Numbers: 5671-02-9051

Property Addresses: 375 Mt Pleasant Road N

Area in Acres: ± 2.5 ac

Site Description: Currently, a residence and several accessory structures occupy the subject property. The property was removed from the Town of Mt Pleasant Extra-Territorial Jurisdiction (ETJ) pursuant to General Statute 160D-202. An Ordinance removing the subject property from the ETJ was adopted by the Mt Pleasant Town Council at its March 11, 2025, board meeting.

Adjacent Land Use: The subject property is surrounded by single-family residential homes to the east and south, agricultural properties to the southwest and west and an institutional use (Pleasant Hill Baptist Church) to the north.

Surrounding Zoning: North: Cabarrus County AO (Agricultural/Open Space) and Town of Mt Pleasant Agricultural (AG)
 East: Town of Mt Pleasant Agricultural (AG)
 South: Town of Mt Pleasant Agricultural (AG)
 West: Cabarrus County AO (Agricultural/Open Space)

Utility Service Provider: The subject property is currently served by private well and an on-site wastewater disposal system (septic).

Exhibits

EXHIBIT A – Staff Report
 EXHIBIT B – Application
 EXHIBIT C – Property Deed
 EXHIBIT D – Neighborhood Meeting Information
 EXHIBIT E – Staff Maps
 EXHIBIT F – Adjacent Property Owner & Property Owner Letters
 EXHIBIT G – Ordinance to Remove a Parcel From the ETJ of Mt Pleasant

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: TOWN OF MT PLEASANT AGRICULTURAL (AG)

The AG district is established to provide areas for low intensity agricultural operations as well as agribusiness and supportive commercial uses. AG zoning protects and preserves valuable agricultural areas, implements agricultural protection zoning, establishes performance standards for rural businesses, preserves rural areas, preserves pasture land and agriculture, sets maximum permissible densities or new zoning districts, defines specific areas for rural commercial uses, and identifies areas appropriate for agricultural preservation.

Agency Review Comments

Planning Review:

Staff Report. Phillip Collins, Senior Planner, Cabarrus County

NCDOT Review:

No comments. Jason Faulkner, Assistant 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. Lieutenant Travis McGhee, Cabarrus County Sheriff's Office Communications

Health Alliance Review:

No comments. Jacob D Snyder, Onsite Wastewater Supervisor, Cabarrus Health Alliance

Soil and Water Review:

No comments. Abby Weinshenker, Resource Education Coordinator, Cabarrus Soil & Water Conversation District

Land Use Plan Analysis

The subject property is located within the bounds of the Eastern Area Plan (Plan). The Plan recommends that the area where the subject property is located develop as suburban residential. The plan states that suburban residential is the area plan's single-family designation. The Plan recommends housing densities of one to four units per acre in the suburban residential areas. It further recommends that areas without access to existing public utility infrastructure develop at a density of one unit per acre. The suburban residential district includes portions of the existing Residential-Medium Density (RM-1) and Residential-Low Density (RL) Districts (which are Town zoning designations).

Conclusions

- North Carolina General Statute 160D-202 (h) Relinquishment of Jurisdiction states that when a city relinquishes jurisdiction over an area that it is regulating under this Chapter to a county, the city development regulations and powers of enforcement shall remain in effect until (i) the county has adopted such development regulation or (ii) a period of 60 days has elapsed following the action by which the city relinquished jurisdiction, whichever is sooner. Prior to the transfer of jurisdiction, the county may hold hearings and take other measures consistent with G.S. 160D-204 that may be required to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.
 - The subject property was removed from the Mt Pleasant Extra-Territorial Jurisdiction by Ordinance (recorded in deed book 17353 page 108).
 - Said Ordinance stated that the action was effective on March 12, 2025.
 - Cabarrus County has 60 days from the effective date (May 11, 2025) to place zoning on the property.
- PIN 5671-02-9051 is approximately 2.5 acres and currently supports a single-family dwelling.

- The request would be an extension of the existing AO zoning district to the northwest.
- The AO district would not be consistent with the Plan recommendation of suburban residential, which supports densities of four units per acre where utilities are available. Where utilities are not available, the recommended density is one unit per acre.
- Property to the north and west of the subject property is planned for Agricultural uses and is zoned AO.
- The request to apply AO would be for a less intense zoning designation than what the Plan recommends.



CABARRUS COUNTY REZONING APPLICATION

STAFF USE ONLY:

Application/Accela#: _____

Reviewed by: _____

Date: _____

Amount Paid: _____

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 3rd submittal is required, an additional review fee will be assessed)

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 and appropriate agents will review your complete application and comments will be forwarded to you. You will need to address the comments in writing and correct errors.*
3. Once advised that the supporting documentation is complete and ready to be presented to the Planning and Zoning Commission, you will need to submit the final materials to staff (number determined by Staff).
4. When the information is received, Staff will begin to prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for 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.

LAND USE PLAN CONSISTENCY STATEMENT

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

I am not proposing any zoning in particular
 and would like to leave it to Cabarrus co. zoning
 to determine whats best.

2024/01/11

UTILITY SERVICE:

Water Supply Well or _____ Service Provider_____

Wastewater Treatment Septic Tank(s) or _____ 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

Thomas ?
Amanda McKenzie
NAME

NAME

375 Mt. Pleasant rd. N
ADDRESS

ADDRESS

Mt. Pleasant, NC 28124
CITY, STATE, ZIP CODE

CITY, STATE, ZIP CODE

704-989-4278
PHONE NUMBER

PHONE NUMBER

FAX NUMBER

FAX NUMBER

AmandaDMcKenzie@gmail.com
E-MAIL ADDRESS

E-MAIL ADDRESS

Signature of Property Owner: Thomas McKenzie Date: 3/13/25

Signature of Property Agent/Applicant: _____ Date: _____

FILED	Apr 30, 2024
AT	01:44:00 PM
BOOK	16913
START PAGE	0138
END PAGE	0141
INSTRUMENT #	08749
EXCISE TAX	\$600.00

**NORTH CAROLINA
GENERAL WARRANTY DEED**

Excise Tax: \$600.00

Recording Time, Book and Page

Tax Map No. 5671029051000

Mail after recording to: Grantees

This instrument was prepared by: David H Black

THIS DEED made this 29 day of April, 2024 by and between
NO TITLE OPINION RENDERED OR IMPLIED BY PREPARER

GRANTORS

**John Lee Russell and wife
Susan R. Russell;
And
Brent James Russell and wife
Heather M. Russell**

Address 1180 Bellmont Ct NW
Concord, NC 28027

GRANTEE

**Thomas A. McKenzie and wife
Amanda D. McKenzie**

Mail & Property: 375 Mt Pleasant Rd N, Mt Pleasant, NC 28124

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 submitted electronically by "H. L. Ruth, III, PA" in compliance with North Carolina statutes governing recordable documents and the terms of the Memorandum of Understanding with the Office of the Register of Deeds of Cabarrus County. NCGS 47-14(a1)(5).

Carolina and more particularly described as follows:

See Exhibit "A" attached hereto and incorporated by reference

All or a portion of the property hereinabove described was acquired through Cabarrus County Estate Files 23E1232 for Mae Simpson Russell and 23E511 for James Lee Russell. See also Deed 571, Page 254, Cabarrus County Registry.

The above described property does not include the primary residence of the Grantor.

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 hereby warrants that Grantor is seized of the premises in fee and has the right to convey same in fee simple, that title is marketable and is free and clear of encumbrances, and that Grantor will forever warrant and defend the title against the lawful claims of all persons or entities whomsoever, other than the following exceptions:

Subject to 2024 taxes, easements, conditions, rights-of-way and restrictions or record, if any.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, or, if corporate, have caused this Deed to be executed by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

[Signature]
John Lee Russell

[Signature]
Susan R. Russell

[Signature]
Brent James Russell

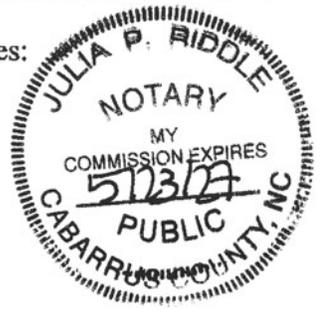
[Signature]
Heather M. Russell

State of NC County of Cabarrus

I, Julia P Biddle, the undersigned Notary Public of the County and State aforesaid, certify that John Lee Russell appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial seal, this the 29th day of April, 2024.

My Commission Expires:

[Signature]
Notary Public



State of NC County of Cabarrus

I, Julie P Biddle, the undersigned Notary Public of the County and State aforesaid, certify that **Susan R. Russell** appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial seal, this 18th day of April, 2024.



My Commission Expires: 5/23/27

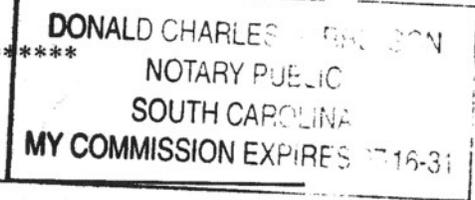
Julie P Biddle
Notary Public

State of South Carolina County of horry

I, Donald Charles Harrelson, the undersigned Notary Public of the County and State aforesaid, certify that **Brent James Russell** appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial seal, this the 18th day of April, 2024.

My Commission Expires: 7/16/31

Donald Charles Harrelson
Notary Public



State of South Carolina County of Horry

I, Donald Charles Harrelson, the undersigned Notary Public of the County and State aforesaid, certify that **Heather M. Russell** appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial seal, this the 18th day of April, 2024.

My Commission Expires: 7/16/31

Donald Charles Harrelson
Notary Public

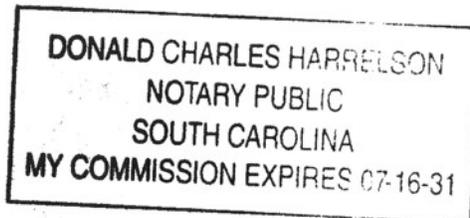


EXHIBIT "A"

Lying and being in No. 8 Township, Cabarrus County, North Carolina on the West side of the Mount Pleasant-Salisbury Highway about one mile from the Mount Pleasant High School and bounded by the property of Ceph M. Rice and Archie B. Fisher and described more particularly as follows:

BEGINNING at an iron stake, Ceph M. Rice's corner, said stake about 10 feet from the West edge of the Mount Pleasant-Salisbury Highway and runs thence with two lines of Rice as follows: 1) N. 83-00 W. 567.3 feet to an iron stake, Rice's corner; 2) N, 40-55 W. 301.5 feet to an iron stake, Archie B. Fisher's and Rice's corner; thence with two of Fisher's 1) N. 44-35 E. 59 feet to a locust stump near a spring; 2) N. 80-35 E. 667.3 feet to an iron stake about 10 feet from the edge of west edge of Mount Pleasant-Salisbury Highway; thence along the West edge of said Highway S. 8-55 E. 450.6 feet to the beginning, containing 5.2 acres more or less, saving and excepting all real property heretofore conveyed including a tract containing 2.5 acres as described in Deed Book 333, page 24, Cabarrus County Registry.

From: [Amanda McKenzie](#)
To: [Phillip Collins](#)
Subject: Re: Neighborhood Meeting
Date: Monday, March 24, 2025 1:17:17 PM
Attachments: [image002.png](#)

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

The Neighborhood Meeting included calling all of our neighbors and letting them know what we were planning to do. Literally No one cared at all including the 5 parcels that touch our property. The only one I cannot confirm is the estate of Charles Grey which has been delinquent on their taxes since the estate has no real representation. You can even call Erin Burriss with Mt Pleasant to confirm that. To prove my narrative correct, Erin Burriss can also confirm that no one showed up for the March 11th town council meeting in protest for Mt Pleasant to relinquish us. I will pay the fee after sending this email.

thank you.
Amanda McKenzie

On Wed, Mar 19, 2025 at 3:51 PM Phillip Collins <PECollins@cabarruscounty.us> wrote:

Mrs McKenzie,

Susie had mentioned that you already addressed the neighborhood meeting requirements for your rezoning request. So, I wanted to reach out and ask if you could send me a narrative providing the details of you neighborhood meeting (list of who you discussed the rezoning request with and their concerns).

Also, I have uploaded the documents and the review fee is ready for payment. You can use this [link](#) to navigate to our website and pay the fee. Let me know if you have any further questions.

Thanks,



Phillip Collins, AICP

Senior Planner

Planning Department

Cabarrus County

65 Church St. SE, Concord, NC 28025

P.O. Box 707, Concord, NC 28026

O: 704-920-2181

F: 704-920-2227

www.cabarruscounty.us



E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

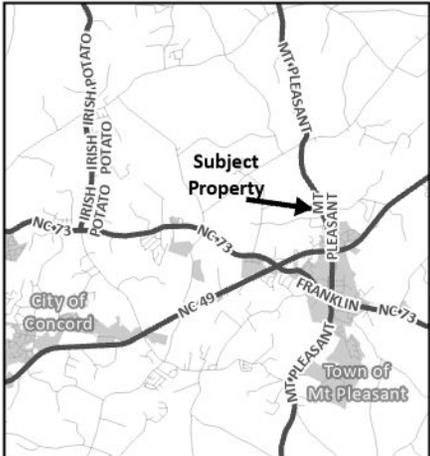
--

"I am too fond of the stars to be fearful of the night"

Eastern Planning Area
068
Zoning Map



Applicant: Amanda McKenzie
 Owner: Thomas & Amanda McKenzie
 Case: RZON2025-00001
 Address: 375 Mt Pleasant Rd N
 Purpose: Rezone from Mt Pleasant
 AG to Cabarrus County AO
 PIN: 5671-02-9051



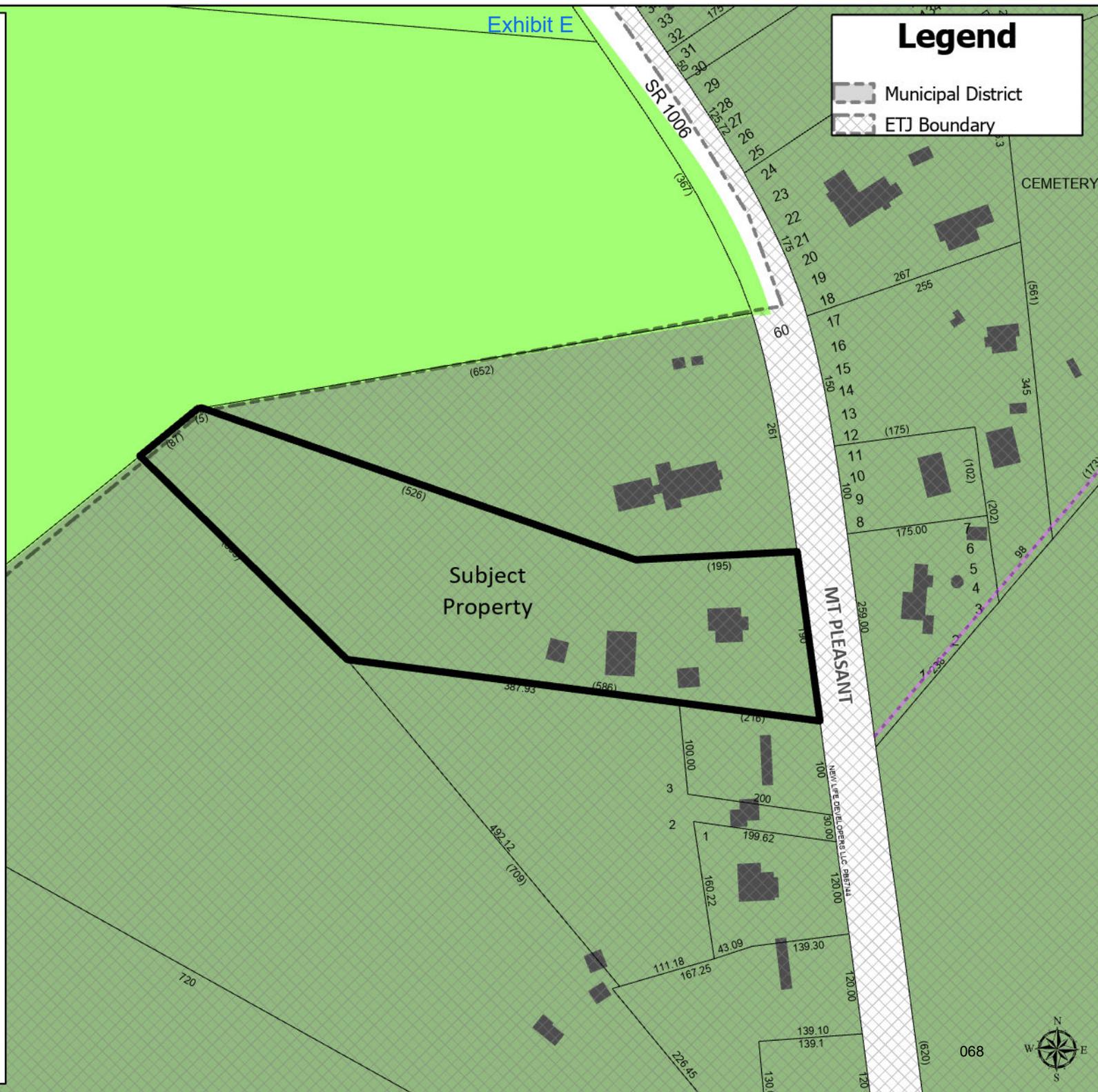
Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data. Map prepared by Cabarrus County Planning and Development April, 2025



Exhibit E

Legend

-  Municipal District
-  ETJ Boundary



CEMETERY

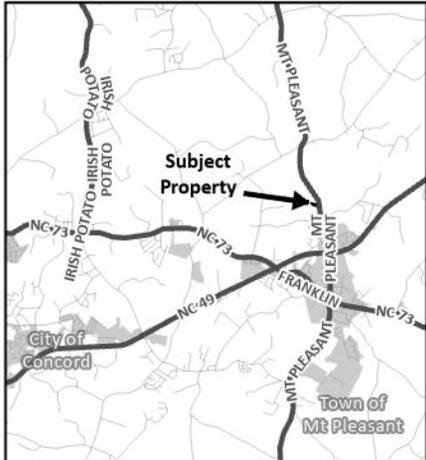
068



Eastern Planning Area
069
Aerial Map



Applicant: Amanda McKenzie
Owner: Thomas & Amanda McKenzie
Case: RZON2025-00001
Address: 375 Mt Pleasant Rd N
Purpose: Rezone from Mt Pleasant
AG to Cabarrus County AO
PIN: 5671-02-9051



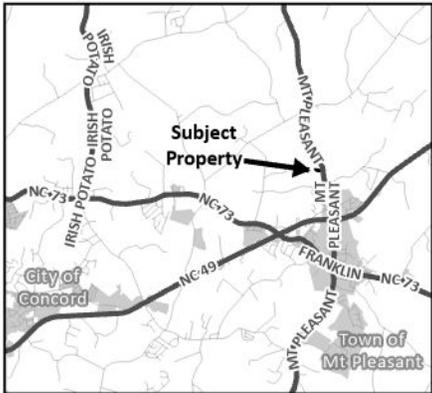
Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data. Map prepared by Cabarrus County Planning and Development April, 2025



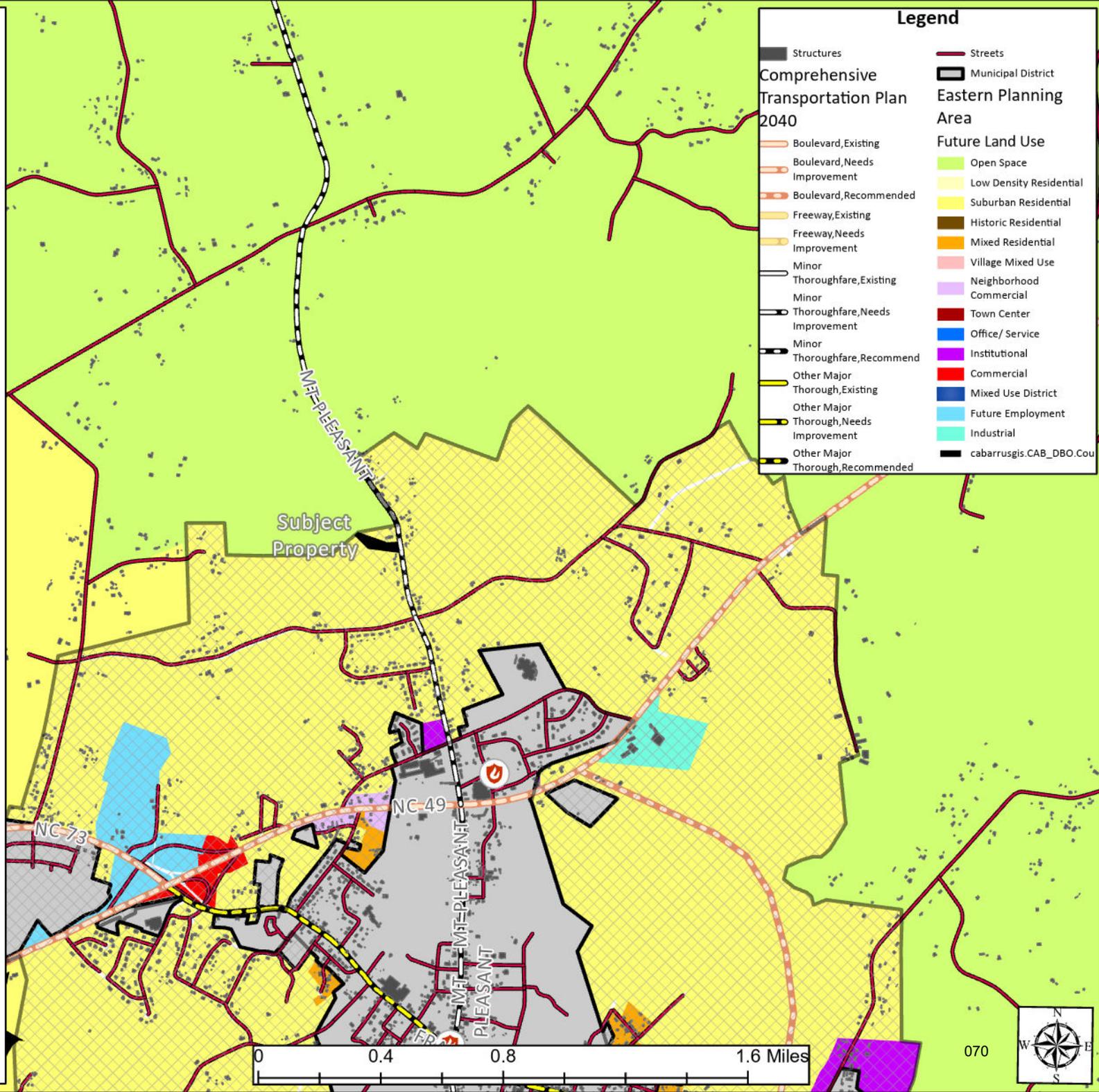
Eastern Planning Area
070
Future Land Use Map



Applicant: Amanda McKenzie
 Owner: Thomas & Amanda McKenzie
 Case: RZON2025-00001
 Address: 375 Mt Pleasant Rd N
 Purpose: Rezone from Mt Pleasant
 AG to Cabarrus County AO
 PIN: 5671-02-9051

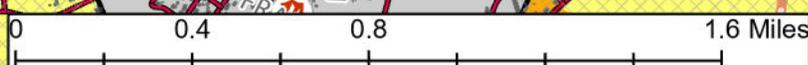


Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data. Map prepared by Cabarrus County Planning and Development April, 2025



Legend

Structures	Streets
Comprehensive Transportation Plan 2040	Municipal District
Boulevard, Existing	Eastern Planning Area
Boulevard, Needs Improvement	Future Land Use
Boulevard, Recommended	Open Space
Freeway, Existing	Low Density Residential
Freeway, Needs Improvement	Suburban Residential
Thoroughfare, Existing Minor	Historic Residential
Thoroughfare, Needs Improvement Minor	Mixed Residential
Thoroughfare, Recommended Minor	Village Mixed Use
Other Major Thorough, Existing	Neighborhood Commercial
Other Major Thorough, Needs Improvement	Town Center
Other Major Thorough, Recommended	Office/ Service
	Institutional
	Commercial
	Mixed Use District
	Future Employment
	Industrial
	cabarrusgis.CAB_DBO.Cou



ADJACENT PROPERTY OWNER LIST						
PIN	NAME	ADDRESS	CITY	STATE	ZIP CODE	
5661922450000	Linda Litaker	3525 CYPRESS CLUB DR	CHARLOTTE	NC	28210	
56711230810000	Timothy Seagraves	4629 LOWER STONE CHURCH RD	ROCKWELL	NC	28138	
56711231850000	Sheryl Blackmon	P O BOX 1137	MT PLEASANT	NC	28124	
56712225110000	Lacy & Ronald Hurlocker	8487 FISHER RD	MT PLEASANT	NC	28124	
56710167550000	Estate of Ben Rice c/o Wanda R Brown	6633 WELDON CIR NW	CONCORD	NC	28027	
56711118660000	Charles & Sara Gray Estate c/o Charles Wayne Gray Jr	PO BOX 1484	MT PLEASANT	NC	28124	
56711107070000	Brandon & Erin McEntire	357 MOUNT PLEASANT RD N	MT PLEASANT	NC	28124	
56711202400000	Pleasant Hill Missionary c/o Dale McCraw	425 MT PLEASANT ROAD NORTH	MT PLEASANT	NC	28124	
Subject Property						
56710290510000	Thomas & Amanda McKenzie	375 MOUNT PLEASANT RD N	MT PLEASANT	NC	28124	



Cabarrus County Government – Planning and Development Department

March 19, 2025

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for property **adjacent** to yours. The property was recently removed from the Extra Territorial Jurisdiction of Mount Pleasant and County zoning must be applied to the property. The specifics of the request are listed below.

The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, April 8, 2025, at 6:30 PM in the 2nd 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.

Petitioner	Amanda McKenzie
Petition Number	RZON2025-00001
Property Location	375 Mt Pleasant Rd N
Parcel ID Number	5671-02-9051
Existing Zoning	Mount Pleasant Agricultural (AG)
Proposed Zoning Map Change	Cabarrus County Agricultural/Open Space (AO)

If you have any questions regarding this petition, or the hearing process, please contact us at Cabarrus County Planning and Development at 704.920.2141.

Sincerely,

Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development



Cabarrus County Government – Planning and Development Department

March 19, 2025

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for your property. The property was recently removed from the Extra Territorial Jurisdiction of Mount Pleasant and County zoning must be applied to the property. The specifics of the request are listed below.

The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, April 8, 2025, at 6:30 PM in the 2nd 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.

Petitioner	Amanda McKenzie
Petition Number	RZON2025-00001
Property Location	375 Mt Pleasant Rd N
Parcel ID Number	5671-02-9051
Existing Zoning	Mount Pleasant Agricultural (AG)
Proposed Zoning Map Change	Cabarrus County Agricultural/Open Space (AO)

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2141.

Sincerely,

Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development

Mar 21, 2025 at 9:57:54 AM
375 Mount Pleasant Rd N
Mount Pleasant NC 28124
United States

CABARRUS COUNTY
ZONING



NOTICE
RZON2025-00001
FOR DETAILS CALL
704-920-2141

SCANNED AND RETURNED

FILED
 CABARRUS COUNTY NC
 WAYNE NIXON
 REGISTER OF DEEDS

FILED	Mar 24, 2025
AT	01:45 pm
BOOK	17353
START PAGE	0108
END PAGE	0111
INSTRUMENT #	05966
EXCISE TAX	\$0.00

BJW

ORDINANCE TO REMOVE A PARCEL FROM THE EXTRATERRITORIAL OF THE TOWN OF MOUNT PLEASANT, NORTH CAROLINA

WHEREAS, the Board of Commissioners has been petitioned pursuant to G.S. 160D-202 to remove the described area from the Town of Mount Pleasant Extraterritorial Jurisdiction (ETJ); and

WHEREAS, the Board of Commissioners held a public hearing for this request at the Mount Pleasant Town Hall at 6:00 PM on March 11, 2025; and

WHEREAS, Cabarrus County Government has been notified of the request; and

WHEREAS, the Board of Commissioners finds that the removal of the described territory from the ETJ is not inconsistent with the Town’s Comprehensive Plan and that its removal will not be detrimental; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Mount Pleasant, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160D-202, the described territory (REZ 2025-01) is hereby removed from the Town of Mount Pleasant extraterritorial jurisdiction as of March 12, 2025; and

Section 2. Upon and after March 12, 2025, the attached described territory and its citizens and property shall be subject to all laws, ordinances and regulations in force in Cabarrus County and that Cabarrus County shall have up to 60 days to establish the appropriate County zoning district to the property as set forth in G.S. 160D-202(g); and

Section 3. The Town of Mount Pleasant shall cause to be recorded in the office of the Register of Deeds of Cabarrus County, this Ordinance with territory described below as set forth as Exhibit A of Deed Book 16913, Page 138:

BEGINNING at an iron stake, Ceph M. Rice’s corner, said stake about 10 feet from the West edge of the Mount Pleasant-Salisbury Highway and runs thence with two lines of Rice as follows: 1) N. 83-00 W. 567.3 feet to an iron stake, Rice’s corner; 2) N, 40-55 W. 301.5 feet to an iron stake, Archie B. Fisher’s and Rice’s corner; thence with two of Fisher’s 1) N. 44-35 E. 59 feet to a

526
7.

locust stump near a spring; 2) N. 80-35 E. 667.3 feet to an iron stake about 10 feet from the edge of west edge of Mount Pleasant-Salisbury Highway; thence along the West edge of said Highway S. 8-55 E. 450.6 feet to the beginning, containing 5.2 acres more or less, saving and excepting all real property heretofore conveyed including a tract containing 2.5 acres as described in Deed Book 333, page 24, Cabarrus County Registry.

Adopted this 11th day of March, 2025.

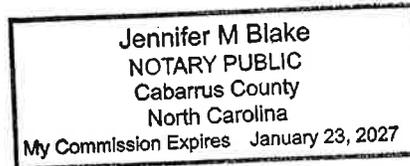
Tony Lapisch
Tony Lapisch, Mayor



State of North Carolina
County of Cabarrus

I, the undersigned Notary Public of the County of Cabarrus and State aforesaid, certify that **Tony Lapisch** personally appeared before me this day and acknowledged that he is Mayor of the Town of Mount Pleasant and acknowledged, on behalf of the Town of Mount Pleasant, the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 11th day of March, 2025.

Notary Public: Jennifer M. Blake
My commission expires: January 23, 2027

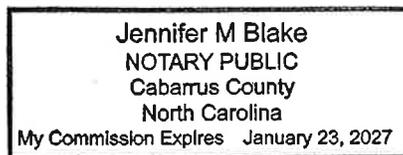


ATTEST: Amy Schueneman
Amy Schueneman, Town Clerk

State of North Carolina
County of Cabarrus

I, the undersigned Notary Public of the County of Cabarrus and State aforesaid, certify that **Amy Schueneman** personally appeared before me this day and acknowledged that she is Town Clerk of the Town of Mount Pleasant and acknowledged, on behalf of the Town of Mount Pleasant, the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 11th day of March, 2025.

Notary Public: Jennifer M. Blake
My commission expires: January 23, 2027



APPROVED AS TO FORM:

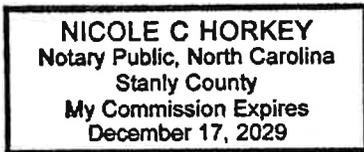


John Scarbrough, Town Attorney

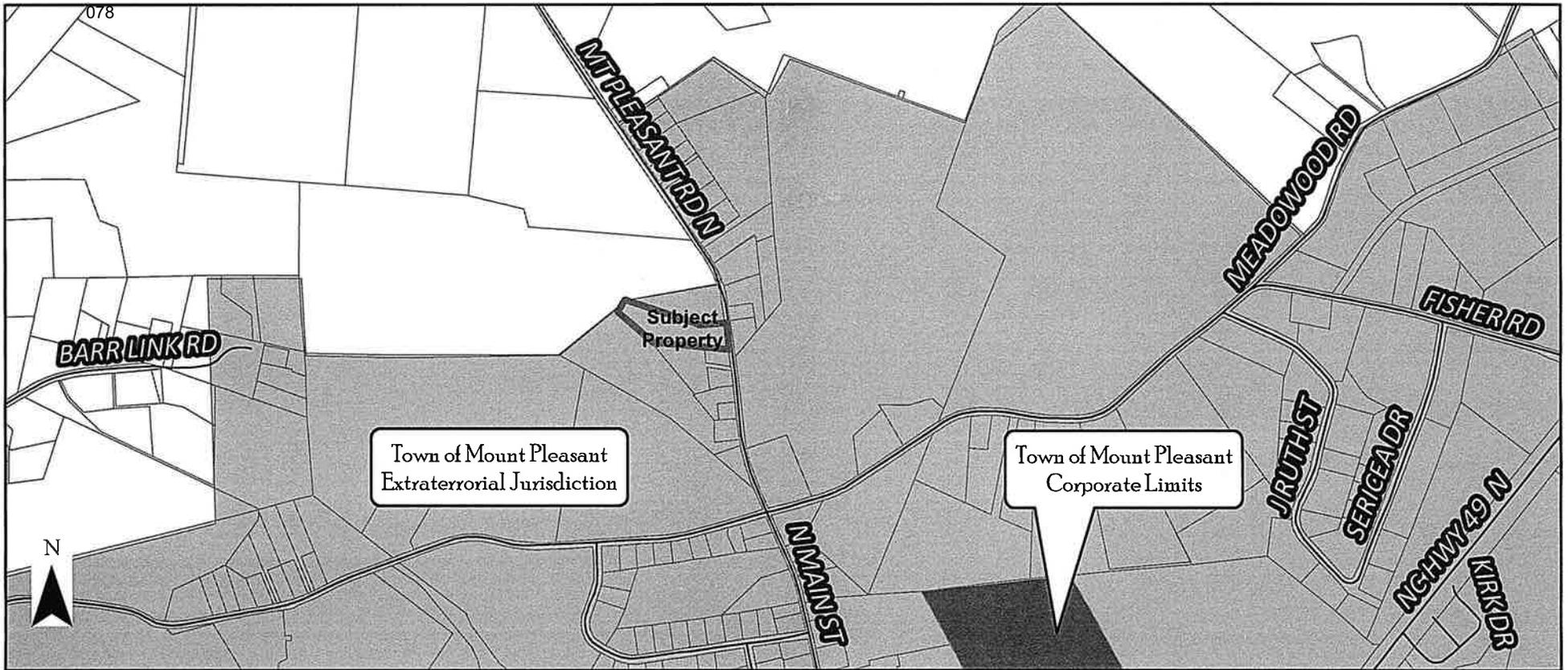
State of North Carolina
County of Cabarrus

I, the undersigned Notary Public of Stanly County and State aforesaid, certify that **John Scarbrough**, Town Attorney, personally appeared before me this the 24th day of March, 2025 and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and official seal this the 24th day of **March, 2025**.



Nicole C. Horkey- Notary Public
My Commission Expires: 12-17-2029

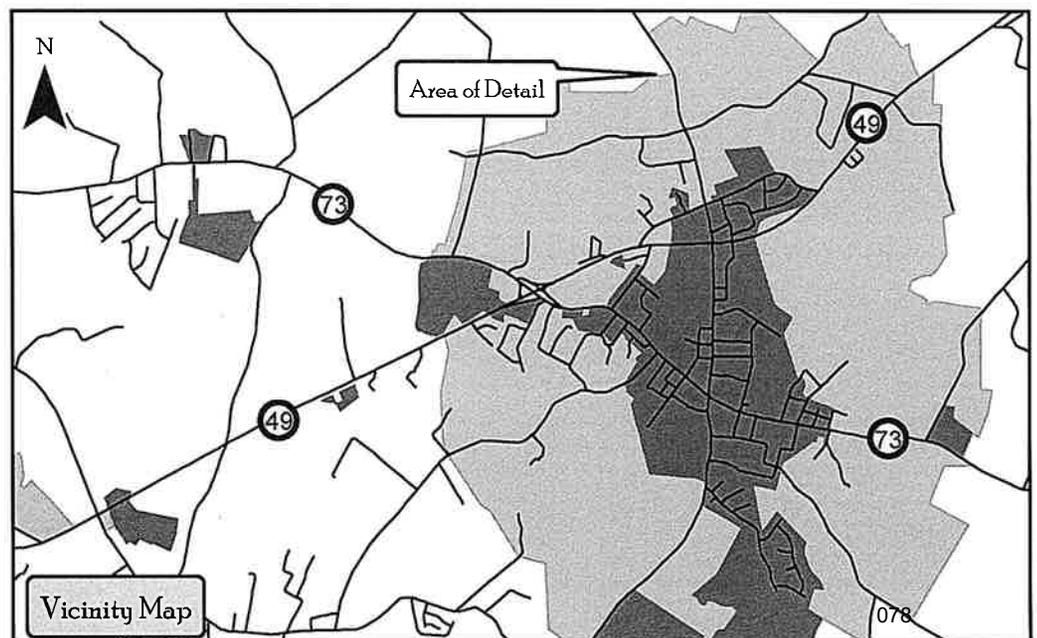


0 0.1 0.2 0.4 0.6 0.8 Miles

**Town of Mount Pleasant
ETJ Removal
Ordinance 2025-01**

Effective Date: March 12, 2025

Parcels: 5671-02-9051
Acres: 2.5 acres +/-





**Cabarrus County
Register of Deeds**

**P.O. Box 707
Concord, NC 28026
(704)920-2112**

Wayne Nixon, Register of Deeds

Received By:
Jewel Williamson

Receipt For : SCARBROUGH, SCARBROUGH, PLLC

Instrument Type : ORD
Instrument # : 05966
Book/Page : 17353 / 0108-00111 Pages : 4
1st Grantor : THE TOWN OF MOUNT PLEASANT, NORTH CAROLINA
1st Grantee : CABARRUS COUNTY
Description: TO REMOVE A PARCEL FROM THE
EXTRATERRITORIAL OF THE TOWN OF MT
PLEASANT, NC

Receipt # : 2025-669819

Date : 03/24/2025 01:45pm

Document : 1 of 1

Description	Qty	Unit Cost	Extended
Miscellaneous document - first 15 pages	1	26.00	26.00
	Document 1		26.00
	Grand Total		26.00
	Check 3830		-26.00
	Balance		0.00

Memo

To: Cabarrus County Planning and Zoning Commission
From: Chris Chapman, Planner
Date: April 1, 2025
Re: VARN2025-00003 Variance Request for Setback Requirements of Chapter 5 for Existing Structures

- The applicant is asking that this case be tabled until after the survey is completed, which is scheduled for April 18, 2025
- A formal vote is required by the Commission.