



## **Cabarrus County Government**

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Cabarrus County Planning and Zoning Commission Meeting  
December 16, 2010  
Board of Commissioners Chamber  
Cabarrus County Governmental Center

### **Agenda**

1. Roll Call

2. Approval/Correction of November 18, 2010 Minutes

Approval of Findings of Fact for Variance Application of Great Western Bank and  
Lakeland Asset Management, LLC - VARN 2010-00003

Approval of Findings of Fact for Conditional Use Permit Application Crown Castle and  
Albert Edward Sides – CUSE2010-00004

3. **Old Business – Board of Adjustment Function:**

1. **Petition VARN2010-00002** - Applicant, Benjamin Small – Request for variance from required setbacks for accessory structure at 2239 St. John's Church Road, Concord, NC 28025.

4. **New Business - Board of Adjustment Function:**

1. **Petition CUSE2010-00003** – Applicant, Piedmont Natural Gas- Request to construct natural gas regulator station. Property is located at 10472 Harris Road, Huntersville, NC. (PIN#4671-80-4108).

5. **New Business - Planning Board Function:**

1. TEXT2010-00005 – Tattoo Studio Text Amendment – The purpose of the proposed text amendment is to add tattoo studio to the Cabarrus County Ordinance as a permitted use.

### **Directors Report**

### **Adjournment**



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Mr. Todd Berg, Chair, called the meeting to order at 7:00 p.m. Members present, in addition to the Chair were: Ms. Mary Blakeney, Ms. Brenda Cook, Mr. Eugene Divine, Mr. Larry Ensley, Mr. Danny Fesperman, Ms. Shannon Frye, Mr. Ted Kluttz and Ms. Emily Knudson. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Jay Lowe, Senior Zoning Officer, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

**Roll Call**

**Revised Agenda**

**Approval of Minutes**

Mr. Danny Fesperman, **MOTIONED, SECONDED** by Mr. Ted Kluttz to **APPROVE** the November 18, 2010 meeting minutes. The vote was unanimous.

Mr. Larry Ensley, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the Findings of Fact for the Variance Application for Great Western Bank and Lakeland Asset Management, LLC – VARN2010-00003. The vote was unanimous.

Ms. Mary Blakeney, **MOTIONED, SECONDED** by Mr. Larry Ensley to **APPROVE** the Findings of Fact for the Conditional Use Permit Application for Crown Castle and Albert Edwards Sides - CUSE2010-00004. The vote was unanimous

Ms. Susie Morris, Planning and Zoning Manager, presented a proposed amendment to the Original Granting Order for Conditional Use Permit CUSE2010-00001. It has been determined that the project involves less real property than originally contemplated in the application.

She said the Findings of Fact would remain the same as the Findings that the Board approved. When this application came in originally, it was 20 plus acres and there were several different parcels. Since that time they decided to go back and remove Mr. Cruse's house from the project property and to also reduce the size of the spray field in the back. It is now encumbering approximately 4.6 acres and that is the only area that will be be part of the project. She said Mr. Koch has been working with the applicants' attorney and since it was not expanding the project, the project was contracting, he decided that it did not need to come back to the Board for review since the Board had already approved it. She said the scope of the project had not gotten any bigger and had





## Cabarrus County Government

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### REVISED AGENDA

Cabarrus County Planning and Zoning Commission Meeting  
December 16, 2010 – 7:00 p.m.  
Board of Commissioners Chamber  
Cabarrus County Governmental Center

#### Agenda

1. Roll Call
2. Approval/Correction of November 18, 2010 Minutes
  - a. Approval of Findings of Fact for Variance Application of Great Western Bank and Lakeland Asset Management, LLC - VARN 2010-00003
  - b. Approval of Findings of Fact for Conditional Use Permit Application Crown Castle and Albert Edward Sides – CUSE2010-00004
  - c. Consideration to Amend Original Granting Order for Conditional Use Permit CUSE2010-00001 (Cruse Meat Market)
3. **Old Business – Board of Adjustment Function:**
  1. **Petition VARN2010-00002** - Applicant, Benjamin Small – Request for variance from required setbacks for accessory structure at 2239 St. John's Church Road, Concord, NC 28025.
4. **New Business - Board of Adjustment Function:**
  1. **Petition CUSE2010-00003** – Applicant, Piedmont Natural Gas. Request to construct a natural gas regulator station. Property is located at 10472 Harris Road, Huntersville, NC. (PIN#4671-80-4108).
5. **New Business - Planning Board Function:**
  1. TEXT2010-00005 – Tattoo Studio Text Amendment – The purpose of the proposed text amendment is to add tattoo studio to the Cabarrus County Ordinance as a permitted use.

#### Directors Report

#### Adjournment

not changed. She said this is the amended order that refers to the property now identified as PIN 5653833375.

She said the document was recorded to abandon the right of way, so the right of way for Kathy Drive has also become a part of this parcel.

The Chair said with the reduction in size, were any of the setbacks or buffers impacted?

Ms. Morris believes that the buffers would end up being less because they are based on the size of the property. The applicant has submitted a new site plan with the new parcels; it will be reviewed based on the new parcel lines and also with the parcel line being added between the project and the home. She said that would now become commercial to residential.

Mr. Koch, County Attorney, said the County is involved in this to try to develop a kill floor slaughter house within the County so that local meat can be processed here and not taken elsewhere as it is presently. It has been an evolving project and process to figure out how to do this with County or some grant money to be added to an existing private facility. The original plan was to have the County put this money in to build this facility and then in return for that the Cruse family was to actually operate the facility and after a certain amount of time, if they operated according to a contractual relationship, they would end up owning the facility.

We have gone through several scenarios on how to accomplish that and also protect the county's investment in this sort of public/private project. He said it not fully determined yet because the funding sources are still up in the air. We thought the Golden Leaf Foundation was going to fund a part of it; which is part of the tobacco settlement money. He said they have declined to do so, even though they originally indicated that they were interested in the project. So, we are still trying to work that out and then work out the ultimate agreement with the Cruse family as to how long they will have to operate it and under what circumstances before they end up essentially owning what the county's investment would be. When it was originally proposed, all their property out there, which included Max Sr.'s house and the back parcel, were to be included in the project and the county was going to take a lien on it or do something to secure whatever the investment was, that is the reason that was all put into the original condition use permit.

Mr. Koch said Mr. Cruse, naturally, would not want to have his personal residence committed to, or perhaps be at risk for, this project if it did not work out properly. He said as Ms. Morris pointed out, the back parcel was not really needed for the project as it was proposed, so Mr. Cruse asked that it be taken out. He said that was done after the Board had already approved it. He said that is why we feel comfortable doing this in this fashion, because all the findings of fact, all the conclusions and all the parts of the project that mattered are still in place. He said none of that has changed at all; it is just the size of the parcel on which this project is going to take place that has changed. Those parcels were not really necessary for the project but they were part of what we were attempting to work out with Mr. Cruse in terms of securing the County's investment. He said that is



really a separate issue from what would be subject to the conditional use permit. Since we do not really care about those parcels from that investment aspect anymore and they do not matter to the project then they are not needed and it seems appropriate to take them out.

Mr. Larry Ensley **MOTIONED, SECONDED** by Mr. Ted Kluttz to **APPROVE** Amended Order to combine PIN's for Conditional Use Project (Cruse Meat Market - Conditional Use Permit CUSE2010-00001). The vote was unanimous.

#### **Old Business – Board of Adjustment Function:**

##### **Petition VARN2010-00002 - Benjamin Small Variance Request**

Mr. Koch said the applicant has requested that this matter be tabled until the January 20, 2011 meeting. He said it has been continued or tabled a number of times. The situation has to do with the Board's arithmetic, as it relates to the number of members and our high vote requirement for a variance. Our Board is composed of nine members, right now we have one vacancy, we have three alternates, and we have on this particular application one recusal. We knew in advance that tonight we would have two vacancies, Tommy Porter and Barry Shoemaker. That left us in a situation where we had to use the three alternates to get a full strength board and we were going to be one short.

He said a couple of years ago they amended the Statute and we amended our Ordinance. The Ordinance now allows us to calculate for the purposes of a high vote requirement without using anyone who is being recused or any vacancies. It used to be that you had to include those and it created problems. They amended the Statute to say that you do not include those anymore for purposes of calculating the number of members that you have present and then applying the 80 % high vote requirement to that situation. So, the issue became how do you apply your alternates? Which positions do you fill first when you have the very unique circumstance that we have in reference to this particular application? If you apply your alternates first to the excused members, you end up with a different result than if you apply them first to the vacant position and the recused seat.

Mr. Koch and Ms. Morris have been working on this since they found out that the two members were going to absent. He said this does not matter for the other conditional use application because we do not have a recusal, and we have a whole compliment here so the regular rules will apply; 8 of 9.

He said in the scenario with the two absences, one recusal and one vacant spot we ended up in the situation where depending on whether you apply alternates first to vacancies or first to absences, it makes a difference in the outcome of what kind of vote requirement the applicant would need. We went to the Institute of Government and had three professors looking at this trying to make sure that we handled it right because of the nature of this particular application, and because it would turn out to be different depending on how you did the arithmetic.

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He said there is no law on this, and it really comes down to how you look at it. Under that circumstance, he felt the appropriate thing to do was to notify the applicants' counsel that there was this issue and then give them the choice as to how they wanted to proceed. If we counted them one way, namely by applying the alternates to the absences they would have an 8 member board tonight and they would have to have 7 affirmative votes to have their Variance granted. He said if we applied the other way they would have had to have 8 of 8. He gave them the option of coming tonight and agreeing that we would calculate it the one way so that they would be required to have 7 of 8 votes or allow them to roll it over until next month when the vacancy on the Board will be filled, and presumably have a full complement, even with the recusal. He said so that they would essentially have to have 8 of 9 affirmative votes. They chose to roll it over and go for a hearing next month where they will have to have 8 of 9 affirmative votes in order to have the Variance granted instead of 7 of 8 tonight.

Mr. Koch said under the circumstances it seemed to be the fair thing to do for them. He did not want to create an appealable issue for this case. He is looking ahead in the event it would come out in the way that the applicant does not like and they feel that they need to take it up to Superior Court. He did not want to give them an automatic issue to argue about how to calculate this, because of the absence of law to guide us.

We feel that you calculate it by it applying the alternates to the absences first, and then apply it to the recusal and leave the vacancy alone. He said under that scenario, you would have an eight member board and you would have to have the affirmative vote of 7 members for the Variance. He said without the Statute or the Ordinance or any case law giving you guidance as to how you apply your alternates, to which positions you fill first; you can also look at it the other way as well. He felt that the better course would be to allow them to make a choice and they chose to table it until January.

There being no further discussion Mr. Larry Ensley, **MOTIONED, SECONDED** by Ms. Mary Blakeney to Table Petition VARN2010-00002, until the next Planning and Zoning Commission meeting on January 20, 2011. The vote was unanimous.

Mr. Koch said the applicant has changed law firms. His present lawyer is Mr. Fred Parker with James, McElroy and Diehl, a law firm in Charlotte, NC. He asked the Board if there were any conflicts or perceived conflicts with either Fred Parker or that law firm.

Mr. Danny Fesperman said his company was involved in mediation where one of the partners of that law firm was the mediator for a case that is on going. He does not think that would be any problem.

Mr. Koch asked if it was Gary Hemric.

Mr. Fesperman said yes.

Mr. Koch said Mr. Hemric is neutral and does a lot of mediations out that firm. Mr. Koch does not see that as being a problem.



**New Business - Board of Adjustment Function:**

**The Chair introduced Petition CUSE2010-00003 - Petitioners: Piedmont Natural Gas, PIN#4671-80-4108. Request to construct an unmanned natural gas regulator station (public service facility).**

The Chair swore in Ms. Susie Morris, Mr. Jay Lowe and Mr. Jim Adkins

Mr. Jay Lowe, Senior Zoning Officer, addressed the Board presenting Petition CUSE2010-00003, the applicant is Jim Adkins, Piedmont Natural Gas, 4720 Piedmont Row Drive, Charlotte, NC 28210 and the owner is Mrs. Glenna T. Hensley, 10472 Harris Road, Huntersville, NC 28078, PIN#:4671-80-4108. The size of the property is approximately 23 acres. He said the purpose of the request is to construct an unmanned natural gas regulator station (public service facility). The current land uses are residential and farming. The adjacent land uses are residential, vacant and wooded. The existing zoning of this property is Low Density Residential (LDR). He said a sign showing the date and time of this meeting was posted on the property on December 3, 2010. The newspaper notification ran on December 1st and 8th and the notification letters were mailed on December 3, 2010.

He said the applicant has provided documentation compliant with Section 8-3, Petition for a Conditional Use. The applicant submitted a complete application which includes the Findings of Fact sheet along with a site plan showing the location of the facility on the property. The land has been used mainly for farm purposes in the past.

Mr. Lowe said should the Board grant approval of the Conditional Use Permit, staff request the following conditions become part of the approval and case record.

- 1 Site plan review and approval required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- 2 Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed to the property.
- 3 Applicant shall procure any and all applicable federal, state and local permits prior to commencement of project.
- 4 Expansion of project, as well as modifications or changes to approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
- 5 Must install at least a 20 foot x 20 foot paved apron.
- 6 Applicant must maintain 20 foot access drive to facility.

Mr. Lowe showed a picture of what a typical facility would look like. He said the regulator facility will be confined within an area surrounded by a six foot tall security fence. The fenced in area will be approximately 100 x 100 foot square.

He showed pictures of the existing property and stated that there is already an easement on the property that contains two existing pipe lines. He said the applicant will be buying an easement that is adjacent to the existing pipe lines. We requested that the applicant lease more land then is needed for the facility for buffering purposes. It is his understanding that this regulator station reduces the gas pressure in that area so it can better serve the customers in that area.

Mr. Lowe said the applicant is here and can get into the specifics about that and the land owner is also here. Mr. Lowe has visited the site and can answer any questions.

The Chair asked if the 20 x 20 foot apron was asphalt, concrete or was gravel sufficient.

Mr. Lowe said Ms. Leah Wagner, NCDOT, has approved a new driveway cut for that area; she is fine with the proposed drive way cut but has not issued a permit yet. He does not know what NCDOT regulations will be. He said on these unmanned facilities, the County has always requested a 20 x 20 foot apron; because they are not going to need a lot of parking in that area and because it is unmanned, there will not be any buildings there. Basically, we do not want any of their vehicles or trucks pulling out from gravel surface onto the asphalt spinning tires, which could be a safety hazard. He spoke with the applicant about that and the applicant is in full agreement with it, despite what NCDOT may require, it may be a step beyond what they require.

The Chair asked if the drive way location had been changed.

He said no, the driveway is the same but there will be a new drive way cut.

Ms. Shannon Frye asked Mr. Lowe to address how the 20 foot access drive to the facility would be accommodated.

Mr. Lowe said that is one of the Fire Marshal's's regulations and he has approved it. He said the Fire Marshal wants them to maintain at least a 20 foot wide access point to be able to get their vehicles in and be able to turn around in case there is an accident at the facility.

Ms. Morris said the Fire Marshal office requires 20 foot wide, all weather access.

Mr. Jim Adkins, Piedmont Natural Gas, 2011 Schooner Drive, Cornelius, NC, addressed the Board. He said this project is not connected with the City of Monroe project that went through the Town of Midland. He said they also have a proposed line that is going through Davidson, NC to the Coast and is coming through the same area and it is being surveyed. He said some people may have been contacted for easements. He said this project is really not connected to that project either, but it is our company.



The Chair asked Mr. Akins if he agrees with the six conditions that staff has recommended.

Mr. Adkins said yes.

There being no further discussion, Mr. Danny Fesperman, **MOTIONED, SECONDED** by Mr. Ted Kluttz to **Approve** Petition CUSE2010-00003 with the six conditions recommend by staff. The vote was unanimous.

**It was the consensus of the Board to allow Mr. Koch to prepare the findings to be approved at the next meeting. (See Findings Below)**

**Conditional Use Permit Application  
Piedmont Natural Gas  
10472 Harris Road (Huntersville)  
CUSE 2010-00003**

**FINDINGS OF FACT**

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

*This proposed use is exclusively for a natural gas regulator station, which reduces the pressure level of natural gas in a main pipeline to a level suitable for customer use. These stations are common place and necessary for effective utilization of natural gas.*

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

*This proposed use is in a developing area of the County on a well traveled two lane road with all support facilities available and nearby.*

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

*The proposed use is adjacent to the existing natural gas pipeline on a parcel of property large enough to accommodate it. There is an electric power substation directly across the street.*

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

*The proposed use is for a utility that will benefit the general public and will be used by natural gas customers in that area. The plans for development of the County contemplate the location and construction of such utility facilities.*

**New Business – Planning Board Function:**

**The Chair introduced Text 2010-00005 Tattoo Studio Text Amendment, proposed text amendment to add tattoo studio to the Cabarrus County Zoning Ordinance as a permitted use.**

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating that this is a proposed text amendment. She said someone came in to the office and wanted to know whether or not we would permit a tattoo studio as a home occupation.

She went to the NAICS (North America Industry Classification System) codes which is a classification system that puts things together for tax purposes, but is also something that we use a lot because it groups similar uses together. She said the UDO's (Unified Development Ordinance) that are being used in the county uses that system to group uses together that are similar and those that are different get pulled out.

She said in looking at that, we realized that we had not addressed tattoo studios in our ordinance. The closest thing we have is, maybe, general retail and it is not really office. She said we need to add it to the ordinance somewhere because right now we do not have it all and we could be challenged because we do not have it. She said because we had someone interested in having that particular use as a home occupation, we decided to put that as a part of this text and let the Board discuss whether it is an appropriate use for a home occupation. She said based on the NAICS codes, when you look at that, it is considered personal services as the overall umbrella, and it has hair salons, nail salons and things like that that fall under the same classification; we do allow a one chair barber or beauty shop as a home occupation.

She said because tattoo studio is not in the ordinance at all, she wanted the Board to discuss it. She said a lot of the home occupations are commercial categories, slow traffic generators that are allowed as home occupations. She said based on information received from David Troutman, Cabarrus County Health Alliance, permits are issued to a specific artist at a specific location, an artist must have a separate permit for each location.

Mr. Koch said among the staff that has looked at this, there has not been unanimity of opinion as to how tattoo shop or parlor should be treated. So, because not everyone saw it the same way, we thought we should pitch to the Board to weigh in on it.

He said one of the considerations on one side is that in some ways, if you have a single chair or booth tattoo parlor, what would be the harm in having it be allowed as a home occupation like a hairdresser or something like that. He said there are some people who feel that would be acceptable, there are others who see those two occupations as being very much different. He said potentially there are more health and safety issues in doing tattooing as opposed to just hairdressing. He said there were different ways to look at this and particularly based on Richard Duckers blog, we need to address it some way in the ordinance and make some change to it.



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Mr. Koch asked the Board to give staff some guidance and we will put something together and bring it back to the Board.

The Chair asked how body piercing is associated with this.

Ms. Morris said this particular inquiry was only for tattoos. She said body piercing has been shifted to tattoo parlors or body piercing facilities. She said it is not regulated but it is a common accessory use for tattoo studios. She said the permit issued is to a specific artist at a specific location; so the artist can not travel around to different locations unless they have a permit for each location.

The Chair said the suggestion from staff is to allow a tattoo studio as a use permitted by right in two zoning districts and as a home occupation, one chair tattoo studio.

Ms. Morris said it needs to be a permitted use in a commercial district; which is what the GC (General Commercial) and LC (Limited Commercial) propose. She said looking at the map; you will see that we have some of those areas left. She said a lot of these businesses are driven toward the city limits just because they have more commercial property, different types of property that are available for people to rent and different types of locations if they wanted to be in a high traffic area like Concord Mills or they could be located somewhere on Spring Street.

She said the first part would be whether or not to add it to GC and LC. She said it could be limited to one of those districts, but because there is not that much property, it would make sense to propose it for both; they are both commercial districts. She said next decide whether or not it is appropriate as a home occupation; it is only proposed as one chair, one artist.

The Chair said for clarification, the home occupation would still have to be in the GC and LC district?

Ms. Morris said no, it could be in any residential district unless the Board wanted to turn it into something else that would be limited. She said the Board has the list of other uses for permitted home occupations.

Mr. Feserman asked if there were any restrictions or control on the studios.

Ms. Morris said you could propose it as permitted based on standards. Some people try to regulate tattoo studios as adult businesses and place regulations on them between schools and churches and things like that. She said it is another type of business and it would be up to the Board if you thought we needed to do that. We are not proposing any additional standards on it.

Ms. Morris said the Town of Harrisburg requires the applicant to apply for a conditional use permit, the City of Concord does not have standards, and the City of Kannapolis has conditions near churches. She said some people treat it as adult business and the Sheriffs'

department considers it an adult business because it caters mainly to adults or people over 18, so they would like to be able to see some foot traffic around it.

Mr. Larry Ensley said one of his concerns is with home occupation. He said it reads that the home occupation is conceived as being reasonably permitted in a residential setting because it does not compromise the residential character of the area, would not generate conspicuous traffic, and would not visually call unusual attention to the home. He said how are you going to have a tattoo parlor without advertising?

Ms. Morris said that gets back to how do you have accounting and the other offices with out advertising; they are allowed a small sign.

Mr. Ensley said in his opinion that would compromise the residential character of the area.

Ms. Morris said because all of the uses that are listed and then it has the similar and low impact; all of those are permitted there as well as something where it is really clear that it is similar and low impact. She said right now they can have a sign up to four square feet. She said right now you can have a day care with eight children or less in a residential district.

The Chair asked if anyone had an issue with the permitted by right in the LC (Limited Commercial) and GC (General Commercial).

Ms. Morris said it would be proposed with no additional standards; if it is zoned LC (Limited Commercial) and GC (General Commercial) the tattoo studio would be permitted.

The Chair said there would be no one chair limitation or size limitation or anything like that.

Ms. Morris said that is correct, it would be a regular tattoo studio.

The Chair said it sounds like there is a consensus of the Board that agrees with that part of it. He said maybe the hang up is on the home occupation or maybe there is not one. He said he could see it both ways, it kind of goes along with the beauty shop or barbershop.

Ms. Mary Blakeney asked if there had to be adequate parking for a home tattoo parlor.

Ms. Morris said if it is a regular home occupation and not considered a rural home occupation; the parking typically would just be what ever it is at that house, because they are not really having a lot of traffic, because all of the activity has to be handled inside of the house.



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also have to work with building standards to make sure the facility is accessible to the public. She said they would be required to have one or two parking spaces as well as handicap accessible parking.

The Chair said this brings up another opportunity to break this down further and distinguish the regular home occupancy, which just allows the use in the home and the rural home occupancy which allows them to construct a structure just for the use.

Ms. Morris said in the rural home occupation there is a maximum size, that they cannot exceed the foot print of the residence or exceed 2000 square feet. The parking standards for regular home occupations say that all parking has to be off street parking. She said if there was a situation in a subdivision where they were parking in the street we would be able to enforce that.

Ms. Emily Knudson read that it is prohibited for anyone under the age of 18; maybe that is the difference to the other permitted uses for the home business. She does not see any other that she is aware of, that are prohibiting a certain age from being able to be at that business. She knows it says that this particular law is not enforced by the local health department, but does that change how we should look at it in any way?

The Chair thinks that is why some municipalities see it as an adult business.

Ms. Knudson asked if there were any specific clause about adult businesses being in a residential area.

Ms. Morris said not really, if you permit it as a home occupation. She thinks there is a difference between someone wanting to put a bar in their house versus someone putting an accounting office in their home. These are more things that are housed at the house, or clients that are handled based out of the house but you go to where the clients are. She said we do not really have anything in the ordinance; this board would make a recommendation to the Board of Commissioners and they would have the final say on whether or not it gets amended.

The Chair said whether we add tattoo studios or not, it says similar, low impact endeavor is allowed and if it were not in there it seems to him that someone could argue that it could be permitted anyway because it falls under that similar low impact endeavor which is sort of wide open.

Ms. Morris said yes, it is up for interpretation whether it is similar and low impact.

Ms. Frye said we talked about a one chair in the home and then we talked about where you can have a detached structure constructed not to exceed the residence. She asked where we are in the ordinance in terms of where this would be by right allowed within the home versus when you step it up to where you get to actually construct a separate building.

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Ms. Morris said on page 7-10, of the ordinance #16 Home Occupation lists all the residential zoning districts including the higher density districts. She said the home occupation rural classification is more for our rural setting which includes Agriculture/open (AO), Countryside Residential (CR), Low Density Residential (LDR) and Medium Density Residential (MDR).

She said if you had a house in limited commercial that someone was putting there, they would be allowed to have a home occupation there as well. So, the general home occupation includes all of the residential districts, including mixed use. So, if you had someone living in an apartment over top of a retail business, they could also have a home business in there house.

Ms. Morris said the rural home occupancy is Agriculture/open (AO) is on three acres, Countryside Residential (CR) is on two acre, Low Density Residential (LDR) is on two acre and then Medium Density Residential (MDR); in those districts typically you will have at least one acre. She said in the Medium Density Residential (MDR) if they did an open space subdivision it would be about 8,000 square feet; where as in a regular home occupation with the High Density Residential (HDR) that is included, it could go down to 4,000 square foot lot header. The rural occupancy is more for our larger lot districts, where they would have enough space to have a home plus a detached garage or a little shop out back.

The Chair does not like the rural home occupancy just because you can construct a separate building. He would support removing it from that list.

Mr. Ensley asked if it could be approved in Limited Commercial (LC) and General Commercial (GC) and then if someone wanted to come in under a different zoning they would have to ask for a conditional use permit and it could be addressed on a case by case basis.

Mr. Koch said Mr. Ensley is not talking about home occupation; he is talking about putting it in Limited Commercial (LC) and General Commercial (GC) just by right and then put it in other zoning districts by conditional use.

Ms. Morris said our home occupation standards are not set up for conditional use; it is typically for a larger scale.

Mr. Koch said it would be problematic to deal with.

Mr. Koch said this whole issue came up because some one came in and wanted to put a tattoo studio at his home.

Mr. Lowe said the gentleman wants to use a separate building, and is in the AO zoning district.

Mr. Koch said staff needs to give this gentleman an answer.



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Ms. Brenda Cook asked if homeowners' rules and regulations would over power this. In other words, if some one wants to put in a tattoo parlor in a house where I reside and I have restricted covenants that prevent in home business.

Ms. Morris said in that situation, we would have to issue a permit but the homeowners association could pursue it. She said the county does not enforce covenants on property; we can only enforce what is in the zoning ordinance. She said if there was an issue it would have to be pursued by the homeowners association.

Ms. Cook does not know of a home owners' association covenant that specifically eliminates tattoo parlors.

Mr. Koch said depending on how they are drawn, it may not have to specifically mention that. He said it is two separate sets of rules and two separate enforcement authorities that are subject to different laws. He said even if it were allowed as a home occupation by the County, if your covenants say you cannot have a home business, then it is outlawed per covenants. He said typically under those, either another person in the neighborhood or the home owners' association can enforce it. A lot of the time it depends on whether you want to spend the money to enforce it and a lot of time they choose not to because of the expense.

There being no further discussion, Mr. Todd Berg, **MOTIONED, SECONDED** by Mr. Larry Ensley to **Recommend** TEXT2010-00005, Tattoo Studio Text Amendment with the following conditions: permitted by right in the Limited Commercial (LC) and General Commercial (GC) and remove it as a proposed general home occupation or rural home occupation. The vote was unanimous.

### **Directors Report**

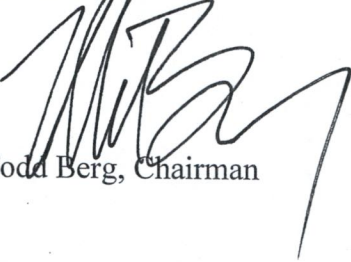
Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating the Harrisburg Land Use Plan was adopted by the Harrisburg Town Council and it will go to the Board of Commissioners on Monday, December 20, 2010. The Inter-local Agreement will also go before the Board of Commissioners on Monday, December 20, 2010. Unfortunately, we were not able to get a very long duration for that agreement. The most we could come up with was five years with the Town, and that is the area south of Rocky River and east Hickory Ridge. She said it is a lot smaller portion than what we actually started out with.

She informed the Board that there are two new Commissioners, Mr. Larry Burrage and Mr. Chris Measmer. Mr. Burrage has been assigned as the liaison for the Planning and Zoning Commission and Mr. Measmer is the alternate.

There being no further discussion, Mr. Larry Ensley, **MOTIONED, SECONDED** by Mary Blakeney to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 8:06 p.m.

Planning and Zoning Commission Minutes  
December 16, 2010

APPROVED BY:



Todd Berg, Chairman

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:

Susie Morris  
Planning and Zoning Manager



**FINDINGS OF FACT  
VARIANCE APPLICATION OF  
GREAT WESTERN BANK AND LAKELAND ASSET MANAGEMENT, LLC  
9291 Benjamin Walker Road  
VARN 2010-00003**

1. The alleged hardships or practical difficulties are not unique and singular to the property of the person requesting the variance and are not those suffered in common with other property similarly located.

a) *The main portion of the house was moved to this location, then the house size was expanded in all directions, including a carport with a second story extension that extends variously to within 2.7 feet of the property line.*

b) *This extension was constructed on level ground on a 0.629 acre lot with sufficient buildable room behind and on the opposite side of the house.*

2. The alleged hardships and practical difficulties, which will result from failure to grant the variance, do not extend to the inability to use the land in question for any use in conformity with the provisions of the ordinance and do not include substantially more than mere inconvenience and inability to attain a higher financial return.

a) *Without the house extension, the property can still be used for residential purposes. The main structure that was moved and several other habitable additions still would remain on the property.*

b) *The one applicant is the bank that acquired the property through foreclosure and has already incurred a loss through its involvement with the property, but a reasonable use of the property can be made even though a financial loss has been or may be further incurred.*

3. The variance, if allowed will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

a) *There has been no objection to the variance application by any adjacent homeowner or by anyone else.*

b) *No one attended the public hearing to voice opposition to the variance application.*

4. The variance is in harmony with and serves the general intent and purpose of the ordinance.

a) *This property is on a short private road with few lots which are relatively large and are not part of a subdivision with recorded restrictions.*

b) *The occupancy of this home on this property could be beneficial for the neighborhood, as contrasted with vacant property subject to deterioration and vandalism. There is no evidence that the Ordinance would be compromised by a variance based on this Finding, if all of the other requirements of the Ordinance could be met.*

5. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance.

a) *The owner of the property has suffered a substantial financial loss through its acquisition of the property through the foreclosure process.*

b) *No pecuniary loss is unlikely to be suffered by any other person in Cabarrus County, including owners of neighboring properties, as a consequence of this variance application.*



**Conditional Use Permit Application  
Crown Castle and Albert Edward Sides  
3200 Old Salisbury Road  
CUSE 2010-00004**

**FINDINGS OF FACT**

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

*This use was approved for this site in a conditional use permit granting order dated September 23, 2002 on Application Number 35Co.-C. The only change in the use is to raise the height of the monopole tower from 195 feet to 217 feet and add required lighting for that height.*

*This requirement of the Zoning Ordinance was satisfied by sufficient findings in the hearing on the previous application, which are incorporated by reference. There is no evidence of any violation of the Ordinance and no evidence of any adverse effects from this proposed change.*

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

*This use was approved for this site in a conditional use permit granting order dated September 23, 2002 on Application Number 35Co.-C. The only change in the use is to raise the height of the monopole tower from 195 feet to 217 feet and add required lighting for that height.*

*This requirement of the Zoning Ordinance was satisfied by sufficient findings in the hearing on the previous application which, are incorporated by reference. There is no evidence of any violation of the Ordinance and no evidence of any adverse effects from this proposed change.*

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

*This use was approved for this site in a conditional use permit granting order dated September 23, 2002 on Application Number 35Co.-C. The only change in the use is to raise the height of the monopole tower from 195 feet to 217 feet and add required lighting for that height.*

*This requirement of the Zoning Ordinance was satisfied by sufficient findings in the hearing on the previous application, which are incorporated by reference. There is no evidence of any violation of the Ordinance and no evidence of any adverse effects from this proposed change.*

Planning and Zoning Commission Minutes  
November 18, 2010

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

*This use was approved for this site in a conditional use permit granting order dated September 23, 2002 on Application Number 35Co.-C. The only change in the use is to raise the height of the monopole tower from 195 feet to 217 feet and add required lighting for that height.*

*This requirement of the Zoning Ordinance was satisfied by sufficient findings in the hearing on the previous application, which are incorporated by reference. There is no evidence of any violation of the Ordinance and no evidence of any adverse effects from this proposed change.*



## FINDINGS OF FACT

### Final Decision

Application: VARN2010-00002

Motion	To Grant	To Deny
--------	----------	---------

Applicant: Benjamin Small  
2239 St. John's Church Rd.  
Concord, N.C. 28025

Vote	For	Against
------	-----	---------

Granted	Denied
---------	--------

Zoning: Agricultural/Open (A/O)

Location: 2239 St. John's Church Road  
Concord, N.C. 28025

Size: 1.2 acres

PIN: 5652-21-5630

Request: The applicant is seeking relief from the required front building setback.

#### Application Summary:

The applicant contends that after acquiring the subject property, he discovered the well was too close to the septic system on the adjoining property. As a result, he installed a chlorine treatment system which, he states, required an enclosure to protect the equipment and to provide access for monitoring, adjustment, and maintenance.

The applicant indicated that the size of the building was based on the need for chlorine treatment system parts.

#### Application History:

On November 18, 2008, Mr. Small was sent a Warning Citation regarding an accessory building that he had constructed on his property.

On February 19, 2009, the Planning and Zoning Commission, acting as Board of Adjustment, considered Mr. Small's appeal of a Notice of Violation and the Zoning Administrator's interpretation that the structure was an accessory structure. After conducting a quasi-judicial hearing in which it considered the case, facts and testimony submitted, the BOA voted to uphold the interpretation that the structure was an accessory structure and that the NOV was applicable.

Following the denial of the appeal, Mr. Small filed a Petition for Writ of Certiorari in Cabarrus County Superior Court 09-CVS-001765, Ben Small vs Planning and Zoning Commission of Cabarrus County. On September 7, 2010, the case was dismissed by Judge Royster due to failure of

Mr. Small to timely obtain a writ of certiorari to have the BOA record forwarded to the Superior Court.

Advertisement Information:

- A. Sign – A zoning public hearing sign has been placed on the property advertising the time and place of the public hearing.
- B. Newspaper-The notice of public hearing was published on September 3<sup>rd</sup> and September 8, 2010 in the Independent Tribune.
- C. The adjacent property owners have been notified by mail. The letter and a list of property owners noticed are included in the packets.

Additional Facts:

- 1 The applicant has submitted a complete application as required by the Cabarrus County Zoning Ordinance for a variance application.
- 2 On November 18, 2008, Mr. Small was sent a Warning Citation regarding a building that he had constructed on his property. The citation was for the following violations:
  - o *Section 12-3. Certificates of Zoning Compliance Permit required.*  
A Zoning Compliance permit must be obtained from the Cabarrus County Zoning Administrator prior to the use or occupancy of any building or premises, or both, hereinafter created, erected, changes, converted, or wholly or partly altered or enlarged in its use or structure. Additionally, no nonconforming structure or use can similarly be changed or extended without a Zoning Compliance Permit or Certificate of Adjustment. A Zoning compliance permit must be obtained before a building permit can be issued. The building permit application may be made at the same time as the application for the Zoning Compliance permit or after its issuance. No permits or certificates shall be issued except in compliance with the provisions of this Ordinance.
  - o The Cabarrus County Zoning Division office has no record of a Zoning Permit being secured for the structure.
  - o *Section 5-5-* states that the setbacks for the A/O (Agricultural/Open) zone regarding accessory buildings are:  
Front – 75  
Side – 20/40  
Rear – 5
  - o The building does not meet the setback standards established for the A/O zoning designation for accessory buildings. It is too close to an adjacent property line (side) and the public street right of way (front).
  - o Pursuant to Chapter 2 of the Cabarrus County Zoning Ordinance, an Accessory building or use is defined as follows:  
A building or use which is incidental and:



- 1) is subordinate to and serves a principal building or principal use,
- 2) is subordinate in extent or purpose to the principal building or principal use served,
- 3) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use, and,
- 4) is located on the same zoning lot as the principal building or principal use.

- *Section 7-4 Accessory buildings on lots less than 2 acres*

Placement of the unit: Accessory buildings shall not be located closer to an adjacent road than the principal structure. Exception – Double frontage lots may place an accessory building to the rear of the principal structure so long as they meet the principal building setback along the property lines adjacent to the street.

- The building, as currently sited, is located in front of the primary residence and construction is complete.

RECEIVED  
AUG 17 2010



AUG 18 2010

CABARRUS COUNTY  
PO BOX 707  
CONCORD, NC 28025  
704-920-2159  
www.cabarruscounty.us

Application Number  
VARN 2010-00002  
Date  
8/18/10

VARIANCE APPLICATION FORM

The Variance Process:

A variance is considered a relaxation of the terms of the Ordinance where such variance will not be contrary to the public interest. Generally, a variance should be considered when the literal enforcement of the Ordinance would result in unnecessary and undue hardship to the property owner.

In order to apply for a variance a completed application along with the application fee is required to be turned in to the Zoning Office, 30 days prior to the scheduled public hearing. In order for the Board of Adjustment to grant approval of the variance, the applicant must provide proof of five specific standards spelled out in the Ordinance and in the following application.

If the Board finds that all approval criteria have been met, they may impose reasonable conditions upon the granting of any variance to insure public health, safety, and general welfare. If the application is approved the applicant then may proceed with securing all required local and state permits necessary for the endeavor. Failure to follow conditions set in the approval process would result in a violation of the Zoning Ordinance.

If there are additional questions concerning this process, please contact the Zoning Office at (704) 920-2159, Monday through Friday 8 am to 5 pm.

Application Information

Applicant's Name  
Benjamin S. Small

Applicant's Address  
2239 St. Johns Church Road  
Concord, NC 28025

Applicant's Telephone Number  
704-784-9557

Property Owner's Name  
Benjamin S. Small

Property Owner's Address  
2239 St. Johns Church Road  
Concord, NC 28025

Property Owner's Telephone Number  
704-784-9557

Legal Relationship of Applicant to Property Owner

Existing Use of Property

Existing Zoning

Property Location

Tax Map and Parcel Number (PIN)

Same person

Residential (single family home)

A/O

2239 St. Johns Church Road  
5652-21-5630

Pa.  
CK.#  
18246  
\$463.50



TO THE BOARD OF ADJUSTMENT

I, Benjamin S. Small, HEREBY PETITION THE BOARD OF ADJUSTMENT FOR A VARIANCE FROM THE LITERAL PROVISIONS OF THE ZONING ORDINANCE. UNDER THE INTERPRETATION GIVEN TO ME BY THE ZONING ADMINISTRATOR, I AM PROHIBITED FROM USING THE AFOREMENTIONED PARCEL OF LAND. I REQUEST A VARIANCE FROM THE FOLLOWING PROVISION(S) OF THE ORDINANCE.

The following information shall be completed by applicant(s) seeking a variance:

1. Variance Sought Including Related Zoning Ordinance Section(s)  
Section: 5-5; 7-4; and 12-3

A variance from the application of the referenced Sections to the well enclosure on the property, which would allow the well enclosure to stay in place.

2. Reason(s) for Seeking a Variance  
The well was permitted and placed on the property prior to my purchase of the property. After acquiring the property, I discovered that the well had been placed too close to a septic system on adjoining property. As a result, I had to install a chlorine treatment system which required an enclosure. In order to allow protection for equipment and access for monitoring, adjustment, and maintenance, the enclosure was constructed in its current fashion.

Requests for variance shall be accompanied by a list of adjoining property owners and their addresses and a sketch plan. Said plan shall show, the location and size of:

- 1- The boundaries of the lot(s) in question.
- 2- The size, shape and location of all existing buildings.
- 3- The size, shape and location of all proposed buildings, parking facilities and accessory uses.
- 4- The location and type of screening and buffering proposed.
- 5- Other information deemed by the Zoning Officer to be necessary to consider this application.

Signature of Owner  
Signature of Applicant

Benjamin Small  
Benjamin Small

Date August 5, 2010  
Date August 5, 2010

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Direction is received by both state legislation and local ordinance. Under the state enabling act, the Board is required to reach three (3) conclusions as a prerequisite to the issuance of a variance:

- 1- That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.
- 2- That the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit.
- 3- That in the granting of the variance the public safety and welfare have been assured and substantial justice has been done.

In order to make it's determination the Board will review the evidence submitted in this application as well as receive public comment during the scheduled public hearing. This application will be entered into the official record of the public hearing. It is the responsibility of the applicant to present evidence to support a variance not the Planning, Zoning and Building Inspection departments nor the Board of Adjustment. The departmental staff will review and the Board will render a decision.

### **FINDING OF FACT CHECKLIST**

Please provide an explanation to each point in the space provided.

1. The alleged hardships or practical difficulties are unique and singular to the property of the person requesting the variance and are not those suffered in common with other property similarly located.

*(The problem must be unique to the property and not a public hardship and must apply to the property, not the property owner).*

The problem is unique to the property because it arises solely from drainage conditions on the property and the location of a septic system on adjoining property.

2. The alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with the provisions of the ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return.

*(This often will be the most difficult area in which to make a determination. The issue, as established by court decisions, deals with the nebulous term of "reasonableness." Generally, if the variance is sought to make a greater profit on this property at the expense of others in the area, this point cannot be met. This item is best reviewed with the concept of, "is the property barred from a reasonable use if the strict terms of the ordinance are adhered to"?)*

Access to a public water system is not available at the property. Clean and safe drinking water is not available at the property without the installed well system and enclosure.



3. The variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.  
(This is a second way to address reasonableness. This is also where the issue of "where did the hardship originate from?" should be addressed. Self-inflicted hardships should be carefully reviewed for reasonableness.)

The well enclosure arises from conditions outside of my control. It is professionally constructed from the same building materials used on the exterior of the home, is well-maintained and landscaped, and does not detract from surrounding properties.

4. The variance is in harmony with and serves the general intent and purpose of the ordinance.

(If a variance is granted, is the overall "spirit" of the zoning ordinance still intact? While difficult to explain, some types of variance are usually not in accord with the general intent and purpose of the ordinance and therefore must be cautiously reviewed. These often include extending a non-conforming use in scope, a use variance (clearly not allowed), and modifying a dimensional standard so as to the detriment of a neighborhood or area.

The second part relates to the question, if granted will the spirit of the adopted plan for proper development of the neighborhood or area be compromised?)

The size of the well enclosure is based on need for chlorine treatment system parts, is professionally constructed from the same building materials used on the exterior of the home, is well-maintained and landscaped, and does not detract from surrounding properties.

5. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance.

(This is the final way to address reasonableness via common sense. Simply put, does the variance make sense? Will its approval or denial endanger any one? Will the essential character of the area be altered if approved or denied?)

The variance will not adversely affect neighboring property owners, is in harmony with the spirit of the ordinance, and will provide for clean and safe drinking water at the property.

**Possible Conditions, suggested by the applicant**

If the Board of Adjustment finds that a variance may be in order but the Board still has concerns in granting the variance, reasonable conditions can be imposed to assure that any of the five points will continue to be met and not violated. In your review of the five points, are there any conditions that you believe would clarify the justification of a variance? If so, suggest these conditions in the space below.

None.

I CERTIFY THAT ALL OF THE INFORMATION PRESENTED BY ME IN THIS APPLICATION IS  
ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

SIGNATURE: Bearpiss Sweet

DATE: August 5, 2010

**STAFF USE ONLY**  
Cabarrus County

Application Fee Collected

Yes \_\_\_\_\_

No \_\_\_\_\_

Posted Database

Yes \_\_\_\_\_

No \_\_\_\_\_

Site Plan Attached

Yes \_\_\_\_\_

No \_\_\_\_\_

Public Hearing Date \_\_\_\_\_

Notice of Public Hearing Published On \_\_\_\_\_

Notices to Applicant(s) and Adjoining Property Owners Mailed On \_\_\_\_\_

Signs Posted On \_\_\_\_\_

**Process Record**

Record of Decision:

Motion to: \_\_\_\_\_

Approve \_\_\_\_\_

Deny \_\_\_\_\_

Board of Adjustment Recommendation: \_\_\_\_\_

Approve \_\_\_\_\_

Deny \_\_\_\_\_

Action Taken by Board of Adjustment: \_\_\_\_\_

Date Notification of Action Mailed to Applicant(s): \_\_\_\_\_

Signature of Zoning Official \_\_\_\_\_


Chairman-Board of Adjustment

Date

Secretary-Board of Adjustment

Date



 Hamilton Moon  
Stephens Steele  
& Martin, PLLC  
ATTORNEYS AT LAW

201 South College Street, Suite 2020  
Charlotte, North Carolina 28244-2020  
Telephone: 704.344.1117  
Facsimile: 704.344.1483

George W. Sistrunk III  
Email: [gsistrunk@lawhms.com](mailto:gsistrunk@lawhms.com)  
704-227-1065

September 9, 2010

VIA EMAIL ([Samorris@cabarruscounty.us](mailto:Samorris@cabarruscounty.us))  
AND FIRST CLASS MAIL

Susie Morris  
Cabarrus County Commerce Department  
65 Church Street  
2<sup>nd</sup> Floor  
Concord, NC 28025

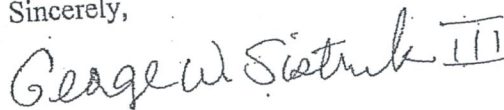
Re: *Benjamin S. Small Variance Application*  
*2239 St. Johns Church Road*  
*Concord, NC 28025*

Dear Ms. Morris:

Due to scheduling conflicts, Mr. Small is unavailable for the September 16, 2010 hearing that has been scheduled. We request that the hearing be placed on the October 21, 2010 agenda.

If you have any questions or need any additional information, please let me know.

Sincerely,



George W. Sistrunk III

GWS/djm



August 31, 2010

Dear Adjacent Property Owner:

This letter is to inform you that Benjamin S. Small has petitioned the Cabarrus County Board of Adjustment for a Variance. If granted, Mr. Small would be allowed to keep a storage building on his property that does not meet the required setbacks of the Cabarrus County Zoning Ordinance. The subject property is located at 2239 St. John's Church Road, Concord, N.C. 28025 (PIN#5652-21-5630).

The Cabarrus County Board of Adjustment will hold a public meeting to discuss this matter. The meeting will be held on September 16, 2010 at 7 p.m. at the Governmental Center located at 65 Church Street, Concord, N.C. 28026 (2<sup>nd</sup> floor).

If you have any questions, please feel free to contact the Cabarrus County Zoning office (Jay Lowe) at 704/920-2140. Also, there is a complete application on file in the Zoning office for your review.

Sincerely,

Jay Lowe  
Senior Zoning Inspector

JL/mpf



ESKELSEN NEILS T ESKELSEN JOANNE (WF)

Mailing Address  
City, State Zipcode

4499 GOLD HILL RD  
CONCORD NC 280250000

FURR DENNIS E & WIFE FURR GINA S

Mailing Address  
City, State Zipcode

4502 GOLD HILL RD  
CONCORD NC 280250000

RICHARDS BARRY G RICHARDS CATHERINE

Mailing Address  
City, State Zipcode

PO BOX 849  
CONCORD NC 280260849

RITCHIE W H JR

Mailing Address  
City, State Zipcode

1936 BALTIMORE ANNAPOLIS BLVD  
ANNAPOLIS MD 214016248

SMALL BENJAMIN S

Mailing Address  
City, State Zipcode

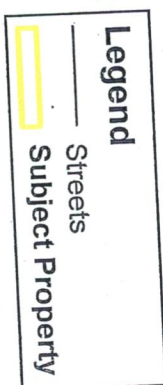
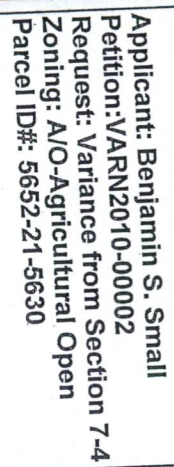
PO BOX 1082  
CONCORD NC 280261082

WALKER MARTHA EDITH

Mailing Address  
City, State Zipcode

4501 GOLD HILL ROAD  
CONCORD NC 280250000







Catawbus 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/or 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.





Applicant: Benjamin S. Small  
Petition: VARN2010-00002  
Request: Variance from section 7-4  
Zoning: A/O-Agricultural Open  
Parcel ID#: 5652-21-5630

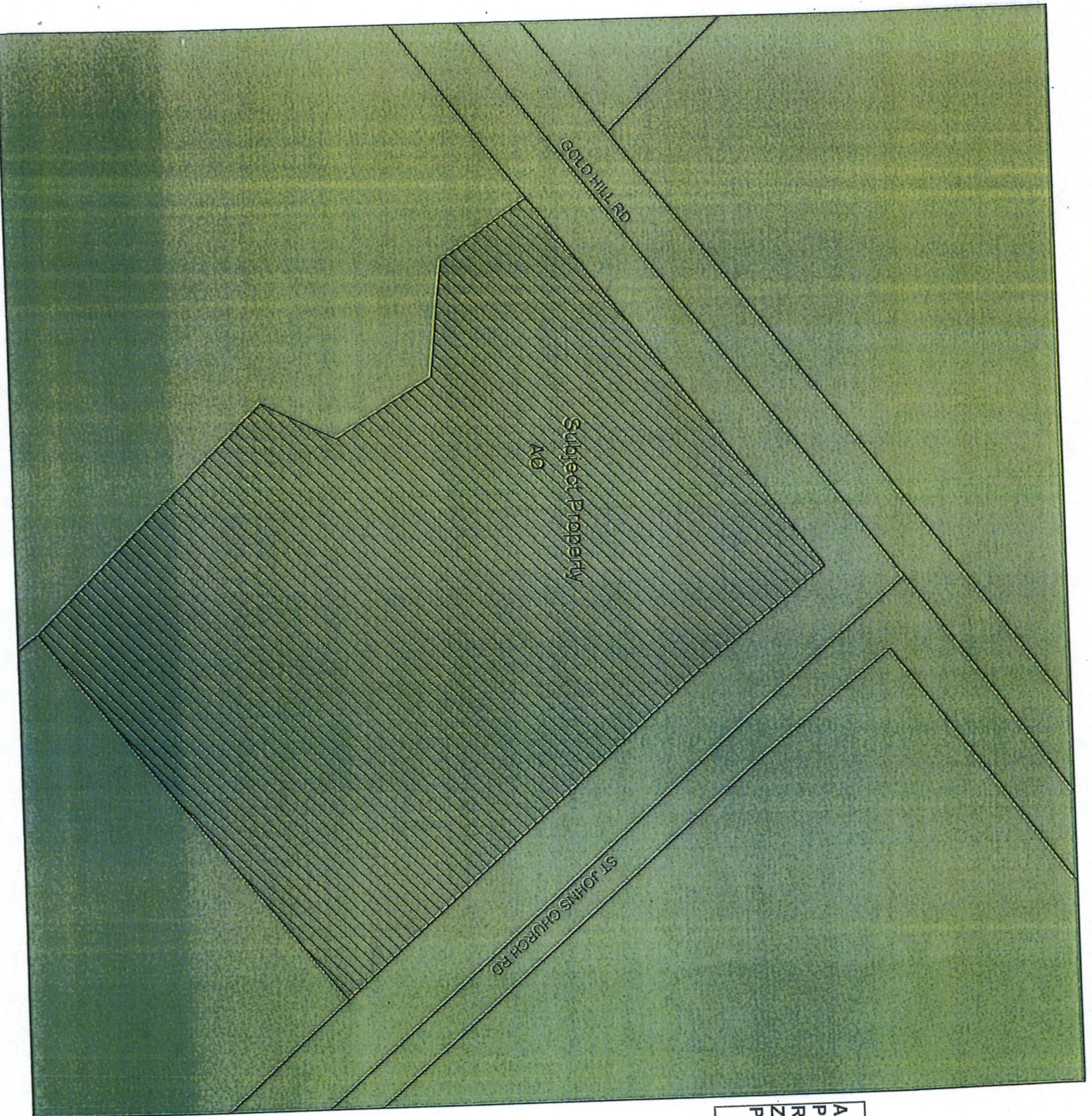
### Legend

-  Subject Property
-  Streets



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

Map Prepared by Cabarrus County Planning Services,  
September 2010.





09.09.2010 10:12









09.09.2010 10:14





9466

0104

FILED Feb 01, 2011 11:06 am  
BOOK 09466  
PAGE 0104 THRU 0106  
INSTRUMENT # 02462  
EXCISE TAX \$0.00  
EBD

FILED  
CABARRUS  
COUNTY NC  
LINDA F. McABEE  
REGISTER  
OF DEEDS

CABARRUS COUNTY  
Post Office Box 707  
Concord, North Carolina 28026  
Rd Box 74

Application Number CUSE2010-00003

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A CONDITIONAL USE PERMIT

The Board of Adjustment for the County of Cabarrus, having held a public hearing on December 16, 2010, to consider application number CUSE2010-00003, submitted by Piedmont Natural Gas, a request for a conditional use permit to construct a natural gas regulator station on property located at 10472 Harris Road, Huntersville, NC, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

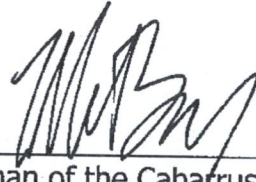
1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.
4. It is the Board's Conclusion that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, the use assumes the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical developments of the County as embodied in the Ordinance or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.

3/20

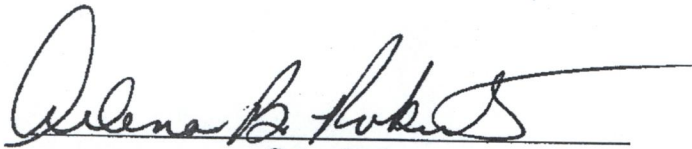
6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT has been satisfied, it is ORDERED that the application for the issuance of a CONDITIONAL USE PERMIT be GRANTED, subject to the conditions contained in the staff report, if any, and Finding of Fact. The applicant shall fully comply with all the applicable, specific requirements in the Ordinance and must develop the property in accordance with the site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

Ordered this 20th day of January, 2011



Chairman of the Cabarrus County  
Planning and Zoning Commission



Secretary

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



**Exhibit 1  
FINDINGS OF FACT  
APPLICATION CUSE2010-00003**

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

*This proposed use is exclusively for a natural gas regulator station, which reduces the pressure level of natural gas in a main pipeline to a level suitable for customer use. These stations are common place and necessary for effective utilization of natural gas.*

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

*This proposed use is in a developing area of the County on a well traveled two lane road with all support facilities available and nearby.*

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

*The proposed use is adjacent to the existing natural gas pipeline on a parcel of property large enough to accommodate it. There is an electric power substation directly across the street.*

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

*The proposed use is for a utility that will benefit the general public and will be used by natural gas customers in that area. The plans for development of the County contemplate the location and construction of such utility facilities.*

---

PLANNING STAFF REPORT  
CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
12/16/2010

Staff Use Only:

Approved: \_\_\_\_\_

Denied: \_\_\_\_\_

Tabled: \_\_\_\_\_

**Conditional Use Permit: CUSE2010-00003**

Applicant Information: Jim Adkins  
Piedmont Natural Gas  
4720 Piedmont Row Drive  
Charlotte, NC 28210

Owner Information: Hensley Glenna T Mrs  
10472 Harris Road  
Huntersville, NC 280780000

PIN#: 4671804108

Area in Acres: Approximately 23 acres

Purpose of Request: To construct an unmanned natural gas regulator station (public service facility).

Site Description: The site is approximately 23 acres total. The regulator station will be confined within an area surrounded by a six-foot tall security fence. The fenced area will be approximately 100' x 100' square.

Current Land Uses: Residential and farming

Adjacent Land Uses: Residential, vacant and wooded

Permitted Uses: All uses in the LDR district are permitted on the subject property.

Existing Zoning: LDR (Low Density Residential)

Surrounding Zoning: North: LDR (Low Density Residential)  
East: LDR (Low Density Residential)  
South: LDR (Low Density Residential)  
West: LDR (Low Density Residential)

Signs Posted: 12/03/2010

Newspaper Notification: 12/01/2010

Newspaper Notification 2: 12/08/2010

Notification Letters: 12/03/2010



PLANNING STAFF REPORT  
CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
12/16/2010

Staff Use Only:

Approved: \_\_\_\_\_

Denied: \_\_\_\_\_

Tabled: \_\_\_\_\_

**Exhibits**

1. Conditional Use Application Form
2. Aerial Map
3. Zoning Map
4. List of Adjacent Property Owners
5. Adjacent Property Owner Letter
6. Site Plans
7. Land Use Map

**Agency Review Comments**

**Fire Review : Approved with Conditions**

*Applicant must maintain 20ft. access drive to facility.*

**Soil-Water Conservation Review : Approved**

**Erosion Review : Approved**

*Approved 9-28-10*

*Scott Harrell, Assistant Regional Engineer Land Quality Section*

**NCDOT Review : Approved**

*Approved 4-8-10*

*Leah Wagner, Assistant District Engineer*

**Stormwater Review - State : Approved with Conditions**

*11-10-10*

*State Stormwater Permit No. SW3101001 Harris Road Project Low Density Project Cabarrus County*

*Issued By: Mike Randall, NCDENR*

**Zoning Approval: Approved with Conditions**

*Approved 12-7-2010*

*Must build to comply with approved plans.*

*Must install at least a 20ft.x 20ft. paved apron..*

*Jay Lowe, Senior Zoning Inspector*

**History / Other Information**

1. The applicant has provided documentation compliant with Section 8-3, Petitioning for a Conditional Use.
2. The applicant submitted a complete application which includes the "Findings of Fact" sheet along with a site plan showing the location of the facility on the property.

PLANNING STAFF REPORT  
CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
12/16/2010

Staff Use Only:

Approved: \_\_\_\_\_

Denied: \_\_\_\_\_

Tabled: \_\_\_\_\_

3. The land has been used mainly for farm purposes in the past.

**Conditions of Approval**

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

1. Site plan review and approval required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions. (Zoning)
2. Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed to the property. (Zoning)
3. Applicant shall procure any and all applicable federal, state and local permits prior to commencement of project. (Zoning)
4. Expansion of project, as well as modifications or changes to approved site plan must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit. (Zoning)
5. Must install at least a 20ft.x 20ft. paved apron. (Zoning)
6. Applicant must maintain 20ft access drive to facility. (Fire Marshal)





CABARRUS COUNTY  
PO BOX 707  
CONCORD, NC 28025  
704-920-2137  
www.co.cabarrus.nc.us

Application Number

CUSE 2010-00003

Date

8-13-10

**CONDITIONAL USE APPLICATION FORM**

Circle Jurisdiction That Applies:

Cabarrus County

Town of Midland

Town of Mt. Pleasant

Town of Harrisburg

**The Conditional Use Process:**

A conditional use is necessary when a proposed land use may have some consequences that may warrant review by the Board of Adjustment. This review is to insure there will be no detrimental effects to surrounding properties nor will it be contrary to the public interest.

In order to apply for a conditional use a completed application along with the application fee is required to be turned in to the Zoning Office, 30 days prior to the scheduled public hearing. In order for the Board of Adjustment to grant approval of the conditional use, the applicant must provide the requested information in the following application.

If the Board finds that all approval criteria have been met, they may impose reasonable conditions upon the granting of any conditional use to insure public health, safety, and general welfare. If the application is approved the applicant then may proceed with securing all required local and state permits necessary for the endeavor. Failure to follow conditions set in the approval process would result in a violation of the Zoning Ordinance.

If there are additional questions concerning this process, please call the Zoning Office at (704) 920-2137.

**TO THE BOARD OF ADJUSTMENT:**

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

Applicant's Name

PIEDMONT NATURAL GAS-EASEMENT  
HOLDER

Applicant's Address

4720 PIEDMONT ROW DRIVE  
CHARLOTTE, NC 28210

Applicants Telephone Number

704-731-4047  
JIM ADKINS

Property Owner's Name

GLENNA T. HENSLEY

Property Owner's Address

10472 HARRIS RD.  
HUNTERSVILLE, NC 28078

Parcel Information

Existing Use of Property

GROWN UP W/WEEDS & TREES

Proposed Use of Property

EASEMENT FOR NATURAL GAS REGULATOR STATION

Existing Zoning

LDR

Property Location

NORTHWEST CABARRUS CO.

Property Acreage

HENSLEY PROPERTY - 23.04 ACRES PNG PROP. EASMT. 0.833 AC.

Tax Map and Parcel Number (PIN)

46718041080000

Land Use of Adjacent Properties

(Provide Plat Map if Available)

NORTH

SUBDIVISION AND VACANT

SOUTH

HARRIS RD. & DUKE SUBSTATION

EAST

VACANT & RAMAH CREEK

WEST

FARMHOUSE & SUBDIVISION

General Requirements

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

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

NATURAL GAS REGULATOR STATIONS CONVERT HIGH PRESSURE GAS TO LOWER PRESSURE, CUSTOMER DISTRIBUTION GAS. PNG INSTALLS THESE STATIONS TO US DOT SPECIFICATIONS.

The Board must find that the use(s) as proposed "are appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, etc."

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

TREE AND SHRUB BUFFER SHOULD MINIMIZE OR ELIMINATE ANY NEGATIVE IMPACT

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



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

Nature of use (type, number of units, and/or area):

NATURAL GAS REGULATOR STATION

Accessory uses (if any):

NONE

Setback provisions:

Principle Use

Front: VARIES 50'-140' Side: 25'

Rear: VARIES 30'-50'

Accessory Use

Front: \_\_\_\_\_

Side: \_\_\_\_\_

Rear: \_\_\_\_\_

Height provisions:

Principle Use \_\_\_\_\_

Accessory Use \_\_\_\_\_

Off street parking and loading provisions: (include calculations)

GRAVEL PARKING AREA FOR TWO SERVICE TRUCKS. EXPECTED USE - ONE VISIT PER WEEK

Sign provisions: (include sketch drawing with dimensions)

NO SIGNS OTHER THAN REQUIRED PIPELINE MARKERS

Provisions for screening landscaping and buffering: (if required add to site plan)

EVERGREEN SHRUBS - SEE LANDSCAPE PLAN

Provisions for vehicular circulation and access to streets: (provide NCDOT permit if necessary)

INSTALL DRIVEWAY - SEE EMAIL FROM LEAH WAGNER, NCDOT ASST. DISTRICT ENGINEER

Adequate and safe design for grades, paved curbs and gutters, drainage systems, and treatment or turf to handle storm waters, prevent erosion, subdue dust:

SEE DEVELOPMENT PLAN

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

N/A

Compliance with overlay zones including but not limited to the Thoroughfare Overlay and the River/Stream Overlay Zones:

Compliance with the Flood Damage Prevention Ordinance:

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

PIEDMONT WILL INSTALL A SIX-FOOT TALL  
SECURITY FENCE AROUND THE REGULATOR  
STATION.

#### Predefined Standards

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

#### Required Attachments/Submittals

1. Printout of names and addresses of all immediately adjacent property owner, including any directly across the street.
2. Scaled site plan containing all requested information above on legal or ledger sized paper. Larger sized copies will be accepted if copies for each Board Member is provided for distribution.

#### Certification

I hereby confirm that the information contained herein and herewith is true and that this application shall not be scheduled for official consideration until all of the required contents are to the Zoning Department.

Signature of Applicant

Signature of Owner

James R. Atkins FOR PNG  
Gloria J. Henley

Date

6-30-2010

Date

8-31-2010



December 8, 2010

Cabarrus County  
Board of Adjustment  
Conditional Use Permit Application  
PIN # 46718041080000

Re: Proposed Piedmont Natural Gas Regulator Station

PNG proposes to construct the regulator station adjacent to our existing fifty-foot wide PNG transmission pipeline easement. The proposed regulator station will lower the gas pressure from the transmission line to allow for delivery to customers in this area.

A 0.833 acre perpetual easement will be acquired by PNG from Glenna T. Hensley, the current owner of the property. This property is zoned LDR. The regulator station facility will be confined within an area surrounded by a six-foot tall security fence. The fenced area will be approximately 100' x 100' square. The regulator station consists of above ground piping, valves and monitoring systems. There will be no buildings on the site.

The 0.833 acre easement area will provide room for the fenced area and required setbacks and buffers. The setback area will be planted with an opaque evergreen shrub buffer consisting of Eleagnus and Waxleaf Privet. The planting pattern is shown on the Landscape Plan. Many existing large trees within the rear setback area will be preserved.

A new driveway from Harris Road will be required for access to the station and the proposed driveway location has been approved by Ms. Leah P. Wagner, NCDOT Assistant District Engineer. (See attached email)



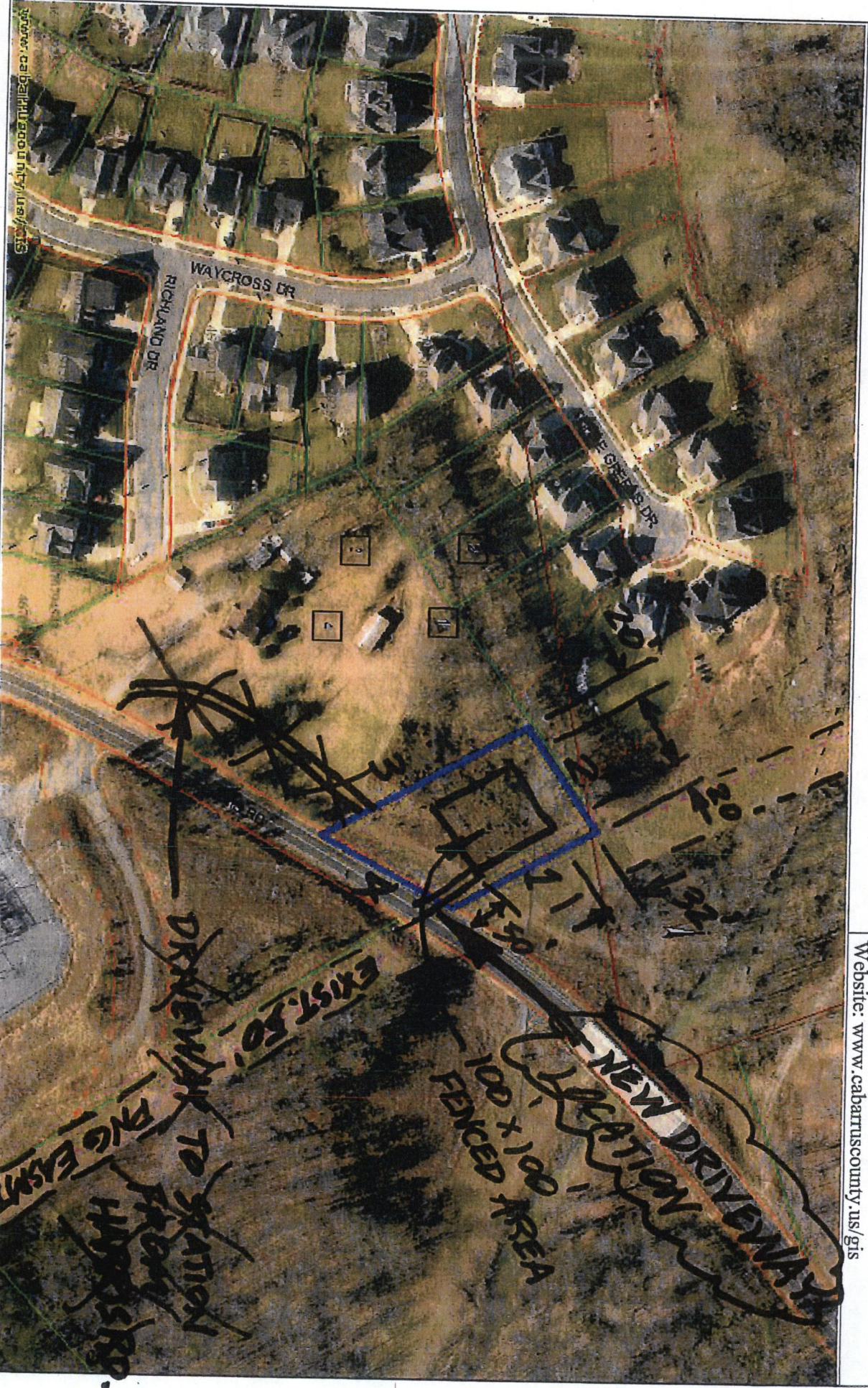






# Cabarrus County Property Map

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



- 1 Length: 182,330 ft
- 2 Length: 140,999 ft
- 3 Length: 258,920 ft
- 4 Length: 166,081 ft

← EASEMENT DIMENSIONS (APPROX.) ZONED 2DR





Applicant: Piedmont Natural Gas  
Petition: CUSE2010-00003  
Zoning: LDR-Low Density Residential  
Parcel ID#: 4671-80-4108

### Legend

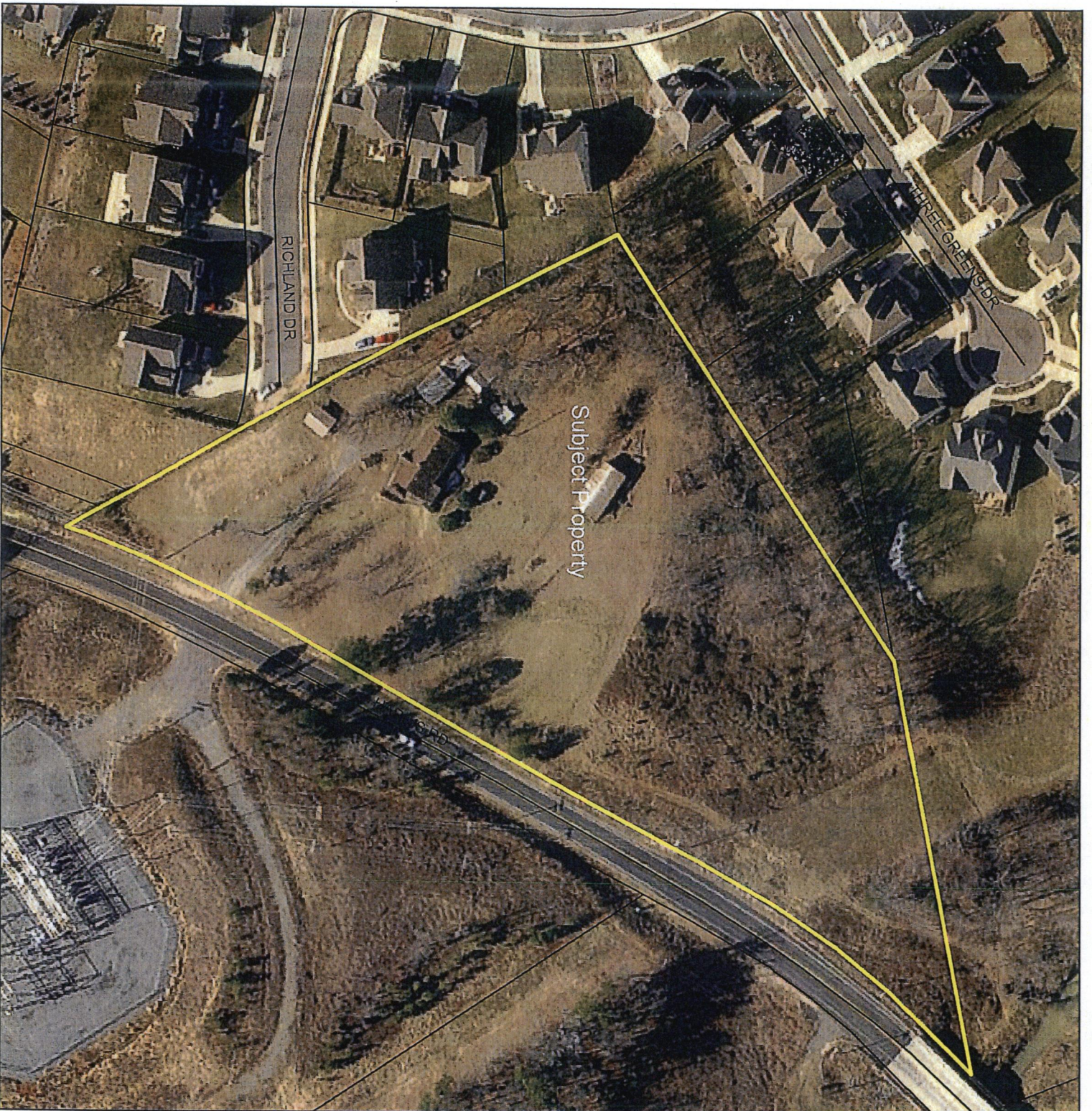
- Streets
- Subject Property



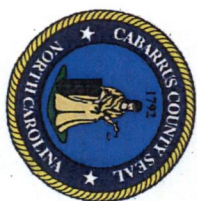
0 50 100 200  
Feet

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

Map Prepared by Cabarrus County Planning Services,  
December 2010.







Applicant: Piedmont Natural Gas  
Petition: CUSE2010-00003  
Zoning: LDR-Low Density Residential  
Parcel ID#: 4671-80-4108

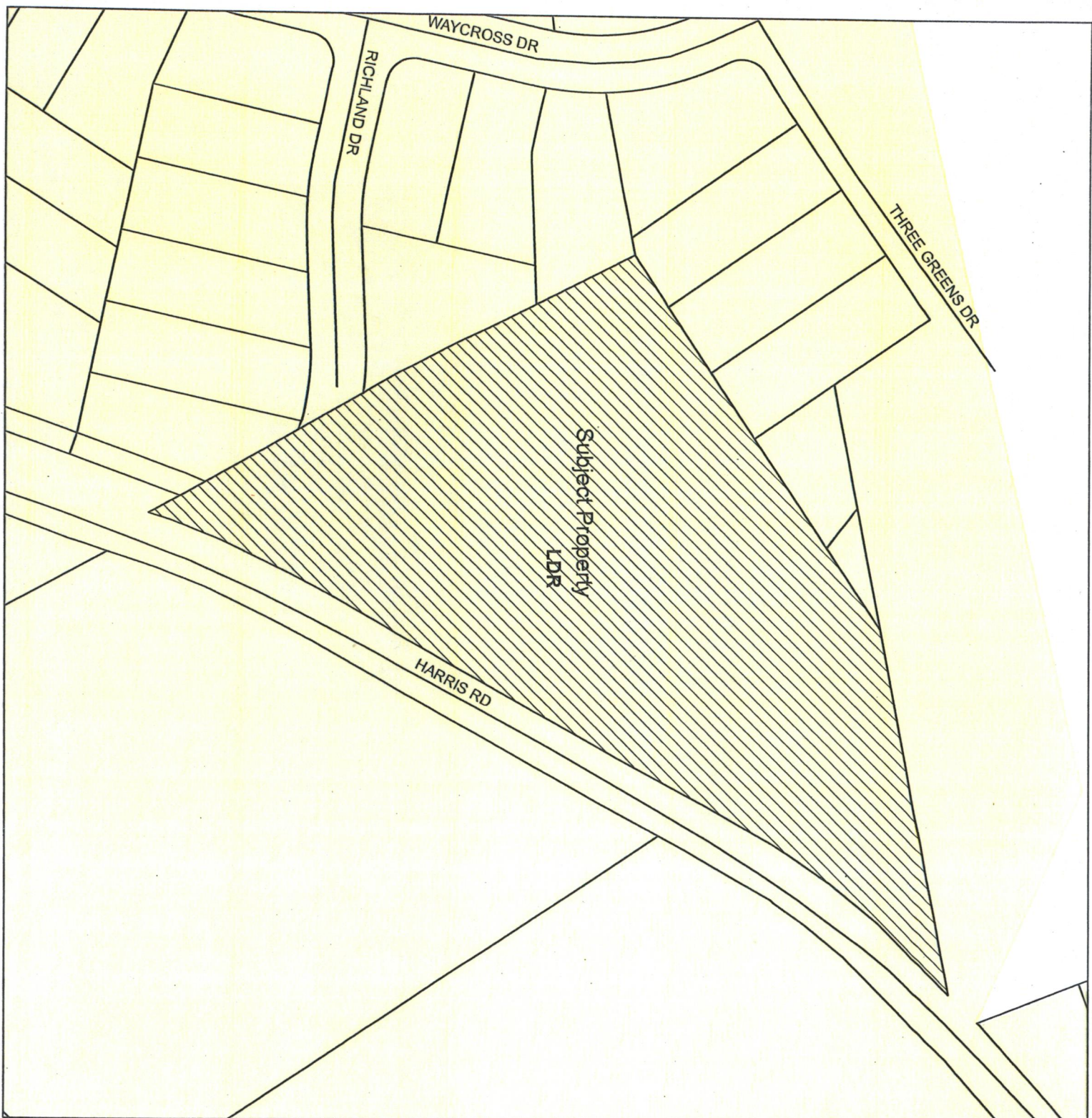
**Legend**

-  Subject Property
-  Streets



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

Map Prepared by Cabarrus County Planning Services,  
December 2010.







Commerce Department  
Zoning Division

December 3, 2010

Dear Adjacent Property Owner:

This letter is to inform you that Piedmont Natural Gas has petitioned the Cabarrus County Board of Adjustment for a Conditional Use Permit. If granted, the applicant would construct a natural gas regulator station on the property described as 10472 Harris Road, Huntersville, N.C. 28078. The property is currently owned by Mrs. Glenna T. Hensley.

The Cabarrus County Planning and Zoning Board will hold a public meeting to discuss this matter. The meeting will be held on December 16, 2010 at 7:00 p.m. The meeting will be held at the Governmental Center located at 65 Church Street, Concord, N.C. 28026 (2<sup>nd</sup> floor).

If you have any questions, please feel free to contact the Cabarrus County Zoning office (Jay Lowe) at 704/920-2140. Also, there is a complete application on file in the Zoning office for your review.

Sincerely,

Jay Lowe  
Senior Zoning Inspector

JL/mpf



**CUSE 2010-00003**  
**PIEDMONT NATURAL GAS**  
**10472 HARRIS ROAD**

**ADJACENT PROPERTY OWNERS:**

**APPLICANT:**

HENSLEY DWAYNE N & HENSLEY MAMIE H  
10120 HARRIS ROAD  
HUNTERSVILLE NC 280780000  
4671-80-4108 & 4671-81-2723

BRANCH COLIN BRANCH APRIL S  
121 THREE GREENS DRIVE  
HUNTERSVILLE NC 280780000  
4671-70-3004

VANHOY TIMOTHY D & CARA E  
100 NORTHCHASE DRIVE  
CONCORD NC 280250000  
4671-90-0123

KNOTT STEVEN KNOTT JENNIFER  
115 THREE GREENS DRIVE  
HUNTERSVILLE NC 280780000  
4671-70-3069

BERG MICHAEL BERG CARLENE  
101 NORTHCHASE DRIVE  
CONCORD NC 280270000  
4670-89-7981

HENSLEY GLENNA T MRS  
10472 HARRIS ROAD  
HUNTERSVILLE NC 280780000  
4670-89-4367

DUKE POWER COMPANY LLC  
400 S TRYON ST ST22M  
CHARLOTTE NC 282011007  
4670-79-8511

HILL MITCHELL C HILL PAMELA H  
10561 HARRIS RD  
HUNTERSVILLE NC 280780000  
4670-78-8642

MVC LLC A NC LIABILITY COMPANY  
410 MARKET ST - STE 420  
CHAPEL HILL NC 275160000  
4670-79-4543 & 4670-79-4479

STIFFEL ANDREW Y STIFFEL KIMBERLY S  
726 RICHLAND DRIVE  
HUNTERSVILLE NC 280780000  
4670-79-3584

VELEZ JAIME VELEZ VIRGINIA D  
721 RICHLAND DRIVE  
HUNTERSVILLE NC 280780000  
4670-79-3726

MARQUIS MICHAEL MARQUIS TRACY  
10509 WAYCROSS DRIVE  
HUNTERSVILLE NC 280780000  
4670-79-2827

GALLOWAY GREG W GALLOWAY EVONNE DENISE  
131 THREE GREENS DRIVE  
HUNTERSVILLE NC 280780000

BROOKS NICHOLAS C BROOKS JESSICA L  
127 THREE GREENS DRIVE  
HUNTERSVILLE NC 280780000  
4671-70-2051

**MECKLENBURG**

Dwayne Nelson Hensley & Mamie Heglar  
10120 Harris Road  
Huntersville, N.C. 28078  
Parcel ID# 02109101

Darrin B & Barbara McCaskill  
105 Three Greens Drive  
Huntersville, N.C. 28078  
Parcel ID # 02109142

Jackson & Rebecca M. Rollins  
109 Three Greens Drive  
Huntersville, N.C. 28078  
Parcel ID# 02109143

Duke Power Co. LLC  
400 S. Tryon St.  
Charlotte, N.C. 282011007  
4670-79-8511



# NCDOT DRIVEWAY OKAY



RE: new driveway location  
Wagner, Leah P to: James.Adkins@piedmontng.com

04/08/2010 10:54 AM

This location as you have shown is acceptable.

Leah P. Wagner  
Assistant District Engineer,

-----Original Message-----

From: James.Adkins@piedmontng.com [mailto:James.Adkins@piedmontng.com]  
Sent: Wednesday, April 07, 2010 12:30 PM  
To: Wagner, Leah P  
Subject: new driveway location

Leah,

Before I approach Cabarrus County for a zoning permit, I wanted to confirm with you that what I'm showing as the "new driveway location" in the attachment below, is what you are okay with. As you probably know, our permit will be contingent on being able to get a driveway permit from NCDOT.

Thank you very much for your assistance in this matter.

Jim Adkins  
Sr. Land Agent  
Piedmont Natural Gas  
4720 Piedmont Row Drive  
Charlotte, NC 28210  
704-731-4047 Office  
704-309-0039 Mobile  
704-731-4098 Fax

(See attached file: 10040723280.pdf)

Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

9466

0104

FILED Feb 01, 2011 11:06 am  
BOOK 09466  
PAGE 0104 THRU 0106  
INSTRUMENT # 02462  
EXCISE TAX \$0.00  
EBO

FILED  
CABARRUS  
COUNTY NC  
LINDA F. McABEE  
REGISTER  
OF DEEDS

CABARRUS COUNTY  
Post Office Box 707  
Concord, North Carolina 28026  
Rd Box 74

Application Number CUSE2010-00003

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A CONDITIONAL USE PERMIT

The Board of Adjustment for the County of Cabarrus, having held a public hearing on December 16, 2010, to consider application number CUSE2010-00003, submitted by Piedmont Natural Gas, a request for a conditional use permit to construct a natural gas regulator station on property located at 10472 Harris Road, Huntersville, NC, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.
4. It is the Board's Conclusion that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, the use assumes the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical developments of the County as embodied in the Ordinance or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.

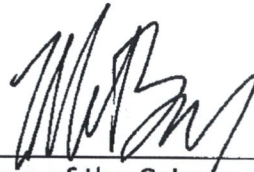

3/20



6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT has been satisfied, it is ORDERED that the application for the issuance of a CONDITIONAL USE PERMIT be GRANTED, subject to the conditions contained in the staff report, if any, and Finding of Fact. The applicant shall fully comply with all the applicable, specific requirements in the Ordinance and must develop the property in accordance with the site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

Ordered this 20th day of January, 2011

  
Chairman of the Cabarrus County  
Planning and Zoning Commission  
Secretary

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

**Exhibit 1  
FINDINGS OF FACT  
APPLICATION CUSE2010-00003**

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

*This proposed use is exclusively for a natural gas regulator station, which reduces the pressure level of natural gas in a main pipeline to a level suitable for customer use. These stations are common place and necessary for effective utilization of natural gas.*

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

*This proposed use is in a developing area of the County on a well traveled two lane road with all support facilities available and nearby.*

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

*The proposed use is adjacent to the existing natural gas pipeline on a parcel of property large enough to accommodate it. There is an electric power substation directly across the street.*

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

*The proposed use is for a utility that will benefit the general public and will be used by natural gas customers in that area. The plans for development of the County contemplate the location and construction of such utility facilities.*

---



PLANNING STAFF REPORT  
CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
12/16/2010

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

**Text Amendment: TEXT2010-00005**

Text Amendment: Tattoo Studio Text Amendment

Description: The purpose of the proposed text amendment is to add tattoo studio to the Cabarrus County Zoning Ordinance as a permitted use.

Applicant Information: Administrative

P&Z Date: 12/16/2010

**Purpose / Chapters Affected**

The purpose of the text amendment is to add Tattoo Studios to the Cabarrus County Zoning Ordinance.

Add a line item to Section 3-8, Table of Permitted Uses for a Tattoo Studio, Commercial. The use is proposed as permitted by right (P) in the General Commercial (GC) and Limited Commercial (LC) districts. There are no special development standards proposed for Tattoo Studios. Draft text is included.

The Commission also needs to be prepared to discuss the following related to the proposed text amendment:

1. Should the proposed use also be permitted as a Home Occupation? See Chapter 7, #16 for standards associated with a Home Occupation and the zones where Home Occupations are permitted.
2. Should the proposed use be permitted as a Rural Home Occupation? See Chapter 7, #17 for standards associated with a Rural Home Occupation and the zones where Rural Home Occupations are permitted.

Draft text is included for Chapter 7.

A map of the areas zoned GC and LC in Cabarrus County is included for your reference.

Supplemental information from Mr. Rich Ducker, School of Government and Mr. David Troutman, Cabarrus Health Alliance, related to tattoo studios is also included for your reference.

## **CABARRUS COUNTY ZONING ORDINANCE**

---

### **Permitted based on Standards (PBS)**

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

### **Conditional Uses**

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

## **COMMERCIAL DISTRICTS:**

**(1) Office/limited commercial.** This district is intended to accommodate relatively small scale commercial and office development at intensity complementary to residential land use.

**Rationale.** This district is used to provide both convenience oriented goods and services and for the permanent protection of adjacent or intermixed residential areas by permitting only a limited range of commercial activities. The district should be located near municipal boundary lines or areas of commercial growth and may border general commercial zones, light industrial, or high density residential mixed use zones. When bordering residential zones, care should be taken to assure natural or manmade buffering so that the nonresidential activities are not a nuisance to residential use.

## **USES IN THE OFFICE/LIMITED COMMERCIAL ZONE:**

### **Permitted Uses**

Automobile supplies  
Bank/financial institution/ATM



Barber & beauty shops  
Car wash  
Civic organization facility  
Colleges & universities  
Convenience store with petroleum sales  
Convenience store without petroleum sales  
Drug store  
Dry cleaning/pick up station  
Family care home  
Funeral home  
Group care facility  
Hospitals/medical facilities  
Hotels, motels, inns  
Laundromat  
Locksmith/gunsmith  
Mobile home retail sales  
Movie Theater  
Nursery/Greenhouse  
Office, professional  
Parking lot, commercial or private  
Pet shop/grooming (enclosed)  
Photographic studio  
Public cultural facility  
Public use facility  
Religious institution (with a total seating capacity of 350 or less)  
Religious institution (with a total seating capacity of 351 or more)  
Restaurant, excluding drive-thru  
Retail sales - shopping centers 10,000 - 50,000 square feet  
Retail sales - shopping centers 10,000 square feet and less  
Single family residential detached  
**Tattoo Studio**  
Taxi stand

Permitted based on Standards (PBS)

Accessory apartment  
Automobile rental  
Automobile sales/new, used  
Bed & breakfast  
Catering service  
Contractor and trade shops  
Home occupation  
Landfill, demolition (one acre or less)  
Mobile office, temporary  
Multifamily residential

## CABARRUS COUNTY ZONING ORDINANCE

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Nursery/daycare center  
Printing & reprographic facility  
Recreational facility, indoor  
Recyclable materials drop-off  
Repair garage, auto  
Repair shop, small engine  
Restaurant with drive-thru facility  
Self-service storage facilities  
Townhouses

### Conditional Uses

Public service facility  
Recreational facility, outdoor  
Trade & vocational schools  
Veterinarian/animal hospital/commercial kennel

**(2) General commercial.** The primary purpose of this zone is to provide locations for large scale commercial activities. This level of commercial activity usually draws clientele regionally as well as from nearby neighborhoods, requires siting on major thoroughfares and requires relatively large-scale off street parking. The zone will accommodate a wide variety of office, retail and lodging land uses. General commercial may border the other less intense commercial zone or either of the two industrial zones. A general commercial zone may border a higher density residential zone but care should be taken to assure a buffer between the two.

**Rationale.** This district is intended to provide the principal location for large scale commercial development in Cabarrus County.

### **USES IN THE GENERAL COMMERCIAL ZONE:**

#### Permitted Uses

Auction house  
Automobile rental  
Automobile sales/new, used  
Automobile supplies  
Bank/financial institution/ATM  
Barber and beauty shops



Bed & breakfast  
Boat works and sales  
Building equipment sales/indoor storage only  
Building equipment sales/outdoor storage  
Bus terminal  
Car wash  
Catering service  
Civic organization facility  
Colleges & universities  
Contractor's storage yard  
Convenience store with petroleum sales  
Convenience store without petroleum sales  
Drive-in theater  
Drugstore  
Dry cleaning/laundry plant  
Dry cleaning/pick-up station  
Freezer/ice plant  
Funeral home  
Gas station  
Hospital/medical facility  
Hotels, motels & inns  
Laundromat  
Locksmith/gunsmith  
Mobile home retail sales  
Movie theater  
Multimedia production & distribution complex  
Nursery/greenhouse  
Office, professional  
Parking lot, commercial or private  
Pet shop/pet grooming (enclosed)  
Photographic studio  
Printing and reprographic facility  
Public cultural facility  
Public use facility  
Race shop/complex  
Radio and television studio  
Recreational facility, indoor  
Religious institution (with a total seating capacity of 350 or less)  
Religious institution (with a total seating capacity of 351 or more)  
Repair garage, automobile  
Repair shop, small engine  
Restaurant, excluding drive-thru  
Retail sales - shopping centers 10,000 - 50,000 square feet  
Retail sales - shopping centers 10,000 square feet and less  
Retail sales - shopping centers 50,000 - 100,000 square feet

## CABARRUS COUNTY ZONING ORDINANCE

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### **Tattoo Studio**

Taxi stand

Warehouse, enclosed storage

### Permitted based on Standards (PBS)

Accessory apartment

Communications tower

Landfill, demolition (one acre or less)

Machine welding shop

Mobile office, temporary

Nursery/daycare center

Recyclable materials drop-off

Restaurant with drive-thru facility

Self-service storage facilities

### Conditional Uses

Adult use

Airport, commercial

Airstrip

Coliseum/stadium

Mobile Home, Class I

Public service facility

Recreational facility, outdoor

Retail sales - shopping centers greater than 100,000 square feet

Single-family detached residential

Trade and vocational schools

Truck stop/truck terminal

Trucking and heavy equipment, sales & service

Veterinarian/animal hospital/commercial kennel

## **INDUSTRIAL ZONES:**

**(1) Limited Industrial.** This district provides for both large and small scale industrial and office development. The primary distinguishing feature of this district is that it is geared to indoor industrial activities which do not generate high levels of noise, soot, odors and other potential nuisances/pollutants for impacting adjoining properties. It is typically located in areas of the county with infrastructure, i.e., higher volume roadways, water and sewer. Light industrial zones may border higher density residential zones only when an effective buffer exists, for example, a natural



# CABARRUS COUNTY ZONING ORDINANCE

USE:	ZONE:	Ag/op	CR	LDR	MDR	HD/M	O/I	OF/LC	GEN C	LIM I	GEN I
49.	Restaurant with drive-thru facility				C			PBS	PBS	PBS	PBS
50.	Retail Sales/Shoppers' Goods	PBS									
51.	Retail sales, shopping centers/10,000 square feet and less.					P		P	P		
52.	Retail sales, shopping centers/10,000 - 50,000 square feet							P	P		
53.	Retail sales, shopping centers/50,000 - 100,000 square feet								P		
54.	Retail sales, shopping centers/greater than 100,00 square feet								C		
55.	Self-service storage facilities					PBS		PBS	PBS	PBS	
56.	Signs, off-premise	(See Chapter Eleven, Table Six for specific regulations)						P	P		P
57.	Signs, on-premise	P	P	P	P	P		P	P	P	P
58.	Stables/commercial	P	PBS	PBS							
59.	Tattoo Studio							P	P		
60.	Trucking and heavy equipment, sales and service								C	C	P
61.	Truck stop/truck terminal								C	C	P
62.	Veterinarian/animal hospital/commercial kennel	C	C					C	C	C	

- sited to the rear of the building,
- within the setbacks required of the building's underlying zone, and,
- made unnoticeable from both residential adjacent properties and public rights-of-way through installation of either fencing or vegetative screening.

\*\*\*\*\*

#### **14. Duplex**

##### **Zones permitting based on standards:**

- \* Office/limited commercial.

##### **STANDARDS:**

- a) Minimum lot size. The minimum lot size must be increased when locating a duplex to 150% of the minimum lot size of each of the four zones.
- b) Maximum Density. The maximum allowed density for duplexes in the Office/Limited Commercial zoning district shall be six (6) dwelling units per acre.
- c) Must meet the Adequate Public Facility Standards within Chapter 4, Section 17 of the Cabarrus County Subdivision Ordinance.

\*\*\*\*\*

#### **15. Gas station**

##### **Zones permitting based on standards:**

- \*Agricultural/open, countryside residential, low density residential.

##### **STANDARDS:**

Gas stations must comply with the same standards as convenience stores with petroleum sales. See number 12 above.

\*\*\*\*\*

#### **16. Home occupation**

##### **Zones permitting based on standards:**

- \*Agricultural/open, countryside residential, low-density residential, medium density residential, high density residential, mixed use, office/institutional, office, limited commercial.

##### **STANDARDS:**

- a) List of Home Occupations: The following lists those occupations, which may be conducted at home. The purpose of the list is to function both as a guide and also to illustrate the spirit and intent of what is a legitimate home occupation.



Essentially, the home occupation is conceived of as being reasonably permitted in a residential setting because *it does not compromise the residential character of the area*. A reasonable home occupation would not generate conspicuous traffic, would not visually call unusual attention to the home nor would it ever generate nonresidential level noise.

- Accounting, bookkeeping
- Appraisal
- Architecture
- Legal services
- Real estate sales
- Insurance sales
- Daycare with eight children or less (See GS §110-86)
- Drafting services
- Tailoring (dressmaking, alterations, etc.) services
- Engineering
- Financial planning & investment services
- Fine arts studio (creation of individual works only, no mass production)
- Interior decoration (no studio permitted)
- Mail order business (order taking only, no stock in trade)
- Musical instruction, voice or instrument
- Pet shop/grooming (enclosed)
- Photo laboratory (no studio work)
- Planning
- Tutoring
- One chair beauty and/or barber shop
- **One chair tattoo studio**
- Office work
- Similar, low impact endeavor

b) Activity inside. The use must be conducted entirely within the interior of the residence, must be clearly incidental and secondary to residential occupancy, and may not change the residential character of the dwelling.

c) Maximum size. The use of the dwelling for a home occupation may not exceed up to 25% of one floor of the principal building.

d) Employees. Residents of the dwelling may be engaged in the home occupation with no more than one nonresident assistant employed.

- e) Accessory buildings. These buildings are not to be used for home occupation purposes.
- f) Type of activity. No activity can take place as a home occupation, which involves any outdoor storage.
- g) Signage. Maximum allowable signage is four square feet. Must also meet any applicable requirements within Chapter Eleven, Signage.
- h) Parking. All parking needs brought about by the operation of the home occupation must be met through an off street parking arrangement.

\*\*\*\*\*

### **17. Home occupation, rural**

#### **Zones permitting based on standards:**

\*Agricultural/open, countryside residential, low-density residential, medium density residential.

#### **STANDARDS:**

a) List of rural home occupations: The following lists those occupations, which may be conducted as a rural home occupation (RHO). The rural home occupation differs from the home occupation in that it is not required to be conducted within the residence proper, but may be in another building accessory to the residence. Slightly more intense uses may occur within the RHO since it is sited within less densely settled areas.

- Accounting, bookkeeping
- Appraisal
- Architecture
- *Auto repair work - permitted as PBS in Ag/open only.*
- Building contractor's storage yard including electrical, plumbing,
- & mechanical
- Legal services
- Real estate sales
- Insurance sales
- Daycare with eight children or less (See GS §110-86)
- Drafting services
- Tailoring (dressmaking, alterations, etc.) services
- Engineering
- Financial planning & investment services



- Fine arts studio
- Interior decoration
- Mail order business
- Musical instruction, voice or instrument
- Photo laboratory/studio
- Planning
- Tutoring
- One chair beauty and/or barber shop
- One chair tattoo studio
- Office work
- Similar, low impact endeavor

b) Location. The rural home occupation may be carried out in no more than one building separate from the primary residence.

c) Outside storage. All outside storage areas including dumpsters must be:

- sited to the rear of the building,
  - within the setbacks required of the building's underlying zone, and,
  - made unnoticeable from both residential adjacent properties and public rights-of-way through installation of either fencing or vegetative screening.
- No outside storage shall be permitted in the MDR zoning district.

d) Screening. All storage must be screened either by fencing or vegetative hedge from any abutting residential use or public rights of way.

e) Maximum size. The accessory building in which the RHO is conducted may not exceed the square footage of the footprint of the residence but in no event exceed 2,000 square feet.

f) Employees. Nonresident employees may work in the RHO as follows:

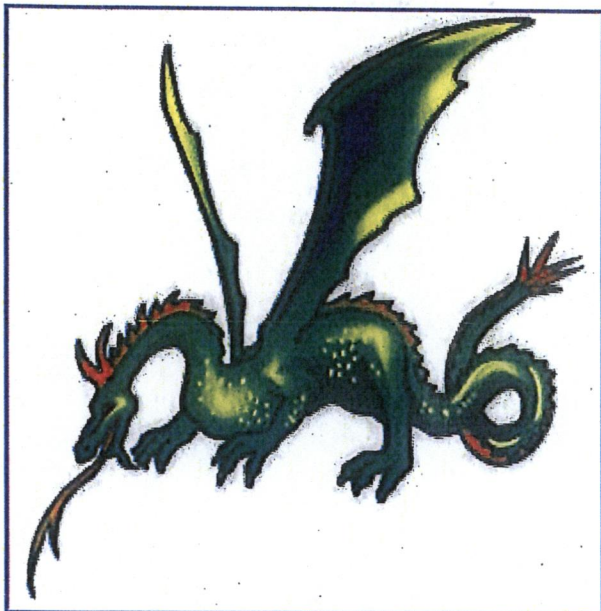
- Up to 1,000 square feet of floor space - one nonresident employee
- 1,000 and over square feet of floor space - two nonresident employees

g) Smoke, odors, dust & noise. The rural home occupation will not create any smoke, odors, dust, or noise at a level discernable at any of its lot lines.

h) Signage. Maximum allowable signage is eight square feet. Must also meet any applicable requirements within Chapter Eleven, Signage.

## Yer Cheat'n Heart, Tattoos, the First Amendment, and Preemption

Posted By [Richard Ducker](#) On September 28, 2010 @ 5:44 PM In [General Local Government](#) | [No Comments](#)



[1]"Where do you go in this town to get a tat, to find someone who can sling some ink? I wanna find somebody like they have on L.A. Ink that can do some real work on me. You know, a real artist. Might try one with my woman Marlene sitting on a fire-breathing dragon. Maybe in the ditch of my elbows. . . . Whaddya mean there is no tattooing allowed around here? Well, that sure sucks. Isn't this supposed to be a free country? That's the kind of thing that violates my rights."

Well now, the [federal 9th Circuit Court of Appeals](#) [2] may agree with you about one thing: a municipal ban on tattoo parlors can be an unconstitutional limitation of your rights and, by the way, also of the rights of the tattoo artist that you hope to find. Consider the situation of one such tattoo artist named Johnny Anderson, the co-owner of Yer Cheat'n Heart Tattoo in Gardena, California. Recently he has been repeatedly stymied in his bid to open a tattoo parlor in a building now housing a frozen yogurt store on a main street in the City of Hermosa Beach, a thriving southern California beach town in Los Angeles County. The Hermosa zoning ordinance, which allowed fortune tellers, adult businesses, and gun shops in several of its commercial zoning districts, did not, by implication, allow tattoo parlors, and city boards let die a proposal to add tattoo parlors to the list of permitted uses for certain districts. When sued, the city referred to various potential health hazards associated with tattoo parlors since many tattoo parlors in the area were never inspected. Los Angeles County's only tattoo parlor inspector acknowledged that some of the 850 tattoo artists working out of the 300 tattoo establishments in Los Angeles County were "unscrupulous or incompetent" and did not strictly follow proper sterilization processes.

The Ninth Circuit Court of Appeals, the consistently liberal federal circuit that serves the Pacific coastal states, held that both the display of tattoos and the art of tattooing itself were "forms of pure expression fully protected by the First Amendment." As a result, the Hermosa Beach prohibition of all tattoo parlors was unconstitutional on its face. The court held that tattooing and the display of tattoos were themselves forms of expressive activity and not conduct "imbued with elements of communication," which would be subject to less first Amendment protection. According to the 9th Circuit, "a form of speech does not lose First Amendment

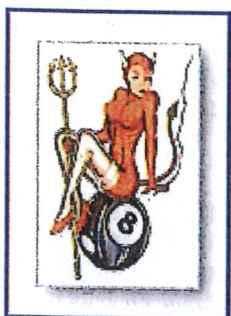




protection based on the kind of surface it is applied to.” [3]The court also alluded to a 2006 survey by the Pew Research Center finding that 36 % of Americans aged 18-25, 40% of those aged 26-40, and 10% of those aged 41-64 had at least one tattoo.

The Hermosa Beach case is at variance with over a half dozen federal and state court cases from around the country. One of those cases is *State v. White*, 348 S.C. 532, 560 S.E.2d 420 (2002), a South Carolina Supreme Court case in which a tattoo artist was convicted of violating a South Carolina statute prohibiting tattooing except by a licensed physician for cosmetic or reconstructive purposes. (At the time South Carolina was one of four states with a similar prohibition.) The South Carolina court concluded that tattooing was not a form of speech but instead was a form of conduct by the person applying the tattoo that was not sufficiently communicative in character to merit First Amendment protection.

What relevance does a federal case from California have for North Carolinians? Did the author of this blog spend too much time on vacation earlier this month on the southern California beaches? Tattooing has increased dramatically in North Carolina during the last decade. By one estimate the number of tattoo businesses in North Carolina increased 45% in 2009. Yet leaders and local government officials in some smaller towns remain uncomfortable with tattoo parlors and the culture that they represent. Hermosa Beach-style bans on tattooing are not uncommon in North Carolina.



[4]If a zoning-based tattoo parlor ban were challenged in North Carolina, however, courts might not need to base a decision on constitutional grounds. A local ban in North Carolina on tattooing would be invalid because such a ban would be preempted by state law. G.S. 160A-174 [5], which establishes standards for preemption, lists situations in which an ordinance is inconsistent with North Carolina (or federal) law and is thus preempted. G.S. 160A-174(b)(2) provides that an ordinance is inconsistent with state law if the ordinance “makes unlawful an act, omission, or condition which is expressly made lawful by State or federal law.” Does North Carolina law make tattooing expressly lawful in our state? It certainly seems to. G.S. 130A-283 [6] establishes a limited regulatory framework administered through the Department of Environment and Natural Resources, acting through local health departments. Tattooing permits are required for anyone who engages in the activity of tattooing, as defined in G.S. 130A-283. Technical, non-discretionary standards are set forth in sections of the North Carolina Administrative Code for obtaining a tattoo permit. Such a permit is personal to the holder and allows that person to engage in tattooing only at a particular location. Also, G.S. 14-400 [7] makes it a misdemeanor in this state for anyone to tattoo anyone else who is under 18 years of age.

North Carolina’s public policy as reflected in its regulatory framework is not intended “to provide a complete and integrated regulatory scheme to the exclusion of local regulation.” (G.S. 160A-174(b)(5)). That suggests a different basis for state preemption and a more ambitious role for

the state. Instead the state's limited regulatory scheme is one of authorizes tattooing, subject to various restrictions. A complete ban on tattooing, however, is thus in conflict with state law. Virginia courts have reached virtually identical conclusions under that state's law. *Blue Horseshoe Tattoo, V, Ltd. V. City of Norfolk*, 72 Va. Cir. 388 (Cir. Ct. 2007); *Ancient Art Tattoo Studio v. City of Chesapeake*, 56 Va. Cir 210, 210 (2001) (holding that Virginia Code § 15.2-912 allows for the regulation, not the banning of tattoo studios and remarking that "(h)ad the legislature intended to allow localities to prohibit the existence of tattoo studios, the legislature would have stated such."). See *Lamar OCI South Corp. v. Stanly County Board of Adjustment* [8], 186 N.C. App. 44, 650 S.E.2d 37 (2007), aff'd, 362 N.C.670 (2008) (zoning regulation that would not allow the relocation of a nonconforming outdoor advertising sign to a particular site invalid where state regulation would expressly allow it).

So, our friend ought to be able to find a North Carolina community where he can get a tattoo of his girlfriend Marlene. Now all he has to worry about is what happens later when he gets hitched and starts a family with Rita instead.

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Article printed from Coates' Canons: NC Local Government Law Blog:  
<http://sogweb.sog.unc.edu/blogs/localgovt>

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- [1] Image: <http://sogweb.sog.unc.edu/blogs/localgovt/wp-content/uploads/2010/09/Dragon-Tattoo-33.jpg>
- [2] federal 9th Circuit Court of Appeals : <http://www.ca9.uscourts.gov/datastore/opinions/2010/09/09/08-56914.pdf>.
- [3] Image: <http://sogweb.sog.unc.edu/blogs/localgovt/wp-content/uploads/2010/09/Dragon-Tattoo-2.bmp>
- [4] Image: <http://sogweb.sog.unc.edu/blogs/localgovt/wp-content/uploads/2010/09/Girl-tattoo.jpg>
- [5] G.S. 160A-174:  
[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-174.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-174.html)
- [6] G.S. 130A-283:  
[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_130A/GS\\_130A-283.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-283.html)
- [7] G.S. 14-400 :  
[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_14/GS\\_14-400.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-400.html)
- [8] *Lamar OCI South Corp. v. Stanly County Board of Adjustment*:  
<http://www.aoc.state.nc.us/www/public/coa/opinions/2007/060993-1.htm>.

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## Susie Morris

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**From:** David M Troutman [DMTroutman@CabarrusHealth.org]  
**Sent:** Wednesday, November 10, 2010 5:18 PM  
**To:** Susie Morris  
**Cc:** Phred Pilkington  
**Subject:** RE: Tattoo shop as home occupation?

The Cabarrus Health Alliance locally enforces the North Carolina state Rules Governing Tattooing (15NCAC 18A .3200) for the practice of tattooing. Tattooing is defined as "the inserting of permanent markings or coloration, or the producing of scars, upon or under human skin through puncturing by use of a needle or any other method."

### **Requirements**

The NC tattoo rules require tattoo & permanent makeup artists to meet certain minimum sanitation standards. These standards include: each studio having an autoclave (for the sterilizing of tattoo instruments), a sink(s) for hand washing, proper storage & disposal of solid waste, studio kept clean & in good repair, maintaining records of all autoclave tests & also of each client. In addition, each artist must be able to demonstrate knowledge of proper aseptic techniques. (There is no testing of artistic ability). Upon meeting these standards the artist is issued an annual permit.

### **Permits**

Persons who intend to practice as a tattoo or permanent makeup artist must contact the Cabarrus Health Alliance. Application must be made and there is an established permit fee of \$300.00,. Permits must be renewed annually at the same cost (\$300.00).

It is important to understand that the permit is issued to a specific artist at a specific location. That is, the studio & the individual artist must both meet regulations. An artist who practices at more than one studio, or who moves to another studio, must get a new permit at each location. Conversely, at a studio with more than one artist each artist must have a separate permit. Apprentices cannot work under an artist's permit; they must have their own permits.

It is recommended that anyone setting up a new studio, contact the Health Department so an Environmental Health Specialist (EHS) can review the requirements with them before work begins. There is no fee for the review-on November 8<sup>th</sup> 2010 I did meet with a Mr. Cammons who lives on Earnhardt Lake Road to discuss what would be needed to work out of the existing building located at his residence. There is nothing in my rules that would prevent me from permitting a tattoo artist in the county as long as the artist and the establishment meet the minimum standards. Mr. Cammons has been a permitted tattoo artist in Cabarrus several years ago in a shop he owned in Kannapolis.

### **State Website on Tattoo's**

[http://www.deh.enr.state.nc.us/ehs/pti\\_tattoos.htm](http://www.deh.enr.state.nc.us/ehs/pti_tattoos.htm)

*GS 14-400. prohibits.(any person or persons to tattoo the arm, limb, or any part of the body of any other person under 18 years of age. (AND makes it unlawful for any person to pierce any part of the body other than ears of another person under the age of 18 for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the*

body, unless the prior consent of a custodial parent or guardian is obtained.) **BUT THAT PARTICULAR LAW IS NOT ENFORCED BY THE LOCAL HEALTH DEPARTMENT.**

**Body Piercing**

**Body piercing is not regulated under NC Public Health laws or rules or by local ordinance in Cabarrus county.**

---

**From:** Susie Morris [<mailto:SAMorris@cabarruscounty.us>]

**Sent:** Wednesday, November 10, 2010 2:44 PM

**To:** David M Troutman

**Subject:** Tattoo shop as home occupation?

Hello David-

Rich Koch wanted me to get your take on a situation that has presented itself here in zoning. We had a request from someone to have a one chair tattoo shop as a home occupation in the AO district (agricultural district). Our ordinance currently does not address tattoo shops at all, even in a commercial zoning district. He said because of the health code regulations, that it might open the door for regulation problems if it was permitted as a home occupation (like a one chair hair shop). What do you think about it? Do you guys have to inspect certain kinds of home occupations just as if it was a commercial establishment?

Susie A. Morris, AICP, CZO  
Planning and Zoning Manager  
Cabarrus County Commerce Department  
704-920-2141 (Commerce Department)  
704-920-2858 (Direct)  
704-920-2227 (Fax)

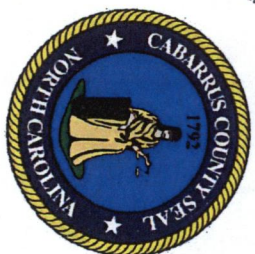
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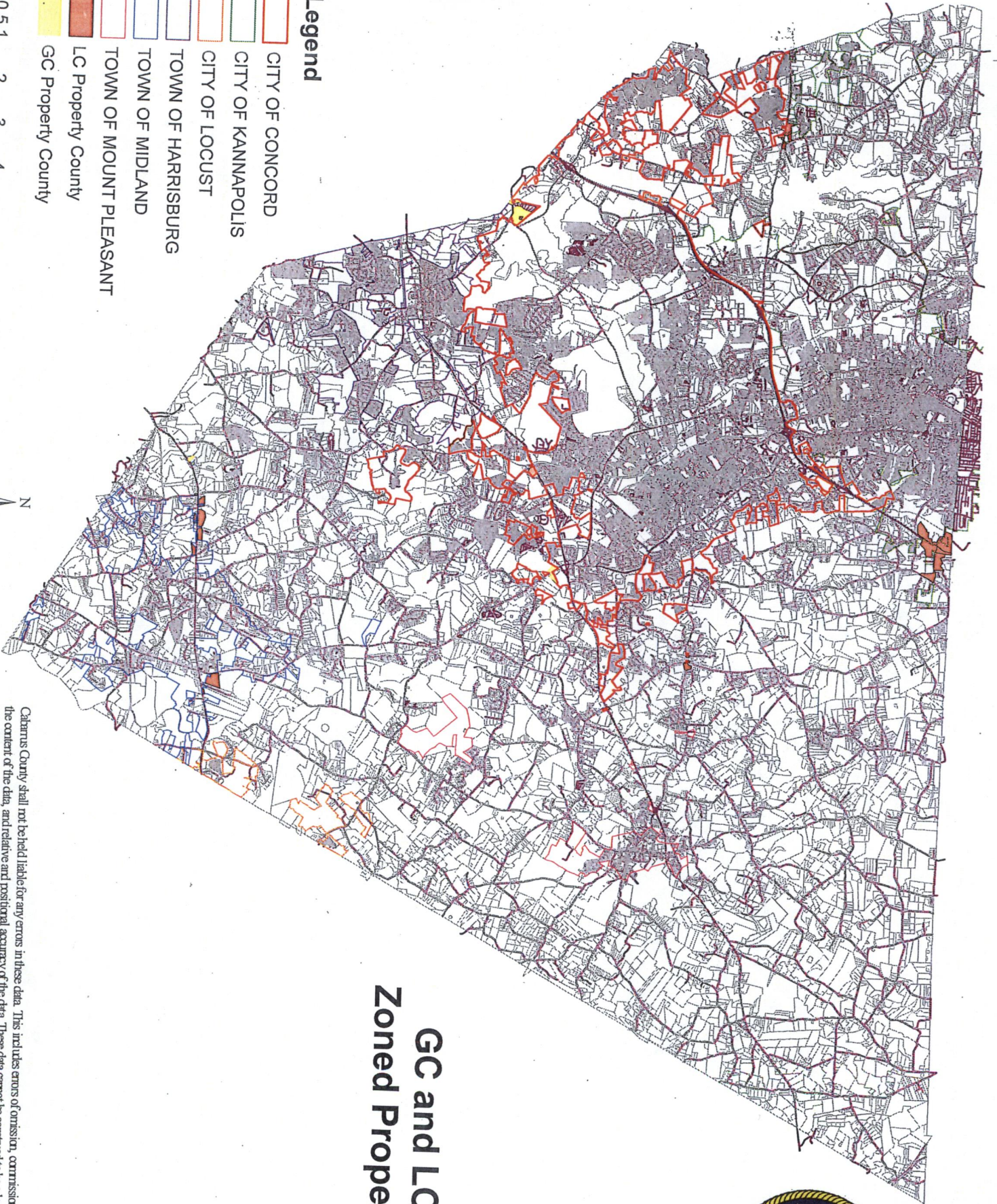


# GC and LC Zoned Property

## Legend

- CITY OF CONCORD
- CITY OF KANNAPOLIS
- CITY OF LOCUST
- TOWN OF HARRISBURG
- TOWN OF MIDLAND
- TOWN OF MOUNT PLEASANT
- LC Property County
- GC Property County

0 0.5 1 2 3 4  
Miles



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

Map Prepared by Cabarrus County Planning Services 12/2010