



Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
October 21, 2010
Board of Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Oath of Office to Newly Appointed Board Member Eugene Divine
2. Roll Call
3. Approval/Correction of September 16, 2010 Minutes
4. **New Business – Planning Board Function:**
 - A. Petition RZON2010-00006 – Zoning Atlas Amendment, Petitioners: Tony & Perry Freeze, PIN#5529-91-4865. Property is located at the intersection of Highway 49 S & Zion Church Road.

Request: The applicants are requesting to rezone this property, approximately 7.98 acres, from Office Institutional (OI) to Low Density Residential (LDR).
 - B. Petition PLPR2010-00029 - Preliminary Plat Approval - Olive Woods Subdivision, Applicant Wayne Cline (POA) for Emily R. Cline 2700 Sunset Road Charlotte, NC 28083. The subject property is located on Mt. Olive Road.
5. **New Business – Board of Adjustment Function:**

Petition VARN2010-00002, Applicant, Benjamin Small – Variance

Request: The applicant is requesting a variance for the required setbacks for an accessory structure on his property at 2239 St. John's Church Road, Concord, NC 28025.
6. **New Business – Planning Board as Design Review Committee** - Architectural Design Review for Wallace Hills Tack Shop
7. **Directors Report**
8. **Adjournment**



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Mr. Todd Berg, Chair, called the meeting to order at 7:15 p.m. Members present, in addition to the Chair were: Ms. Mary Blakeney, Mr. Larry Ensley, Mr. Danny Fesperman, Mr. Ted Kluttz, Ms. Emily Knudson, Mr. Tommy Porter and Mr. Barry Shoemaker. Ms. Shannon Frye arrived at 7:20 p.m. and was seated after the start of the meeting. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Kassie Watts, Senior Planner, Mr. Jay Lowe, Senior Zoning Officer, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

The Oath of Office was administered to reappoint Mr. Eugene Divine.

Roll Call

Approval of Minutes

Mr. Tommy Porter, **MOTIONED, SECONDED** by Mr. Ted Kluttz to **APPROVE** the September 16, 2010 meeting minutes. The vote was unanimous.

New Business - Planning Board Function:

The Chair introduced Petition RZON2010-00006 - Petitioners: Tony & Perry Freeze, PIN#5529-91-4865.

Ms. Kassie Watts, Senior Planner, addressed the Board presenting the staff report for Petition RZON2010-00006 – Zoning Atlas Amendment. This petition is a request by Mr. Tony Freeze and Mr. Perry Freeze, property owners and applicants. The existing zoning is Office Institutional (OI), and is 7.98 acres.

The property was rezoned during the 2005 County-wide rezoning from Low Density Residential (LDR) to Office Institutional (OI); the applicant is requesting that it be rezoned back to Low Density Residential (LDR).

The subject property is located adjacent to single family and institutional uses. The surrounding zonings are Office Institutional (OI) to the north, Low Density Residential (LDR) and Medium Density Residential (MDR) to the east. To the south it is Low Density Residential (LDR) and Office Institutional (OI), and to the west is Office Institutional (OI).

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The subject property is located within the City of Concord Service Area and the Utility Service Boundary established as a part of the Central Area Land Use Plan. The applicant is not requesting utilities for the subject property at this time. The applicant has a letter from the City of Concord that is required as a part of the rezoning application stating that they are not being required to annex at this time and they are not requesting utilities.

The request was sent out for comments to the different agencies. The standard comments were received from WSACC regarding the utility boundary. There were some comments from Soil and Water Conservation that were in the Board packets. The City of Concord sent an additional formal comment that they had no objection or comment relative to the proposed rezoning, however, should the developer seek development permits they would reserve the right to evaluate that request at that time.

Ms. Watts said the Central Area Land Use Plan that was adopted in 2008 designates this property as Low Density Residential (LDR) and is intended to allow for moderate density residential, accommodating community development. The area is to be predominantly used for single-family residential with density up to 2 units per acre, or up to 3 units per acre, provided additional development standards are met.

She said this rezoning, as proposed, is consistent with the Central Area Land Use Plan. It is a conventional rezoning request; therefore, all uses that are permitted in the Low Density Residential (LDR) district would have to be considered as possible uses on the subject property.

Mr. Tony Freeze, Applicant, 2906 Montford Avenue NW, Concord, NC, addressed the Board. He is co-owner of the property with his brother and they are interested in getting the property rezoned back to what it was originally. They did not request that it be zoned Office Institutional (OI). He said some of the neighboring properties have already come before the board to be rezoned from Office Institutional (OI) back to Low Density Residential (LDR).

There being no further discussion, Mr. Barry Shoemaker, **MOTIONED, SECONDED** by Mr. Ted Kluttz to **Approve** Petition RZON2010-00006. The vote was unanimous.

Consistency Statement:

The Chair stated that the proposed rezoning is consistent with the Central Area Plan and is reasonable and in the public interest.

There being no further discussion, it was the consensus of the Board to **Approve** the Consistency Statement.

New Business - Planning Board Function:

The Chair introduced Petition PLPR2010-00029 - Preliminary Plat Approval - Olive Woods Subdivision

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Ms. Kassie Watts, Senior Planner, addressed the Board presenting the staff report for Petition PLPR2010-00029, Preliminary Plat Approval for the Olive Woods Subdivision, a conventional subdivision. The applicant is Mr. Wayne Cline, acting as the Power of Attorney (POA), for his mother, Ms. Emily Cline.

Ms. Watts said the zoning is Agricultural Open Space (AO), located on Mt. Olive Road. There are two parcels that are involved.

Ms. Watts said a minor subdivision allows you up to five lots and anything beyond that is considered a major subdivision, which is the case here. She said Mr. Cline has done a minor subdivision and is now moving into the major part, which is this additional number of lots.

She said the subject property is currently vacant and wooded and it is surrounded by farm, forestry and residential uses on all sides. It has Agricultural Open (AO) space all around it. These properties will be served by wells and septic tanks which are already identified on the lots. The staff report includes the code considerations and it was reviewed by all of the agencies. She said there are some conditions that staff recommends be included with the application should it be approved.

Staff finds that the proposed subdivision meets all of the development standards of the Cabarrus County Subdivision and Zoning Ordinance.

Should the Planning and Zoning Commission grant approval of the subdivision, staff request that the following conditions be applied as part of the approval:

1. The developer shall enter into an Adequate Public Facilities Mitigation Agreement with the Cabarrus County Board of Commissioners to address school adequacy. *(Ms. Watts said in this particular case, this assessment has already been done and it has been found that all the schools impacted by this project were not over capacity, so there will not be a mitigation payment or phasing schedule required for this project).*
2. The developer must obtain driveway permits from NCDOT prior to final platting.
3. Permits for the disturbance of streams and other wetlands must be requested from the North Carolina Division of Water Quality and U.S. Army Corps of Engineers prior to any impacts.
4. Each lot shall be subject to Sediment and Erosion Control Plan review and approval, from the North Carolina Department of Environmental and Natural Resources, prior to the issuance of zoning permits.
5. Each lot shall be subject to Phase II Post-Construction Stormwater Permit review and approval, by the North Carolina Division of Water Quality, prior to the issuance of zoning permits.
6. Should any changes be required as a result of review by these agencies, the applicant shall resubmit to the Planning and Zoning Board for approval of a revised project design.

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7. Copies of Post-Construction Stormwater, Driveway and Soil and Erosion Control Permits shall be provided as part of zoning permitting process for the permanent project file.

Ms. Watts said the proposed conditions given by staff address the comments provided by the service providers.

Mr. Wayne Cline, 165 Earles Fort Road, Landrum, SC, Applicant, addressed the Board, stating that he is representing his mother Emily Cline and will answer any questions the Board may have.

Mr. Danny Fesperman asked how Mr. Cline was doing with NCDOT on this, as far as the cuts coming out onto the road.

Mr. Cline said prior to final platting, he is to get with NCDOT at that time and work out the appropriate arrangements for the driveway permit. He said the original statement from NCDOT suggested no more than four driveways, but because one of the parcels has already been sold and the person is already constructing a home with a driveway, which had been approved; the implication is that there would be five driveway entries on Mt. Olive Road rather than the stated four. He said that could possibly change based on NCDOT's final decision, but he doubts that it will be more than five.

The Chair asked Mr. Cline if he agreed to the staff recommendations.

Mr. Cline said yes.

Mr. Barry Shoemaker said if we approve this with the conditions as noted by staff, how long would the approval be valid or how long would Mr. Cline have to begin the subdivision?

Ms. Morris said once a preliminary plat is approved, they have up to two years to file a final plat. It would be carried on the books for two years, once they file a final plat, even if it is only one lot; that re-ups the two years. For example if they have five lots and they platted one every two years, their approval could inevitably be good for ten years.

Ms. Morris said the applicant has their reservation of capacity and if the conditions of approval are approved, we ask that the applicant places that on the final plat so that it becomes public record and is a part of the project record. She said staff recommends the seven conditions that were read, plus that they revise the plat to put that information on it.

Ms. Shannon Frye said if the applicant has an existing permit for an existing lot, is that already a part of the two original tracts? She is trying to figure out how that goes along with the conditions that are stipulated by staff as a part of the plat, and if that one lot part is a part of this configuration or is that an existing lot.

Ms. Watts said the Ordinance allows you to cut up to five lots out of your tract and it is considered a minor subdivision; meaning it does not have to come before the Board and so it is

held to a different set of standards. She said when Mr. Cline talked about the lot having a house being built on it, that is one of those lots and it was allowed to be approved administratively by staff. Once it gets to that five, anything beyond that begins to count as a major subdivision and has to come before you as a board. So, the conditions that are on this do not apply to those other lots, but they will apply to these.

There being no further discussion, Mr. Barry Shoemaker, **MOTIONED, SECONDED** by Mr. Ted Kluttz to **Approve** Petition PLPR2010-00029 – Preliminary Plat Approval, Olive Woods Subdivision, with conditions recommend by staff. The vote was unanimous.

(The Chair moved the Architectural Design Review up on the Agenda).

**New Business – Planning Board as Design Review Committee
Architectural Design Review for Wallace Hill Tack Shop**

The Chair introduced Architectural Design Review for Wallace Hill Tack Shop

Mr. Jay Lowe, Senior Zoning Officer, addressed the Board. He said this is an application involving a Commercial Design Standards Review. This is a Planning Board Function and the Board is acting as the Commercial Design Review Committee.

Mr. Lowe said the Applicant is Wallace Hill Tack Shop, Case# ZN2010-00106, the applicant is Carlos Moore, Architect, of Concord, NC. The property owner is J. C. and Marie Wallace, 5321 Odell School Road, Davidson NC. The zoning of the subject property is Agricultural Open (AO); the location of the property is 5169 Odell School Road, Davidson, NC, and the size of the property is 20.1 acres.

Mr. Lowe said the applicant is seeking deviations from the standards listed in Appendix B, as part of the Design Review Committee process as outlined in Chapter 5, District Development Standards, Section 5-9, Nonresidential Development Standards.

A letter from the Architect for the project, Ms. Ginger Moore, was attached to staff report and described the areas where deviations are requested.

Staff has reviewed the application and the site plans and most of them seem to meet the standards that the Ordinance requires. He said there are a few items that staff felt did not meet the requirements. He said Ms. Moore is asking for deviation for those.

Mr. Lowe said that according to the Ordinance the Board has the ability to offer some relief; it is not a variance procedure, and it specifically says that the Board has that ability acting as the Review Committee.

Mr. Lowe said the applicant is asking for relief on the setbacks. The setbacks do not meet the standards required by the Ordinance. The Ordinance requires that front building setbacks be a minimum of 15 feet and a maximum of 25 feet. As proposed and currently

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sited, the tack shop is approximately 67 feet from the edge of the right of way off of Odell School Road.

The applicant contends the proposed setback is in keeping with the character of the area. (See applicant letter submitted in staff report item #8).

Mr. Lowe said the Building placement and the sidewalks do not meet standards required by the Ordinance. It requires a minimum 5 foot sidewalks and a minimum 6 foot landscape buffer between the road and the side walk.

The applicant contends the side walks are not appropriate for the project area. (See applicant letter submitted in staff report item #1).

The parking requirements do not meet standards required by the Ordinance. The Ordinance requires that parking areas shall be located primarily to the rear of the structure. The site plan shows parking in the front of the building between the building and the right of way.

The applicant contends that parking is in keeping with character of the area with historic use and location of this type of structure. (See applicant letter submitted in staff report item #8).

Mr. Lowe said they meet most of everything else until you get down to massing and rhythm. The applicant turned in a document today to address that issue and a copy was placed at each seat for review this evening.

Mr. Lowe said included in the staff report were photos of some houses to give the Board an idea of the architecture in that area.

Ms. Ginger Moore, Applicant, 74 Spring Street, NW, Concord, NC, addressed the Board. She said historically, most country stores and rural commercial buildings were situated close to the road for easy visibility with the parking area immediately in front of the building. These buildings usually had generous front porches with benches and display items. These buildings and parking areas were also usually situated near shade trees in order to invite the user in and invite them to stay a while.

She said this started before the automobile, with horses and carriages often tied to the front of the buildings for ease of access and to keep them within the public eye to discourage theft. The location of the front parking for rural country stores remained the same even after the introduction of the automobile. She said numerous businesses and general stores trying to catch the attention of passing motorists sprang up along the country roads. The rural locations provided more frontage room and less traffic than more urban areas and parking therefore was located in front of the structure.

Users have come to expect a specific spatial layout that has been defined by their previous experiences and that directly corresponds to ease of user wayfinding. Placing

the parking at the rear of the building would be opposite to what the normal user experience would be in a rural setting at a country store type building.

She said the setback from the right of way that is created in this project between the edge of the parking and the edge of the right of way is sufficient to provide space in order to preserve the rural character, vegetation, and corridor view shed as well as allowing for any future essential tree pruning and any future needed road signage. Our proposed front parking lot will be screened from the road by existing and planted vegetation and will be located directly behind and therefore screened from the road by an existing 8 foot high berm. The actual parking lot is approximately 14 foot below the road elevation, thereby naturally screening the parking lot from the view and meeting the intent of the ordinance.

Ms. Moore said the revised exterior elevations address the massing and rhythm comments in the staff report and the revised drawings show a change in the ridgeline on the center section of the structure and is evident on all four sides of the exterior elevations. On the rear elevation, the roof was extended approximately 6 feet for a covered porch in front of the exit doors. We are asking for relief from the parking lot and the building setbacks and the sidewalk.

Mr. Kluttz asked if there was grazing and pasture at the rear of the building.

Ms. Moore said to the rear of building is a 40 foot fall from the road down to where the stables are and right behind the tack shop is another 8 foot berm, then it levels out and beyond that is pasture.

Ms. Shannon Frye asked any of the trees are included in the increased setback.

Ms. Moore said all of those trees will remain.

The Chair said the other building there that is off of the property, but it looks like you are bringing the driveway by that building. He asked what the setbacks are of that building in relation to what she is doing. He said it appears from the site plan that they are about the same.

Ms. Moore does not know, but it is the same property owner.

Mr. Jay Lowe spoke with the owner who says it is about 75 feet.

The Chair said for the purposes of discussion, let's break it down; we have the issue of setbacks and sidewalks as one issue, then the rhythm and the fenestration which we will address with the revised drawings.

He asked if there were any issues with the massing or the rhythm part of the design review.

There were no comments on this issue.

The Chair asked if there were any comments on the setbacks and the sidewalk.

Mr. Porter said it appears that what the applicant is asking for is consistent with what is already in the area.

The Chair agrees; he also agrees with the point about the elevation change from the road down to the building. He thinks that is also a factor to consider as far as the sidewalk goes. He said it appears that it would be the only piece of sidewalk along that road in this area.

Mr. Kluttz said it appears that the applicant is trying to be a good neighbor and designed the project to be good stewards to the environment, to the scenery, and to the overall fitting of the area.

Mr. Shoemaker asked if the property is adjacent to the Keith Wayne project on Odell School Road. He guesses that it is a satellite annexation by Kannapolis.

Ms. Morris said the Wayne Brothers project was annexed into Kannapolis and it is zoned Office Institutional (OI).

Mr. Shoemaker asked Ms. Moore how she is going to control the run off from the road onto the property.

Ms. Moore said they have a state stormwater permit; drop inlets are in and it has gone through that whole process.

Mr. Shoemaker said the area in front of the berming will be rather flat and it will have stormwater in it and it will be a flat area with grass on it. He said it will not be a sidewalk but it will be a groomed area.

Ms. Moore said that is correct. She said that a ditch is in there now.

Mr. Shoemaker asked if the whole area in front of the property would be level across the front and there will not be storm ditch drain would be there.

Ms. Moore said, not necessarily. She said there is a swell there now and it is all going down to a drop inlet. She said they are also catching the water from across Odell School Road as well. There is a pipe under the road there and they are piping that off.

Mr. Shoemaker said when you look at it from the road angle will it come down and swell.

Ms. Moore said yes.

The Chair said it appears a swell may be in the NCDOT right of way.

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Ms. Moore said it is. She said the drop inlet is right on the edge of the new right of way.

Mr. Shoemaker said one of the things we suffer with on country roads, is the fact that the ditches on the sides of the roads are so deep and dangerous. He wanted to make sure that NCDOT had some standards for the swell so we do not get left with a deep ditch. He said the applicant is asking for relief from sidewalks; he is still concerned about creating something new and different.

The Chair thinks the ditch is probably in the NCDOT's right of way and the applicant is not doing anything with the ditch.

Ms. Moore said that is correct.

Mr. Shoemaker said if we were to require sidewalks they would have to do something about the ditch; they would have to put in storm sewer.

Ms. Morris said the sidewalks would be outside of the right of way and in this particular case, because it is a site plan review, the applicant was required to get a soil and erosion control permit because of the size of the project which also required them to get a Phase II Post Construction Stormwater Permit. She said all of that has been handled at this time through the project with the impervious area that is proposed. It is a high density project, but they met the conditions that the state imposed on the project for stormwater control.

Mr. Shoemaker said putting in a sidewalk does not necessarily mean that there will be curb or gutter on the side of the road.

Ms. Morris said that is correct. We do not have a curb and gutter typical in the County Ordinance; typically it ends up being valley, if it is required. She said in that particular case, that road will eventually be widened and at that time NCDOT will determine what type of typical will be used for that cross section for the street.

The Chair said from the road all the way to the right of way, including the ditch, would not be changed regardless of whether there were sidewalks or not. He said the sidewalk would be outside of all of that if we were to require it.

There being no further discussion, Ms. Mary Blakeney, **MOTIONED, SECONDED** by Mr. Barry Shoemaker to **Approve** the Architectural Design Review for the Wallace Hills Tack Shop. The vote was unanimous.

Mr. Koch said because of the way that ordinance is set up; any deviations have to meet certain criteria. He thinks the criteria were in a general way articulated by some of the Commission members who spoke. He suggests that the Board allows him to prepare the appropriate findings for approval at the next meeting.

The Chair said the points that were made had to do with the topography and the slope off the street and the setback being consistent with the setbacks of the other building.

Mr. Koch said and the other compatibility with the surrounding improvements and area.

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

The Chair ordered a short recess to allow the County Attorney and the Attorney for the applicant to talk.

New Business – Board of Adjustment Function:

The Chair introduced Petition VARN2010-00002, Applicant, Benjamin Small – Variance

Mr. Eugene Divine acknowledged that he might have a perceived conflict of interest on this case.

Mr. Koch asked Mr. Divine to specify the nature of the perceived conflict.

Mr. Divine said since the last time there was a meeting on this issue; he has had business dealings with Mr. Small and his partner.

Mr. Koch said it is his understanding that Mr. Small has represented Mr. Divine on a matter as an Attorney.

Mr. Divine said that is correct. He feels that he should be recused from the case.

The Chair **MOTIONED, SECONDED** by Ms. Shannon Frye to **Recuse** Mr. Divine. The vote was unanimous.

Mr. Larry Ensley replaced Mr. Divine on the Board.

Mr. Danny Fesperman acknowledged that he is currently, as well as in the past, done business with the law firm Hamilton, Moon, Stephens, Steele and Martin who are representing Mr. Small.

The Chair asked Mr. Fesperman if his conflict is with the law firm and not Mr. Small.

Mr. Fesperman said that is correct, he currently has that law firm on retainer.

Mr. Koch said the attorney for Mr. Small is Mr. George Sistrunk and is a partner in that firm.

Mr. George Sistrunk, Attorney, on behalf of Mr. Small, addressed the Board. He said Mr. Koch advised him of the conflict issues and based on the conflict issues, he and Mr. Small agree that Mr. Sistrunk should withdraw as his counsel to eliminate any conflict issues. He said Mr. Small does not want to have the proceedings tainted in anyway.

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Mr. Sistrunk requests on behalf of Mr. Small to have the hearing continued until the next Planning and Zoning Commission meeting on November 18, 2010. He said this would allow time for him to prep Mr. Small to handle this himself or to obtain other counsel that does not have the conflict issue that he and his firm have.

The Chair said if Mr. Sistrunk withdraws, that resolves Mr. Fesperman's conflict. He said the applicant is not really prepared to present the case tonight and it would need to be continued until the next meeting.

There being no further discussion, Mr. Barry Shoemaker, **MOTIONED, SECONDED** by Mr. Danny Fesperman to **CONTINUE** Petition VARN2010-00002, until the next Planning and Zoning Commission meeting November 18, 2010.

Directors Report

Ms. Susie Morris, Planning and Zoning Manager addressed the Board stating that on Tuesday, October 19, 2010, the Harrisburg Planning and Zoning Commission made a recommendation to the Harrisburg Town Council to move forward with the Harrisburg Area Land Use Plan.

Ms. Morris said we have not been able to proceed or make any progress with the inter-local agreement.

There being no further discussion, Mr. Larry Ensley **MOTIONED, SECONDED** by Mr. Tommy Porter to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 8:20 p.m.

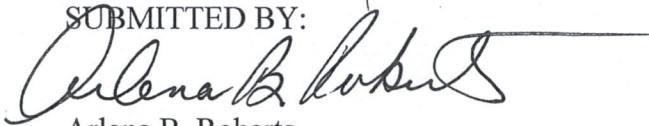
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APPROVED BY:

A handwritten signature in black ink, appearing to be 'Todd Berg', written over the 'APPROVED BY:' text.

Todd Berg, Chairman

SUBMITTED BY:

A handwritten signature in black ink, appearing to be 'Arlena B. Roberts', written over the 'SUBMITTED BY:' text.

Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager

**WALLACE HILL TACK SHOP
CASE ZN 2010-00106**

FINDINGS OF FACT

A. GENERAL FINDINGS

1. This property is on a large tract in a location that is essentially rural in character.

2. This tack shop has the characteristics of a country store, which traditionally were located in some visual proximity to a country road, with the parking between the road and the store building, consistent with pre-motorized vehicular days when a "shopper" would ride his /her horse or bring his/her horse drawn carriage to the entrance and tie the horses up near the front door.

B. SETBACKS

1. The above General Findings of Fact are incorporated by reference as Findings regarding this issue.

2. The Ordinance requires a front building setback of no less than 15 feet and no more than 25 feet. The proposed tack shop is approximately 67 feet from the Odell School road right of way.

3. The proposed setback of 67 feet is in keeping with the rural character of the area and with the concept of a country store, before zoning and setbacks became prevalent.

C. BUILDING PLACEMENT

1. The above General Findings of Fact are incorporated by reference as Findings regarding this issue.

2. The above Setback Findings of Fact are incorporated by reference as Findings regarding this issue.

D. CONNECTIVITY AND SIDEWALKS

1. The above General Findings of Fact are incorporated by reference as Findings regarding this issue.

2. The Ordinance requires a minimum 5 foot sidewalk.

3. Because of the rural character of the area, there are no other sidewalks and a sidewalk near the road would not connect to anything.

4. The plans call for sidewalks adjacent to the parking area and the building.

E. PARKING REQUIREMENTS

1. The above General Findings of Fact are incorporated by reference as Findings regarding this issue.

2. The Ordinance requires that parking areas be located primarily to the rear of the structure.

3. Historically, visitors to a country store expect to find the parking in front of the building.

Based on the foregoing Findings, the Planning and Zoning Commission as the Design Review Committee reach the following

CONCLUSIONS

The deviations sought by the applicant from the District Development Standards in Chapter 5 of the Cabarrus County Zoning Ordinance are APPROVED, because such deviations meet the following requirements of the Ordinance permitting such deviations:

1. The deviations provide for architectural design compatibility in relation to the existing neighborhood.

2. The adjusted setbacks are compatible with surrounding development.

3. The deviations in site design are compatible with the context of the surrounding neighborhood.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
10/21/2010

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

Petition: RZON2010-00006 Rezoning

Applicant Information: Tony & Perry Freeze
2906 Montford Avenue NW
Concord, NC 28027

Owner Information: Tony Eugene Freeze
Perry Donald Freeze
2906 Montford Avenue NW
Concord, NC 28027

Existing Zoning: O/I (Office/Institutional)

Proposed Zoning: LDR (Low Density Residential)

Permitted Uses: All uses permitted in the O/I zoning district (See Attached)

PIN#: 5529-91-4865

Area in Acres: 7.98

Site Description: The subject property was rezoned during the 2005 county-wide rezoning from LDR- Low Density Residential to O/I – Office Institutional.

Adjacent Land Use: The subject property is located adjacent to single family and institutional uses. (Central Cabarrus High School & Westford United Methodist Church) Patriots Pointe Apartment Complex is located across the street, southeast of the subject property. Properties to the east are wooded, vacant and zoned for residential uses.

Surrounding Zoning: North: O/I (Office/Institutional) County
East: LDR (Low Density Residential) & MDR – (Medium Density Residential) County
South: LDR (Low Density Residential) County & O/I (Office/Institutional) City of Concord
West: O/I (Office/Institutional) City of Concord

Utility Service Provider: The subject property is located within the City of Concord Service Area and the Utility Service Boundary established as part of the Central Area Land Use Plan. The applicant however, is not requesting utilities for the subject property at this time. (See attached letter from City of Concord.)

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
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Staff Use Only:
Approved: _____
Denied: _____
Tabled: _____

Exhibits

1. Zoning Map- Submitted by Staff
2. Land Use Map- Submitted by Staff
3. Aerial Map- Submitted by Staff
4. Soil and Water Conservation District Review- Submitted by Staff
5. City of Concord Review Letter- Submitted by Staff
6. List of Permitted Uses in OI- Submitted by Staff
7. List of Permitted Uses in LDR- Submitted by Staff
8. List of Adjacent Property Owners- Submitted by Staff

Submitted by Kassie G. Watts, Senior Planner, AICP

Intent of Zoning Districts

Existing- **Office/Institutional:** This district is intended to accommodate relatively low intensity office and institutional uses at intensities complementary to residential land use. Where appropriate, this district can serve as a transition between residential land use and higher intensity nonresidential land use. Single family detached residential is not a permitted use in the Office/Institutional district.

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

Agency Review Comments

Health Review : No Comments

Fire Review : No Comments

NCDOT Review : No Comments

EMS Review : No Comments

Sheriff Review : No Comments

Schools Review : No Comments

Engineering Review : In regards to the proposed 7.98 acre site located at the southwest quadrant of the Highway 49/Zion Church Road intersection, WSACC has no issues or comments relative to conditional use re-zoning of this property noted in your memorandum sent to me on September 20, 2010. Relative to any future development project, please be aware that flow acceptance from WSACC is granted in the order received assuming sufficient wastewater

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
10/21/2010

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

treatment and transportation capacity is available or is reasonably expected to be made available. Currently, WSACC is granting flow acceptance to development projects that discharge wastewater to the WSACC interceptor serving this area (Irish Buffalo Creek Interceptor). However, this email document does not guarantee wastewater flow acceptance must be requested by the Jurisdiction providing the retail sewer service, in this case the City of Concord. It should be noted that WSACC does not own or operate any existing water lines (wholesale or retail) serving this area

Soil-Water Conservation Review : See attached soil table. The information in this table indicates the dominant soil condition, but does not eliminate the need for onsite investigation. The numbers in the value column range from 0.01 to 1.00. The larger the value, the greater the potential limitation. Limiting features in this report are limited to the top 5 limitations. Additional limitations may exist. Additional field visits by Cabarrus SWCD and/or its conservation partners may be required, including but not limited to sedimentation and erosion control plan review.

Utility Review : The City of Concord has no objection or comment relative to the proposed rezoning of the Freeze property from O-I to LDR. However, should the owner seek development permits, we would reserve the right to evaluate the request at that time.

Staff Analysis

The Central Area Land Use Plan, adopted in August 2008, designates this property, as well as adjacent properties, as Low Density Residential. The plan states that Low Density Residential is intended to allow low to moderate density residential accommodating community development. The area is to be predominantly used for single-family residential with density up to 2 units per acre, or up to 3 units per acre provided additional development standards are met.

Staff Recommendations

The rezoning as proposed is consistent with the Central Area Land Use Plan. The rezoning is a conventional rezoning request. Therefore, no conditions may be attached to the rezoning request. All uses permitted in the LDR district would be permitted on the subject property.



Zoning Map

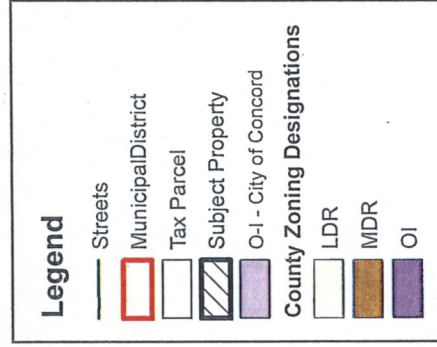
Applicants: Tony & Perry Freeze

Case: RZON2010-00006

Existing Zoning: O/I - Office Institutional

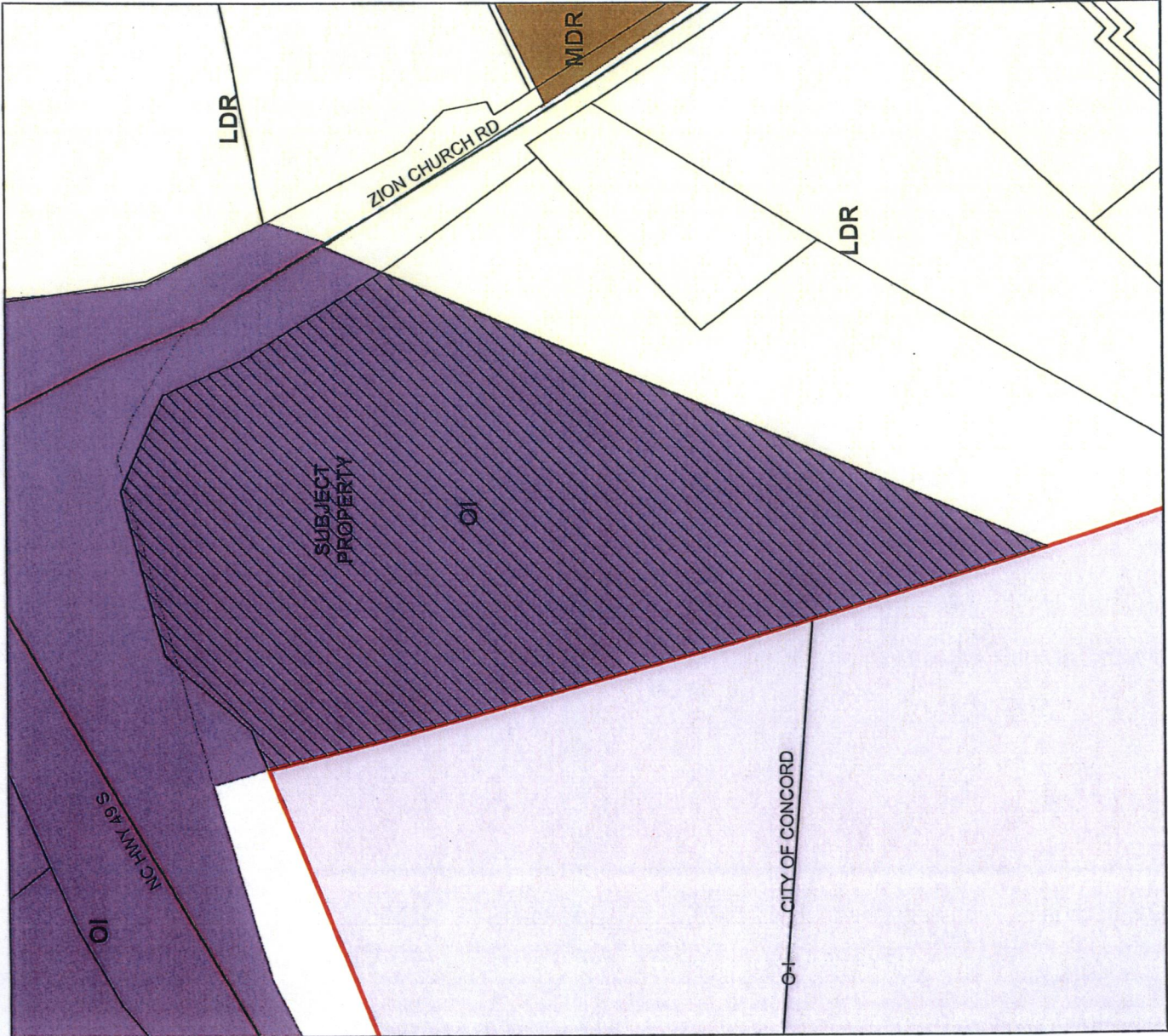
Proposed Zoning: LDR - Low Density Residential

Parcel ID#: 5529-91-4865



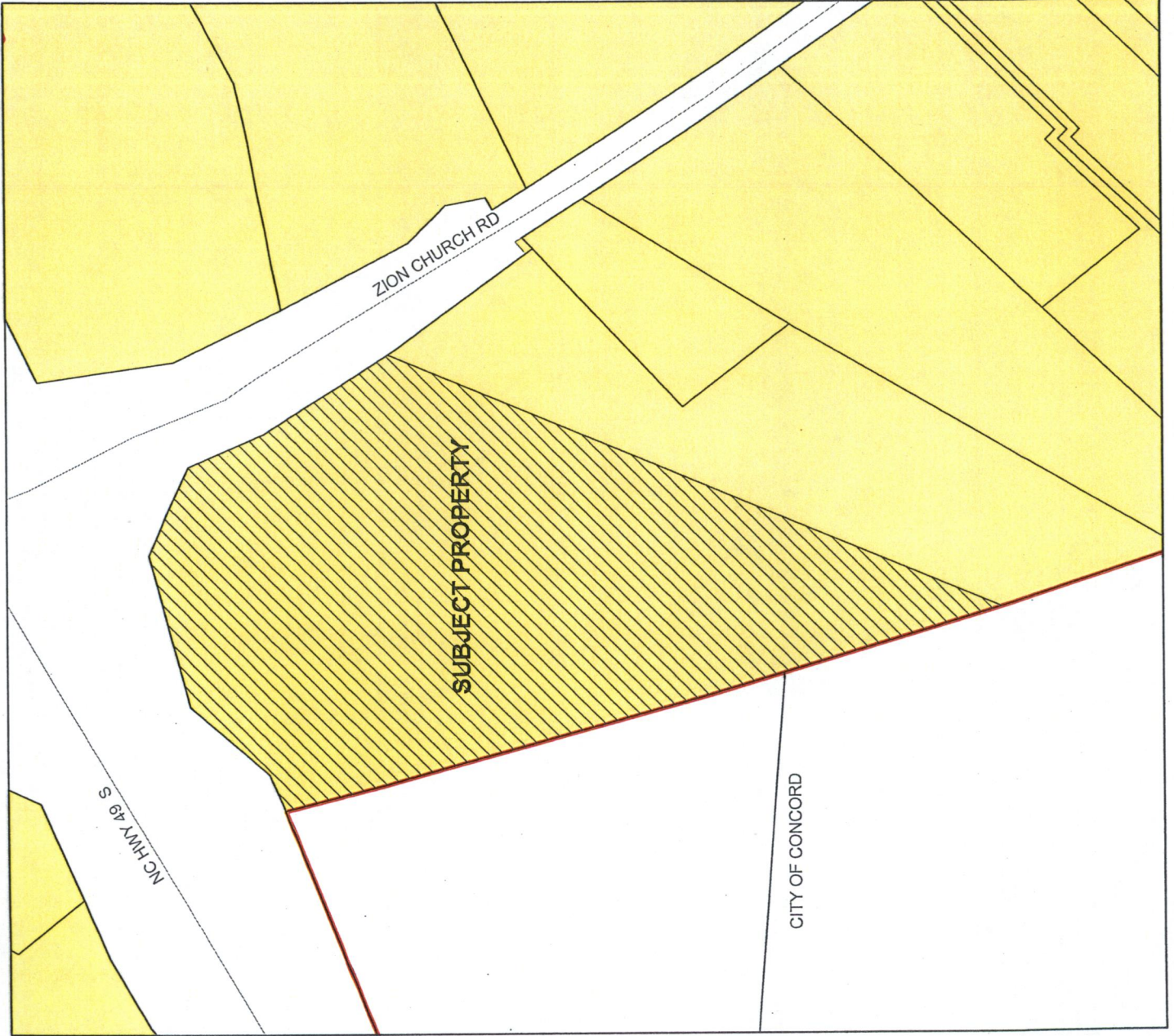
Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data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

Map Prepared by Cabarrus County Planning Services,
October 2010.





Land Use Map
Applicants: Tony & Perry Freeze
Case: RZON2010-00006
Existing Zoning: OI - Office / Institutional
Proposed Zoning: LDR - Low Density Residential
Parcel ID#: 5529-91-4865



Legend

- Subject Property (hatched box)
- Tax Parcel (white box)
- Streets (dashed line)
- Municipal District (red outline box)

Land Use Designation

- Low Density Residential (yellow box)



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Map Prepared by Cabarrus County Planning Services,
October 2010.



Aerial Map

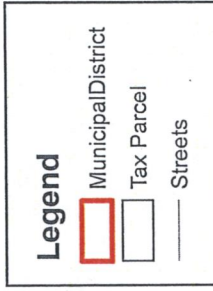
Applicants: Tony & Perry Freeze

Case: RZON2010-00006

Existing Zoning: OI - Office / Institutional

Proposed Zoning: LDR - Low Density Residential

Parcel ID#: 5529-91-4865



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, October 2010.

**Cabarrus Soil and Water Conservation District
715 Cabarrus Avenue, West
Concord, N. C. 28027-6214
(704) 920-3300**

MEMORANDUM

TO: Kassie Goodson Watts, Cabarrus County Commerce Department

THROUGH: Bob Ritchie, Chairman Darrell Furr, Chairman
Board of Supervisors Watershed Improvement Commission

FROM: Dennis Testerman, Resource Conservation Specialist

COPIES: Susie Morris, Cabarrus County Commerce Department—Planning
Robbie Foxx, Cabarrus County Commerce Department—Zoning
Jay Lowe, Cabarrus County Commerce Department—Zoning
Alan Johnson, NCDENR, Div. of Water Quality, Mooresville Regional Office
Cyndi Karoly, NCDENR, Div. of Water Quality, Wetlands Unit, Raleigh
Steve Chapin, US Army Corps of Engineers, Asheville Regulatory Field Office

NAME OF PLAN: Rezoning Petition RZON2010-00006 – Tony & Perry Freeze **PLAN TYPE:** Rezoning

LOCATION: 3605 Zion Church Road **JURISDICTION:** County **ZONING:** O/I to proposed LDR

OWNER: Tony & Perry Freeze, 2906 Montford Ave., NW, Concord, NC 28027

DATE SUBMITTED: 10/21/2010 **DATE REVIEWED:** 10/1/2010

PARCEL #: 5529-91-4865 **TRACT#:** N/A **ACRES:** 7.98

USGS TOPO QUAD MAP: Concord **LATITUDE/LONGITUDE:** 35 21' 56" N, 80 34' 41"W

RECEIVING WATERS: UT to Irish Buffalo Creek **WATERSHED:** HU 03040105020040 (IB-2)

PERENNIAL OR INTERMITTENT STREAMS PRESENT: Yes

SOIL TYPE(S): ChA Chewacla sandy loam, CuD2 Cullen clay loam

HYDRIC SOILS: Yes, as possible inclusions in Chewacla

THE FOLLOWING CHECKED ITEMS ARE MISSING FROM OUR COPY OF THE PLAN—PLEASE SUBMIT:

Only GIS map with zoning by parcel provided

ONSITE INSPECTION: No

PLAN COMMENTS:

- The information in this table indicates the dominant soil condition, but does not eliminate the need for onsite investigation. The numbers in the value column range from 0.01 to 1.00. The larger the value, the greater the potential limitation. Limiting features in this report are limited to the top 5 limitations. Additional limitations may exist.

Map symbol	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local Streets and Roads	Shallow Excavations	Lawns and landscaping	Septic tank absorption fields	Paths and trails
	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value	Rating Class and Limiting Features - Value
ChA: Chewacla	Very limited Flooding 1.00 Depth to saturated zone 1.00	Very limited Flooding 1.00 Depth to saturated zone 1.00	Very limited Flooding 1.00 Depth to saturated zone 1.00	Very limited Flooding 1.00 Low strength 1.00 Depth to saturated zone 0.94	Very limited Depth to saturated zone 1.00 Flooding 0.80 Cutbanks cave 0.10	Very limited Flooding 1.00 Depth to saturated zone 0.94	Very limited Flooding 1.00 Depth to saturated zone 1.00 Seepage, bottom layer 1.00 Slow water movement 0.50	Somewhat limited Depth to saturated zone 0.86 Flooding 0.40
CuD2: Cullen, moderately eroded	Somewhat limited Slope 0.63 Shrink-swell 0.50	Somewhat limited Slope 0.63 Shrink-swell 0.50	Very limited Slope 1.00 Shrink-swell 0.50	Somewhat limited Slope 0.63 Shrink-swell 0.50 Low strength 0.10	Very limited Too clayey 1.00 Slope 0.63 Cutbanks cave 0.10	Somewhat limited Slope 0.63	Somewhat limited Slope 0.63 Slow water movement 0.50	Not Limited
EnB: Enon	Very limited Shrink-swell 1.00	Not limited	Very limited Shrink-swell 1.00 Slope 0.13	Very limited Shrink-swell 1.00 Low strength 1.00	Somewhat limited Too clayey 0.50 Cutbanks cave 0.10	Not limited	Very limited Slow water movement 1.00	Somewhat Limited Too sandy 0.01

Disclaimer: Small areas of contrasting soils with different interpretations may not be shown on the soil maps due to the scale of the mapping. Soil surveys seldom contain detailed site specific information. This data set is not designed for use as primary regulatory tools in permitting or siting decisions, but may be used as a reference source. These data and their interpretations are intended for planning purposes only. This is public information and may be interpreted by organizations, agencies, units of government and others based on needs; however, these entities are responsible for the appropriate use and application of these data. Digital data files are periodically updated. Reports are dated and users are responsible for obtaining the latest version of the data.

- Additional field visits by Cabarrus SWCD and/or its conservation partners may be required, including but not limited to sedimentation and erosion control plan review.

Please provide copies of approval notice and any revisions to this plan to the Cabarrus Soil and Water Conservation District.

CONTACT(S):

Cabarrus County, Commerce Department, Susie Morris, 704-920-2858
Cabarrus County, Commerce Department, Kassie Watts, 704-920-2191
Cabarrus County Commerce Department—Zoning, Robbie Foxx, 704-920-2138
Cabarrus County Commerce Department—Zoning, Jay Lowe, 704-920-2140
Cabarrus SWCD & Watershed Improvement Commission, Dennis Testerman, 704-920-3303
Cabarrus SWCD & Watershed Improvement Commission, Daniel McClellan, 704-920-3301
NCDENR, Div. of Water Quality, Mooresville Reg. Office, Alan Johnson, 704-663-1699
NCDENR, Div. of Water Quality, Raleigh, Cyndi Karoly, 919-733-9721
U. S. Army Corps of Engineers, Asheville Regulatory Field Office, Steve Chapin, 828-271-7980

REFERENCES:

- “Avoiding Tree Damage During Construction.” Consumer Information Program Fact Sheet. International Society of Arboriculture. [<http://www.isa-arbor.com/consumer/avoiding.html>]
- “Conservation-Based Subdivision Design: Protecting Water Quality and Scenic Resources in NC Mountains.” Conservation Trust for North Carolina. 1997
- “Erosion and Sedimentation on Construction Sites.” Soil Quality—Urban Technical Note No. 1. USDA, NRCS. [<http://www.statlab.iastate.edu/survey/SQI/pdf/u01d.pdf>]
- “401 Water Quality Certification Program – The Basics.” N.C. DENR. Div. of Water Quality, Wetlands Section. [<http://h2o.enr.state.nc.us/ncwetlands/basic401.html>]
- “Protecting Urban Soil Quality: Examples for Landscape Codes and Specifications.” [<http://soils.usda.gov/sqi/files/UrbanSQ.pdf>]
- “Recognizing Wetlands.” Informational Pamphlet. US Army Corps of Engineers [<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/rw-bro.htm>]
- “Seeding Specifications.” Sect. 6.10 & 6.11 in Erosion and Sediment Control Planning and Design Manual. N. C. NRCD.
- “Soil Sampling for Home Lawns & Gardens.” N.C. Dept. of Agriculture & Consumer Services. [<http://www.ncagr.com/agronomi/samhome.htm>]
- “This Land is Our Land. . . A Guide to Preserving Your Land for Generations to Come.” [<http://www.cabarruscounty.us/Easements/>]
- “Topsoiling Specifications.” Sect. 6.04 in Erosion and Sediment Control Planning and Design Manual. N. C. NRCD.
- “Urban Soil Compaction.” Soil Quality—Urban Technical Note No. 2. USDA, Natural Resources Conservation Service. [<http://www.statlab.iastate.edu/survey/SQI/pdf/u02d.pdf>]
- “Well Abandonment.” Brochure. N.C. DENR. Div. of Water Quality, Groundwater Section. [<http://h2o.enr.state.nc.us/documents/Bro-WellAbandon.pdf>]
- “Well Decommissioning.” Field Office Tech. Guide, USDA, Natural Resources Conservation Service. [http://h2o.enr.state.nc.us/aps/gpu/documents/Well_decom.pdf]
- “Yadkin-Pee Dee River Basinwide Water Quality Plan.” N.C. DENR. Div. of Water Quality—Planning Sect., Basinwide Planning Prog. 2003. [http://h2o.enr.state.nc.us/basinwide/yadkin/YadkinPD_wq_dt_management_plan0103.htm]
- “Watershed Management Plans & Recommendations: Lower Yadkin / Upper Rocky River Basin Local Watershed Planning (Phase Two). NCDENR, Ecosystem Enhancement Program. 2004. [http://www.ces.ncsu.edu/depts/agecon/WECO/rocky_river/URR2_WMP.pdf]

“Urban Soil Primer.” USDA, Natural Resources Conservation Service.
[[http://soils.usda.gov/use/urban/downloads/primer\(screen\).pdf](http://soils.usda.gov/use/urban/downloads/primer(screen).pdf)]



August 11, 2010

Re: PIN # 5529-91-4865 (Perry Donald and Tony Eugene Freeze Property)

Ms. Susie Morris, AICP, CZO
Planning and Zoning Manager
Cabarrus County Zoning Department
PO Box 707
Concord, NC 28026

Dear Susie:

This letter serves to inform Cabarrus County that the City of Concord has no objection or comment relative to a potential rezoning request of the above referenced property from O-I to residential. From our discussion with Mr. Perry Freeze, it is our understanding that the owner is seeking the rezoning due to concerns about the nonresidential tax valuation of the subject property.

However; should the owner seek development permits, the City would reserve the right to evaluate the property at that time in accordance with the appropriate settlement agreement and City/County policy.

Please feel free to contact me if you have any questions.

Sincerely,

Kevin E. Ashley, AICP
Senior Planner

Cc: Margaret Pearson
Perry Freeze

Permitted Uses: OI – Office Institutional

Permitted Uses

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

Permitted based on Standards (PBS)

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

Conditional Uses

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

Permitted Uses: LDR – Low Density Residential

Permitted

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

Permitted Based on Standards (PBS)

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

Conditional

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

GARMON FAMILY TRUST
DANIEL LLOYD GARMON
3480 ZION CHURCH RD
CONCORD, NC 28025

FREEZE TONY EUGENE
FREEZE PERRY DONALD
2906 MONTFORD AVE NW
CONCORD, NC 28027

CARTER LARRY GENE & WIFE
3710 ZION CHURCH ROAD
CONCORD, NC 28025

WESTFORD UNITED METH CH
MR GENE A FOSTER
78 PINECREST DRIVE
CONCORD, NC 28027

MEDLEY CHARLIE DAVID & DONNA
3605 ZION CHURCH ROAD
CONCORD, NC 28025

LOVE JERRY LEE
LOVE ALLEN G
224 SCOTTRIDGE DRIVE
CHARLOTTE, NC 28217

MCCLURE DAVID G
3730 ZION CHURCH ROAD
CONCORD, NC 28025

CABARRUS COUNTY
P O BOX 707
CONCORD NC 28026

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
10/21/2010

Staff Use Only:

Approved: _____

Denied: _____

Tabled: _____

Petition: PLPR2010-00029 Preliminary Plat Approval

Subdivision Name: Olive Woods

Subdivision Type: Conventional

Applicant Information: Wayne Cline acting as POA for
Emily R. Cline
2700 Sunset Road
Charlotte, NC 28083

Zoning: A/O Agricultural/Open Space

Township: Number 6 - Rimertown

Property Location: Mt. Olive Road

PIN#: 5683-20-3989 & 5683-10-8222

Proposed Number of Lots: 5

Area in Acres: 25.17

Site Description: The subject property is currently vacant and wooded.

Adjacent Land Uses: The subject properties are surrounded by farm, forestry and residential uses on all sides.

Surrounding Zoning: North: A/O (Agriculture/Open Space)
East: A/O (Agriculture/Open Space)
South: A/O (Agriculture/Open Space)
West: A/O (Agriculture/Open Space)

Utility Service Provider: The subject properties will be served by wells and septic systems.

Exhibits

1. Zoning Map – Submitted by Staff
2. Aerial Map – Submitted by Staff
3. Preliminary Plat – Submitted by Applicant
4. Soil & Water Conservation Comments – Submitted by Dennis Testerman
5. School Adequacy Worksheet – Submitted by Robert Kluttz

Submitted by Kassie G. Watts, Senior Planner, AICP

Code Considerations

The Agricultural/Open Space district has the following development standards:

Minimum Front Yard Setback:	75 Feet
Minimum Side Yard Setback (Single):	20 Feet
Minimum Side Yard Setback (Total):	40 Feet
Minimum Side Accessory Setback:	Same as Principle Structure
Minimum Rear Yard Setback:	30 Feet
Minimum Rear Accessory Setback:	5 Feet
Maximum Impermeable Surface:	15%
Maximum Structural Coverage:	10%
Maximum Building Height:	40 Feet
Maximum Accessory Height:	40 Feet

Agency Review Comments

Engineering Review : *No Comments*

Sheriff Review : *No Comments*

EMS Review : *No Comments*

Erosion Review : *Subject to review.*

Stormwater Review - State : *Subject to review.*

Stormwater Review - Local : *Not applicable*

Soil-Water Conservation Review : *See Attached Memo*

Fire Review : *Property being subdivided is off a main country road that provides access to each lot. At this time there are no fire code requirements for the proposed divided property.*

NCDOT Review : *Recommendation is that a design be developed that provides access through a single street but not (8) eight individual drives. The other option is for shared drives not to exceed (4) four. Driveway permits will be required.*

Addressing Review : *Addresses will not be issued until the preliminary plat process is complete and the lots are final platted.*

Utility Review : *Since the site will be served by both a well and septic system, we do not have any specific comments and/or information to give you at this time. It should be noted that the Town of Mt. Pleasant owns the entire existing retail water and sewer infrastructure in this area. The Town of Mt. Pleasant is the retail provider of water and sewer services in this area (as previously noted above). Consideration should be given to insuring that the proposed water and sewer lines serving this particular development will be designed to the Town of Mt. Pleasant requirements. Please note that if this development includes a privately owned community wastewater collection/treatment system, the WSACC Capital Recovery Fee (CRF) is required for each service to the development if sewer service is requested. The fee is collected at the time the building permit is issued, and is separate and not a part of any connection or tap fees required by the Jurisdictional retail sewer provider. The CRF does not apply to lots using individual septic tanks, which may be the case here.*

PLANNING STAFF REPORT

CABARRUS COUNTY PLANNING AND ZONING COMMISSION

10/21/2010


Staff Use Only:

Approved: _____

Denied: _____

Tabled _____

Town of Mt. Pleasant Review: *The proposed subdivision is outside of the Town's service area. There are no plans to extend service at anytime in the future to these parcels. The Town also requires that property owners that are interested in water or sewer submit an application for*





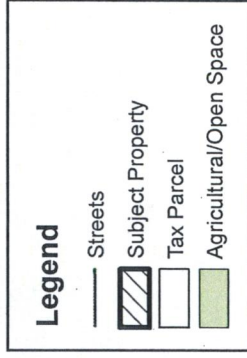
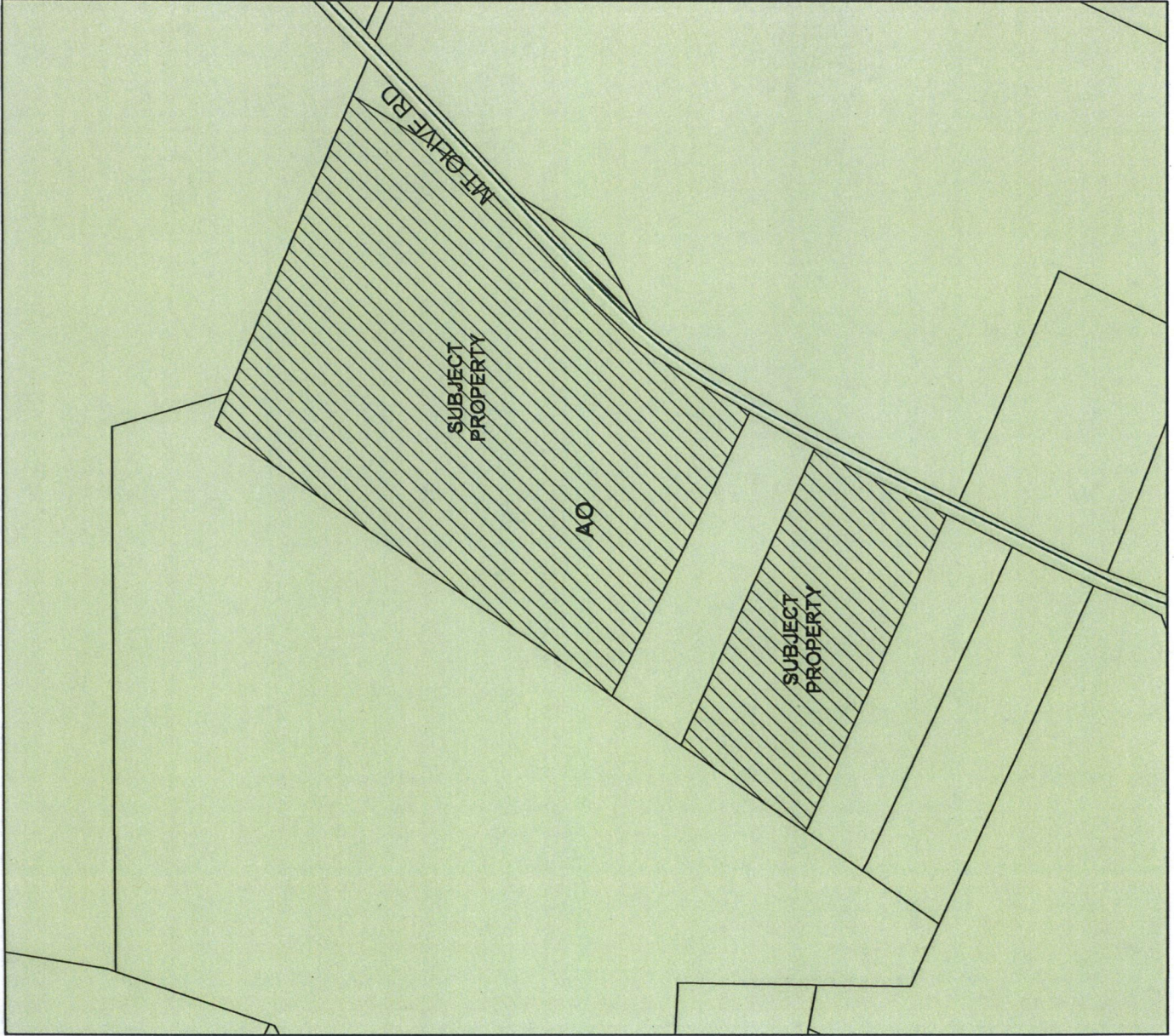
Aerial Map

Applicant: Emily R. Cline

Case: PLPR2010-00029

Zoning District: A/O - Agricultural/Open Space

Parcel ID's: 5683-20-3989 &
5683-10-8222



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Map Prepared by Cabarrus County Planning Services,
October 2010.



Aerial Map

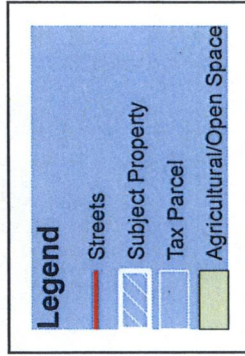
Applicant: Emily R. Cline

Case: PLPR2010-00029

Zoning District: A/O - Agricultural/Open Space

Parcel ID#'s: 5683-20-3989 &

5683-10-8222



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Map Prepared by Cabarrus County Planning Services,
October 2010.



**Cabarrus Soil and Water Conservation District
715 Cabarrus Avenue, West
Concord, N. C. 28027-6214
(704) 920-3300**

MEMORANDUM

TO: Kassie Goodson Watts, Cabarrus County Commerce Department

THROUGH: Bob Ritchie, Chairman Darrell Furr, Chairman
Board of Supervisors Watershed Improvement Commission

FROM: Daniel McClellan & Dennis Testerman, Resource Conservation Specialists

COPIES: Susie Morris, Cabarrus County Commerce Department—Planning
Robbie Foxx, Cabarrus County Commerce Department—Zoning
Jay Lowe, Cabarrus County Commerce Department—Zoning
Alan Johnson, NCDENR, Div. of Water Quality, Mooresville Regional Office
Cyndi Karoly, NCDENR, Div. of Water Quality, Wetlands Unit, Raleigh
Robert Ward, NC DENR, Div. of Forest Resources
Steve Chapin, US Army Corps of Engineers, Asheville Regulatory Field Office

NAME OF PLAN: Olive Woods Major Subdivision (previously submitted as minor subdivision plan)

PLAN TYPE: Residential **JURISDICTION:** County

LOCATION: Mt. Olive Road on west side above Vineyard Road **ZONING:** AO

OWNER: Emily R. Cline, 2700 Sunset Road Charlotte, NC

DATE SUBMITTED: 9/16/10 (previously 6/16/10) **DATE REVIEWED:** 9/24/10 (previously 6/19/10)

PARCEL #: 5683-20-2962 & 5683-20-3989 **TRACT#:** N/A **ACRES:** 16

USGS TOPO QUAD MAP: Mount Pleasant **LATITUDE/LONGITUDE:** 35° 28' 28.553" N 80° 24' 12.209"W

RECEIVING WATERS: UT of Little Buffalo Creek **WATERSHED:** HU 03040105020060 (DB-2)

PERENNIAL OR INTERMITTENT STREAMS PRESENT: Yes

SOIL TYPE(S): TaB Tarrus silt loam, TaD Tarrus silt loam BaF Badin channery silt loam, KkB Kirksey silt loam

HYDRIC SOILS: No

THE FOLLOWING CHECKED ITEMS ARE MISSING FROM OUR COPY OF THE PLAN—PLEASE SUBMIT:

Environmental reviews
Soil Types
401/404 wetland permits

ONSITE INSPECTION: No

PLAN COMMENTS:

- ☐ Pre-submittal meeting between developer/owner and/or designer and reviewers is highly recommended, preferably onsite.
- ☐ Future developer must have prior authorization from appropriate federal and state authorities to impact jurisdictional waters or wetlands, or the proposed project will be in violation federal and/or state law. Permits for disturbance of streams and other wetlands must be requested from N. C. Division of Water Quality and U. S. Army Corps of Engineers prior to any impacts. Please submit documentation to planners and Cabarrus Soil and Water Conservation District.
- ☐ Proposed parcel lines should not extend into the Water Buffer Overlay Zone.
- ☐ A conservation easement on all open space is requested by Cabarrus Soil and Water Conservation District as part of the countywide open space initiative supported by Cabarrus County and all municipalities. See brochure "This Land is Our Land. . . A Guide for Preserving Your Land for Generations to Come. "
- ☐ Cities of Concord and Kannapolis have received an interbasin transfer of water certificate from the NC Div. of Water Resources. As a condition of this permit, other jurisdictions receiving water from these municipalities are bound by the conditions of IBT certificate. Under this certificate, streams will be classified by a qualified professional to ensure proper application of stream buffer rules.
- ☐ Cumulative and secondary impacts associated with this proposed development are not known and should be assessed prior to final plan approval.
- ☐ Soil types are not indicated on plat. Kirksey soil type is mapped along the stream that flows along the rear property line of the proposed lots. Badin soil type is mapped along the steep slope (>8%) on the SE side of the stream. Both of these soil types are very limited for septic tank absorption fields. The Tarrus soil type mapped on the balance of the lots is somewhat limited for septic tank absorption fields, due to depth to bedrock, slope and slow water movement. However, Tarrus soils are mapped on slopes greater than 8% on lots 6 and 7 near Mt. Olive Road. Septic tank absorption on this soil is very limited due to slope. Owner may want to consider having soils evaluated for septic systems before subdividing property into lots.
- ☐ The following soils are classified as important state farmland soils and will be removed from production: TaD Tarrus silt loam .
- ☐ The information in the following table indicates the dominant soil condition, but does not eliminate the need for onsite investigation. The numbers in the value column range from 0.01 to 1.00. The larger the value, the greater the potential limitation. Limiting features in this report are limited to the top 5 limitations. Additional limitations may exist.
- ☐

Map symbol	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local Streets and Roads	Shallow Excavations	Lawns and landscaping	Septic tank absorption fields	Paths and trails
TaB: Tarrus	Not limited	Not limited	Somewhat limited Slope 0.13	Somewhat limited Low strength 0.10	Somewhat limited Cutbanks cave 0.10	Not limited	Somewhat limited Depth to bedrock 0.78 Slow water movement 0.50	Not Limited
TaD: Tarrus	Somewhat limited Slope 0.63	Somewhat limited Slope 0.63	Very limited Slope 1.00	Somewhat limited Slope 0.63 Low strength 0.10	Somewhat limited Slope 0.63 Cutbanks cave 0.10	Somewhat limited Slope 0.63	Somewhat limited Depth to bedrock 0.78 Slope 0.63 Slow water movement 0.50	Not Limited

BaF: Badin	Very limited Too steep 1.00 Shrink-swell 0.50	Very limited Too steep 1.00 Depth to hard bedrock 0.93 Shrink-swell 0.50 Depth to soft bedrock 0.10	Very limited Slope 1.00 Shrink-swell 0.50	Very limited Too steep 1.00 Low strength 1.00 Shrink-swell 0.50	Very limited Too steep 1.00 Depth to hard bedrock 0.93 Too clayey 0.13 Cutbanks cave 0.10 Depth to soft bedrock 0.10	Very limited Too steep 1.00 Gravel 0.50 Depth to bedrock 0.10 Large stones 0.01	Very limited Too steep 1.00 Depth to bedrock 1.00 Slow water movement 0.50	Very Limited Slope 1.00
KkB: Kirksey	Somewhat limited Depth to saturated zone 0.07	Very limited Depth to saturated zone 1.00 Depth to hard bedrock 0.54	Somewhat limited Depth to saturated zone 0.07	Very limited Low strength 1.00 Depth to saturated zone 0.03	Very limited Depth to saturated zone 1.00 Depth to hard bedrock 0.54 Cutbanks cave 0.10	Somewhat limited Depth to saturated zone 0.03	Very limited Depth to saturated zone 1.00 Slow water movement 1.00 Depth to bedrock 0.83	Not Limited

Disclaimer: Small areas of contrasting soils with different interpretations may not be shown on the soil maps due to the scale of the mapping. Soil surveys seldom contain detailed site specific information. This data set is not designed for use as primary regulatory tools in permitting or siting decisions, but may be used as a reference source. These data and their interpretations are intended for planning purposes only. This is public information and may be interpreted by organizations, agencies, units of government and others based on needs; however, these entities are responsible for the appropriate use and application of these data. Digital data files are periodically updated. Reports are dated and users are responsible for obtaining the latest version of the data.

- ☐ Development of site will remove existing forestland from production, result in loss of environmental services from forest land cover, and accelerate the rate of loss of green infrastructure in the county.
- ☐ Underground utilities including, but not limited, communications, electricity, natural gas and/or petroleum, wastewater and water may exist on site. Verify status before disturbing site by observation and by calling the NC One Call Center, 1-800-632-4949. Unmarked graves, underground mine shafts and historic Native American sites are not uncommon in Cabarrus County. Construction crews should be vigilant for the presence of these cultural and historical sites. Construction must be halted and appropriate authorities notified when any of these sites are uncovered.
- ☐ Additional field visits by Cabarrus SWCD and/or its conservation partners may be required, including but not limited to sedimentation and erosion control plan wetland permit reviews.

Please provide copies of approval notice and any revisions to this plan to the Cabarrus Soil and Water Conservation District.

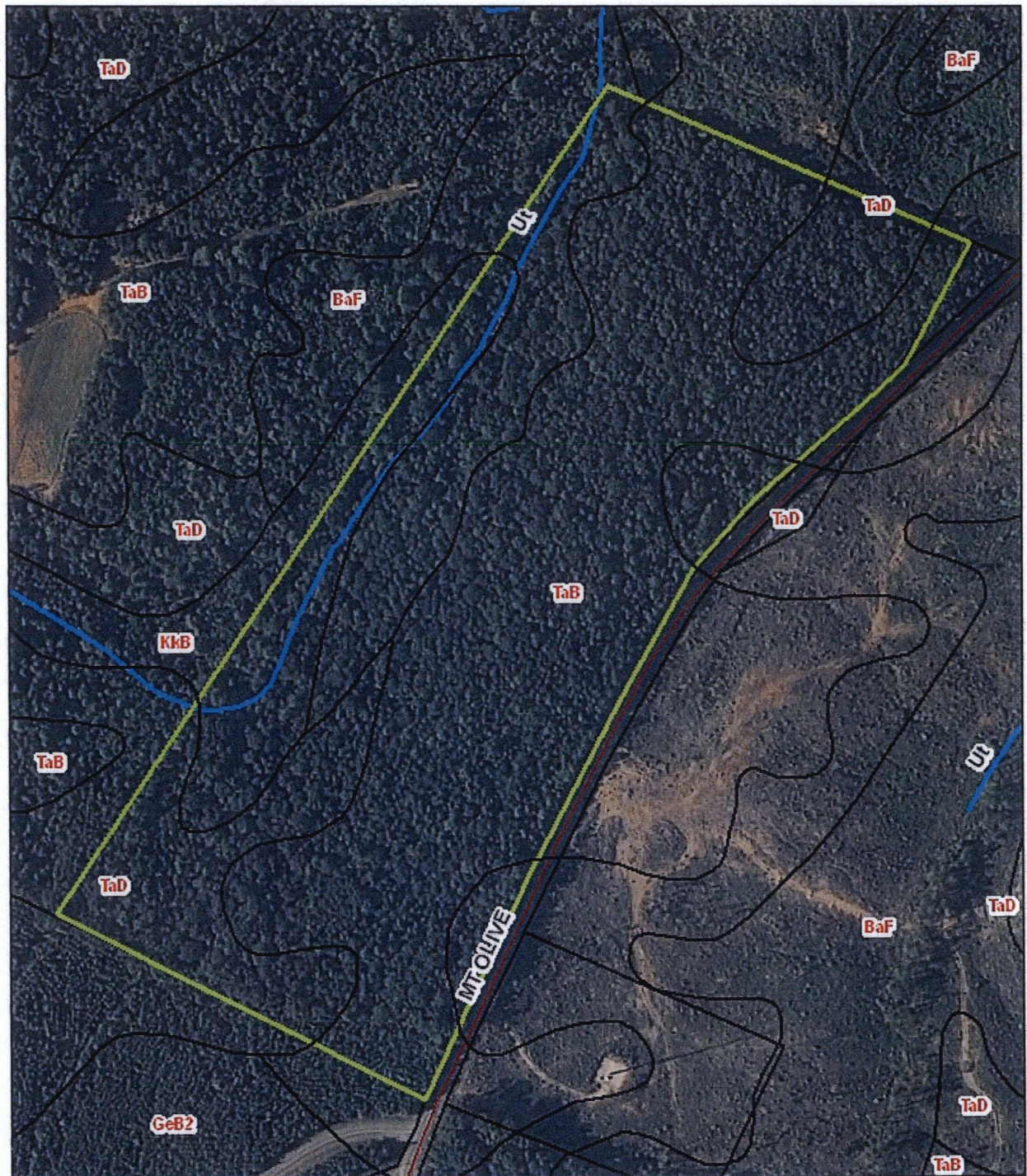
CONTACT(S):

Cabarrus County, Commerce Department, Susie Morris, 704-920-2858
Cabarrus County, Commerce Department, Kassie Watts, 704-920-2191
Cabarrus County Commerce Department—Zoning, Robbie Foxx, 704-920-2138
Cabarrus County Commerce Department—Zoning, Jay Lowe, 704-920-2140
Cabarrus SWCD & Watershed Improvement Commission, Dennis Testerman, 704-920-3303
Cabarrus SWCD & Watershed Improvement Commission, Daniel McClellan, 704-920-3301
NC DENR Div. of Forest Resources, Robert Ward, 704-782-6371
NCDENR, Div. of Water Quality, Mooresville Reg. Office, Alan Johnson, 704-663-1699
NCDENR, Div. of Water Quality, Raleigh, Cyndi Karoly, 919-733-9721
U. S. Army Corps of Engineers, Asheville Regulatory Field Office, Steve Chapin, 828-271-7980

REFERENCES:

- "Avoiding Tree Damage During Construction." Consumer Information Program Fact Sheet. International Society of Arboriculture. [<http://www.treesaregood.com>]
- "Conservation-Based Subdivision Design: Protecting Water Quality and Scenic Resources in NC Mountains." Conservation Trust for North Carolina. 1997
- "Erosion and Sedimentation on Construction Sites." Soil Quality—Urban Technical Note No. 1. USDA, NRCS. [<http://www.statlab.iastate.edu/survey/SQI/pdf/u01d.pdf>]
- "401 Water Quality Certification Program – The Basics." N.C. DENR. Div. of Water Quality, Wetlands Section. [<http://h2o.enr.state.nc.us/nwetlands/applying.html>]
- "Protecting Urban Soil Quality: Examples for Landscape Codes and Specifications." [http://soils.usda.gov/sqi/management/files/protect_urban_sq.pdf]
- "Recognizing Wetlands." Informational Pamphlet. US Army Corps of Engineers [<http://www.usace.army.mil/CECW/Documents/cecwo/reg/rw-bro.pdf>]
- "Seeding Specifications." Sect. 6.10 & 6.11 in Erosion and Sediment Control Planning and Design Manual. N. C. NRCD.
- "Soil Sampling for Home Lawns & Gardens." N.C. Dept. of Agriculture & Consumer Services. [<http://www.ncagr.com/agronomi/sthome.htm>]
- "This Land is Our Land. . . A Guide to Preserving Your Land for Generations to Come." [<http://www.cabarruscounty.us/Easements/>]
- "Topsoiling Specifications." Sect. 6.04 in Erosion and Sediment Control Planning and Design Manual. N. C. NRCD.
- "Urban Soil Compaction." Soil Quality—Urban Technical Note No. 2. USDA, Natural Resources Conservation Service. [http://www.il.nrcs.usda.gov/technical/engineer/urban/tech_notes/technote2.html]
- "Well Abandonment." Brochure. N.C. DENR. Div. of Water Quality, Groundwater Section. [<http://h2o.enr.state.nc.us/documents/Bro-WellAbandon.pdf>]
- "Well Decommissioning." Field Office Tech. Guide, USDA, Natural Resources Conservation Service. [http://h2o.enr.state.nc.us/aps/gpu/documents/Well_decom.pdf]
- "Yadkin-Pee Dee River Basinwide Water Quality Plan." N.C. DENR. Div. of Water Quality—Planning Sect., Basinwide Planning Prog. 2003. [http://h2o.enr.state.nc.us/basinwide/yadkin/YadkinPD_wq_dt_management_plan0103.htm]
- "Watershed Management Plans & Recommendations: Lower Yadkin / Upper Rocky River Basin Local Watershed Planning (Phase Two). NCDENR, Ecosystem Enhancement Program. 2004. [http://www.ces.ncsu.edu/depts/agecon/WECO/rocky_river/URR2_WMP.pdf]
- "Urban Soil Primer." USDA, Natural Resources Conservation Service. [<http://soils.usda.gov/use/urban/primer.html>]

Olive Woods Minor SD



0 215 430 860 1,290 1,720 Feet

Legend

YadkinHydro

Wetlands

FloodPlain

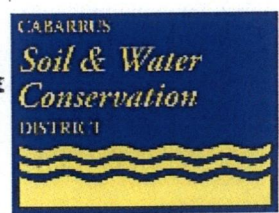
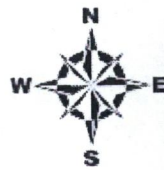
ZONE

A

AE

X

X500



Adequate Public Facility Worksheet – Schools

Please fill out the following questionnaire regarding the preliminary plat for the **Olive Woods Subdivision**. This preliminary plat has 5 lots and is located on Mt. Olive Church Road near the intersection of Vineyard Road in Mt. Pleasant. Your response is required by Thursday, September 30, 2010 for inclusion in the staff report to the Commission.

Please see the enclosed proposed preliminary plat for location and information regarding the proposed development. If you need additional information for this project please contact **Kassie G. Watts at 704-920-2191 or email kgwatts@cabarruscounty.us.**

Questions

1. At present students from the proposed development would attend the following schools:

Elementary - Mt. Pleasant

Middle - Mt. Pleasant

High - Mt. Pleasant

2. Using the most recent attendance figures, these schools are at what percent of their stated capacity? 1st month, September 22, 2010

Elementary - 101.55%

Middle - 87.64%

High - 87.83%

3. How many students are expected from this development?

Based on 5 lots

Elementary- 1.59

Middle - 0.695

High - 0.62

4. Including previously approved subdivisions these schools will be at what percent of their stated capacity when the proposed development is completed?

Elementary - 101.55 %

Middle - 101.16%

High - 96.21%

5. The schools currently available in this area **can** or **cannot** accommodate the additional students expected from this development? **(if the answer above is "can", please stop here)**
6. If this development cannot be served by existing schools, are any steps planned within the next two years to address this service delivery issue? Yes / No. If yes, please describe the steps that will be taken (use an additional sheet if necessary). Are these changes in an adopted capital improvement plan or has funding been identified?
7. If there are not plans for new school facilities in the next two years, please describe the additional resources required to adequately serve the proposed development (attach an additional sheet if necessary)?
8. Are the improvements described in question 7 above included in an adopted capital improvement plan or has funding been identified? Yes / No

This form was completed by: Robert C. Kluttz Date: September 30, 2010.

Design Review Committee Report

Wallace Hill Tack Shop (AKA Jayne's Tack Shop)

Final Decision

Application: Wallace Hill Tack Shop
Case ZN2010-00106

Motion	To Grant	To Deny
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Applicant: Carlos Moore Arch. PA
222 Church Street
Concord, N.C. 28025

Vote	For	Against
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Property Owner:

J.C. & Marie Wallace
5321 Odell School Road
Davidson, N.C. 28036

Granted	Denied
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Zoning: Agricultural/Open (A/O)

Location: 5169 Odell School Road
Davidson, N.C. 28036

Size: 20.1 acres

PIN: 4673-55-7631

Staff Report by: Jay Lowe, Senior Zoning Enforcement Officer

Application Summary:

Applicant is seeking deviations from the standards listed in Appendix B as part of the Design Review Committee process as outlined in Chapter 5, District Development Standards, Section 5-9, Nonresidential Development Standards.

A letter from the Architect for the project, Ms. Ginger Moore, is attached and describes the areas where deviations are requested.

Staff Review:

A review of the plans, as submitted, finds the following:

Site Design Standards

Setbacks

Does not meet standards required by the Ordinance. Ordinance requires that front building setbacks be a minimum of 15 feet and a maximum of 25 feet. As proposed and currently sited, the tack shop is approximately 67 feet from the road right of way (Odell). (See SP-1)

Applicant contends proposed setback is in keeping with the character of the area. (See letter # 8)

Building Placement

Does not meet standards required by the Ordinance.

Applicant contends proposed placement is in keeping with the character of project. (See letter # 8)

Connectivity and Sidewalks

Does not meet standards required by the Ordinance. Ordinance requires a minimum 5 ft. sidewalk and a minimum 6 ft. landscape buffer between the road and the sidewalk.

Applicant contends that sidewalks are not appropriate for the project location. (See letter #1)

Parking Requirements

Does not meet standards required by the Ordinance. The Ordinance requires that parking areas shall be located primarily to the rear of the structure. Site plans show parking in the front of the building, between the building and the street right of way.

Applicant contends that parking is in keeping with character of the area and with historic use/location of this type of structure. (See letter # 8)

Parking Lot Design

Meets standards required by Ordinance for number of spaces.

Landscaping

Meets standards required by the Ordinance for plantings.

Lighting

Not applicable.

Loading and Unloading Areas

Meets standards required by the Ordinance for loading spaces.

Loading Docks

Not applicable.

Solid Waste Storage Areas

Meets standards required by Ordinance. Based on #6 in the letter, roll out containers will be used for solid waste disposal. No dumpsters on site.

Mechanical Appurtenances

Meets standards required by the Ordinance for mechanical appurtenances.

Architectural Design Standards**Massing and Rhythm**

Does not meet standards required by the Ordinance. The Ordinance states that a single large dominant building mass shall be avoided in new buildings. Massing and rhythm requirements are typically achieved by a change in the foot print along with changes in height and/or roof line.

The structure, as shown, is approximately 100' x 50' with no changes to the foot print of the rear wall of the building. A minor change is introduced on the front elevation near the midpoint where the entryway is located (4ft recess, 9'9" wide). (See SP-1 and A-1) The footing for the porch projects approximately 2' from the standard 6' porch for a length of 48' (See A-1).

This item is not specifically addressed in the letter submitted by the Architect.

Height

Meets standards required by Ordinance.

Scale and Roofline

Meets standards required by Ordinance.

Fenestration

Meets standards required by Ordinance.

Access

Meets standards required by Ordinance.

Articulation

Meets standards required by the Ordinance for articulation.

Materials

Meets standards required by Ordinance.

October 7, 2010

Cabarrus County Planning & Zoning Department
PO Box 707
Concord, NC 28026

Attn: Jay Lowe

RE: Wallace Hill Equine Complex, most specifically the Tack Shop

In regards to our conversation on Tuesday October 5, 2010 we offer the following information:

1.) Sidewalk along Odell School Road

- a. Currently the site plan does not provide a sidewalk along this road. The site is rural in nature and a sidewalk would be in conflict with it's rural natural surroundings. Sidewalks are provided at the parking area and adjacent to the building to provide user accessibility.



2.) Site lighting:

- a. There is no site lighting planned and thereby would not be intrusive to the surrounding neighbors and will not create any additional light pollution in this rural setting.

3.) Tree Preservation

- a. The trees at the edge of drive, most specifically along the property edge, will remain. The site plan will be revised to reflect this.

4.) Loading Space

- a. A loading space will be provided. The site plan will be revised to reflect this.

5.) Mechanical equipment:

- a. There is no roof top equipment and the 2 condenser units on the ground shall be screened.

6.) Dumpster:

- a. Owner shall use roll out garbage cans.

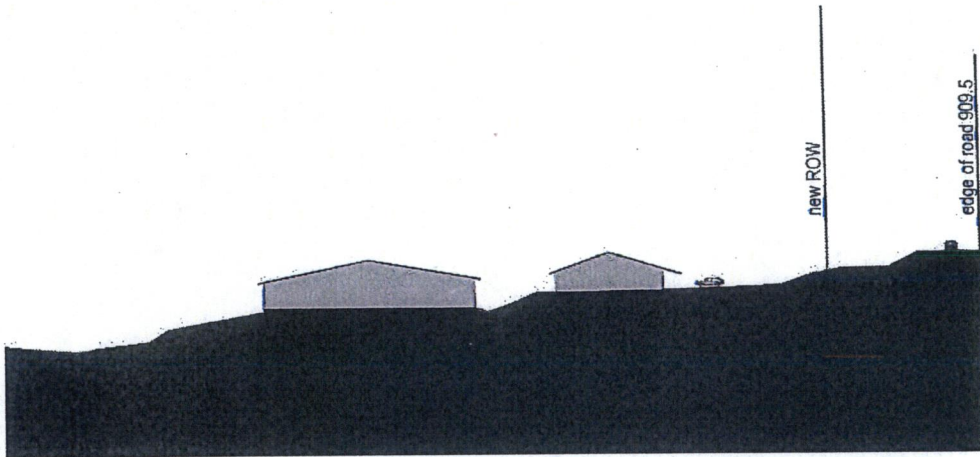
7.) Window fenestration:

- a. Along the North West Wall: currently 3 windows are shown spaced between the dressing rooms and the 2 toilet rooms. An additional window is not feasible at this location.
- b. Along the South West Wall: currently 4 windows and 1 pair of storefront doors are shown. An additional window is not feasible at this location – it would be located inside the stock / feed room.

8.) Front setback and location of parking lot:

- a. The ordinance states that commercial structures must be situated against the street, regardless of the function and site characteristics of the proposed building.
- b. Our research indicates that certain buildings do not belong along the street due to their location in the landscape and their designed purpose. This particular building and its location are rural in both the setting and the vernacular and therefore require a different design perspective than what is described within the ordinance. Historically buildings located within a rural setting, even though they may have a commercial aspect, have been site designed in a specific way to accommodate user's perceptions and cognitive memories.
- c. Historically most country stores and rural commercial buildings were situated close to the road for easy visibility with the parking area immediately in front of the building. These buildings usually had generous front porches with benches and display items. These buildings and parking areas were also usually situated near shade trees in order to invite the user in and invite them to stay awhile.
- d. The purposeful location of parking in front of rural outposts such as this one dates back to the even before the advent of the automobile. Horses and their accompanying carriages were often tied to the front of buildings for ease of access and to keep them within the public eye to discourage theft. The location of front parking for rural country stores remained the same even after the introduction of the automobile. Numerous businesses and general stores trying to catch the attention of passing motorists sprang up along rural country roads. The rural locations provided more frontage room and less traffic than more urban areas and parking was therefore located in the front of the structure (Liebs).
- e. Informed spatial planning has defined these types of rural vernacular buildings throughout history in a specific way through the direct success or failure of building users. (Evans and McCoy). Users have come to expect a specific spatial layout that has been defined by their previous experiences and that directly corresponds to ease of user wayfinding (Downs and Stea, 1973:61). Placing the parking at the rear of the building would be opposite to what the normal user experience would be in a rural setting at a country store type building. Requiring parking in the rear in a rural setting such as this will only serve to create poor wayfinding performance. The user will face confusion and wayfinding obstacles due to the lack of clear access from the rear parking to the main front entrance of the building.
- f. If the parking is located in the rear, the addition of a "main" rear entrance will need to be created in order to provide the user with direct access to the interior of the building. The creation of more than one main entrance will be contrary to what users are accustomed to experiencing and will create confusion.

- g. The setback from the ROW that is created in this project between the edge of parking and the edge of the ROW is sufficient to provide space in order to preserve the rural character, vegetation, and corridor viewshed as well as allowing for any future essential tree pruning and any future needed road signage. Our proposed front parking lot will be screened from the road by existing and planted vegetation and will be located directly behind, and therefore will be screened from the road, an approximately 8' high landscape berm. The actual parking lot is approximately 14' below the road elevation, thereby naturally screening the parking from the view and is the intent of the ordinance.



Site Section

In conclusion:

We have every intention of meeting the Appendix B design standards for commercial structures where feasible. Due to the reasons aforementioned we are requesting the sidewalk requirements, the location of the parking lot, and the building placement be allowed due to this project's rural setting and overall rural building vernacular.

References:

- Downs, Roger and David Stea, eds., 1977, *Maps in Minds*, New York: Harper and Row.
Evans, G. and M McCoy, 1998, "When Buildings Don't Work: The Role of Architecture in Human Health," *Journal of Environmental Psychology*, v. 18:85-94.
Melosi, Martin V
Liebs, Chester H., *Main Street To Miracle Mile: American Roadside Architecture* (Boston: Little Brown, 1985).

Reference Imagery:

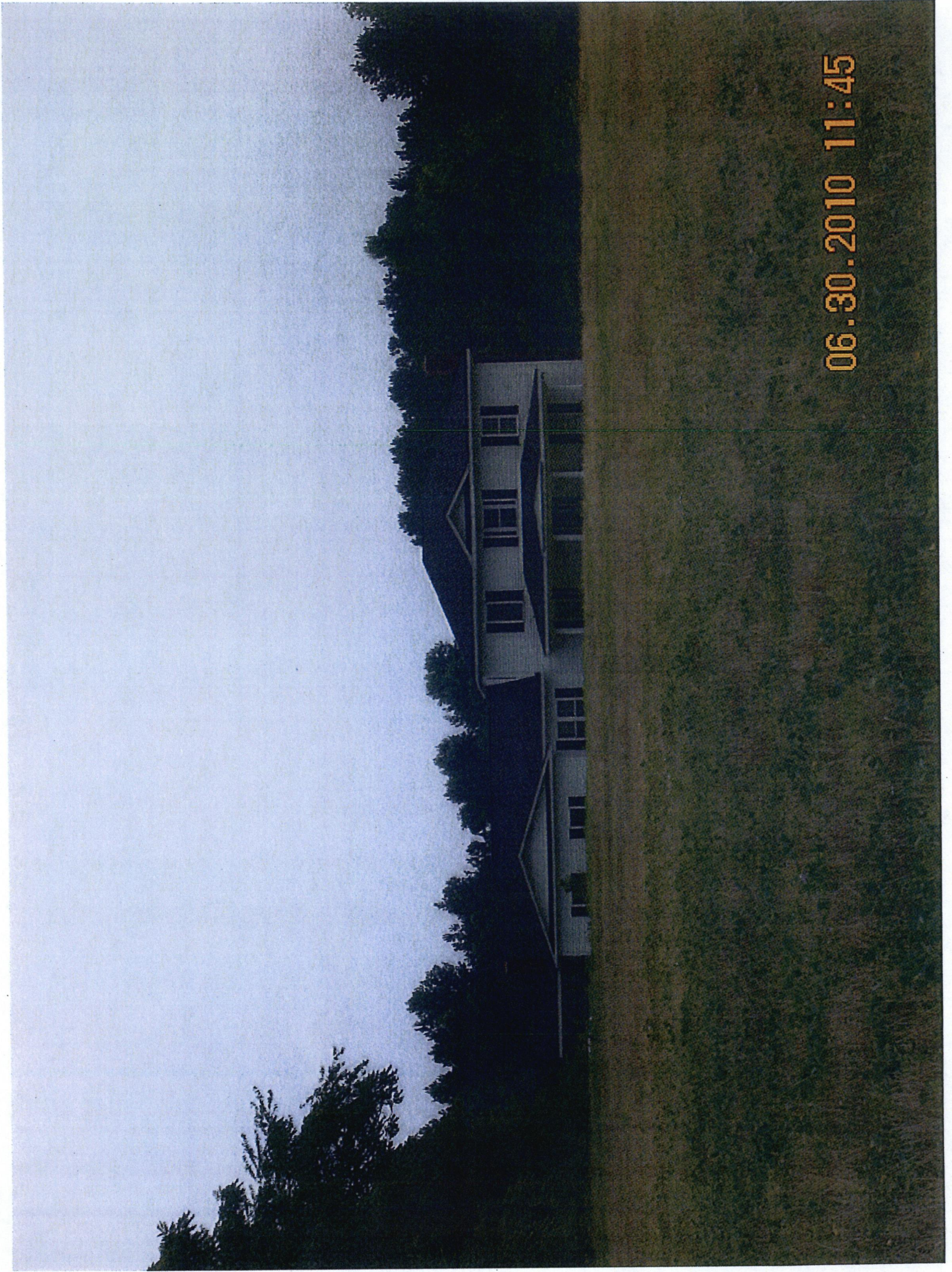




Thank you for reviewing the project and should you have any further questions please let me know. Thanks.

Sincerely,

Virginia L. Moore
Carlos Moore Architect PA



06.30.2010 11:45



06:30.2010 11:45



06.30.2010 11:52





Applicant: Carlos Moore Architect PA
Project Name: Jayne's Tack Shop
Request: Commercial Design Review
Zoning: A/O-Agricultural Open
Parcel ID#: 4673-55-7631

Legend

— Streets

Subject Property



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed as a legal document. Parties are advised that these data are provided for informational purposes only and should be verified for accuracy and completeness by the user.

Map Prepared by Cabarrus County Planning Services,
October 2010





Applicant: Carlos Moore Architect PA
Project Name: Jayne's Tack Shop
Request: Commercial Design Review
Zoning: A/O-Agricultural Open
Parcel ID#: 4673-55-7631

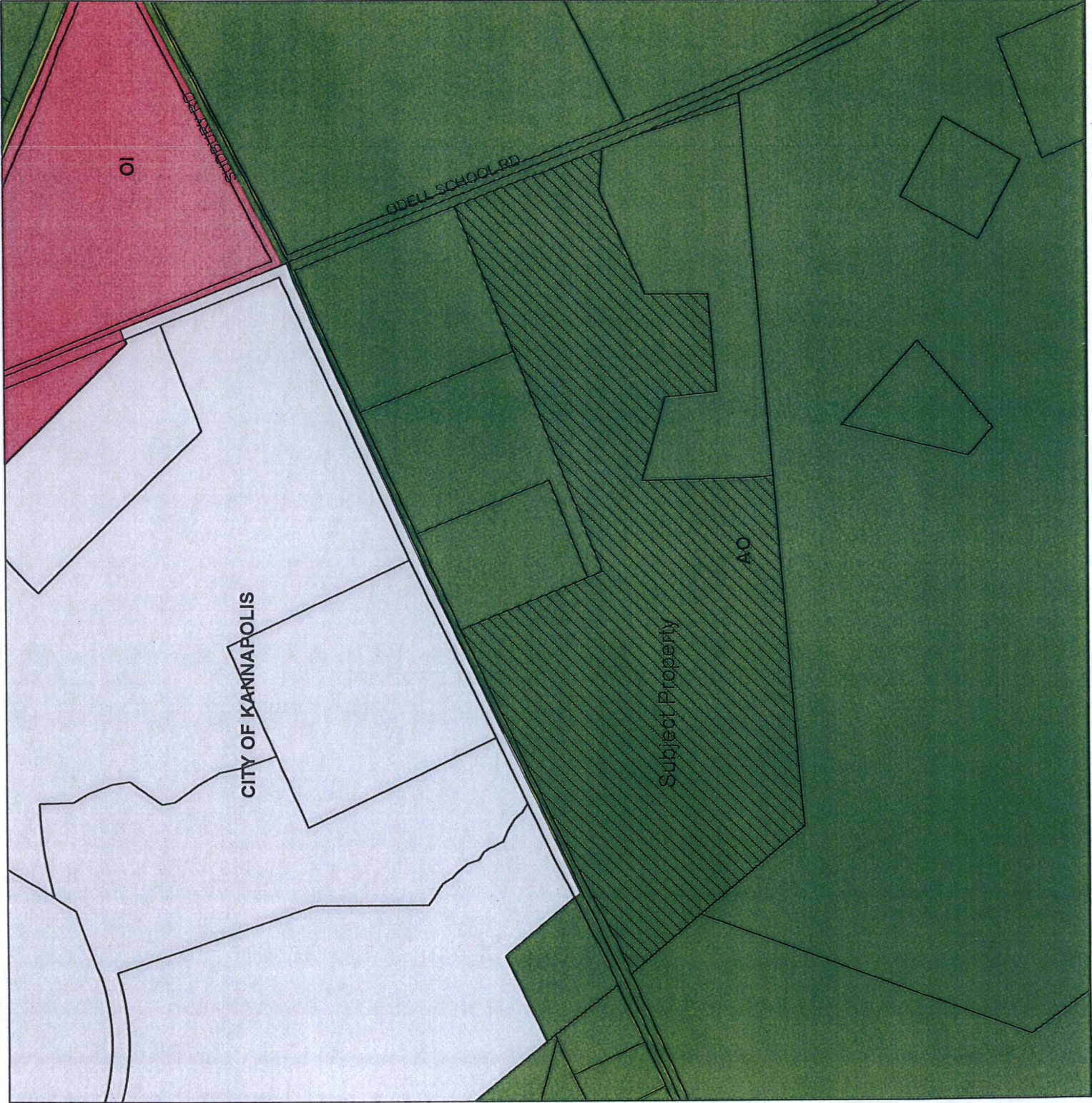
Legend

- Subject Property
- Streets



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Map Prepared by Cabarrus County Planning Services,
October 2010.



COMMERCIAL DESIGN STANDARDS

The Commercial Design Standards listed in Appendix B shall apply to all new or expanding commercial developments in the O-I, LC, and GC zoning districts (See Chapter 3, Table of Permitted Uses-Commercial Uses). The minimum standards of Appendix B shall also be incorporated and used in PUD districts.

Appendix B standards shall also apply to the following commercial uses listed in Chapter 3, Table of Permitted Uses-Commercial Uses, when permitted in AO, CR LDR, MDR or HDR zoning districts:

Bank/financial institution/ATM
Convenience stores with or without petroleum sales
Gas stations
Restaurants with or without drive thrus
Retail sales/shoppers' goods
Retail sales, shopping centers/10,000 SF and less
Nursery/Daycare

STANDARDS**REVIEW CRITERIA**

The following criteria shall be considered by staff in reviewing development proposals in addition to the standards established for major and minor site plan review:

AMENITY AREA

Projects containing groups of buildings to be devoted primarily to office and/or retail activities shall incorporate amenity areas into the site design. Amenity areas include, but are not limited to, public plazas, courtyards, squares or small parks on the site. Design elements to be included in the amenity areas are seating walls, benches, outdoor dining/gathering areas, decorative fountains or water features, clock towers and/or garden areas. Since the purpose of these amenity areas is to serve as pocket recreational areas and to help foster a sense of community, additional elements shall be considered if the applicant shows that the design meets the intent of this section.

SETBACKS

The setbacks to be established are intended to form a consistent relationship of buildings to the street and sidewalk. This relationship shall form a visually continuous, pedestrian-oriented street front. The best way to maintain this relationship is to have minimal vehicle use between building faces and the street. Front building setbacks shall be between a minimum of fifteen (15) feet and maximum of (25) feet to maintain a consistent and uniform streetscape. All other setbacks are established in Chapter 5 of the Cabarrus County Zoning Ordinance. Buildings should be arranged so that they help to frame and define fronting streets (as well as any internal or side streets). Buildings shall not be separated from fronting streets by large expanses of parking. In some instances, the setbacks may be adjusted by the Administrator to address access issues and access road placement. In the event the Administrator grants an adjustment to the required setbacks, additional landscape shall be required. Setbacks adjustment requests shall be handled on a case by case basis.

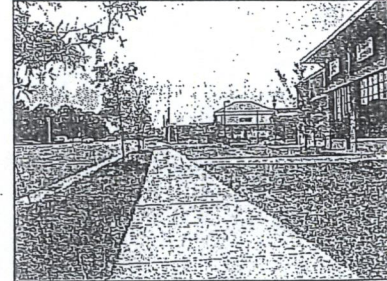
CONNECTIVITY AND SIDEWALKS

Sidewalks shall serve as the secondary mode of transportation to the use of roads and shall link residential and commercial developments, common areas, and parking areas. If a proposed development includes multiple buildings in the site design, then an overall connectivity plan shall be provided for the

development. Sidewalks shall be a minimum of five feet wide and shall have a minimum six-foot landscaped buffer area between the road and the sidewalk itself. Sidewalks shall remain as unobstructed as possible by items such as plantings or trash receptacles.

PARKING REQUIREMENTS

Parking areas shall balance the needs of both the automobile and the pedestrian. Off street parking areas shall be designed to minimize breaks in the pedestrian environment and the visual continuity of the streetscape. Additionally, no more than two rows of parking may be permitted on the side of the structure. Off street parking shall be required and determined per Chapter 10. Parking areas shall primarily be located to the rear of the proposed structures to minimize visibility. In the event that a proposed development includes multiple structures, parking areas may be permitted in "front" of the internal buildings. In no case, however, shall expanses of parking be permitted between any street or street right-of-way and structure.



PARKING LOT DESIGN

Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the buildings. This may be achieved in smaller lots by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking areas should channel pedestrians from the car to the perimeter of the lot. A paving material that is different in color and/or texture from that of vehicular areas shall delineate these pedestrian travel ways and shall be clearly marked. Small posts or bollards incorporating lights may also serve the same purpose. Parking lots shall be adequately screened from public view and shall include landscaping and buffering per Chapter 9 of the Cabarrus County Zoning Ordinance.

LANDSCAPING

A Landscaping plan shall be submitted in accordance with Chapter 9 of the Cabarrus County Zoning Ordinance. In the event that the strict interpretation of Chapter 9 would limit the use and/or design of a site (such as in the case of upgrades to existing facilities) the Administrator shall have the authority to approve a modified landscape plan if the plan is determined to be in keeping with the overall intent of Chapter 9 and these design guidelines.

LIGHTING

Lighting for all non-residential uses shall provide proper lighting for security purposes while not diminishing the quality of any surrounding residential uses.

- All light fixtures (freestanding, flood, or any other form of light fixture) shall be provided with full cut-off fixtures, visors, or any other suitable directional control to direct light either downward or directly on the appropriate building. (Wall pack lighting is not permitted)
- No light fixture shall create any glare or spillover lighting effects on any residential properties or streets.
- Freestanding light fixtures along all public street systems and internal street systems shall not exceed nineteen feet in total mounted height and shall consist of a decorative fixture that shields the source of light away from neighboring properties.
- Lighting located within parking lots may not exceed thirty-three feet in total mounted height. Parking lot lighting shall consist of a fixture that shields the source of light away from neighboring properties and direct the illumination to the ground's surface.
- Lighting installations should include timers, dimmers, and /or sensors to reduce overall energy consumption and unnecessary lighting.
- Lighting levels for canopies and awnings of commercial facilities shall be adequate only to facilitate the activities taking place in such locations and shall not be used to attract attention to the businesses.

Lighting fixtures mounted on canopies shall be recessed so that the light's lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained. Canopies shall be constructed of non-light-emitting material.

LOADING/UNLOADING AREAS AND LOADING DOCKS

Loading and unloading areas shall be installed per Chapter 10. Loading/unloading areas shall be placed, to the greatest extent possible, to the rear of the structure and shall be screened from the view of any street and/or any residentially developed or residentially zoned property. Additionally, loading/unloading spaces shall be located such that interference with traffic on streets and or internal driveways is minimized. In the event that a loading dock is necessary to support the proposed use, the dock shall be located to the rear of the structure and shall not be visible from any street and/or residentially developed or residentially zoned property.

SOLID WASTE STORAGE AREAS

Solid waste containers shall be confined to an enclosed area that is screened on all sides. Solid waste storage areas shall be located to the rear or side of the structure. These areas shall be designed to compliment the structure and should be constructed from materials that match the building. Solid waste storage areas shall not be located in any applicable planting yard and shall be screened from any street and/or any residentially developed or residentially zoned property.

MECHANICAL APPURTENANCES

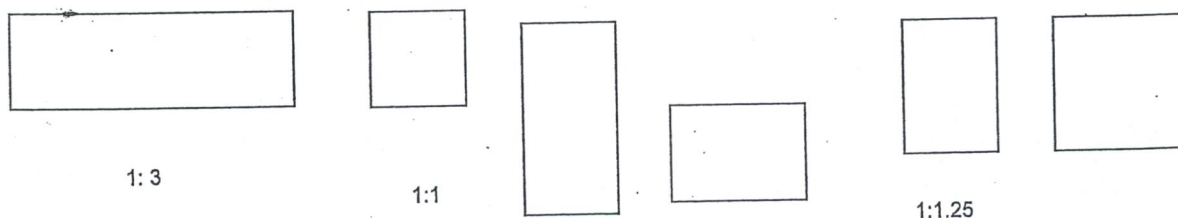
All rooftop mechanical and electrical equipment shall be completely screened from view from all public streets and adjacent properties. All screening walls/parapets shall be constructed and designed of materials compatible to that of the primary structure and shall be incorporated into the design of the structure. Metal screening walls shall not be permitted. To the greatest extent possible, mechanical appurtenances shall be located within the structure. Appurtenances such as heating and air conditioning equipment, coolers, etc. shall be screened entirely from public view and shall be designed and finished to match adjacent building materials. In addition to design elements, landscape materials shall be incorporated to provide additional screening and/or softening of equipment areas.

ARCHITECTURAL DESIGN STANDARDS

MASSING AND RHYTHM

To insure a consistent scale and compatible character of each and every building, massing and rhythm shall be considered in the site design. A single large dominant building mass shall be avoided in new buildings and, to the extent reasonably feasible, in development projects involving changes to the mass of existing buildings. Horizontal masses shall not exceed a height-width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed elements. Changes in mass shall be related to entrances, the integral structure, and/or the organization of interior spaces and not merely for cosmetic purposes. All buildings shall incorporate the aspects outlined in this document to insure that no single building, here forth, shall be constructed counteractive to the goals established for the commercial design standards.

Figure 4



Cabarrus County Commercial Design Standards

1: 2

Examples of appropriate width to height ratios.

HEIGHT

Building height shall be regulated in accordance with Chapter 5, Dimensional Requirements.

SCALE AND ROOFLINE

The goal for scale is to be reiterated in regard to height. The scale of buildings should be such that the street edges are defined and relate to the human proportions. This scale can be achieved through the use of architectural detailing on the first floor of buildings so that larger buildings are broken up into smaller units, by maintaining height limits, by using large picture windows along front facades and by using plantings around the buildings. A range of roof forms is acceptable as long as they are compatible with the architectural character, scale, and height of surrounding buildings. Mansard roofs are not permitted.

FENESTRATION

Fenestration includes the structural openings to buildings, including doors and windows. All buildings shall have their principle entrance opening to a street, square, plaza or sidewalk to create an invitation to the pedestrian. Access from the public sidewalk, street right-of-way or driveway to the principle structure shall be provided through an improved surface. The first floor of all buildings, including structured parking, must be designed to encourage and to complement pedestrian-scale interest and activity by the use of transparent windows and doors on at least 50% of the first floor street frontage. These openings should be arranged so that the uses are visible from and/or accessible to the street. Not less than fifty percent (50%) of the length and twenty-five percent (25%) of the surface of the primary structure(s) shall be in public entrances or windows. In addition, a combination of design elements must be used on the building façade to animate and enliven the streetscape. Reflective glass is prohibited. Where ventilation grates or emergency access doors are located on the first floor, they must be decorative in nature.

ACCESS

Structures should be sited so that the primary access is from the street front sidewalk leading to the parking area. In the event that a structure is located on a State Numbered Highway, the Administrator may permit the primary access to be located facing the parking area. All street level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access which may be provided. Doors shall be recessed into the face of the building to provide a sense of entry and to add variety to the streetscape.

ARTICULATION

In order to add architectural interest and variety and to avoid the effect of a single long or massive wall with no relation to human scale proportions, the following standards shall apply:

- No wall shall have a blank, uninterrupted length exceeding twenty (20) feet.
- All building walls must include at least two of the following:
 - change in plane,
 - change in materials, texture or masonry pattern, or
 - windows.
- Include an equivalent aspect that subdivides the wall into human scale proportions such as an articulated base with a height no more than ten (10) feet.
- In the event that actual doors and windows are not feasible because of the nature of the use of the building, side or rear walls that face walkways may include false windows and door openings defined by the following:

- frames,
- sills,
- lintels, or
- proportioned modulations of the wall.
- All sides, including the rear, of the building shall include materials and design characteristics consistent with those on the front.
- Use of inferior or lesser quality materials on side or rear walls is prohibited.

In the event that canopies, awnings or other similar appurtenances are used, the following standards shall apply:

- Such appurtenances shall be constructed of materials designed to complement the streetscape and the structure.
- Any appurtenance may extend from the building up to eighty (80%) percent of the width of the sidewalk area or nine feet, whichever is less.
- In no case shall any such facility extend beyond the curb line of the street, nor shall it interfere with the growth or maintenance of street trees, or maintenance of street lights or street signs.
- A minimum overhead clearance of eight (8) feet from the sidewalk shall be maintained.

MATERIALS

All buildings shall be constructed of quality materials. These materials include brick, either plain or painted, horizontal siding, wood shingle, stone, split faced block plain or painted, concrete-based stucco or architectural metal. All trim materials shall be stone, cast stone, cast concrete, or painted wood. It is recommended that the primary structure be neutral in color, i.e. light grays, browns, beiges, whites or earth tones. The trim may be of various contrasting colors to that of the primary structure. Corrugated metal may be used as an accent material only.

Where any sloped roofs are utilized, they shall be covered with high profile asphalt shingles, natural clay tiles, slate, concrete tiles (with natural texture and color), ribbed metal, wood shakes or shingles. Forms and finish materials of buildings, signage, gasoline pump canopies and other accessory structures, shall be compatible with the architectural character of the adjacent area and structures through compliance with the following guidelines:

- all buildings, including gasoline pump canopies, shall utilize a consistent architectural style in keeping with the design of the primary structure;
- differing buildings, businesses, or activities within the same development may be distinguished by variations within this architectural style;
- Sides and backs of buildings shall be as visually attractive as the front through the design of roof lines, architectural detailing, and landscaping features.

DEFINITIONS

Articulation The detailing of a structure or building, i.e. brick patterning or ornamental work.

Clapboard A long, narrow board that overlapped to cover the outer walls of frame buildings.

Colonnaded (Porch) A series of columns situated at regular intervals to uphold a roof structure and create a breezeway or porch.

Cornice A horizontal molded projection that crowns and complete the wall structure and visually connects the wall to the roof structure.

Facade The principle, vertical surface of a building which is set along the frontage line. The elevation of a facade is the vertical surface area and is subject to visual definition by building height, setbacks, and transition lines.

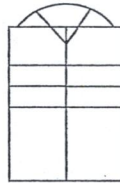
Fenestration The entryways and windows of a building.

Gable (Roof) A "gable" maybe any one of three things: a triangular wall section at the ends of a pitched roof bounded by the two roof slopes and the ridge pole; the ends of a pitched roof building with a gable in the roof section; or an ornamental triangular architectural section.

Lintel The horizontal beam forming the upper member of a door or window frame and supporting part of the structure above it.

Massing A unified composition of two-dimensional or three dimensional shapes or volumes, especially one that has or gives the impression of weight, density, or bulk.

Palladian Windows A window encompassing an arch above the primary window structure; or an arch window set above a primary window structure. See example below.



Parapet A low protective railing or wall along the edge of a roof or balcony.

Pediment An arch or triangle shape architectural feature, usually placed above windows or doors. These features may be seen further embellished with molding details or carvings of wood.

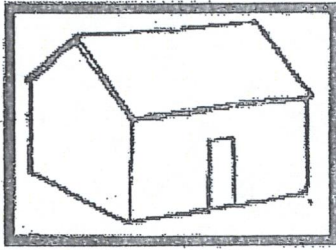
Pilaster A supporting column or pillar with a capital and base.

Porte-Cocheres A porch roof projecting over a driveway at the entrance to a building.

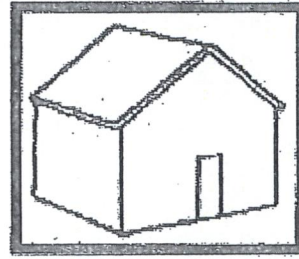
Rhythm Movement, characterized by a pattern repetition or alternation of formal elements or motifs in the same or modified form.

Setback A line prescribed for the full width of the facade above which the façade sets back. The location of a recess line is determined by the desired height to width ratio of the fronting space, or by a desired compatibility with existing buildings.

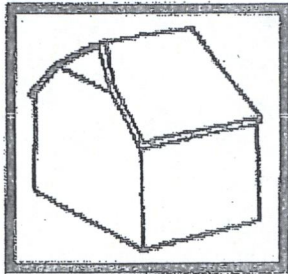
Side Gabled



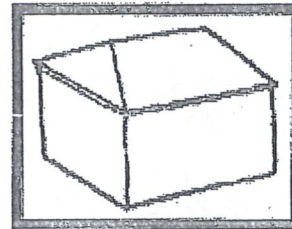
Front Gabled



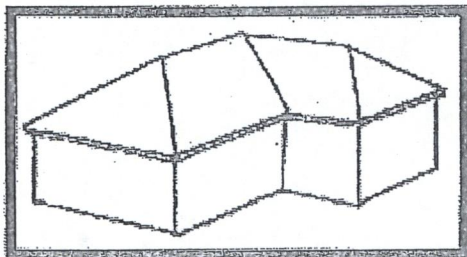
Hipped-Gabled



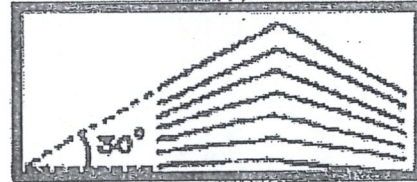
Simple Hipped



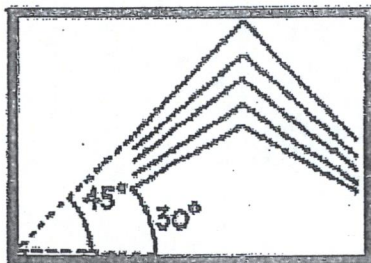
Cross-Hipped



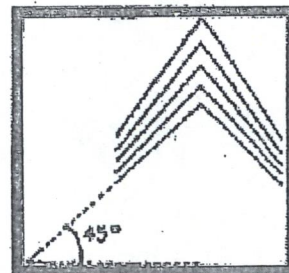
Low Slope - Less than 30°



Moderate Slope - 30 to 45°



Steep Slope - More than 45°



PART II. NONRESIDENTIAL DISTRICTS.

Section 5-9. Nonresidential development standards.

A. Dimensional standards.

Nonresidential development shall meet the following standards.

	OI	LC	GC	LI	GI
Lot Dimensions (minimum)					
Lot area (square feet)	10,000	10,000	1 acre	1 acre	1 acre
Lot width (feet)	50	50	120	120	200
Principal (minimum feet)					
Front yard	30	30	40	50	75
Side yard (single)	5	5	10	10	30
Side yard (total)	20	20	30	30	30
Rear yard	20	20	20	20	30
Accessory (minimum feet)					
Front yard	30	30	same as principal	same as principal	same as principal
Side yard (single)	5	5			
Side yard (total)	20	20			
Rear yard	5	5			
Height (maximum feet)					
Principal	40	40	60	60	60
Accessory	20	20	30	30	30
Lot Coverage (maximum)					
Impermeable surface	75%	75%	75%	70%	60%
Structural coverage	50%	50%	50%	50%	40%

B. Residential development in nonresidential districts.

All residential development in nonresidential districts shall meet the standards of the HDR District.

C. Commercial design standards.

Applicability

The Commercial Design Standards are intended to be used for all commercial developments located within the jurisdiction of Cabarrus County.

Purpose

The purpose of these design standards is to establish a general set of principles and specific recommendations to serve as a guide for new development and/or renovations of commercial properties.

Permitted Uses

11.3.3.1 Permitted uses shall be governed by Chapter 3, Establishment of Zoning Districts.

Section 1-Appendix B Design Standards (See Appendix B)

1. *The Commercial Design Standards listed in Appendix B shall apply to all new or expanding commercial and office developments in the O-I, LC, and GC zoning districts (See Chapter 3, Table of Permitted Uses-Commercial Uses). The minimum standards of Appendix B shall be incorporated and used in PUD districts.*
2. *The design standards of Appendix B shall apply to the following commercial uses listed in Chapter 3, Table of Permitted Uses-Commercial Uses when permitted in the AO, CR, LDR, MDR or HDR zoning districts:*
 - Bank/financial institution/ ATM
 - Convenience stores with or without petroleum sales
 - Gas stations
 - Restaurants with or without drive thrus
 - Retail sales/shoppers' goods
 - Retail sales, shopping centers/10,000 SF and less
 - Nursery/Daycare

Section 2-General Design Standards

All other Commercial and office uses as listed in Chapter 3, Table of Permitted Uses-Commercial Uses, permitted in the AO, CR, LDR, HDR and MDR zoning districts shall be subject to the following standards. (See Chapter 3, Table of Permitted Uses-Commercial Uses)

Review Criteria

The following criteria shall be considered by staff in reviewing development proposals in addition to the standards established for major and minor site plan review:

Setbacks

Setbacks shall be determined by the zoning district and any additional standards in Chapter 4, Chapter 7, or Chapter 8 related to the proposed use. In the event there are discrepancies between the standards established for the zoning district and setbacks established in Chapter 4, Chapters 7 or Chapter 8, the stricter of the two shall apply.

Connectivity and Sidewalks

Sidewalks shall serve as the secondary mode of transportation and shall link residential and commercial developments, common areas and parking areas. Sidewalks shall be a minimum of five feet wide and shall have a minimum six-foot landscaped buffer area between the road and the sidewalk itself.

Parking

Off street parking shall be required and determined per Chapter 10.

Parking lot design

Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the buildings and shall include designated walkways. Parking lots shall be adequately screened from public view and shall include landscaping and buffering per Chapter 9 of the Cabarrus County Zoning Ordinance.

Landscape

A Landscaping plan shall be submitted in accordance with Chapter 9 of the Cabarrus County Zoning Ordinance.

Loading/Unloading Areas and Loading Docks

Loading and unloading areas shall be installed per Chapter 10. Loading/unloading areas shall be placed, to the greatest extent possible, to the rear of the structure and shall be screened from the view of any street or any residentially developed or residentially zoned property. Loading docks shall be located to the rear of the structure and shall not be visible from any street right-of-way or residentially developed or residentially zoned property.

Solid Waste Storage

Solid waste containers shall be confined to an enclosed area that is screened on all sides. Solid waste storage areas shall be located to the rear or side of the structure. These areas shall be designed to compliment the structure and should be constructed from materials that match the building. Solid waste storage areas shall not be located in any planting yard and shall be screened from any street and/or any residentially developed or residentially zoned property.

Mechanical Equipment

All rooftop mechanical and electrical equipment shall be completely screened from view from all streets and adjacent properties. All screening walls/parapets shall be constructed and designed of materials compatible to that of the primarily structure and shall be incorporated into the design of the structure. Metal screening walls shall not be permitted. To the greatest extent possible, mechanical appurtenances shall be located within the structure. Appurtenances such as heating and air conditioning equipment, coolers, etc. shall be screened entirely from public view and shall be designed and finished to match adjacent building materials. In addition to design elements, landscape materials shall be incorporated to provide additional screening and/or softening of equipment areas.

Height

Building height shall be regulated in accordance with Chapter 5, Dimensional Requirements.

Building Materials

All buildings shall be constructed of quality materials. These materials include brick, either plain or painted, split faced block either plain or painted, horizontal

siding, wood, wood shingle, architectural metal, stone or concrete-based stucco. Corrugated metal may be used as an accent material only.

Design Review Committee

All applications for Site Plan approval subject to the standards established in Appendix B shall be approved by the Cabarrus County Planning and Zoning Board, sitting as the Design Review Committee, based upon the design guidelines in effect at the time of review.

Projects subject to the standards established in Chapter 5, Section 5-9, C-1 shall be subject to administrative site plan review only.

When reviewing applications for commercial development permitted in residential zoning districts, the Design Review Committee shall review the project in relation not only to Appendix B but also the following criteria:

- Architectural design of neighboring residential buildings
- Setbacks in relation to existing buildings and residential development
- Compatibility with neighborhood character, context and scale

As part of the formal review process, the Design Review Committee may approve deviations from the standards listed in Appendix B when the Design Review Committee determines one or more of the following are applicable to the proposed project:

- To provide for architectural design compatibility in relation to the existing neighborhood or structures where appropriate
- To provide for adjusted setbacks in relation to existing buildings or residential development where appropriate
- To request changes in architectural character or site design when the project is not compatible with the context of the surrounding neighborhood
- To request changes in scale where appropriate

Appeal of Design Review

An aggrieved party may appeal a decision of the Planning Administrator in writing within 30 days of a decision. All appeals shall be heard by the Cabarrus County Board of Adjustment.

An aggrieved party may appeal a decision of the Planning and Zoning Board, sitting as the Design Review Committee, in writing within 30 days of a decision. All appeals of Design Review Committee (Planning and Zoning Board) decisions shall be heard by the Cabarrus County Board of Commissioners.

Enforcement

Any violation of a permit issued under this section shall be enforced through the provisions of the Cabarrus County Zoning Ordinance.



ARCHITECT, P.A.

Established 1987

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October 20, 2010

Cabarrus County Planning & Zoning Department
PO Box 707
Concord, NC 28026

Attn: Susie Morris

Re: Wallace Hill Equine Complex - Tack Shop

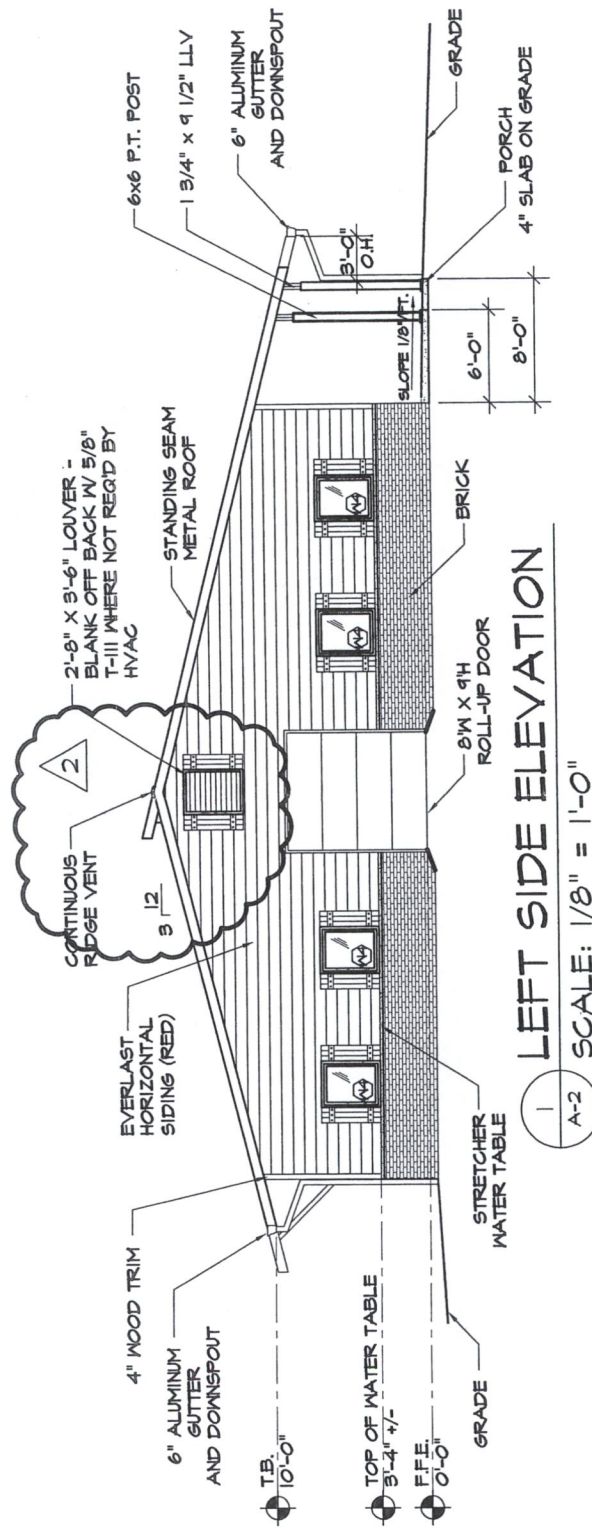
Susie,

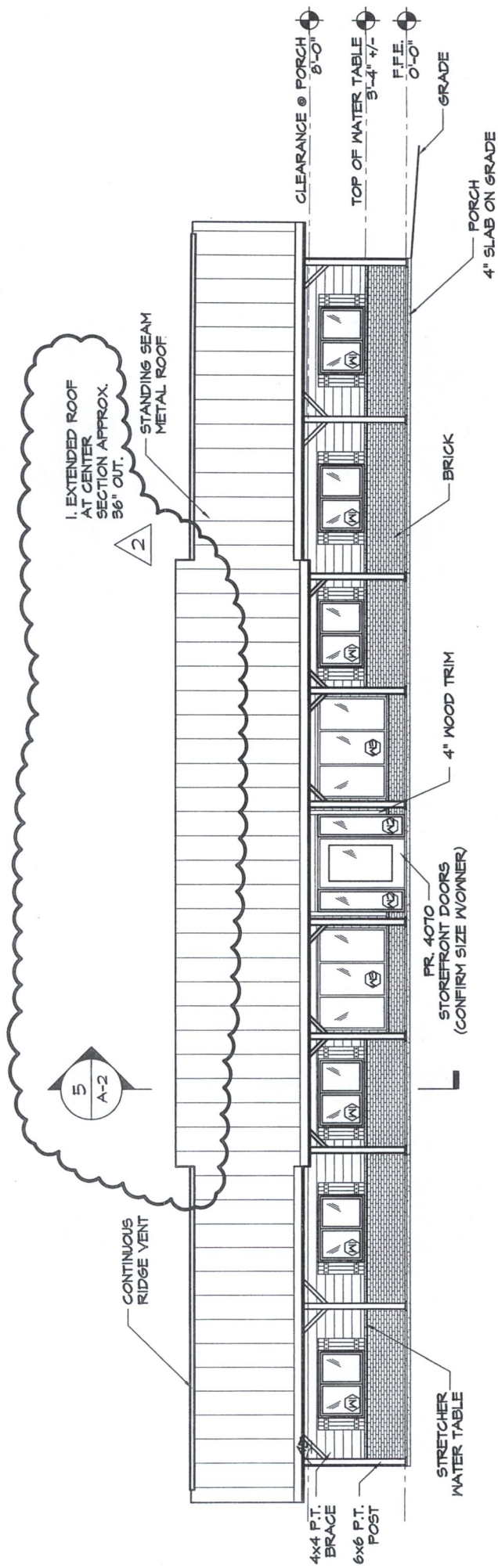
Please find attached the revised exterior elevations that address the Massing & Rhythm comments in the staff report. I misunderstood the intent of that section with the original submittal. The attached revised drawings show a change in the ridgeline on the center section of the structure and is evident on all four sides of the exterior elevations. On the rear elevation we extended the roof approximately 6' for a covered porch in front of the exit doors.

I apologize for the incorrect original submittal. Any questions please let me know. Thanks very much.

Sincerely,

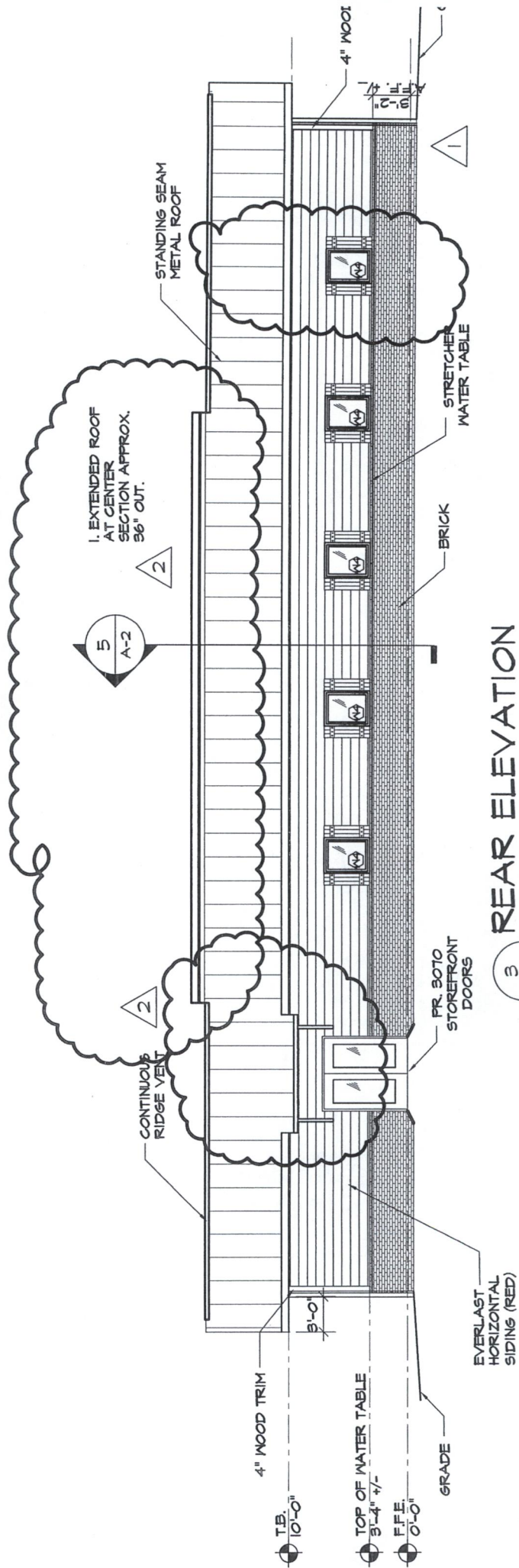
Virginia L. Moore
Carlos Moore Architect PA





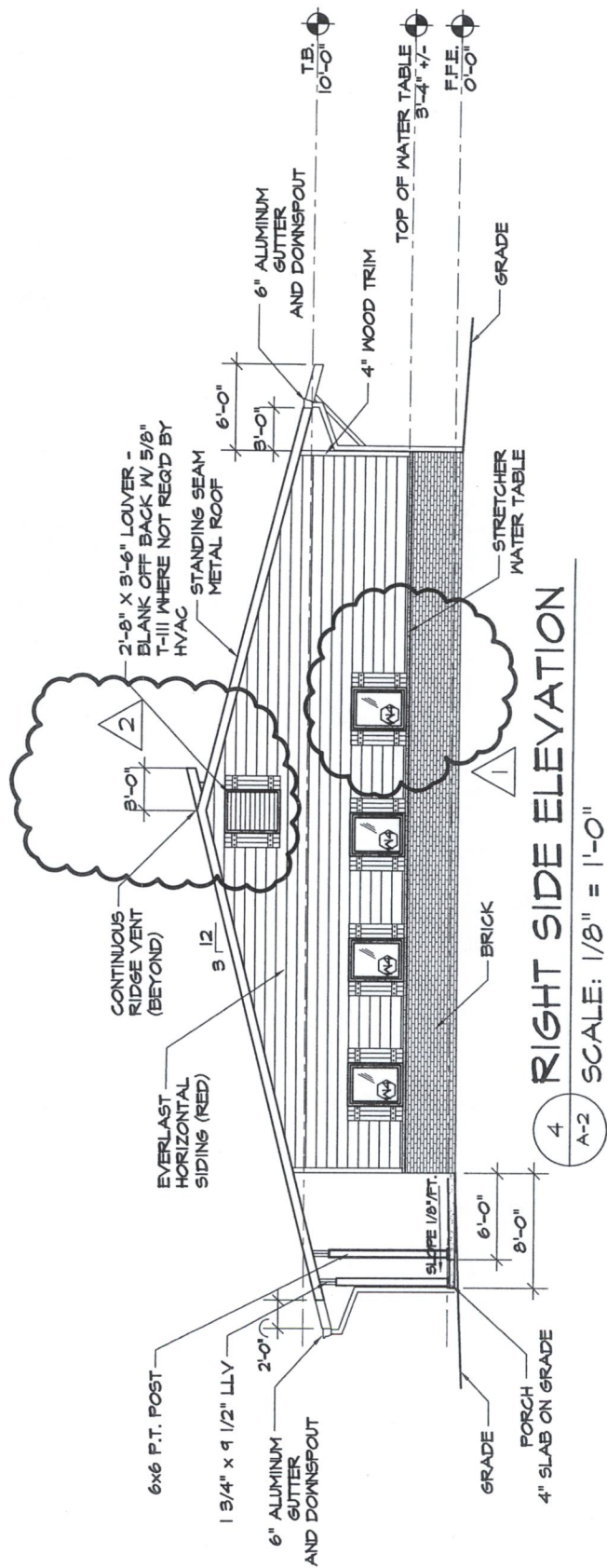
FRONT ELEVATION

2
A-2
SCALE: 1/8" = 1'-0"



REAR ELEVATION

SCALE: 1/8" = 1'-0"



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
------	-----	---------

Zoning: Agricultural/Open (A/O)

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

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 3rd 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

VARN2010-00002

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
46350

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

Benjamin Small

Date

August 5, 2010

Signature of Applicant

Benjamin Small

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

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

(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

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. from surrounding properties.

(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: Beeper

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): _____

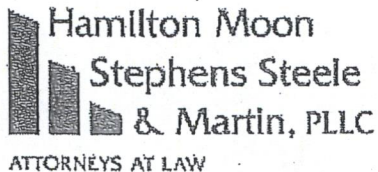
Signature of Zoning Official _____

Chairman-Board of Adjustment

Date

Secretary-Board of Adjustment

Date



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
704-227-1065

September 9, 2010

VIA EMAIL (Samorris@cabarruscounty.us)
AND FIRST CLASS MAIL

Susie Morris
Cabarrus County Commerce Department
65 Church Street
2nd 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,

A handwritten signature in cursive script that reads "George W. Sistrunk III".

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 (2nd 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

4499 GOLD HILL RD

City, State Zipcode

CONCORD NC 280250000

FURR DENNIS E & WIFE FURR GINA S

Mailing Address

4502 GOLD HILL RD

City, State Zipcode

CONCORD NC 280250000

RICHARDS BARRY G RICHARDS CATHERINE

Mailing Address

PO BOX 849

City, State Zipcode

CONCORD NC 280260849

RITCHIE W H JR

Mailing Address

1936 BALTIMORE ANNAPOLIS BLVD

City, State Zipcode

ANNAPOLIS MD 214016248

SMALL BENJAMIN S

Mailing Address

PO BOX 1082

City, State Zipcode

CONCORD NC 280261082

WALKER MARTHA EDITH

Mailing Address

4501 GOLD HILL ROAD

City, State Zipcode

CONCORD NC 280250000



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

Legend

- Streets
- Subject Property



0 37.5 75 150
Feet

Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors of omission, errors of commission, errors of omission, errors of commission. 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.

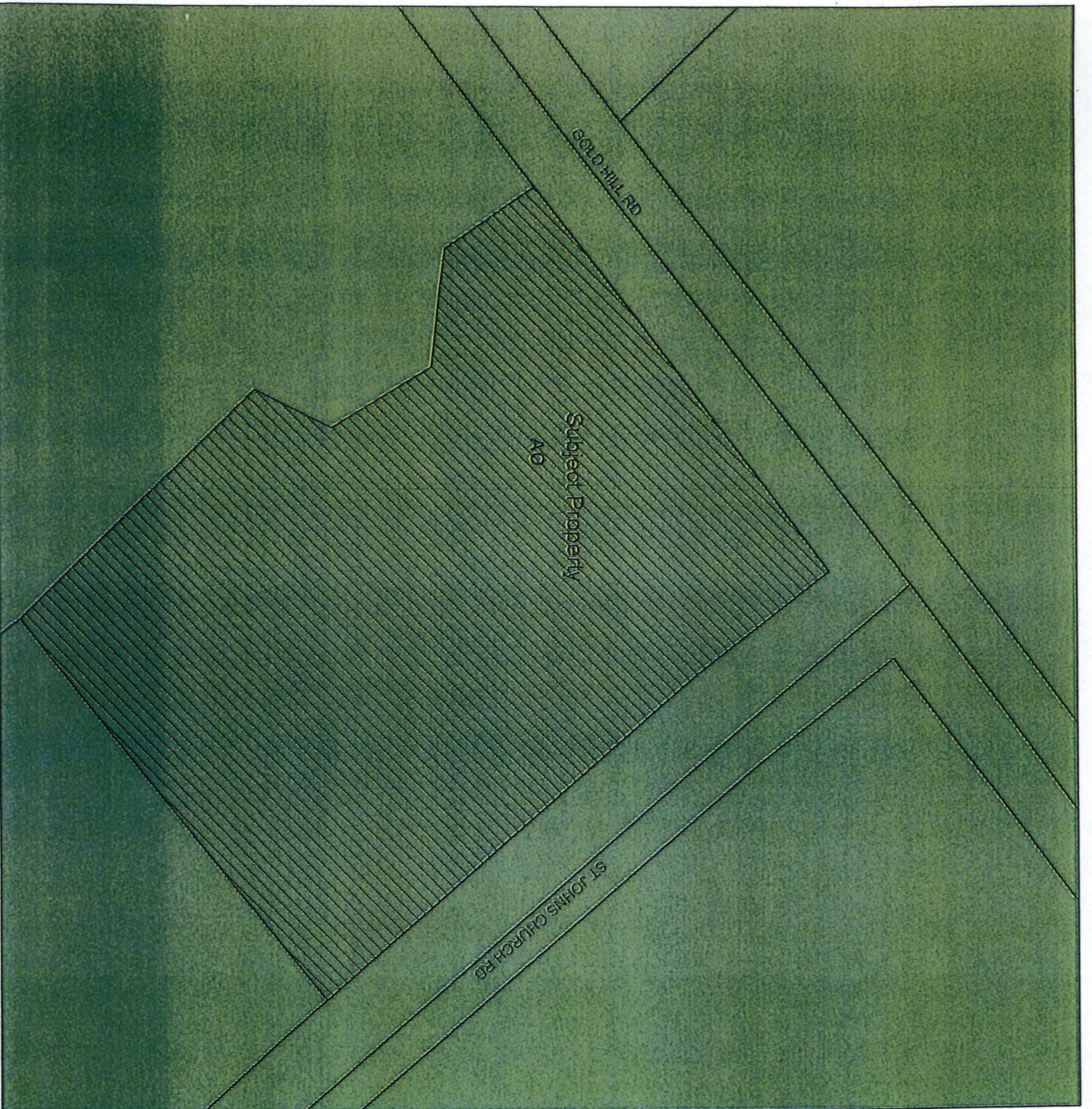




Applicant: Benjamin S. Small
Petition: VARN2010-00002
Request: Variance from section 7-4
Zoning: A/O-Agricultural Open
Parcel ID#: 5652-21-5630

Legend

-  Subject Property
-  Streets



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Map Prepared by Cabarrus County Planning Services,
September 2010.



09.09.2010 10:12



09.09.2010 10:13



09.09.2010 10:14