



Planning and Development
Department

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
November 10, 2015
7:00 P.M.

Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Oath of Office to Newly Appointed Member
2. Roll Call
3. Approval of August and September 2015 Minutes
4. **New Business – Board of Adjustment Function:**

APPL2015-00004 - Appeal of Notice of Violation for use of property as towing service, salvage yard and buildings erected without permits. Mr. Sam Davis representing Carter Towing, Inc. PIN 5681-46-3664 (10813 Highway 49 North or 1348 St. Stephens Church Road)

5. Directors Report
6. Legal Update



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Mr. Rick Price, Vice-Chair, called the meeting to order at 7:11 p.m. Members present other than the Vice-Chair were Ms. Mary Blakeney, Mr. Adam Dagenhart, Mr. Jeff Griffin, Mr. Andrew Graham, Mr. Dane Laney, Mr. James Litaker, Mr. Chris Pinto, Mr. Aaron Ritchie and Mr. Steve Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Jason Earliwine, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

The Oath of Office was administered to newly appointed member Mr. Dane Laney.

Roll Call

Approval of August 11, 2015 and September 8, 2015, Planning and Zoning Commission Minutes

Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the August 11, 2015 and the September 8, 2015 meeting minutes.

The Chair asked all persons speaking for appeal case on the agenda or who plan to testify during the public hearing to stand to be sworn in and to complete a blue card. The Chair administered the oath.

The Chair read the following suggested rules of procedures:

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. After the staff report and questions, the proponents (those speaking generally in favor of the case) will have a total of 15 minutes to speak and/or present documents in support of their position. At the conclusion of the presentation, the Commission has the option to ask questions of the proponents.
3. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak and/or present documents in support of their position. At the conclusion of the presentation, the Commission has the option to ask questions of the opponents.
4. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again the Commission may direct questions to the speaker. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.

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5. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
6. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
7. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
8. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Richard Koch, County Attorney, said since the Appellant, Carter's Towing, in this case is represented by counsel, he suggests that for purposes of his right to cross examine any witnesses, that he be allowed to question them directly, rather than submitting those questions through the Commission. He thinks that would be the appropriate way to handle that.

He said many times we do not have that type of situation, so what we typically do is what is in the proposed rules of procedure. But, he thinks that in this case, and for this evening purposes, that Mr. Davis, who is here representing Carter's Towing, should be allowed to question the witnesses directly if that is the will of the Board.

There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the rules and procedures with the change to item number 6 to allow the Appellant's counsel to question witnesses directly, rather than the requirement that questions come through the Commission. The vote was unanimous.

New Business – Board of Adjustment Function:

The Chair introduced APPL2015-00004-Appeal of Notice of Violation for use of property as a towing service, salvage yard and buildings erected without permits. Mr. Sam Davis representing Carter Towing, Incorporated, PIN#5681-46-3664 (10813 Highway 49 North or 1348 St. Stephens Church Road).

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating that this is an Appeal of a Notice of Violation issued by our Zoning Enforcement Office. The applicant contends that the site is not being used as a towing service or a salvage yard and that the site is a bona fide farm and is exempt from zoning and building permitting.

She will go through the outline of the staff report. Hopefully the Board had a chance to look at it and to look at the pictures. Mr. Lowe is here to answer any questions the Board may have about

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the case write-up and his site visits. The site was posted, we also sent out the adjacent property letters and it was also noticed in the paper.

Ms. Morris said in general, the Appellant, Carter's Towing has been the owner of the subject property since October 2008, and during the course of ownership from 2008 to 2015, several buildings have been placed on the site without permits. The pictures were in the Board Packet.

Starting in March 2013, Officer Lowe made site inspections to this site. The site inspections continued and you have the information as far as the time line, culminating in a notice of violation being issued for the site for use of it as a towing service and as a salvage yard. In September, the applicant submitted an application for the appeal to the Planning and Zoning Department through their attorney Mr. Davis.

She said as far as the findings, essentially, the applicant is appealing each of the items that was listed in the notice of violation and we will walk through that. Again, they contend that it is not being used for a towing service or as salvage yard, that it is being used for agriculture and farm purposes.

Chapter 1, the General Provisions, Pursuant to Chapter 1, Section 1-4, Bona fide farms are exempt. Essentially, if a project or a property is considered a bona fide farm, agricultural uses on that property and buildings related to the agricultural use of that property would be exempt from permitting.

Ms. Morris said the Board has a copy of the State Statute in your packet as well as definitions of what agriculture is and what bona fide farm is. A towing service is classified as a commercial use and a salvage yard is classified as an industrial use. Therefore, these are not considered bona fide farm type activities, they are not considered agriculture. Permits have not been secured for the site for a towing service or a salvage yard as a permitted use nor have permits been secured for the structures that were erected on the site. That is the general provisions summary.

Chapter 2, Rules of Construction and Definitions - states the definition of what a towing service is, the definition of what a salvage yard is, the definition of agriculture, the definition of agricultural land and bona fide farm.

Chapter 3, Establishment of Zones – according to Chapter 3, a Towing Service with Towed Vehicle Storage Yard, No Salvage or Part Sales as a primary use is considered a commercial use and is allowed in the Agriculture Open (AO) zoning district based on the standards only.

Ms. Morris said this would be a permitted use if they go through the process and they can meet the additional standards from Chapter 7. At this point, it is unclear as to whether or not they can meet those standards if they want to continue that particular use on the property.

A salvage yard however, is considered an industrial use and that type of use is not permitted in the AO zoning district. That would have to happen in an industrial district.

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The applicant has not submitted for zoning site plan review or permitting for a towing service at this time and again it is unclear as to whether or not they can meet the standards of Chapter 7 if they wanted to pursue that type of permit and again, a salvage yard is not permitted.

Chapter 12, Administration and Enforcement –a Zoning Compliance Permit must be obtained from the Zoning Administrator prior to the use or occupancy of any building or premises, or both, hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure.

In this particular case, we did not issue a zoning permit for any of the uses that appear to be happening on the site. We also did not issue zoning or building permits for those particular buildings.

Ms. Morris said if this site was a bona fide farm and used for agricultural purposes, some of the permits would not be required for the use. But, it has to be agriculturally related and meet the bona fide farm criteria.

The exhibits in the staff report include an appeal application that Mr. Davis submitted, a copy of the violation dated June 19 and the violation dated August 20, Officer Lowe's case history and notes, pictures taken by Officer Lowe from March 2014 through August 2015, documentation from Facebook promoting the business with the site address listed on the staff report, a copy of the permitted use table which shows that a towing service is a commercial use and that a salvage yard is considered an industrial use and where they are classified, adjacent property owner list and a copy of the letter that was sent, the maps of the site, the property deed, pictures from pictometry, the appraisal card and the State Statute related to bona fide farms.

Ms. Morris would be happy to answer any questions and Mr. Lowe is also here to answer any questions that you may have for us related to the staff report or any of the information that was submitted. If you do not have any questions for us at this time it would be appropriate for Mr. Davis to come forward.

Mr. Davis asked what the procedure is. He asked if he should make the presentation at this time or is this his opportunity to examine the staff.

Mr. Koch thinks procedurally, the appropriate thing would be to question staff, either Ms. Morris or Mr. Lowe and finish that part of their testimony. Then we can see if there are any other persons who have any evidence to adduce in support of the position of staff and then if there are, then we would go ahead and take that and you could examine those. Once that is through, then you would have the opportunity to put on whatever evidence that you wish to put on.

Mr. Davis said as far as summary of the case, I would hold that?

Mr. Koch suggested that Mr. Davis would hold that until he is ready to put on evidence.

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Mr. Koch informed the Chair that he had suggested to Mr. Davis that if he is going to examine witnesses, that he would be more in a line of sight with them if he sat up front rather than seated behind them.

The Chair said that is fine.

Mr. Sam Davis, Attorney, Hartsell and Williams in Concord, North Carolina addressed the Board representing Carter Towing. He hopes to flesh out what the requirements are and whether or not there is a violation under the circumstances we contend. He said this is the Boards' decision and he hopes the Board will consider their case as well.

Mr. Davis asked Ms. Morris, you mentioned the Facebook page, do you know who placed that particular Facebook page that is an exhibit on the Facebook?

Ms. Morris said she does not.

Mr. Davis said it was on Facebook, but it could have been placed by someone else besides the appellant in this case.

Ms. Morris does not know who placed it on the Facebook page or who maintains that page.

Mr. Davis has some questions for Mr. Jay Lowe.

Mr. Jay Lowe, Senior Zoning Codes Enforcement Officer, introduced himself.

Mr. Davis asked Mr. Lowe if his contact with the Carters began in 2013; in your summary it begins March 28, 2013.

Mr. Lowe said that was a time when we received a complaint and we went out just like we would any other complaint at that time.

Mr. Davis said during that period of time, in 2008 is when Carter's Towing acquired that property. He asked Mr. Lowe if that was correct?

Mr. Lowe said according to the records yes; what he saw in the report.

Mr. Davis asked if Mr. Lowe attached the Deed as an exhibit or somebody did.

Mr. Lowe said yes, he agrees to that.

Mr. Davis said that Deed was recorded in 2008.

Mr. Lowe said it did look that way, yes.

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Mr. Davis asked Mr. Lowe if in 2009, Mr. Hobbs came talk to you about a zoning compliance application for the use of that property for a towing related use.

Mr. Lowe said there was a gentleman that came into his office to look at putting an auto repair business there; he does not remember his name.

Mr. Davis asked Mr. Lowe if in 2010, Mrs. Carter brought him an application showing that they had gotten approval for an incinerator toilet on this particular location.

Mr. Lowe does not remember the exact date, but he does remember seeing the permit where they got permission to put an incinerator toilet on the premises if the project went through as they had proposed for the auto repair.

Mr. Davis said later on did they file an application for a zoning compliance permit for that site?

Mr. Lowe said no, they never did come in to do that. They actually submitted a site plan to him for the auto repair and we actually had some discussion back and forth about some landscaping issues. He does not remember them coming in to secure that permit.

Mr. Davis showed a form and asked Mr. Lowe if it were and application.

Mr. Lowe said it looks more like the site plan review fee application. There is a process you go through where you submit a site plan and there is a fee that goes along with that. Once that is permitted or approved, then you come back in and secure your zoning permit. Just by looking at the payment on here, it looks more like the permit for the site plan review fee.

Mr. Davis said that would be preliminary to a zoning compliance permit, is that correct?

Mr. Lowe said that is correct.

Mr. Davis said so there is a second fee then.

Mr. Lowe said to secure the actual zoning permit; that is correct. He does not think that was ever secured.

Mr. Davis asked Mr. Lowe if he talked with a surveyor regarding a site plan for this particular site

Mr. Lowe believes there was a surveyor, he cannot remember whether he called or came into the office. He believes he does remember talking to someone about that because there were two gentlemen that came in with Ms. Carter and he thinks the surveyor may have been one of them.

Mr. Davis said he was a landscaper too.

Mr. Lowe said maybe, that is what he remembers.

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Mr. Davis said do you recall that? They came in, and because of the use that they had proposed, there was a good bit of screening requirement.

Mr. Lowe said you are right, you are exactly right.

Mr. Davis said in any event, they ultimately, because of the screening requirement decided not to submit an application.

Mr. Lowe said that is correct. That was his understanding, the last time we had contact with one another regarding that auto repair use.

Mr. Davis asked Mr. Lowe if Ms. Carter later told him that she wanted to begin a farm operation on that.

Mr. Lowe said yes she did. She turned in some paper work to him to state that she felt like she was a farm.

Mr. Davis said if this were a bona fide farm, would there be a permit requirement for these buildings, if a bona fide farm and farm related?

Mr. Lowe said we normally encourage an applicant to come in and secure those permits at no charge. For a couple of reasons: it helps them when they move down the line to get the electrical permits and trade permits and that way there is a record showing that they did get a zoning permit free of charge if it is a bona fide farm. He does not know if we could actually make someone do that but we do encourage it.

Mr. Davis said it is encouraged but not required; if it is a bona fide farm?

Mr. Lowe said that is correct.

Mr. Davis asked if Mr. Lowe was aware that there was an electrical permit applied for and obtained for that first building.

Mr. Lowe has seen the electrical hookup, but he does not know if it was ever permitted. He is not a building inspector so he is not sure about that.

Mr. Davis asked Mr. Lowe if he knew whether or not Duke Power would connect to a building if it had not been an electrical inspection.

Mr. Lowe said from what he does know of it, probably not.

Mr. Davis asked Mr. Lowe if he issued one citation for a zoning violation in June 2015 or there about.

Mr. Lowe said yes.

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Mr. Davis said after that, was Mr. Lowe aware that actions were taken to correct the things that Mr. Lowe particularly pointed out as a violation.

Mr. Lowe said he is not aware of that.

Mr. Davis said there was some scrap metal outside there that was on the property at that time. He asked Mr. Lowe if he was aware that there chickens on the property.

Mr. Lowe said no he was not aware of that. Somewhere in the process he made a site visit and he was asked to leave the premises by Mr. Carter, so he actually never went back on the premises.

Mr. Davis asked if he was asked to leave any time after that first time.

Mr. Lowe said no, he never went back on the premises.

Mr. Davis asked if that was in 2013.

Mr. Lowe believes it was a little later than that. It was probably around either late 2014 or early 2015. Referring to his notes, Mr. Lowe said it was actually in the middle of 2014, when he was asked to leave the property; which he did.

Mr. Davis said he has no further questions for Mr. Lowe.

The Chair asked Mr. Davis if he was prepared to present his evidence.

Mr. Davis said yes if that is the procedure.

Mr. Koch said it is really at the pleasure of the Board if you would like to hear from the appealing party at this point. He thinks there are some other witnesses that propose to speak in support of the County's interpretation of the Ordinance. We can either take them at this time or we can take the appealing parties evidence and take them afterwards.

He thought originally that based on the rules that we would take all of those who supported the decision based on the staff report first, and then allow Carter's Towing to put on their evidence at that point. It really does not matter either way.

The Chair asked if we need to open the Public Hearing to do that.

Mr. Koch said yes you should open the Public Hearing at that point.

The Chair opened the Public Hearing.

Mr. Koch asked if the Chair wanted to take the persons who support the interpretation first.

The Chair said yes.

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The Chair called Mr. Lane Barnhardt.

Mr. Lane Barnhardt, 1435 Little Buffalo Creek Road, Mt. Pleasant, North Carolina addressed the Board. He said there was a Saturday or Sunday that he went over there to scatter some rock on some property across the road from Carter Towing. A neighbor over there came out and was watching him. He thought that the gentlemen may have wanted some rock or something on his driveway. Then when Mr. Barnhardt looked back, he noticed the neighbor was taking pictures.

When he turned around again and looked he had gone. After that is when Ms. Carter asked him to haul off some debris from a camper that they had picked up and was supposed to take to the scrap yard that some person wanted them to get rid of. But the scrap yard would not take it because it had two by fours and insulation and plastic in it and they had to disassemble it.

He did not disassemble it but he did haul off the unwanted stuff that the scrap yard did not want. They had somebody tearing it apart and it took about three weeks for three loads. He thinks it was two weeks and the third week the person he had working on it could not make it there and the fourth week he went back and hauled off the final load of it. So, that was done within a month of when he was asked to do it.

The Chair asked when that was.

Mr. Barnhardt cannot remember the date of it, but the neighbor that was taking pictures has photographs that were supposed to be turned in as evidence, there should be a date on them. Ms. Carter probably has a date on when the scrap was hauled off from the camper. When it was hauled off all of the debris from the camper was gone from the lot too. She probably could tell you when the guy did not show up. He does not know if they were paying him or if he was on the pay roll. He said but that was gone in less than a month.

Mr. Koch said the Board or Mr. Davis may have some questions.

The Chair asked Mr. Davis if he had any questions for Mr. Barnhardt.

Mr. Davis thinks Mr. Barnhardt generally favors, but he thinks he was at the wrong part of the case. Are these opponents?

Mr. Koch said it may be best just to let whoever wants to speak come up and say their peace and let the Commission determine how it shakes out relative to the appeal.

Mr. Davis said that is fine.

The Chair said as long as we have the Public Hearing open we can ask questions and you can ask questions.

Ms. Samantha Gilbert, 1345 St. Stephens Church Road, Mt. Pleasant, North Carolina addressed the Board stating that she lives adjacent to the Carter's property. She buys meat and Ms. Carter delivers it to her and eggs from her chickens. She has several accounts of where Mr. Lowe has

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been outside of her house and has scared her daughter. Like being parked out in her yard and when she opens the door he has taken off and that was on July 14, 2014. She has several accounts of a gentleman driving pass her house snapping pictures. Her kids are six years old so anything spooks them. She said several accounts of people like stalking the area; which she has young kids. She does know that she buys meats and it is delivered to her house.

Mr. Davis asked Ms. Gilbert if she was aware of whether or not there is any livestock on this particular property; chickens or pigs.

Ms. Gilbert said yes; there are goats, pigs and chickens and her kids go over and feed them.

Mr. Davis asked Ms. Gilbert if she knew how early those animals were on the site.

Ms. Gilbert knows that the chickens have been there for quite some time; before June.

Mr. Davis asked Ms. Gilbert what type of meat she has bought from Ms. Carter.

Ms. Gilbert said she has bought ground beef, cube steaks, steaks and eggs.

Mr. Davis asked Ms. Gilbert if she bought them from Ms. Carter.

Ms. Gilbert said yes, she bought them from Ms. Carter.

Mr. Davis said no further questions.

Mr. James Therrell, 1356 St. Stephens Church Road, Mt. Pleasant, North Carolina addressed the Board stating he lives adjacent to the Carter's property. He said in regards to the pictures he did take pictures from his property and from the road. The lady who spoke previously is at the intersection of Highway 49 and St. Stephens Road and it is advisable to go kind of slow through that intersection. But to take pictures, he would have to pull off to the side of the road or pull into the driveway or take them from his property. As far as the camper, there are some pictures of the camper in different stages. He said the trailer is still on the property, the frame work of this trailer. As of today, it is still on that property, the frame. He took a picture on his camera.

Mr. Therrell showed pictures that he has taken from the road. One picture basically showing a pile of lawn mowers that were purchased and hauled in on the wrecker and dropped off. His brother in-law purchased one of the lawn mowers from the Carter's from this site.

The Chair asked when this was.

Mr. Therrell said it was this past summer. He continued showing pictures. There are many pictures obviously, of what services are going on on this place and not seeing any chickens or anything. He also took pictures day time, night time and the next morning. So it is obvious it is overnight.

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He showed a picture of across the road of what they are using now, obviously, because he guesses they cannot have the wrecker service in their lot. So they are parking the wrecker trucks across the road. He took pictures of the guy putting out the gravel, because he was curious as to what he was doing over there, so yes, he did take a picture of it.

Mr. Therrell continued showing pictures. He has actually been doing this for two years; this is only from last year. He showed the camper they were referencing in the disassembled stage. He has pictures also of when it was first brought on the lot. As you can see, this was back in the summer. You cannot actually see on here the date it was taken but you can go to the file part of it and it will give you the dates of anything he took.

He does not know how many pictures the Board would like to see but it goes on and on and on. He also has some video as well. He showed some video of offloading of vehicles that were brought in on the tow truck. He said this video is from his front porch really early one morning. He was awakened by chains being slung around and noise of that nature that they make.

He said this is a recent video that he thought was really interesting. This is where they backed a wrecked jeep into the building and disconnected it and drove the wrecker across the road and parked it. All of that is on this one video and this is very recent; he thinks a month ago. As a matter of fact, he believes the jeep is still sitting in the building right now. There is also a red vehicle that is parked just on the other side of that wrecker as you see it there. It has been there for many months just sitting there and it looks like it is a Junker or something. He does not believe it has a tag on it.

But, if you watch this video, here shortly, you will see where they unhook it. He has video of where they backed it in as well. As you follow him you will notice him driving across the road and I follow him with the camera, this is all from my front porch. He showed the area that is graveled across the road that the gentleman was referring to earlier. He said they then they go back again across the road and get in their vehicle and leave from there.

Mr. Therrell is not sure if there is anything else the Board would like to see, but that is pretty much all he has as far as evidence to submit. To him that is a wrecker service and that is why he kept this log and kept up with all this data for two years. Because he knew from the zoning people, which he had spoken with before, they basically told him that these people have their rights too and he understands that. He said okay and we will let that play its part, but now he is presenting his rights, because his property is adjacent to this. He had people come out, because he is looking to sell his property and they are telling him with that beside me that I will probably not even get tax value on my property.

Mr. Davis asked Mr. Therrell if he showed some photographs of vehicles being off loaded and a red Jeep being backed into the garage.

Mr. Therrell said yes.

Mr. Davis asked Mr. Therrell if he knew who owns the vehicle.

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Mr. Therrell said no.

Mr. Davis said Mr. Therrell showed a video of a car being offloaded. Mr. Davis said he could not tell.

Mr. Therrell said if you would have watched the rest of it, it would show them tilting the bed over unloading the vehicle. Some of them they transferred to other vehicles; they would do that as well, from one wrecker to another.

Mr. Davis asked Mr. Therrell if in those photographs he has seen towed vehicles stored.

Mr. Therrell said yes, put back into that building and also unloaded and dropped off in the lot.

Mr. Davis asked Mr. Therrell if he knew how long it was there.

Mr. Therrell said they would be there a minimum of overnight if not longer. There are some vehicles like that particular car that you see in the picture, it was there for a little while.

Mr. Davis asked Mr. Therrell what kind of car is that.

Mr. Therrell said he cannot tell you. He said actually where that car is parked right now is where the camper frame is sitting right now.

Mr. Davis said no further questions for Mr. Therrell.

Mr. James Litaker asked Mr. Therrell who owns the property across the street that they are parking on.

Mr. Therrell believes the Carters do. The property of the lady who buys the eggs from them, that is part of their property as well believes. The property in front of him, directly cornered from him which joins all the way to Highway 49 and then their property where the lot is.

Mr. Sam Davis stated that he represents Fonda Carter and her husband Roger Carter who are the owners and shareholders in Carter's Towing, Inc. and he also represents them in the capacity as Fondal Farms, which they operate.

The Carter's bought this property in 2008 and thought they perhaps could use it for a towing service garage and went to Mr. Lowe for the purpose of doing that. Their friend took a letter dated December 11, 2009 to Mr. Lowe to try to find out what they could do with the property, that was their intent at that time; a 24 hour service. The towing service was their primary plan and they had a backup plan of raising livestock at that location. They were later permitted for an incinerator type toilet at that location by the Health Department and that information was taken to Mr. Lowe and that was in 2010.

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Mr. Davis said that Mr. Lowe has already testified that the Carter's attempted to get a zoning permit for their garage and towing service in 2012 and 2013. But it became too expensive and they abandoned that plan because of the landscaping. So then on May 17, 2013, she took these papers to Mr. Lowe to show her intention to operate a bona fide farm on this location.

He said in April 2013, they made an application to Farm Credit and were approved for a loan in the amount \$35,000, less the closing cost for farm improvements at this site; with this site being put up as collateral. He has documents that are a summary of the activities that occurred in the construction. This is what was constructed when building, all with financing from Farm Credit for farm improvements. Those are the principle buildings that you see there now.

An electrical permit was issued and an electrical inspection was done for the building (He showed the permit). Ms. Carter is doing business as Fondal Farms and she has a Tax ID number for the farm and a farm account. She got a sales tax exemption for a farm in 2010. The sales tax requirements have exempt requirements, to raise the amount of income. It is now ten thousand dollars and she is the period of reapplication for that since the law has changed.

Their operation consists of land that they had in Stanley County on Matton Grove Church Road, which is where they live. They raise cattle there and Mrs. Carter has a food handler's license. He does not have to show now, but it is an exhibit in the documents that were in the planning report. Ms. Carter was insured at that location by Farm Bureau, originally in 2013, as a farm for raising chickens. He showed the application and stated that it shows it is to raise chickens on this site and to obtain insurance.

He thinks he has already showed the Schedule F to a tax return, which is in and of itself sufficient to establish a bona fide farm, if that activity is carried on on this site. It is our position that they are trying to use this site as a bona fide farm for farming purposes. Their primary business is towing and Ms. Carter will inform you that they do not operate a salvage yard or as part of their business a storage of cars, except for police pickups when they get a call. They store those cars at their business location which is over on Highway 73 East, out of Mt. Pleasant.

He said the buildings that they have erected were reported, they have been appraised and they have been paying taxes on them to Cabarrus County.

Mr. Davis said Mr. Lowe made a number of visits starting in 2013, and he noted that there were unpermitted building on the location. But, there had not been any citations for those building until now. It is his understanding that they are saying, that it is because they are operating a towing service with overnight storage.

The two provisions in the Zoning Ordinance that are mentioned, that they are violating, is a towing service with overnight storage of towed vehicles and a towing yard with a salvage yard.

He said Ms. Carter will testify that they did pick up some lawn mowers for a lady who wanted them removed from her house. But that was not as a part of their regular towing business; you do not need a wrecker to do that. The evidence will also show, Ms. Carter will testify, that the camper

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trailer they bought with the intent of retaining it and when they could not restore it they decided to tear it down and use the chassis on their farm. She will testify that the use of that trailer will be for when they harvest hay, to store the square bales and leave it on the trailer and back it into their shed. All of that will be on Matton Grove Church Road. All of this is being conducted as part of their farming operation for that trailer.

Mr. Davis said there are towing vehicles on this site a number of times on a daily basis. The Carter's only personal vehicle is a Harley Davidson Motorcycle. They own a 24 hour business where they are on call. They are on a police roster, they haul cars for dealers, and they pick them up from auctions and bring them to the lots. They haul for travel services, not AAA, but a couple of other traveler services. They do not operate a salvage yard where they take cars apart. There have been a couple of occasions where cars have stayed overnight on this particular site, and for a long period of time, occasionally wreckers would stay on the site overnight because Mr. and Mrs. Carter going from Mt. Pleasant to where they live out on Matton Grove Church Road. This is kind of on the way and they would drop off a wrecker and go on to the home instead of driving two vehicles, they would ride together. They have acquired a GMC three quarter ton truck to use in their farming but it is not really much of a personal use vehicle either and it has a farm tag on it.

He said vehicles that have been there for any longer period of time are vehicles that they personally own or that they will use in their business. They had one truck there for sale and they took the wrecker body off of it and were selling it. It was not part of their general business; they were just getting rid of this truck.

Our question is, if all you have is a wrecker to drive, or if you are driving a wrecker 24 hours a day, and you want to go to your farm, what do you drive to your farm. If you want to get together at the property that you own for a family occasion and you drive wreckers, what do you drive? You drive wreckers. Because a bread truck parks his truck at home over night does not make that a bakery and there are number of examples of that. So, the question here is whether they have a towing service with storage as part of their business or if they have a salvage yard as part of their business. We submit to you that the evidence that has been introduced will not support that and in particular, after you hear the rest of our evidence.

Mr. Koch informed Mr. Davis that any documents he has shown to the Commission will have to be submitted to the Clerk. Some of them were in your appeal packet but not all of them were and the ones that you are offering that are new that are not in your appeal packet we will need to have those. Each member of the commission has all the other ones.

Mr. Davis said he would submit them. He then showed the Garagekeepers Coverage policy for Carter's Towing which shows the location is 9891 Highway 73 East.

The Chair asked Mr. Davis how much more evidence he was going to present.

Mr. Davis said he must have misplaced the exhibit or left it in here. He apologized and thank the board for their indulgence. He said it was a receipt and two photographs from where those lawn mowers that were mentioned were hauled to Rufus Kiser in July within the time for complying for

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the June 20th citation. What we have is no evidence that they were using this on a regular basis for overnight storage and there is no evidence that they were operating a storage yard for salvage.

When Mr. Lowe cited them the first time, they thought that was what was in violation and they immediately took action to remove that scrap metal. Ms. Carter will testify that those lawnmowers where taken, they thought they could use them for a particular person under a special situation.

Ms. Fonda Carter, Fondal Farms and Carter's Towing. 23806 Woody Way, Gold Hill, North Carolina addressed the Board. When she got the first complaint, she felt that she was cleaning up what the issue was. She has where they took the lawn mowers to Kiser's, and it shows the pieces and the lawnmower, it has the date and time, which is July 23rd that it was taken to Kiser. She thought she had taken care of that and there were approximately five lawnmowers. As Wayne took off all of the trash of the camper, this is the load that was the metal part that was taken off on August 6th. There was also a picture where there were a lot of our trucks there at 1:09 or something like that on July 11th. That was actually a birthday dinner where we all come in for lunch that day for her husband's birthday. That is why they were all in trucks, we all come from our runs to there to eat for his birthday. There was no intention of doing anything wrong, we were just having a birthday dinner. After the dinner was over we all went to finish what we had to do.

Ms. Carter said Fondal Farms is what she wants and what she enjoys and she has had a lot of customers that she has acquired. She has the pleasure of selling good food to people. She enjoys her animals. A minimum of 5:00 in the morning is when she is up, she tries to take care and do everything she needs to do at both farms. She does have chickens there and they came last October 2014. They started laying approximately in March, not very many a day then, but she is getting approximately five to six eggs per day now. She bought two pigs on July 10th from Jamie Widenhouse and she took them to Kiser, they are on that property to be processed. They are ready to be picked up now, it was ready on Saturday and she will be going tomorrow to pick it up tomorrow. She has that meat sold and Mr. Davis has her paper where she has kept up with the income that she has produced on that property. She took two pigs, one weighed 265 and one weighed 240 pounds, and she showed a receipt where she took them to Cruse meat to be processed. She showed a receipt from the pork she sold from that property this year with the names of who bought it.

She said there was a piece of farm equipment that they bought and then they got a better one. It was on the property at St. Stephens but it was picked up and taken to Godley's Auction to be sold, that date was August 25, 2015.

She showed a list of her egg customers, showing who bought what and the dates. The first feed was in March or April but there were not very many because it took them a little bit to start laying. She actually got some baby chickens on September 2nd and they are not laying yet.

She showed a receipt from Kiser showing that it was actually the 23rd and that would have been for the lawnmowers. It shows what they were given for it and it also shows that it was there. She said Kiser has to take pictures of everyone with their products with dates and times.

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Ms. Carter said Mr. Davis mentioned a Jeep. There is a Jeep there, but that is actually one that they had purchased for themselves so that they would have something to use besides a Harley, and a farm truck. She just bought a cattle trailer and she has to use it as farm because it has a farm tag. So, when we do go to the beach they have to drive their Snatch Truck because they have nothing else to drive. They are hoping to have the Jeep for them personally to be able to drive to the beach. They go in July for their anniversary and is the only time that they go now; that Jeep is theirs.

The picture with the van is one that a lady had actually gotten killed in. The owners were of course very distraught; it was his only daughter. We were going to take it like we usually do, but the owner would call and say bring it home and then he would say no, then he would say bring it home and then he would say no. He was having a very hard time adjusting to the fact that he lost his only daughter.

When we had it tilted back, where you saw the tires on the edge of the bed; that is as far off as it went. That is because, since she died, the Highway Patrol had to do an investigation. Then it was put right back up on the truck and left there until he let us know what he needed us to do with it. He was really distraught and he was confused too. We were trying to keep him as peaceful as we could also. But it never came any further off than the tires on the edge of the bed where the police could see and do what they needed to do.

She said they came there because she is almost sure that it had been wet that day or wet that week and it was very muddy at the other place and there was more room for them to be able to measure and walk around. But it was not left there on the ground, and as soon as he let us know what to do, it was taken care of and taken where he needed it to go

They did not get the GMC truck until last August and it had issues, so it has been in and out of the shop. They really had nothing else to function with other than their work trucks and the Harley.

The Chair asked if there were any questions from the Commission for staff or the appellant.

Mr. Therrell asked if he could ask the appellant questions.

Mr. Koch said that is really up to the Board.

Mr. Therrell said from his understanding, if you run a satellite wrecker service, you could get more calls for more business; a separate location; more than one location. He asked Ms. Carter if that was correct.

Ms. Carter is sure it must be.

Mr. Therrell said the property in general is only an acre lot, that is all he has and he cannot see himself doing the so called farming that they say they are going to do on this acre lot. Especially with 90 percent of it covered with gravel. He is not understanding what is considered a farm, how much land, how close to adjoining properties; these are the types of questions he has.

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The Chair said there is a description of a bona fide farm in the Zoning Ordinance and it is available on line.

There being no further comments the Chair closed the Public Hearing.

Mr. Dagenhart said he has some questions.

The Chair said he was premature in closing the hearing.

Ms. Morris said for clarification, our Ordinance does address bona fide farms and it also addresses the permitting side of that. As Mr. Lowe stated we do issue zoning use permits for agriculture. We also encourage people to meet the setbacks for that particular district. In this particular case the two uses that Ms. Carter's property was cited for are a towing service and salvage yard. The Board has those definitions in your packet.

She said a salvage yard is not specifically related to vehicles. One is a commercial use and one is industrial use, one could potentially be permitted on the site, the other for sure cannot because it would have to be zoned General Industrial. As far as the bona fide farm portion of it, Mr. Davis is correct, in that if someone has an agricultural operation and if they say they lease some property in Cabarrus County, but they actually are established in Stanley County and have an ID number, that does transfer across county lines; but it is only for agricultural purposes and does not transfer for a different type of business. It would have to go through the permitting procedure with us which includes site plan review.

She believes what Mr. Davis had as his exhibit was a plan that may have been turned into building inspections. We never received a site plan or anything formal to move forward with a zoning permit, once Mr. Lowe had the conversations with Ms. Carter and her agents about the site and the buffers that would be required and everything like Mr. Davis said.

The Chair asked that the record show that he was a little premature closing the Public Hearing and the hearing is still open.

Mr. Dagenhart has a question about the vehicles that the appellant parks across the street. He asked if she has a NCDOT Driveway Permit for that, because they are commercial vehicles.

Ms. Carter said no she does not. She just pulls over there because she thought she was violating pulling onto her other property which does have a DOT Driveway Permit. The one at 1348 St. Stephens has a permit.

Mr. Dagenhart asked if she knew what that permit says, for what use it is for?

Ms. Carter said she went to Ms. Wagner and she okayed everything.

Mr. Dagenhart said but there should have been a specific use associated with that permit. What was the associated use for the permit?

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Ms. Carter did not realize that there was an associated use. She will have to look and she can get that. She does not remember Ms. Wagner specifying any certain use. She does know that if she was just making access to her property, for whatever reason, that she could do that. But, if she were going to use it, like she was going to start out to use it, she would have to have a driveway permit. She does not know about the actual use.

Mr. Dagenhart asked Ms. Carter approximately how large is the area across the street that has gravel?

Ms. Carter said it was two loads of gravel and it is in that corner at 1357.

Mr. Dagenhart said 50 feet wide, 100 feet wide?

Ms. Carter would guess maybe 30 feet wide, but it then it comes out to the road maybe 50 feet. In that corner it would be 30 feet wide and coming out it would be approximately 50 feet. She said that would be a guess.

Mr. Jeff Griffin said it looks like over the last couple of years, we have about six or seven structures that have popped on this particular lot. He asked where the actual chickens are being held.

Ms. Carter said they are actually in the gray building. When they came out and re-evaluated, she actually pointed them out to them. They were there when they came out to re-evaluate her property. They are actually in the carport because it is closed in where they can get on the ground but the coop part is behind it.

She wanted to make sure to stay as far away from the neighbors as possible because she did not want to bother them. The pigs are in the front corner behind the gray building. The carport is the one that has the coop, she said that is a very old picture. There is actually a grey building beside of it that has chickens in it, those are the first chickens she got. The Leonard building actually has the feed and things like that in it.

There is one picture that has the grey building on it, because when they re-evaluated she told them each thing and that she paid for everything and showed them where the chickens were when they re-evaluated. The pigs did not come until July 10th, because the pen was not done until right before that.

Mr. Griffin said, is it kind of everything as you come into the main drive, everything to the right?

Ms. Carter said it remains to the right. The only thing that is to the left are the three goats that Ms. Cindy Berry gave her.

Mr. Griffin said the large metal building that has a pretty large roll up door and in a couple of these photographs looks like a big shop fan and it looks like the wreckers can drive in there; what is the big red building being used for?

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Ms. Carter said she has a golf cart in there and her Jeep, a refrigerator and a freezer. The freezer is specific for the meat. She can only have what she is selling in the freezer, she cannot have any other products in that freezer. There are chairs and tables because she likes to have get-togethers. The building is not insulated so the fan is to put where it can pull the air out or in whatever way it needs to be.

Mr. Steve Wise asked if any permits had ever been pulled for the red roof building.

Ms. Carter said no, when she abandoned the other project, the Bank told her that the value of the improvements to the property, versus what the building was, they could not loan the money. The only permit she ever did was for the electrical, because when she put the buildings up, she put them up as carports. The first building was going to be engineered, it had a plan and everything, a stronger structure and stuff like that. This building is two carports hooked together and then closed in.

Mr. Wise said it is not masonry construction, it is metal siding?

Ms. Carter said it is just metal carports.

The Chair asked if there were any more questions before we start our deliberations.

Mr. Sam Davis would like to respond to one thing Ms. Morris said about permitting. There seems to be some confusion and certainly he thinks that the Carter's could be confused about permitting. Mr. Lowe said that if it were a bona fide farm it was encouraged but not required. We do not argue that if it is a towing service that it should be permitted, that is not the issue. If it is a bona fide farm, he does not think it is a violation to not have a permit, unless it violates the setback. There is no evidence of that and the buildings have been there quite a while before anyone brought up the permitting issue.

There being no further comments the Chair closed the Public Hearing.

There being no further discussion Ms. Mary Blakeney **MOTIONED, SECONDED** by Mr. James Litaker to **Deny** APPL2015-00004-Appeal of Notice of Violation and affirm the interpretation of the Ordinance by the Zoning Administrator. The vote was unanimous.

It was the consensus of the Board to have Mr. Koch prepare the Findings of Fact for APPL2015-00004 to be submitted at the next meeting. (See Findings of Fact attached)

Directors Report

Ms. Susie Morris, Planning Manager, addressed the Board and introduced Mr. Jason Earliwine, Senior Planner. He comes to us from the University of North Carolina at Greensboro with a Master's Degree in Applied Geography with an emphasis in Planning. He is not new to Cabarrus County, he worked for a private firm and was assigned to the Town of Midland. He is familiar with the County but still learning his way around.

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We also have our newest member here this evening, Mr. Dane Laney. He will be representing the Kannapolis area.

She thanked the Board for attending the work session with the Board of Commissioners in October. She thinks it was very helpful to have the discussion that we had, and hopefully in talking about the roles, folks now kind of understand what stays with the Planning and Zoning Commission and what has the ability to move up to the Board of Commissioners. Just like these types of cases with the Board of Adjustment, the appeal from here is to Superior Court, so the Board of Commissioners never sees it. She thinks it was a very good discussion and really appreciates all of the Board attending and also participating.

Legal Update

Mr. Koch said in the Shelly matter, the Shelly's motion for partial summary judgment on the county's claim that they have to comply with the Building Code was denied. There has been very little activity in that case since then. The Judge had indicated that he wanted to set it for trial for the week of November 30th, but that is not going to occur now. We are waiting for the Judge to schedule a pretrial discovery and scheduling conference to try to put some deadlines on this case and ultimately get it to trial.

He said the Parra case is set for December 14th for trial. He apparently has not yet hired a lawyer because Mr. Koch has not been contacted about it. We presumably will bring that one to a conclusion, at least in terms of obtaining a court order on that date.

In the Little case we are still in the pre-trial discovery stage. They did answer our questions, our interrogatories and request for production and we are actually framing some follow-up questions in response to their responses. He reminded the Board that this is the one that involves the 53 foot trailer that they claim is being used as a construction storage trailer, but in fact has the appearance of being a sign advertising the trailer park. That case is moving along but is not yet scheduled for trial.

There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 8:53 p.m.

APPROVED BY:



Mr. Richard Price, Vice-Chair

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:



Susie Morris, Planning and Zoning Manager

**CABARRUS COUNTY BOARD OF ADJUSTMENT
ADMINISTRATOR INTERPRETATION APPEAL**

**CARTER'S TOWING, INC.
10813 Highway 49 North or 1348 St. Stephens Road
Mt. Pleasant, North Carolina
PIN 5681463664**

Case No. APPL 2015-00004

On November 10, 2015, the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, conducted the appeal of Carter's Towing, Inc. regarding the Zoning Administrator's interpretation of the Cabarrus County Zoning Ordinance relative to the structures on, and use of, the above-referenced parcel.

All persons present who desired to testify were permitted to do so and were sworn. Carter's Towing, Inc. was represented by counsel, Samuel F. Davis, Jr., who was allowed to examine the witnesses.

After reviewing the staff report and hearing and receiving the evidence and the arguments of counsel, the Board of Adjustment reached a unanimous decision that the property owner is violating the provisions of the Ordinance as determined by the Zoning Administrator, based on the following Findings of Fact and Conclusions of Law

FINDINGS OF FACT

1. The Appellant ("Appellant"), Carter's Towing, Inc. is a North Carolina corporation which is the owner of the property ("Property") located in Cabarrus County on the corner of North Carolina Highway 49 North and St. Stephens Church Road, with an address of 10813 Highway 49 North or 1348 St. Stephens Road, Mt. Pleasant, bearing PIN 5681463664.

2. The Property is an approximate one acre tract in the Agricultural Open ("AO") zoning district.

3. The Appellant has owned the Property since 2008. During the time Appellant has owned the Property, it has erected or caused to be erected several buildings of various sizes and types on the Property. No permits were issued by Cabarrus County for any of the buildings, with the exception of an electrical permit for one of the buildings.

4. On June 9, 2014, Senior Zoning Enforcement Officer Jay Lowe went to the Property to investigate complaints Cabarrus County had received concerning the operation of a towing business. When Officer Lowe approached Roger Carter, one of the owners of Carter's

Towing, Inc. and expressed concern about the uses being made of the Property, Mr. Carter told him to leave. During that visit, Mr. Lowe observed at least two tow trucks on the Property.

5. One June 20, 2014, Officer Lowe conducted a follow up inspection from the public right of way and observed one tow truck on the Property. He took photographs of the Property.

6. On June 3, 2015, Officer Lowe made another follow up inspection from the public right of way and took photographs. There was at least one tow truck on the Property. Additional buildings had been placed on the Property. No permits had been issued for these buildings. Officer Lowe observed no signs of agricultural activity on the Property.

7. On June 19, 2015, a warning citation for violation of the Cabarrus County Zoning Ordinance (the “Ordinance”) was issued to Appellant for operating a towing business and a salvage yard in the AO zoning district without proper permits.

8. On August 12, 2015, Officer Lowe conducted another follow up inspection and took photographs. A tow truck was parked across the street from the Property, on another parcel owned by Appellant.

9. On August 20, 2015, a violation citation was issued to Appellant for the same reasons, with a fine of \$100.00.

10. On September 22, 2015, Appellant through its attorney, Samuel F. Davis, Jr., timely filed an application for appeal of the Zoning Administrator’s interpretation of the Ordinance.

11. The Appellant is appealing the following Ordinance violations:

- a) Conducting a land use that is not permitted in a particular zone, in violation of Section 03-07;
- b) Violation of the Table of Permitted Uses in Section 03-08;
- c) Violation of Section 06-02, in that zoning affects every structure and use;
- d) Operation of a use based on standards without a zoning compliance permit, in violation of Section 07-04;
- e) Operation of a salvage yard in a residential area, in violation of Section 07-21;
- f) Failure to obtain a zoning compliance permit, in violation of Section 12-03;
- g) Failure to submit a site development plan, in violation of Section 12-08.

12. The Appellant contends that the Property is not being used for a towing business or as a salvage yard and that it is a bona fide farm and being used for agricultural purposes.

13. The Appellant presented evidence that it keeps chickens on the Property in one of the buildings and that the chickens produce eggs for sale. Ms. Carter also testified that there were two pigs on the property.

14. The Appellant presented a number of documents that evidenced its engagement in farming activities, which documents indicated agricultural operations at locations other than this Property.

15. The Appellant did not present any pictures showing agricultural activities on the Property.

16. Mr. James Therrell, who owns the adjacent property, testified to ongoing towing service activities on the Property and showed pictures and videos of such activity for a number of different dates and times.

17. Officer Lowe's photographs showed tow trucks on the Property, as well as a pile of old lawnmowers, an old disassembled trailer and other debris.

Based on the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS OF LAW

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.

2. The Appellant is subject to the provisions of the Ordinance to the extent that it is conducting uses of the Property that are not part of a bona fide farm or are not agricultural uses.

3. There is substantial, material and competent evidence that the Appellant is using the Property to operate both a towing service and a salvage yard.

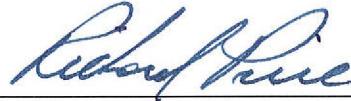
4. The evidence is uncontradicted that the Appellant obtained no zoning permit or any other required permit for the Property or for the buildings erected on the Property, with the exception of one electrical permit.

5. There is no evidence that the Zoning Administrator's interpretation of the Ordinance relative to the Appellant's use of the Property was arbitrary, capricious or contrary to the law.

6. There is no evidence to support any claim of a defect in the proceedings involving this appeal.

Based on the foregoing Findings of Fact and Conclusions of Law, it is the unanimous decision of the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, that the interpretation of the above-referenced provisions of the Ordinance by the Zoning Administrator, as applied to Appellant's Property, is upheld and affirmed.

This 7th day of February, 2016, *nunc pro tunc* to November 10, 2015.



MR. RICHARD PRICE,
VICE CHAIR PRESIDING
CABARRUS PLANNING AND
ZONING COMMISSION, sitting as
the BOARD OF ADJUSTMENT

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

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

Petition: APPL2015-00004
Appeal of Interpretation of Cabarrus County Zoning and Subdivision Ordinances

Appellant Information: CARTER'S TOWING, INC.
P O BOX 1519
MT PLEASANT, NC 28124

Zoning: Agriculture Open

Property Location: Generally located off Highway 49 near the Cabarrus County line

Property Address: 10813 Highway 49 North or 1348 St. Stephens Church Road

PIN#: 5681-46-3664

Request:

Appeal of Notice of Violation ZNC2013-00070 for conducting a land use that is not permitted in a particular zone, more specifically, a towing service and a salvage operation in the AO zoning district without the proper permits.

Applicant contends that site is not being used as a towing service or a salvage yard and that site is a bona fide farm and exempt from zoning and zoning/building permitting.

History

General

Appellant, Carter's Towing, Inc. has been the owner of the subject property since October of 2008. (See Deed)

During the course of ownership from 2008-2015, several buildings have been placed on the site without permits. (See pictures, GIS pictometry images)

3/28/2013

Officer Lowe made a site inspection in response to complaint. No violations apparent in site.

5/8/2013

Follow up site visit by Officer Lowe in response to another complaint. No violations apparent on site.

7/3/2013

A building has been placed on the property. The building was not permitted through zoning.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

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

6/9/2014

Site visit, owner on site. Officer Lowe approached the owner and expressed his concerns regarding the site and the complaints that he keeps receiving about the site. Owner indicated that the site was private property and asked Officer Lowe to leave the premises. During this site visit, Officer Lowe observed at least two wreckers on site.

6/20/2014

Officer Lowe made a follow up site inspection and took additional pictures from the road. There was one wrecker located on the site.

6/3/2015

Officer Lowe made a follow up site inspection and took additional pictures of the site. Additional buildings had been placed on the site. No permits were issued for these buildings. At least one wrecker was parked on the property. There are no signs of agricultural activity on the site.

6/19/2015

A warning citation was issued and sent by certified and by regular mail. (See Citation dated 6/19/2015 and mail receipts)

8/12/2015

Officer Lowe made a follow up site inspection and took additional pictures. One tow truck was parked across the street.

8/20/2015

Violation letter issued with \$100.00 citation and sent via regular and certified mail. (See Citation dated 8/20/2015 and mail receipts)

8/26/2015

Applicant signed for citation.

9/22/2015

Applicant submitted application for appeal of Violation to Cabarrus County Planning and Development Department via Mr. Sam Davis, appellant's attorney.

Findings

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

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

Mr. Davis, attorney for the appellant, is appealing the Notice of Violation as it relates to the following:

- A. Cabarrus County Zoning Ordinance Chapter 03-07 Conducting a land use that is not permitted in a particular zone
- B. Cabarrus County Zoning Ordinance Chapter 03-08 Table of permitted uses
- C. Cabarrus County Zoning Ordinance Chapter 06-02 Zoning affects every structure and use
- D. Cabarrus County Zoning Ordinance Chapter 07-04 Operation of a use based on standards without a zoning compliance permit
- E. Cabarrus County Zoning Ordinance Chapter 07-21 Operating a salvage yard in a residential area
- F. Cabarrus County Zoning Ordinance Chapter 12-03 Zoning compliance permit required
- G. Cabarrus County Zoning Ordinance Chapter 12-08 Site Development Plan Required

Mr. Davis contends that the property is not being used for a towing business or as salvage yard and that it is a bona fide farm use and exempt from zoning.

Chapter 1, General Provisions

Pursuant to Chapter 1, Section 1-4, Bona fide farms exempt, of the Cabarrus County Zoning Ordinance:

The provisions of this Ordinance shall not affect bona fide farms, owner-operated or leased, but any farm property used for non-farm purposes shall be subject to the provisions of this Ordinance. For purposes of this Ordinance, see Chapter 2, Rules of Construction and Definitions, for the definition of a Bona Fide Farm.

A towing service is classified as a commercial use and a salvage yard is classified as an industrial use (See Table 3-8), therefore, these uses are not considered bona fide farm activities, are considered non-farm purposes, and are not exempt for zoning. Buildings or structures that are used for non-farm purposes are not exempt from zoning or building permitting.

Permits have not been secured on the site for a towing service or a salvage yard as a permitted use nor have permits been secured for structures that have been erected on the site.

Chapter 2, Rules of Construction and Definitions

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

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

Pursuant to Chapter 2 of the Cabarrus County Zoning Ordinance, the following definitions are applicable to this appeal:

TOWING SERVICE - Businesses primarily engaged in pulling or hauling vehicles in the case of breakdowns or collisions or that may be impounded for legal reasons.

SALVAGE YARD - An establishment operated for the purpose of storing, dismantling, salvaging, recycling, buying or selling scrap or used materials such as paper, metals, rubber, rags, glass, wrecked, used or dismantled products and articles, such as machinery, vehicles, appliances and the like. Also known as a Junk Yard.

AGRICULTURE – Agriculture is defined as:

- a. The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
- b. The planting and production of trees and timber.
- c. Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
- d. Aquaculture as defined in NCGS 106-758.
- e. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
- f. When performed on the farm, agriculture also includes the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm. When performed on the farm shall include the farm within the jurisdiction of the county and any other farm owned, or leased to or from others, by the bona fide farm operator, no matter where located.
- g. A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry and store grain.

AGRICULTURAL LAND - Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program.

FARM, BONA FIDE - The production and activities relating to or incidental to the production

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

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

of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in North Carolina General Statute § 106-581.1. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to North Carolina General Statute § 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- d. A forest management plan.
- e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

Chapter 3, Establishment of Zones

According to Chapter 3, a Towing Service, with Towed Vehicle Storage Yard, No Salvage of Part Sales, as a primary use is considered a commercial use and is allowed in the Agriculture Open (AO) zoning district based on standards only. (See attached for the required standards.)

A Salvage yard is considered an industrial use and permitted in the General Industrial (GI) zoning district only based on standards. (See attached for the required standards.)

The subject property is currently zoned Agriculture Open (AO). Therefore, a towing service could be permitted if the site meets all applicable standards of the ordinance as well as the additional standards in Chapter 7. Site plan review and zoning permitting approval are required for these types of uses.

The applicant has not submitted for zoning site plan review or permitting for a towing service at this site. At this time, it is unclear as to whether or not the applicant would be able to meet the additional standards required for a towing service at this particular location.

A salvage yard is not permitted on the site since the site is zoned Agriculture Open (AO). Salvage yards are only permitted in the General Industrial (GI) zoning district.

Chapter 12, Administration and Enforcement

According to Chapter 12, Section 12-3, Certificates of Zoning Compliance Permit required:

A Zoning Compliance Permit must be obtained from the Zoning Administrator prior to the use or occupancy of any building or premises, or both, hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

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

No permits have been issued by Cabarrus County Zoning for this site for either a towing service or a salvage yard.

- It is unknown at this time as to whether or not a permit could be secured for the site for a towing service since it is permitted based on standards.
- A permit cannot be issued in the AO district for a salvage yard since it is only permitted in the GI zoning district.

Permits have not been issued for the structures located on the site as commercial structures or as agriculture related structures.

NOTE: If this site was a bona fide farm and the buildings were used for agriculture, a zoning permit would be issued for farm use at no charge so that the applicant could proceed with building trade permitting as needed.

Exhibits

1. Appeal application
2. Notice of Violation dated 6/19/2015 and mail receipts
3. Notice of Violation dated 8/20/2015 and mail receipts
4. Officer Lowe's case history and notes
5. Pictures of site taken by Officer Lowe from March of 2014 to August of 2015
 - a. March 2014
 - b. April 2014
 - c. May 2014
 - d. June 2014
 - e. June 2015
 - f. August 2015
6. Documentation from Facebook promoting business with site address
7. Copy of Permitted Use Table from Chapter 3 of the Zoning Ordinance and applicable standards for Towing Service and Salvage Yard from Chapter 7
8. Adjacent property owner list
9. Copy of letter sent to adjacent property owners
10. Maps
11. Pictometry images from Cabarrus County GIS for PIN 5681-46-3664
12. Property deed
13. Appraisal card
14. NCGS §153A-340. Grant of power.



PEC
8-22-15
#257.50

APPEAL OF ADMINISTRATIVE DECISION OR INTERPRETATION
OF THE ZONING ORDINANCE

In order to request an appeal from an interpretation or administrative decision made by the Zoning Administrator, the applicant must submit the following:

1. Complete application
2. Fee of \$250.00 + 3% technology fee
3. Copies of any documentation to be submitted to the Board of Adjustment as evidence.
(If large format copies are included in the documentation, applicant must submit 18 copies.)

If there are additional questions concerning this process, please call the Commerce Department at (704) 920-2141, Monday through Friday, 8AM to 5PM.

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

To the Cabarrus County Board of Adjustment:

I, Carter's Towing, Inc., hereby appeal the following decision of the Zoning Administrator to the Board of Adjustment:

Notice of Violation File # ZNC 2013-00070, Inspection Date 08/20/2015

Nature of Violation: Illegal Business

You may attach additional sheet(s) if needed.

I request an interpretation of:

The Zoning Atlas (Zoning classification of subject property)
 The following section(s) of the Zoning Ordinance:

You may attach additional sheet(s) if needed.

APPLICATION CERTIFICATION

I certify that all of the information presented by me in this application is, to the best of my knowledge, true and correct.

Fonda Carter VP

Signature of Applicant

PO Box 1519

Address

Mt. Pleasant, NC 28124

City, State, Zip Code

704-791-1966

Phone Number

704-665-5644

Fax Number

carterstowinginc@yahoo.com

E-mail Address

Samuel F. Davis, Jr.

Represented By

PO Box 368

Address

Concord, NC 28026-0368

City, State, Zip Code

704-786-5161

Phone Number

704-788-8058

Fax Number

sdavis@hwpalaw.com

E-mail Address

Attachment to Appeal of Carter's Towing, Inc. to Administrative Decision
File No. ZNC2013-00070

In support of this appeal, Carter Towing, Inc., the owner of the above-referenced property states:

The Notice of Violation states, "It *seems* you are still staging your towing service (wrecker business) from this location. Also, it *seems* that you have started an illegal salvage type operation at this site." (Emphasis added).

The owner-appellant is not staging its towing service from this location, and the appellant has not and is not conducting a salvage type operation at this site. The owner operates its towing service from another location – 9903 Highway 73 East, Mt Pleasant, NC 28124.

The owner is using and intends to continue to use the property in connection with the agricultural operations of Roger and Fonda Carter, the officers and shareholders of Carter's Towing, Inc. The Carters own land in Stanly County, on which they raise cattle and hay. Fonda Carter has a meat handler's license from the NC Dept of Agriculture to enable her to sell meat that is grown by them. The owner is in the process of conveying the subject property to Roger and Fonda Carter to avoid further confusion.

A Notice of Violation dated 06/19/2015 was issued making the same claims. The owner explained at that time that it was not operating its towing business or a salvage yard. However, the owner did agree to move some old lawnmowers and other scrap metal, which was hauled to Rufus Kiser & Sons, Inc. on 07/22/2015. It also converted a travel trailer to a trailer that can be used in its farming operation.

Exhibits attached.

Business Corporation Annual Report for Carter's Towing, Inc.

Stanly County Property Card showing valuation as agricultural land

Meat Handler's License

Receipt from Rufus Kiser & Sons, Inc.

CD-479 (45)
10-22-13

Business Corporation Annual Report

SOSID: 0782578
Date Filed: 4/9/2015 1:49:00 PM
Elaine F. Marshall
North Carolina Secretary of State

CA2015 099 07978
MAN 1 6 2015

Name of Business Corporation: CARTER'S TOWING INC

Secretary of State ID: 0782578

State of Formation: NC

Fiscal Year Ending: 12 31 14

I hereby certify that an annual report completed in its entirety has been submitted and the information requested below (required by NCGS 55-16-22) has not changed and is therefore complete.

Section A: Registered Agent's Information

1. Name of Registered Agent: FONDA CLODFELTER CARTER

2. Signature of the New Registered Agent:

(Signature constitutes consent to the appointment)

3. Registered Office Street Address & County
9903 HIGHWAY 73 EAST
MOUNT PLEASANT NC 28124
CABARRUS

4. Registered Office Mailing Address
9903 HIGHWAY 73 EAST
MT PLEASANT NC

Section B: Principal Office Information

1. Description of Nature of Business: WRECKER SERVICE

2. Principal Office Phone Number: 7044369255

3. Principal Office Email:

4. Principal Office Street Address & County

5. Principal Office Mailing Address

10813 HIGHWAY 49 NORTH
MOUNT PLEASANT NC 28124
CABARRUS

9903 HIGHWAY 73 EAST
MOUNT PLEASANT NC 28124

Section C: Officers (Enter additional Officers in Section E.)

Name: ROGER A CARTER

Name: FONDA C CARTER

Name:

Title: PRESIDENT

Title: VICE PRESIDENT

Title:

Address: 9903 HIGHWAY 73 EA Address: 9903 HIGHWAY 73 EA Address:
MOUNT PLEASANT MOUNT PLEASANT
NC 28124 NC 28124

Section D: Certification of Annual Report Section D must be completed in its entirety and signed by a person listed under Section C, or a person signing for an entity listed under Section C.

Fonda C. Carter

Signature (Form must be signed by an officer of corporation)

02-19-2015

Date

FONDA C CARTER

Print or Type Name of Officer

VICE PRESIDENT

Title

OWNERSHIP: 25.582
 CARTER, ROGER A
 CARTER, LORIDA C
 108.5 AC. 4.9 HWY N
 MF PLAIN SANT MC 28124
 DEED: 1261 9.02

111G LOT 1
 2152 OPEN CULT. F
 3158 WOODLAND F
 TOTALS
 LAND VALUE: 656.91
 LAND USE: 1889.2

DETAILED VALUE: 467.69

OWNERSHIP: 25.582	2015	9/31/2015	PROPERTY DESCRIPTION M/11 23607 WOODY WAY	TAX SUBDIVISIONS RIDEAU TWP	MAP NUMBER 660202 / 6421	CARD NO 1
CARTER, ROGER A			RICHFIELD - MICHENHEIMER FD	ROUTE: RUEE 31	RECORD NUMBER: 19715	
CARTER, LORIDA C			LISTER: RUEE			
108.5 AC. 4.9 HWY N			KEYLEN: KK	9232013		
MF PLAIN SANT MC 28124			ACREAGE:	RATE	USE VALUE	
DEED: 1261 9.02			UNITS	LND. VALUE		
			1.00	12000		
			10.20	40131 OPEN F	10,200	12000
			3.80	13560 WOOD F	3,800	6000
				65691	230.00	874
					1889.2	

LAND VALUE:		OTHER F.EAT		SIZE		BASE RATE & SIZE %		ADJ RATE %		UNITS		OG %		RCN %		COND %		CFB		VALD									
60	1	BMETALBLD	3.0	6.0	1.2	0.0	.92	11	.40	1800	11	.10							23256										
61	1	BESHED	6.0	9.0	5.0	0.0	.65	3	.250	5880	11	.30							23259										
62	1	65 STORAGE	1.2	1.2	5.70	1	.18	6	.736	1440	1	.00							291										
63	1	9 BSTOP	6.72	1	15.00	1	.02	15	.300	672	11	.30							4010										
OTHER VALUE:		END ALIATION		X BRITISH		HEAT & AIR		COEF MTR		SIZE / QTY		DEPR %		ALTEP4		44410													
BRICK		ALUM/VYL		CUTTRLHTA		PREF NAME		1.00		STHIT		WALL																	
												2		BDRM		1.00		SWF											
DIMENSIONS:		A-DU14D86DD14DU6		B-MR36DD7DD9DU7DD4		C-MUL4MR23DU3DU4DD3DU4		STRUCTURE		SIZE		WALL		ADJ RATE %		AREAS % CAMP-		COST		OG %		OG RCN %		DEPR %		COND %		EMV	
STRUCTURE		SKTCH-SF		STH		BASE RATE %		ADJ RATE %		28.670		924		1.00		924		1.00		26491									
A	2	SWFL	9.24	1	.00	30.50	1	.94	2.00		2.000					924	1	.00		1848		(NO OG %)							
A	3	CUTTRLHTA														924	1	.00				(NO OG %)							
B	4	ALUM/VYL																											
B	5	1.00 FULL BAT																											
B	6	DECK	2.8		2.300	0.00					2300	0.00																	
B	7	DECK	1.0		10.75	1	.21				13.007																		
B	8	DECK	1.0		10.75	1	.21				13.007																		
B	9	DECK	1.0		10.75	1	.21				13.007																		
B	10	BSF:	9.24	0.00																									
STRUCTURE VALUE:		SCOMP: 100		STRUCTURE VALUE:		14.68		OGKCNS100		4.11		EMV/HSF		4.11		7.72		-3801										3801	

VALUATION	PROPERTY	VALUATION	VALUATION	VALUATION	VALUATION
LAND	65691	65691	65691	65691	43791/AC
OTHER FEAT.	49910	49910	49910	49910	119402
STRUCTURE	3801	3801	3801	3801	119402
TOTAL	119402	119402	119402	119402	119402

N.C. DEPARTMENT OF AGRICULTURE
 MEAT & POULTRY INSPECTION DIVISION
 REGISTRATION OF POULTRY & MEAT HANDLERS

RETURN THIS REPORT TO:

Director
 N.C. Department of Agriculture and Consumer Services
 Meat and Poultry Inspection Division
 Agriculture Building
 1001 Mail Service Center
 Raleigh, North Carolina 27699-1001

NAME AND MAILING ADDRESS OF REGISTRANT (Including ZIP Code)

Fonda Carter
 Fondal Farms

FARM ADDRESS:
 10813 Hwy. 49 N.
 Mt. Pleasant, NC 28124

phone: 704-791-1966

email: carterstowinginc@yahoo.com

latitude, longitude:

35.4360902, -80.3955285

3. NATURE OF BUSINESS

A. POULTRY OR POULTRY PRODUCTS dealers, etc. (Check as appropriate)

(1) Are you engaged in business (in or for commerce*) as a poultry products broker, renderer, or animal food manufacturer; or do you engage in business in commerce as a wholesaler of any carcasses, or parts or products of carcasses, of any poultry, whether intended for human food or other purposes; or do you engage in business as a public warehouseman storing any such articles in or for commerce? Individually Owned

YES NO

(2) Are you engaged in the business of buying, selling, or transporting in commerce, or importing, any dead, dying, disabled, or diseased animals of the kinds specified in item A (1) above, or parts of the carcasses of any such animals that died otherwise than by slaughter? Partnership

B. MEAT OR MEAT PRODUCTS dealers, etc. (Check as appropriate)

(1) Are you engaged in business (in or for commerce*) as a meat broker, renderer, or animal food manufacturer; or are you engaged in business in commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any cattle, sheep, swine, goats, horses, mules, or equines, whether intended for human food or other purposes; or are you engaged in business as a public warehouseman storing any such articles in or for commerce? Corporation chartered in State of _____

YES NO

(2) Are you engaged in the business of buying, selling or transporting in commerce or importing, any dead, dying, disabled, or diseased animals of the kinds specified in item B (1) above, or parts of the carcasses of any such animals that died otherwise than by slaughter? Cooperative Association

* The term "commerce" means commerce between any State, any territory, or the District of Columbia, and any place outside thereof; or within any territory not organized with a legislative body, or the District of Columbia.

4. IF THE ANSWER TO ANY OF THE QUESTIONS IN ITEM 3 ABOVE IS "YES", COMPLETE THE FOLLOWING:

A. Name of your firm, and address (include ZIP Code) if different from item 1.

same as above

B. Address(es) of subsidiaries, branches, or divisions of your organization which engage in business of the type identified in item B. Include trade or other names if different from your organization's. (If none, so state.)

N/A

C. Describe the general nature of your own business. Also describe separately the nature of the business of your subsidiaries, if any, if this is different from that of the parent firm.

Ms. Carter will transport animals to a USDA or NCDA inspected slaughterhouse/processor for product preparation.

5. REMARKS

RECOMMEND REGISTRATION

DATE	TITLE
Nov 12, 2014	

CERTIFICATION BY FIRM

TYPED OR PRINTED NAME

Fonda Carter

SIGNATURE

Fonda Carter

NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
MEAT AND POULTRY INSPECTION DIVISION
COMPLIANCE PROGRAM
RALEIGH, NORTH CAROLINA 27601

MP-2 COMPLIANCE REVIEW

1. Type Establishment Reviewed:	2. Type Review:	
<input type="checkbox"/> Cold Storage Facility <input type="checkbox"/> Distributor	<input checked="" type="checkbox"/> Meat & Poultry Handler <input type="checkbox"/> Salvage	<input checked="" type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Other
3. Reviewed By:	4. Date:	5. DOLR:
James Lee Hunter, DVM, RVMO	Nov. 12, 2014	
6. Firm Name and Address: Fonda Carter Fondal Farms 10813 Hwy. 49 N. Mt. Pleasant, NC 28124 phone: 704-791-1966 email: carterstowinginc@yahoo.com	7. Directions to Location:	
8. Owner/Manager: Fonda Carter (farmer)	9. Met With (Name and Title): Fonda Carter (farmer)	
10. Firm Operates As: (Door-to-door, Cold Storage, etc.) Meat handler	11. Area of Operation: (NC, SC, VA, etc.) NC	
12. Cooler/Freezer: (Temp, housekeeping off floor, from walls, etc.) VERTICAL freezer with thermometer	13. Vehicle: (delivery) pick-up truck or van carrying coolers or small chest freezer	
14. Dry Storage: N/A	15. Outside Premises: N/A	
16. Rodent Control: (Bait boxes, Contract Service, etc.) doors sealed against rodents and insects	17. NCDA and/or USDA Inspected Product: vacuum packed NCDA labeled product	
18. Return Goods: (Handling) dispose of as garbage	19. Disposition: (Damaged, Unwholesome Products) dispose of as garbage	
20. Examination of Meat and Poultry Products: vacuum packed USDA/NCDACS labeled product		
21. Physical Observation: acceptable		
22. Receiving/Handling/Shipping Practices: discussed in detail proper transportation, proper rotation of product, storage, adequate refrigeration, etc.		

✓ Meeting with Warehouse Management Officials:
/A

24. Records Review for Evidence of Gross Negligence:

N/A

25. Corrections to be Made - By Firm:

26. Recommendations/Remarks/Risk Category:

Ms. Carter raises cattle. Cattle will be transported to Cruse Meat Processing, P-65, 4701 Rimer Road, Concord, NC 28025. Carcasses will be processed as retail label. Product will be sold directly to the public.

Grant registration as meat handler

Place in risk category 3

FARMER'S SIGNATURE BELOW:

Jonda Carter

27. Contact Information:

a. Phone Number:

704-791-1966

b. Cell Phone Number:

c. FAX Number:

Rufus Kiser & Sons, Inc.

CAR CRUSHING

1000 Warren C. Coleman Blvd.

Concord, NC 28025

704-786-3613

49

TIME & DATE	WEIGHT	GROSS
10:17 07-22-15	17340 lb 6	TARE
10:24 07-22-15	15680 lb 6	NET
	1660	

I hereby certify that I am the lawful owner of the merchandise listed above, and this merchandise is free of encumbrances, and that I am of legal age.

I also certify that the weights I accept from Rufus Kiser & Sons, are

correct and final and receipt of \$ 99.60

is hereby acknowledged as payment in full for the merchandise I am selling to Rufus Kiser & Sons.

ACCEPTED Mark

SELLER _____

Load of Scrap

VIN # _____

To Kevin Carter
Price 6.00
Amt. \$ 99.60
Weigher VMC

PAID CASH



James Lowe
Senior Zoning Inspector

6/19/2015

File #: ZNC2013-00070

Inspection Date: 06/19/2015

Carter's Towing Inc A Nc Corp
10813 Highway 49 East
Mt Pleasant, NC 28124

NOTICE OF VIOLATION

RE: 10813 N C 49 HWY

Zoning: AO

Parcel(s): 56814636640000

Nature of Violation: Illegal Business

The following provision(s) of the CABARRUS COUNTY Zoning Ordinance has been violated:

03-07 CONDUCTING A LAND USE THAT IS NOT PERMITTED IN A PARTICULAR ZONE

03-08 TABLE OF PERMITTED USES

06-02 ZONING AFFECTS EVERY STRUCTURE AND USE

07-04 OPERATION OF A USE BASED ON STANDARDS WITHOUT A ZONING COMPLIANCE PERMIT

07-21 OPERATING A SALVAGE YARD IN A RESIDENTIAL AREA

12-03 ZONING COMPLIANCE PERMIT REQUIRED

12-08 SITE DEVELOPMENT PLAN REQUIRED

Dear Carter's Towing Inc A Nc Corp,

An on-site inspection of your property has found you to be in violation of the Cabarrus County Zoning Ordinance.

It seems that you have started staging your towing service (wrecker business) from this location.

Also, it seems that you have started an illegal salvage type operation at this site.

As a reminder, per section 3-8 of the Cabarrus County Ordinance (Table of Permitted Uses), salvage yards are not permitted in the Agricultural Open Zone and towing services are only permitted if you can demonstrate that you can meet the performance based standards requirements as listed in Chapter 7.

This notice is to serve as a Warning Citation

In order to correct this violation you must:

Stop all towing service activities that are taking place at this site.

Remove all salvage material including dismantled lawn mowers, recreational vehicles and building material.

Also, all buildings on the property must be either permitted or removed.

You have 30 days from the receipt of this letter to comply with this ordinance.

You may appeal this decision to the Board of Adjustment within thirty (30) days. This department reserves the right to exercise the following remedies per NC G.S.153A-123:

- Issue a civil starting at \$100.00 and if unpaid a judgment could become a lien on the property.

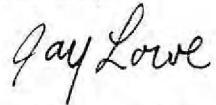
- File lawsuit against a property owner in North Carolina Superior Court for violation of the Zoning Ordinance.

In order to avoid any monetary citations please correct this matter within the aforementioned time frame.

If you have any questions concerning this matter or if you are in the process of clearing this matter, please call our office at (704) 920-2159 so we can make appropriate arrangements.

Thank you in advance for your cooperation.

Sincerely,



James Lowe, Senior Zoning Inspector

Cabarrus County Zoning Ordinance Reference

Section 12-27. Violations

In addition to any other remedies cited in this section for the enforcement of the provisions of this Ordinance, the regulations and standards herein may be enforced through the issuance of citations by the Zoning Office in accordance with G.S. 153A-123. These citations are in the form of a civil penalty. The County may recover this penalty in a civil action in the nature of a debt if the offender does not pay the penalty within 72 hours after being cited for a violation. In addition, failure to pay the civil penalty within 72 hours may subject the violator to criminal charges.

The following civil penalties are established for violations under this Ordinance:

Warning Citation	Correct the violation within ten days
First Citations	\$ 100.00
Second Citation for the same offense	\$ 200.00
Third and subsequent citations for the same offense	\$ 400.00
Disturbed Acre in Required Open Space	\$ 500.00 plus Replacement Planting Equal to 20 Large Maturing Trees and 40 Large Shrubs per Acre (tree and shrub sizes shall be in accordance with the buffer standards)
Disturbed Acre in Required Buffer	\$ 500.00 plus Replacement Planting to Meet Buffer Standard

These civil penalties are in addition to any other penalties which may be imposed by a court for violation of the provisions of the zoning ordinance.

Section 12-28. Penalties

Any person adjudged in violation of this ordinance shall be guilty of a misdemeanor and shall be punished as provided in General Statute I4-4.

Section 12-29. Remedies

If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure or land is used in violation of this Ordinance, the Zoning Administrator, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct business or use in or about the premises.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CARTER'S TOWING INC A NC CORP
10813 NC HWY 49 EAST
MT PLEASANT NC 28124

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

S. Carter Agent
 Addressee

B. Received by (Printed Name)

Samantha Kell 10/29/05

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number:

7004 1160 0002 6994 6968

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Jay Lane

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

2004 1160 0002 6994 6968

Postage	\$	<i>10/23/2015</i> Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To

Street, Apt. No.,
or PO Box No.
City, State, Zip

CARTER'S TOWING INC A NC CORP
10813 NC HWY 49 EAST
MT PLEASANT NC 28124

PS Form 3800, June 2002

See Reverse for Instructions



James Lowe
Senior Zoning Inspector

8/20/2015

File # : ZNC2013-00070

Carter's Towing Inc A Nc Corp
10813 Highway 49 East
Mt Pleasant, NC 28124

Inspection Date: 08/20/2015

NOTICE OF VIOLATION

RE: 10813 N C 49 HWY

Zoning: AO

Parcel(s): 56814636640000

Nature of Violation: Illegal Business

The following provision(s) of the CABARRUS COUNTY Zoning Ordinance has been violated:

03-07 CONDUCTING A LAND USE THAT IS NOT PERMITTED IN A PARTICULAR ZONE

03-08 TABLE OF PERMITTED USES

06-02 ZONING AFFECTS EVERY STRUCTURE AND USE

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07-21 OPERATING A SALVAGE YARD IN A RESIDENTIAL AREA

12-03 ZONING COMPLIANCE PERMIT REQUIRED

12-08 SITE DEVELOPMENT PLAN REQUIRED

Dear Carter's Towing Inc A Nc Corp,

An on-site inspection of your property has found you to be in violation of the Cabarrus County Zoning Ordinance.

It seems that you are still staging your towing service (wrecker business) from this location.

Also, it seems that you have started an illegal salvage type operation at this site.

As a reminder, per section 3-8 of the Cabarrus County Ordinance (Table of Permitted Uses), salvage yards are not permitted in the Agricultural Open Zone and towing services are only permitted if you can demonstrate that you can meet the performance based standards requirements as listed in Chapter 7.

This notice is to serve as a \$100 Citation

In order to correct this violation you must:

Stop all towing service activities that are taking place at this site.

Remove all salvage material including dismantled lawn mowers, recreational vehicles and building material.

Also, all buildings on the property must be either permitted or removed.

You have 30 days from the receipt of this letter to comply with this ordinance.

You may appeal this decision to the Board of Adjustment within thirty (30) days. This department reserves the right to excercise the following remedies per NC G.S.153A-123:

- Issue a civil starting at \$100.00 and if unpaid a judgment could become a lien on the property.

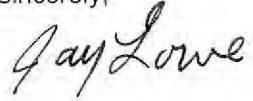
- File lawsuit against a property owner in North Carolina Superior Court for violation of the Zoning Ordinance.

In order to avoid any monetary citations please correct this matter within the aforementioned time frame.

If you have any questions concerning this matter or if you are in the process of clearing this matter, please call our office at (704) 920-2159 so we can make appropriate arrangements.

Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "James Lowe". The signature is fluid and cursive, with "James" on the top line and "Lowe" on the bottom line.

James Lowe, Senior Zoning Inspector

Cabarrus County Zoning Ordinance Reference

Section 12-27. Violations

In addition to any other remedies cited in this section for the enforcement of the provisions of this Ordinance, the regulations and standards herein may be enforced through the issuance of citations by the Zoning Office in accordance with G.S. 153A-123. These citations are in the form of a civil penalty. The County may recover this penalty in a civil action in the nature of a debt if the offender does not pay the penalty within 72 hours after being cited for a violation. In addition, failure to pay the civil penalty within 72 hours may subject the violator to criminal charges.

The following civil penalties are established for violations under this Ordinance:

Warning Citation	Correct the violation within ten days
First Citations	\$ 100.00
Second Citation for the same offense	\$ 200.00
Third and subsequent citations for the same offense	\$ 400.00
Disturbed Acre in Required Open Space	\$ 500.00 plus Replacement Planting Equal to 20 Large Maturing Trees and 40 Large Shrubs per Acre (tree and shrub sizes shall be in accordance with the buffer standards)
Disturbed Acre in Required Buffer	\$ 500.00 plus Replacement Planting to Meet Buffer Standard

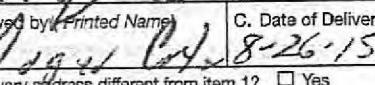
These civil penalties are in addition to any other penalties which may be imposed by a court for violation of the provisions of the zoning ordinance.

Section 12-28. Penalties

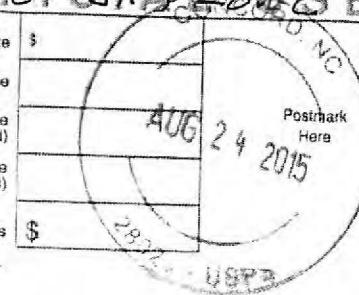
Any person adjudged in violation of this ordinance shall be guilty of a misdemeanor and shall be punished as provided in General Statute I4-4.

Section 12-29. Remedies

If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure or land is used in violation of this Ordinance, the Zoning Administrator, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct business or use in or about the premises.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature </p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by/Printed Name </p> <p>C. Date of Delivery 8-26-15</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
1. Article Addressed to:			
 CARTER'S TOWING INC A NC CORP 10813 HIGHWAY 49 EAST MT PLEASANT NC 28124		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
2. Article (Trans)		7004 1160 0002 6994 7033 	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>		
For delivery information visit our website at www.usps.com		
ZON TNG-GLA-HSE		
7033 6994 2000 0002 1160 7004	Postage	\$
	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$
	 	
<p>Send To</p> <p>Street, Apt. No., or PO Box No.</p> <p>City, State, ZIP+4</p> <p>CARTER'S TOWING INC A NC CORP 10813 HIGHWAY 49 EAST MT PLEASANT NC 28124</p>		
<p>PS Form 3800, June 2002</p> <p>See Reverse for Instructions</p>		

Zoning Complaint: ZNC2013-00070

Wednesday, March 27, 2013

Inspector: James Lowe**Jurisdiction:** Cabarrus County**Complaint:** Illegal Business**Violator:** CARTER'S TOWING INC A NC CORP**Zoning:** AO**Parcel:** 56814636640000**Location:** CORNER OF NC HWY 49 & ST STEPHEN'S CHURCH RD**Address:** 10813 N C 49 HWY**Complaint History**

03/28/2013 **Type: Initial**
 Site inspection was made.
 Looked as though property was being cleaned up.
 Did not see any signs of a violation

05/08/2013 **Type: Follow Up**
 Still no signs of a zoning violation

07/03/2013 **Type: Follow Up**
 A building had been built on the property.
 No signs of any type activity on the property.
 Owner may have farm status and may be going to use the building to house chickens.

06/09/2014 **Type: Follow Up**
 Have been by the property several times within the last several months.
 Have not seen any indication of farm activity on the property.
 Owners continue to place structures on the property without permits.
 Pictures have been taken periodically.
 Saw owner at the property this particular day and stopped by to express my concerns.
 He indicated that it was private property and asked me to leave the premises. I politely gave him a business card and told him that if I could be of any help to call me. I then left the property.
 There were at least two wreckers on the site on this day.

06/20/2014 **Type: Follow Up**
 Site inspection was made.
 More pictures were taken.
 There was one big wrecker on the property

06/03/2015 **Type: Follow Up**
 Site inspection was made.
 Picture was taken.
 Lots of buildings have been placed on the property without permits.
 At least one big wrecker was at the property.
 Did not see any signs of agricultural activity.

06/19/2015 **Type: History**
 Warning citation was sent both certified and regular mail.

08/12/2015 **Type: Follow Up**
Site inspection was made.
More pictures were taken.
One tow truck was now parked across the street.

08/20/2015 **Type: History**
\$100 citation sent via certified and regular mail

08/26/2015 **Type: History**
\$100 citation was signed for and received by owner

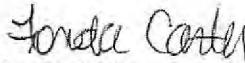
Fonda Farms
10813 Hwy 49 N
Mt Pleasant, NC 28124

To whom it may concern:

We are appealing the attached zoning violation. We have tried contacting the zoning department multiple times to see how to go about appealing.

7/14 1:27pm called
7/14 1:44pm Left message
7/16 10:36am Left message
7/16 11:19am received voicemail to call Jay Lowe
7/16 11:46am left message for Jay

Thank you,



Fonda Carter
owner



James Lowe
Senior Zoning Inspector

6/19/2015

Carter's Towing Inc A Nc Corp
10813 Highway 49 East
Mt Pleasant, NC 28124

File #: ZNC2013-00070

Inspection Date: 06/19/2015

NOTICE OF VIOLATION

RE: 10813 N C 49 HWY

Zoning: AO

Parcel(s): 56814636640000

Nature of Violation: Illegal Business

The following provision(s) of the CABARRUS COUNTY Zoning Ordinance has been violated:

03-07 CONDUCTING A LAND USE THAT IS NOT PERMITTED IN A PARTICULAR ZONE

03-08 TABLE OF PERMITTED USES

06-02 ZONING AFFECTS EVERY STRUCTURE AND USE

07-04 OPERATION OF A USE BASED ON STANDARDS WITHOUT A ZONING COMPLIANCE PERMIT

07-21 OPERATING A SALVAGE YARD IN A RESIDENTIAL AREA

12-03 ZONING COMPLIANCE PERMIT REQUIRED

12-08 SITE DEVELOPMENT PLAN REQUIRED

Dear Carter's Towing Inc A Nc Corp,

An on-site inspection of your property has found you to be in violation of the Cabarrus County Zoning Ordinance.

It seems that you have started staging your towing service (wrecker business) from this location.

Also, it seems that you have started an illegal salvage type operation at this site.

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You may appeal this decision to the Board of Adjustment within thirty (30) days. This department reserves the right to exercise the following remedies per NC G.S.153A-123:

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If you have any questions concerning this matter or if you are in the process of clearing this matter, please call our office at (704) 920-2159 so we can make appropriate arrangements.

Thank you in advance for your cooperation.

From: Pondal Farms
1308 St. Stephen Church Rd.
Mt. Pleasant, NC 28124

Included: NC Department of Revenue
Agricultural ~~Exemption~~ ID 141790
NC Tax ID 46-2559501
Loan papers from Carolina Farm Credit
pledged as collateral
Lease payment to Carter's Towing
for \$50 per week for 60 months
Paid in full

Information Received By

for Jay Lowe on 5/17/13

Thank you

Secretary Dorothy Keel



North Carolina Department of Revenue
P.O. Box 871, Raleigh, North Carolina 27602-0871

Beverly Eaves Perdue
Governor

June 14, 2010

Kenneth R. Lay
Secretary

Ms Fonda Carter
24685E Matton Grove Church Rd
Goldhill NC 28071

Dear Ms Carter:

We are in receipt of your application for an exemption number for qualified purchases. We are assigning Agricultural Exemption Number 141790 to be used for purchasing tangible personal property exempt from tax based on your status as a purchaser and the intended use of the property. This letter should be retained for future reference. The perforated card bearing your exemption number at the bottom of this letter can be detached for your convenience.

This exemption number should be used in conjunction with Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption. This exemption certificate authorizes a retailer to sell tangible personal property to the holder of the certificate and not collect tax on the sale. A person who purchases tangible personal property under an exemption certificate is liable for any tax due on the sale if the Department determines that the person is not eligible for the certificate or the property was not used as intended.

Sales and Use Tax Directive SD-04-1 provides information on use of the exemption certificate and is available on the Department's website at www.dornc.com or by calling the Department's Forms Line at telephone number 1-877-252-3052.

If you have questions regarding the use of the exemption number or certificate, please advise.

Very truly yours,

Ed Strickland
Administration Officer
Sales and Use Tax Division
Telephone No. (919) 733-2151



NC Department of Revenue

Agricultural Exemption

Exemption ID: 141790

Carter Fonda Clodfelter
Fondal Farms
24685E Matton Grove Church Rd
Goldhill NC 28071

Keep this part for your records.

CP 575 G (Rev. 7-2007)

Return this part with any correspondence so we may identify your account. Please correct any errors in your name or address.

CP 575 G

9999999999

FONDA C CARTER
FONDAL FARMS
24685 E MATTON GROVE CHURCH RD
GOLD HILL, NC 28071

 IRS DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

Date of this notice: 04-17-2013

Employer Identification Number:
46-2559501

Form: SS-4

Number of this notice: CP 575 G

FONDA C CARTER
FONDAL FARMS
24685 E MATTON GROVE CHURCH RD
GOLD HILL, NC 28071

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 46-2559501. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

IMPORTANT REMINDERS:

- * Keep a copy of this notice in your permanent records. This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you. You may give a copy of this document to anyone asking for proof of your EIN.
- * Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.
- * Refer to this EIN on your tax-related correspondence and documents.

If you have questions about your EIN, you can call us at the phone number or write to us at the address shown at the top of this notice. If you write, please tear off the stub at the bottom of this notice and send it along with your letter. If you do not need to write us, do not complete and return the stub.

Your name control associated with this EIN is CART. You will need to provide this information, along with your EIN, if you file your returns electronically.

Thank you for your cooperation.

Date: April 19, 2013

Attention: Fondal Farms, et al.
24685E Matton Grove Ch Rd

Gold Hill NC 28071

RE: Loan No: 007 007 05592563-10

Your application with Carolina Farm Credit, ACA ("Association") has been carefully considered, and subject to certain conditions shown hereafter, your loan in the amount of \$35,000.00 has been approved for the following purposes:

Farm Improvements	\$	33,562.25
	\$	
	\$	
	\$	
	\$	
	\$	
<u>Fees And Other Costs Financed</u>	\$	<u>1,437.75</u>
Total of Loan	\$	35,000.00

CONDITIONS OF APPROVAL

1. The term of the loan will be 109 month(s).
2. Payments will be made according to the following schedule:

NUMBER	TYPE	AMOUNT	DESCRIPTION OF DUE DATE
107	Fixed Payment	**installment(s) of \$ 413.74	due Monthly beginning 06/01/2013
		**installment(s) of \$	due
		**installment(s) of \$	due
		**installment(s) of \$	due

And a final installment of the unpaid principal balance of the indebtedness and all accrued interest is due May 01, 2022.

All installments are successive unless otherwise noted and are payable on the same day of the month as the initial installment.

In addition, an interim interest installment shall be payable if loan closing occurs prior to the beginning of the regular cycle of principal and interest. You must pay the interim interest installment at the time of loan closing if it comes due within 45 days after the date the loan is closed.

** Fixed Payment means the installment amount amortizes both principal and interest. Fixed Principal means the installment amortizes principal only and interest is added. Principal Only means the installment amount includes principal only and interest installments are separate. Interest Only means the installment amount includes accrued interest only and principal installments are separate.

3. Fixed Rate Program - The present fixed interest rate of 5.825% has been locked in until has not been locked in. If the present interest rate has not been locked in, you may may not lock in your rate at the time of, and upon your payment of or your agreement to pay any applicable lock-in fee pursuant to Association policy(ies). If your loan is not closed by that date or you choose not to lock in your rate, your rate will be determined at the time of closing. The payment schedule set forth in paragraph 2 above is subject to change in the event you choose not to lock-in.
4. At loan closing, you may be required to pay a fee in an amount determined by Association. You must either own or purchase stock or participation certificates in an amount equal to the lesser of: (1) \$1,000.00 total par value; or (2) 2.00 percent of the amount of the loan to the nearest five dollars. Retirement of such stock or participation certificates is subject to association bylaws and risk of capital impairment. Proceeds of the loan may be used to finance the purchase of the required stock or participation certificates.

6. Association reserves the right to withdraw this loan offer at any time in the event of unavailability of funds.

7. This commitment and any mutually agreed upon modifications thereto shall survive the closing contemplated hereunder, and each and every one of your obligations and undertakings set forth in this commitment shall not cease or terminate until the entire loan, together with interest and fees due thereon, any other amounts which accrue pursuant to this commitment, and/or loan documents executed in conjunction therewith, shall have been paid in full and until all your obligations and undertakings shall have been fully completed and discharged.

8. On or before closing, you shall be required to execute a promissory note and you may be required to execute a real estate mortgage/deed of trust/deed to secure debt and/or security agreement and financing statement, and any other reasonably required documentation necessary to close this transaction, all in form and content satisfactory to Association.

9. You represent and warrant that no environmental contamination is now, or shall hereafter be allowed to be, present on the property offered as security, or otherwise owned or operated by you, and that you and such property are in compliance with all applicable environmental and other Federal, state and local laws, ordinances, rules and regulations. This commitment is further subject to the requirement that you furnish Association with information in form and content satisfactory to Association to confirm that no environmental contamination is present on the property offered as security or otherwise owned or operated by you, that you promptly conduct and complete all investigations, studies, sampling and testing to confirm the foregoing, and in the event that any contamination is present and Association does not terminate this commitment by reason of the same, all remedial actions necessary to clean up and remove all hazardous materials (except those in compliance) from said property are promptly undertaken and completed, all in accordance with applicable Federal, state and local laws, ordinances, rules and regulations.

10. You represent and warrant that, to the best of your knowledge, there are no existing, threatened or pending actions, liens or proceedings affecting the property offered as security or otherwise owned or operated by you or any adjacent property which would adversely affect the said property.

11. All expenses in connection with any loan shall be paid by you, including but not limited to, fees for credit reports, fees for Association's appraisal or cost of independent appraisals, fees for environmental audits and remedial costs (if required by Association), survey expenses, title examination and closing expenses, attorneys' fees, title insurance premium, recording and filing fees, recording/documentary/intangible taxes, and all other customary expenses, all of which shall be paid at or before closing, to the extent ascertainable.

12. Special conditions of approval:

This loan is subject to a prepayment penalty, see loan documents for specifics.

This loan has a floor rate, see loan documents for specifics.

This loan has a rate cap, see loan documents for specifics.

This loan has a balloon payment, see loan documents for specifics.

Escrows may be required as a condition of your loan.

This loan is subject to penalty interest, see loan documents for specifics.

Funds for improvement to be placed in funds held and disbursed as work is done.

The following is pledged as collateral:

1,020 acres, 1348 St Stephens Ch Rd, Mt Pleasant, Cabarrus County, NC 28124

13,000 acres, 24685E Matton Grove Ch Rd, Gold Hill, Stanly County, NC 28071

This commitment is subject to the following requirement. A borrower that is a "legal entity" shall submit evidence satisfactory to the Association of good standing in its state of incorporation or organization and qualification to do business in any applicable jurisdictions. Also, each such legal entity shall provide resolutions of its owners or governing board or other evidence satisfactory to Association of authority of the Borrower to borrow the proceeds of the loan and to execute and deliver the loan documents. "Legal entity" refers to any corporation, partnership, limited liability corporation, limited liability partnership, limited partnership, trust or other type of business entity.

INSURANCE: A policy or other evidence of insurance acceptable to Association, with Association indicated therein as loss payee or mortgagee, must be furnished on the property indicated below:

Type/Description

24685E Matton Grove Church Rd, Gold Hill, NC 28071

Serial or Plat Number
PIN 660202776421

Amount of Insurance Required
Replacement cost of shop

Type/Description

1348 St Stephens Church Rd, Mt Pleasnat, NC 28124

Serial or Plat Number
Parcel 5681-46-3664-0000

Amount of Insurance Required
Replacement cost of building to be built

Type/Description

Serial or Plat Number

Amount of Insurance Required

Type/Description

Serial or Plat Number

Amount of Insurance Required

Type/Description

Serial or Plat Number

Amount of Insurance Required

Type/Description

Serial or Plat Number

Amount of Insurance Required

Type/Description

Serial or Plat Number

Amount of Insurance Required

Said policy must insure building against Fire, Lightning, Explosion, Riot, Civil Commotion, Aircraft, Vehicles, Windstorm, Hail, Smoke, Vandalism, Collapse. Said policy must provide coverage for vehicles and chattels against Upset/Collision, Comprehensive (Other Than Collision Full Coverage), Theft. Additional perils to be insured against are:

YOU SHALL INSURE THE COLLATERAL FOR AMOUNTS EQUAL TO THE REPLACEMENT VALUE OF THE COLLATERAL. Should you fail to insure the collateral as required herein, the Association may, but shall not be required to, insure the property in your name or the Association's name. You shall pay the charge for insurance within thirty days after written notice from the Association or the charge shall be added to the principal balance and be subject to the interest rate stated in the promissory note executed in connection with this loan. In such event, the Association shall have the option to either reschedule the loan described herein for the remaining term, thus increasing the payments to incorporate the amount of the insurance premium, plus interest on such charge, or require a lump sum payment at the end of the loan term. You agree that the amount of insurance purchased by the Association shall be limited to the outstanding loan balance at the time of loss. You authorize the Association to endorse any draft or check which may be payable to you in order to collect any refund or benefits due under the insurance policy and to apply any amounts as collected to your indebtedness.

In addition to other insurance coverages, if the property is located in a government mandated flood area where participation in a Federal Flood Insurance Program is required, upon receipt of notification from Association and within the time period established by Association, you will obtain and maintain flood insurance in such amount as Association requires on all buildings, improvements, fixtures and any mobile home(s), now existing or hereafter erected, placed or maintained on or in the land described in any mortgage/deed of trust/deed to secure debt, together with all other personal property securing any obligations owed to the Association and maintained on or in such buildings, improvements or mobile home(s), until the loans, future advances and all other indebtedness secured by such property is fully paid.

13. If real property is taken as collateral, Federal law may require that this loan be secured by a first lien on the property offered as security, or Association may determine that this loan be secured by a first lien in real property and Association will either require you to obtain a certification of title, acceptable in form and content to Association, from a licensed attorney selected by you from the Association's Approved Attorney's list, or a mortgagee title insurance policy. If other than a first lien is to be taken in real property, Association may, at its sole discretion, require a certification of title from a licensed attorney on its Approved List or mortgagee title insurance. Any attorney chosen by you cannot be related to you and cannot have a lien or any other interest in the collateral property. Any mortgagee title insurance policy, if required, must be in a form acceptable to Association. It must insure Association's interest and be issued by a company acceptable to Association. If a title insurance policy is required, it must insure at least the amount of Association's loan(s) to you. All applicable taxes and assessments related to the real property collateral that are due and payable at the time the loan is closed must be paid in full. If any noncontiguous tracts of land offered as security do not abut a public road, the mortgagee title insurance policy must affirmatively insure access. Any timber on the property securing the loan may not be cut or removed without consent of Association. If you should wish to lease or sell any timber, Association will furnish you with the form to be used in requesting the consent to the lease or sale thereof.
14. This commitment shall terminate (a) on May 19, 2013; or (b) at Association's election, by notice to you, if all the conditions of this commitment have not been satisfied according to their terms, time being of the essence, or if there has been any misrepresentation or any material error in anything submitted to Association regarding the loan; or (c) at Association's election, by notice to you, if there has been any material adverse change in your business operations, financial condition or other circumstances prior to loan closing.

BY: Jarrie Furr
Loan Officer
DATE: April 19, 2013

Borrowers who make or intend to make payments into a Voluntary Advance Conditional Payment Account Fund ("Funds Held Account") hereby acknowledge receipt of a Funds Held disclosure agreement accompanying this Commitment.

This loan is not subject to the Federal Truth-In-Lending Act. This commitment is an offer to make you the loan, subject to the terms and conditions described herein. To accept this commitment (offer) and consummate this loan transaction, you must sign and date below. Upon signing, return promptly to Association office through which the loan is being processed.

PURSUANT TO THE FACT ACT OF 2003, WE MAY PROVIDE INFORMATION TO CREDIT BUREAUS ABOUT AN INSOLVENCY, DELINQUENCY, LATE PAYMENT, OR DEFAULT ON YOUR ACCOUNT TO INCLUDE IN YOUR CREDIT REPORT.

Accepted and agreed to by the undersigned this 23rd day of April, 2013.

Fonda Farms

(L.S.)

Fonda Clodfelter Carter, President

(L.S.)

Fonda Clodfelter Carter, Individually

(L.S.)

Roger Allen Carter, Individually

(L.S.)

07001195

Carolina Farm Credit ACA
Concord Branch Office
PO Box 451
Concord NC 28026
704-786-0193

Customer: 007-007-0614397-0001
Loan: 007-007-0559256310
CARTER'S TOWING

Operating Unit: ACA

Gross Check: \$3,000.00

Check Date: 05/15/2013

Effective Date: 05/15/2013

"We put our profits in your pockets"

ESCROW 5 REFUND

\$3,000.00

Loan Officer: 225

Prepared By: sos

NET PAY: \$3,000.00





Mar 27, 2014 12:00:49



Apr 2, 2014 12:17:33



Apr 16, 2014 11:55:58



May 22, 2014 11:56:53



May 22, 2014 11:57:06



Jun 9, 2014 12:41:13



Jun 20, 2014 3:46:30

WEDNESDAY



2015-06-03 / 11:52 AM

CHURCHES
FOR SALE



2015.JUNE.11 / 1:09 PM



2015 JUNE 01 / 1:05 PM

THURSDAY



2015.JUNE.11 / 1:10 PM

THE
TOWER

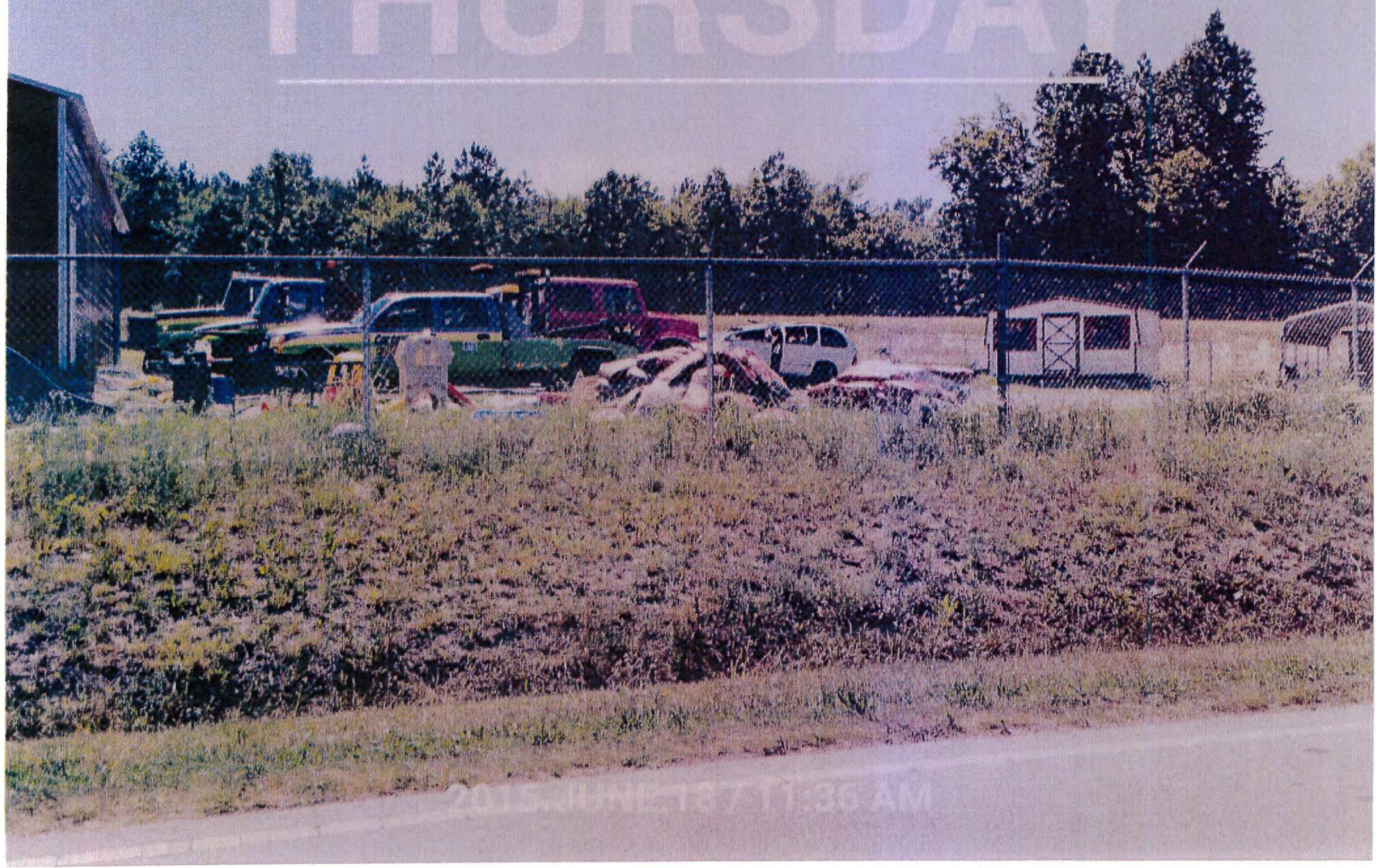


2015.JUNE.11 / 1:09 PM

THURSDAY



THURSDAY



THURSDAY



2016 JUNE 29

THURSDAY



COASTAL JOURNAL

SUNDAY



2015.JUNE.21 / 8:15 PM

SUNDAY



2015.JUNE.21 / 8:17 PM

WEDNESDAY

2015 AUGUST 26 12:00 AM



WEDNESDAY

2015 AUGUST 12 / 12:00 AM



2015 AUGUST 12 / 11:59 AM

WEDNESDAY



2015 AUGUST 12 / 11:59 AM

WEDNESDAY



2015.AUGUST.12 / 11:56 AM

WEDNESDAY

Fondal Farms
1040 10th & 8th
701-791-1966

BEEF
FOR SALE

Fondal Farms
FRESH EGGS & BEEF
701-791-1966

08-5 AUGUST 12 / 11:53 AM

WEDNESDAY

Carter's
TODDLER

Mt. Pleasant, NC
704-436-6111
USDOT 955475

2015 AUGUST 12 / 11:55 AM

facebook

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Carter's Towing, Inc.
is on Facebook.

To connect with Carter's Towing, Inc., sign up for Facebook today

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PEOPLE > [Carter's Towing, Inc.](#) updated their cover photo

2 likes November 11, 2014

ABOUT >

10813 Highway 49 N
Mount Pleasant, North Carolina
(704) 436-6111

PHOTOS > [Like](#) [Comment](#) [Share](#)







Section 3-8 TABLE OF PERMITTED USES

PERMITTED USE TABLE											
"P" - Permitted, "C" - Conditional, "PBS" - Permitted Based on Standards											
	AO	CR	LDR	MDR	HDR	OI	LC	GC	LI	GI	
COMMERCIAL, RETAIL AND OFFICE USES (Continued)											
Office professional, 30,000 Square Feet or Less						P	P	P	P	P	
Office professional, 30,000 Square Feet or More							P	P	P	P	
Parking Lot, Parking Garage, Commercial or Private						P	P	P	P	P	
Pawn Shop (NCGS Chapter 91A)						P	P				
Pet Shop, Grooming, Enclosed Facility					P		P	P			
Photographic Studio						P	P				
Printing and Reprographic Facility						P	P	P	P	P	
Race Shop, Race Team Complex (8-4, 19)	C										
Race Shop, Race Team Complex							P	P	P	P	
Radio and Television Studio							P	P	P	P	
Reception Facilities (8-4, 21)	C	C									
Recreational Facility, Indoor (7-3, 38)					PBS	PBS	PBS	P	P	P	
Recreational Facility, Outdoor (8-4, 22)	C	C	C	C	C	C	C	C	C	C	
Recreational Therapy Facility, Rural Setting (8-4, 23)	C	C									
Recreational Vehicle Sales, With Outdoor Storage or Sales Lot							P	P	P	P	
Recyclable Materials Drop Off (7-3, 40)	PBS					PBS	PBS	PBS	PBS	PBS	
Repair Garage, Automobile (7-3, 42)	PBS						PBS	P	P	P	
Repair Shop, Farm Machinery (7-3, 43)	PBS							P	P	P	
Repair Shop, Small Engine (7-3, 44)	PBS						PBS	P	P	P	
Restaurant, Excluding Drive-thru (7-3, 45)	PBS	PBS	PBS	PBS	PBS		P	P	P	P	
Restaurant with Drive-Thru Facility (7-3, 47)							PBS	PBS	PBS	PBS	
Restaurant with Drive-Thru Facility (8-4, 27)					C	C					
Retail Sales, Neighborhood Market 5,000 Square Feet or Less (7-3, 48)	PBS										
Retail Sales, Shopping Centers, 10,000 Square Feet and Less					P		P	P			
Retail Sales, Shopping Centers, 10,000 - 50,000 Square Feet							P	P			
Retail Sales, Shopping Centers, 50,000 - 100,000 Square Feet								P			
Retail Sales, Shopping Centers, 100,000 Square Feet or More (8-4, 28)								C			
Sawmill (7-3, 50)	PBS	PBS							P	P	
Scientific Research and Development (7-3, 52)						PBS	PBS	PBS	PBS		
Self-Service Storage Facilities (7-3, 53)						PBS	PBS	PBS			
Shooting Range, Indoor (7-3, 54)						PBS	PBS	PBS			
Shooting Range, with Outdoor Target Practice (8-4, 30)	C	C						C	C		
Signs, Off-Premise											
Signs, On-Premise							See Chapter Eleven, Table Six for Regulations				
Sports and Recreation Instruction or Camp (8-4, 31)	C	C									
Sports and Recreation Instruction or Camp (7-3, 55)						PBS	PBS	PBS	PBS		
Stables, Commercial (7-3, 57)	P	PBS	PBS								
Storage Building Sales, with Display Area (7-3, 55)						PBS	PBS	PBS			
Swim Club, Tennis Club, Country Club (7-3, 58)	PBS										
Tattoo Studio						P	P				
Taxidermy Studio, No Outdoor Processing						P	P	P			
Towing Service, with Towed Vehicle Storage Yard, No Salvage or Part Sales (7-3, 60)	PBS						PBS	P	P		
Towing Service, with Salvage (7-3, 59)										PBS	
Towing Service, No Towed Vehicle Storage Lot, Office Only, Storage of Tow Trucks, Car Haulers Permitted On Site							P	P	P	P	
Veterinarian (8-4, 37)	C	C					C	C	C		
Wireless Telecommunications Services (8-4, 36)	C	C	C	C	C	C	C	C	C	C	
Wireless Telecommunications Services, Stealth Antennae, 65 Feet or Less (8-4, 36)	P	P	P	P	P	P	P	P	P	P	
Wireless Telecommunications Services - Co-locations (7-3, 66)	PBS	PBS	PBS	PBS							

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"P" - Permitted, "C" - Conditional, "PBS" - Permitted Based on Standards											
	AO	CR	LDR	MDR	HDR	OI	LC	GC	LI	GI	
ACCESSORY USES											
Accessory Dwelling Unit (7-3,1)	PBS	PBS	PBS	PBS	PBS			PBS	PBS	PBS	
Accessory Building, Lot Less Than 2 Acres (7-3, 1)	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS
Accessory Building, Lot 2 Acres or Greater (7-3, 1)	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS
Airstrip (8-4, 3)	C								C	C	C
Automated Teller Machine (7-3, 6, b)			PBS	PBS	PBS	PBS	PBS	PBS	PBS		
Community Garden, as Accessory Use (7-3, 13)	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS		
Ethanol Fuel Production, Residential District, Private Use Only (7-3, 20)	PBS	PBS	PBS	PBS							
Home Occupation, General (7-3, 27)	PBS	PBS	PBS	PBS	PBS			PBS			
Home Occupation, Rural (7-3, 28)	PBS	PBS	PBS	PBS							
Ice Production, Dispensing, Accessory to Convenience Store (7-3, 30)	PBS	PBS	PBS	PBS	PBS			PBS	PBS	PBS	PBS
Ice Production, Dispensing, Accessory to Gas Station (7-3, 29)	PBS	PBS	PBS						PBS	PBS	PBS
Kennel, Private (7-3, 31)	PBS	PBS									
Moving Van, Truck or Trailer Rental, Accessory to Self Storage (7-3, 34, 53)								PBS	PBS	PBS	
Towing Service, Accessory to Automobile Repair (7-3, 60, a-c)	PBS								PBS	PBS	
Towing Service, Accessory to Salvage Yard (7-3, 59, a-c)											PBS
Trail Head, Accessory (7-3, 62)	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS
Wind Energy Facility, Accessory Use, On Site Use Only (7-3, 65)	PBS	PBS	PBS	PBS							

- e. Outdoor swimming pools shall be protected by a fence, a minimum of four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking. See Appendix G, North Carolina Building Code, Swimming Pools, Spas and Hot Tubs for requirements.

59. Towing Service, with Salvage

General Industrial district

- a. Materials may not be vertically stacked so as to be visible to a passing motorist.
- b. All outside storage areas including dumpsters must be:
 - o sited to the rear of the building,
 - o within the setbacks required of the building's underlying zone, and
 - o made unnoticeable from both residential adjacent properties and public rights-of-way through installation of either fencing or vegetative screening.
- c. In the event the use abuts residentially used or zoned property, buildings and storage areas shall be located a minimum of 100 feet from the property line.

60. Towing Service, with Towed Vehicle Storage Yard, No Salvage or Part Sales

Agricultural/Open and General Commercial districts

- a. All outside storage areas including dumpsters must be:
 - o sited to the rear of the building,
 - o within the setbacks required of the building's underlying zone, and
 - o made unnoticeable from both residential adjacent properties and public rights-of-way through installation of either fencing or vegetative screening.
- b. The vehicle storage area may not exceed 60,000 square feet.
- c. In the event the use abuts residentially used or zoned property, buildings and storage areas shall be located a minimum of 100 feet from the property line.

NOTE: In the AO district, in the event that the parcel is 5 acres or more and the storage area is completely screened from adjacent properties or right-of-ways by existing vegetation or site topography, the landscape requirement may be waived.

61. Townhouses

Medium Density Residential, High Density Residential/Mixed Use and Office/Limited Commercial districts

Section 3-8 TABLE OF PERMITTED USES

PERMITTED USE TABLE											
"P" - Permitted, "C" - Conditional, "PBS" - Permitted Based on Standards											
	AO	CR	LDR	MDR	HDR	OI	LC	GC	LI	GI	
INDUSTRIAL											
Asphalt or Concrete Plant											P
Bottling Works											P
Cast Concrete Production, Distribution, Storage											P
Chemical Manufacturing											P
Ethanol Fuel Production, Small Plant (7-3, 21)											PBS
Ethanol Fuel Production, Medium Plant (7-3, 22)											PBS
Extraction of Earth Products (8-4, 12)											C
Foundry, Ironworks and Steel Mills											P
Freezer, Ice Plant											P
Landfill, Demolition, Less Than One Acre (7-3, 32)	PBS	PBS	PBS	PBS	PBS		PBS	PBS	PBS	PBS	
Landfill, Demolition, One Acre or More (8-4, 13)	C										C
Landfill, Sanitary (8-4, 13)	C										C
Machine Shop											P
Manufacturing											P
Metal Works, Metal Processing, Fabrication											P
Multimedia Production and Distribution Complex (8-4, 15)	C	C									
Multimedia Production and Distribution Complex											P
Race Track, Animal, Automobile or Other (8-4, 20)											C
Salvage Yard (7-3, 49)											PBS
Slaughter House, Meat Packing (8-4, 32)	C	C									
Slaughter House, Meat Packing											P
Tire Recapping											P
Trucking Equipment, Heavy Equipment, Sales and Service with Sales Lot											P
Public Utilities							See Public Service Facility, (8-4, 17)				
Warehouse, Enclosed Storage											P
Warehouse with Outside Storage (7-3, 64)											PBS
Warehouse, Volatile Materials											P
Welding Shop											P

48. Retail Sales, Neighborhood Market, 5,000 Square Feet or Less

Agricultural/Open district

- a. The store must be located within 500 feet of an intersection and front on an arterial or collector road.
- b. The store's lighting shall be shielded to prevent light and glare spillover on to adjacent residential properties.
- c. The maximum square footage for the building shall not exceed 5,000 square feet.
- d. All outside storage shall not be permitted with the exception of areas for dumpsters:
 - o Dumpsters shall be sited to the rear of the building and made unnoticeable from both adjacent properties and public rights-of-way through the installation of fencing and/or vegetative screening.

49. Salvage Yard

General Industrial district

- a. Materials may not be vertically stacked so as to be visible to the passing motorist.
- b. All outside storage areas including dumpsters must be:
 - o sited to the rear of the building,
 - o within the setbacks required of the building's underlying zone, and
 - o made unnoticeable from both residential adjacent properties and public rights-of-way through installation of either fencing or vegetative screening.
- c. In the event the use abuts residentially used or zoned property, buildings and storage areas shall be located a minimum of 150 feet from the property line.

50. Sawmill

Agriculture/Open and Countryside Residential districts

- a. A minimum of 30 acres is required.
- b. Any and all mechanized sawing equipment must be located a minimum of 500 feet from tract boundary lines.

51. Scientific Research and Development, Accessory to Agriculture

Agriculture/Open, Countryside Residential, Low Density Residential, Medium Density Residential and High Density Residential/Mixed Use districts

- a. Research must be related to agricultural activity occurring on site.
- b. All outside storage areas including dumpsters must be:
 - o sited to the rear of the building,
 - o within the setbacks required of the building's underlying zone, and

ADJACENT PROPERTY OWNER LIST

Exhibit 8

PIN14	AcctName1	AcctName2	MailAddr1	MailCity	MailState	MailZipCod
56816603960000	WYATT MICHAEL JOSEPH	WYATT COURTNEY EDWARDS WF	11142 NC HIGHWAY 49 NORTH	MT PLEASANT	NC	28124
56814636640000	CARTER'S TOWING INC A NC CORP		P O BOX 1519	MT PLEASANT	NC	28124
56814720740000	CARTER'S TOWING INC A NC CORP		P O BOX 1519	MT PLEASANT	NC	28124
56814642840000	LOVE SUE POWLES		10800 HWY 49 N	MT PLEASANT	NC	28124
56814648770000	THERRELL JAMES O		1356 ST STEPHENS CHURCH RD	MT PLEASANT	NC	28124
56816603960000	WYATT MICHAEL JOSEPH	WYATT COURTNEY EDWARDS WF	11142 NC HIGHWAY 49 NORTH	MT PLEASANT	NC	28124
56814679500000	SURRATT TODD J	EFIRD DANIEL D III	P O BOX 1025	DENTON	NC	27239
56814750720000	HELMS CHRISTOPHER L	HELMS JEAN G/WIFE	1364 ST STEPHENS CHURCH ROAD	MT PLEASANT	NC	28124
56814609930000	CARTER'S TOWING INC A NC CORP		P O BOX 1519	MT PLEASANT	NC	28124
56814663970000	HOOVER BOBBY GENE		10800 US HWY 49 N	MT PLEASANT	NC	28124
56814606310000	CARTER ROGER ALLEN	CARTER FONDA LYNNE WF	10813 NC HIGHWAY 49 N	MT PLEASANT	NC	28124



ORIGINAL
DOCUMENT

Cabarrus County Government – Planning and Development Department

October 20, 2015

Dear Property Owner:

An Appeal Application has been filed in our office for property **adjacent** to yours. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this appeal on Tuesday, November 10, 2015 at 7:00 PM in the Commissioner's Chambers on the 2nd floor of the Cabarrus County Governmental Center, located at 65 Church Street SE, Concord, NC 28026. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about the appeal, I encourage you to attend this meeting.

- **Petitioner:** Mr. Sam Davis representing Carter Towing, Inc.
- **Petition Number:** APPL2015-00004
- **Property Location:** 10813 Highway 49 North or 1348 St. Stephens Church Road
- **Parcel ID Number:** 5681-46-3664
- **Existing Zoning:** Agricultural Open Space (AO)
- **Reason for Appeal:** Appeal of Notice of Violation related to use of property as a towing service, a salvage yard and buildings erected without permits.

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2858.

Sincerely,

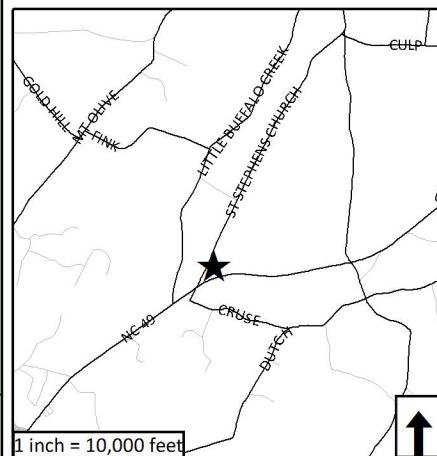
A handwritten signature in blue ink that reads "Susie Morris".

Susie Morris, AICP, CZO, CFM
Planning and Zoning Manager
Cabarrus County Planning and Development

Existing Zoning

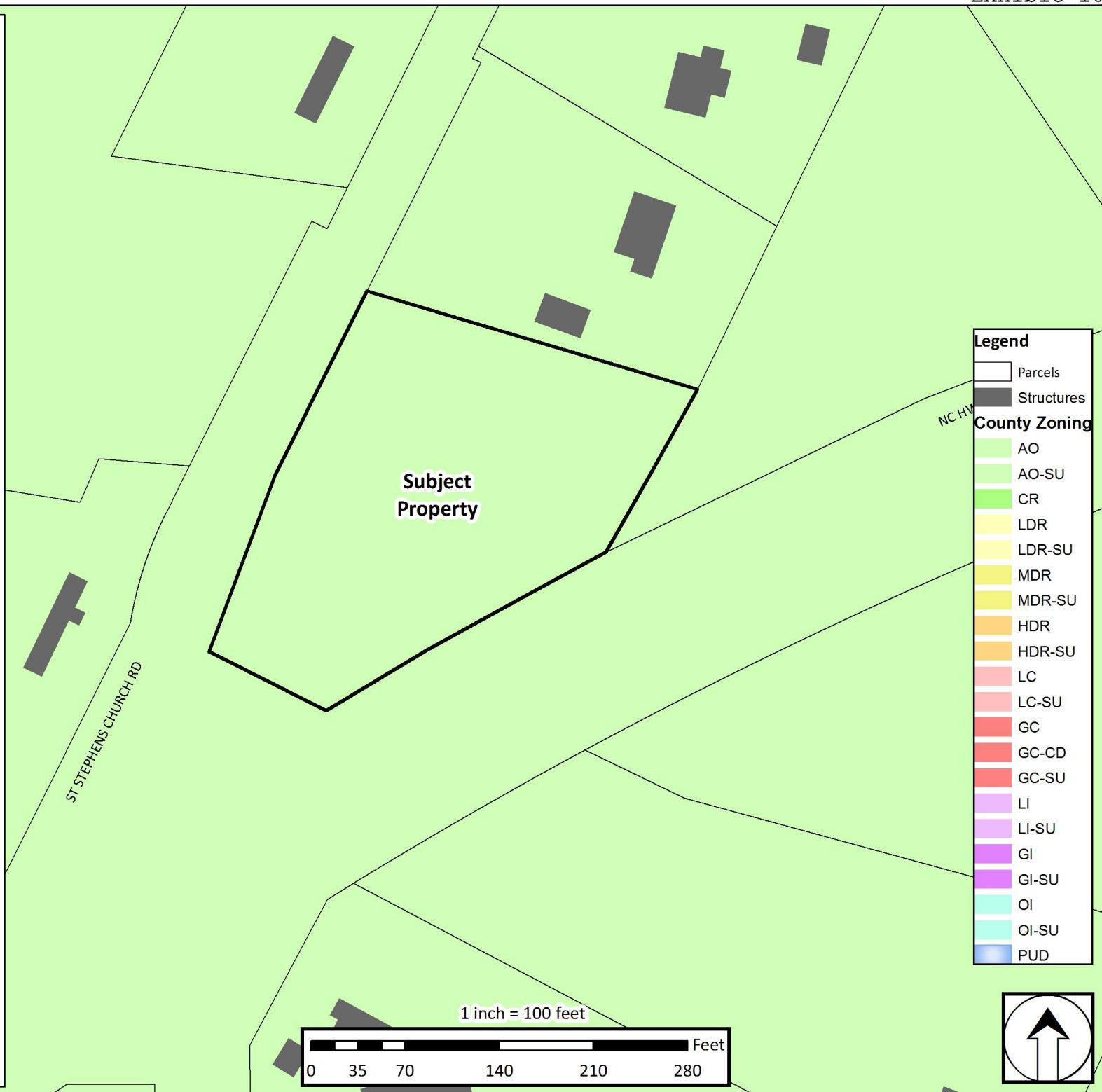


Appellant: Carter's Towing
 Case: APPL2015-00004
 Address: 10813 NC Highway 49
 Purpose: Appeal of Notice of
 Violation ZNC2013-00070
 PIN: 5681-46-3664



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 & Development - October 2015

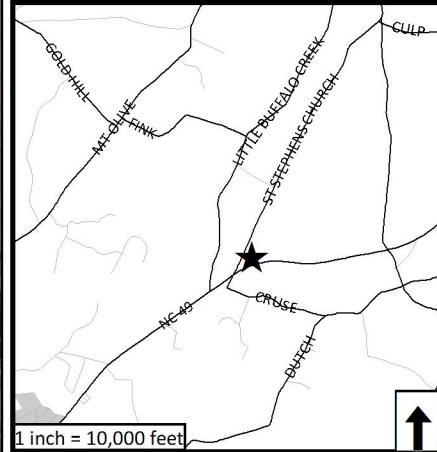


Aerial Map



Appellant: Carter's Towing
Case: APPL2015-00004
Address: 10813 NC Highway 49
Purpose: Appeal of Notice of
Violation ZNC2013-00070
PIN: 5681-46-3664

- Parcels
- Cabarrus County
- City Limits



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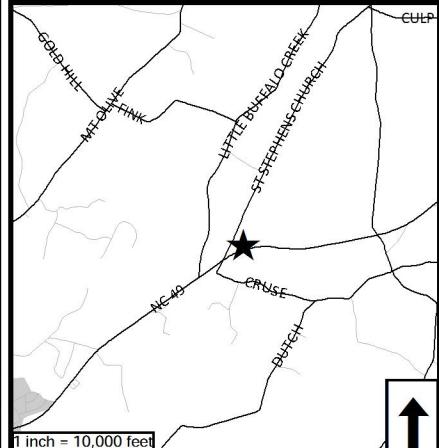
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Eastern Planning Area Future Land Use

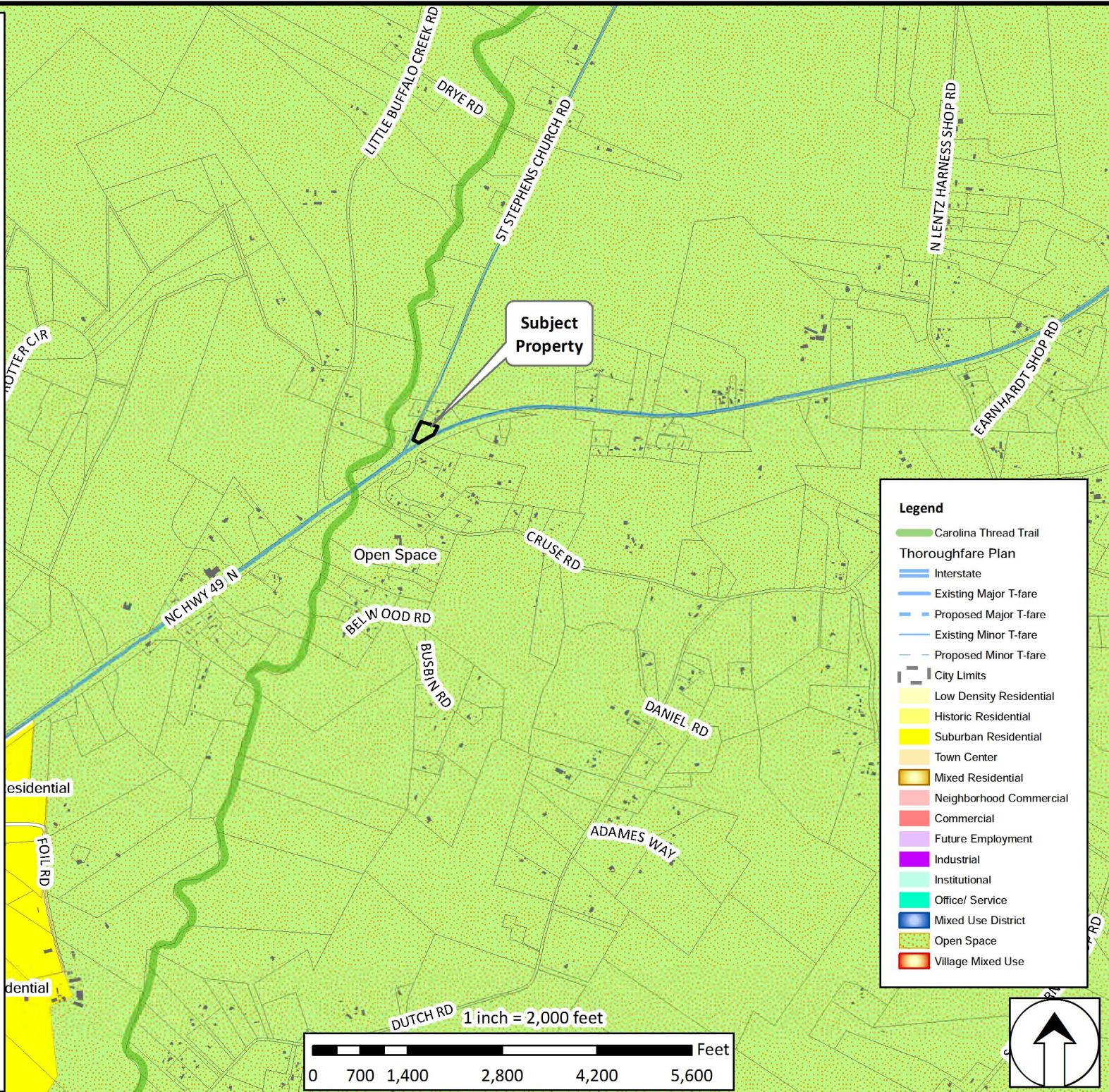


Appellant: Carter's Towing
Case: APPL2015-00004
Address: 10813 NC Highway 49
Purpose: Appeal of Notice of
Violation ZNC2013-00070
PIN: 5681-46-3664



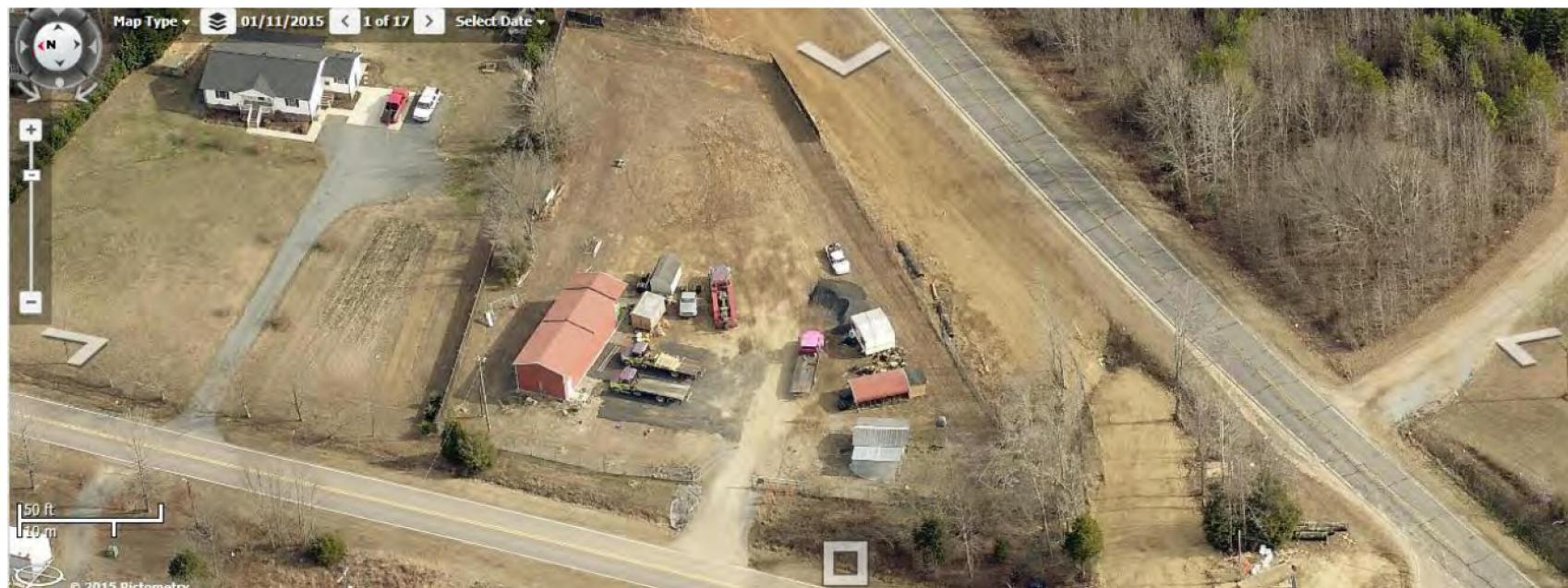
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Map Prepared by Cabarrus County Planning & Development - October 2015

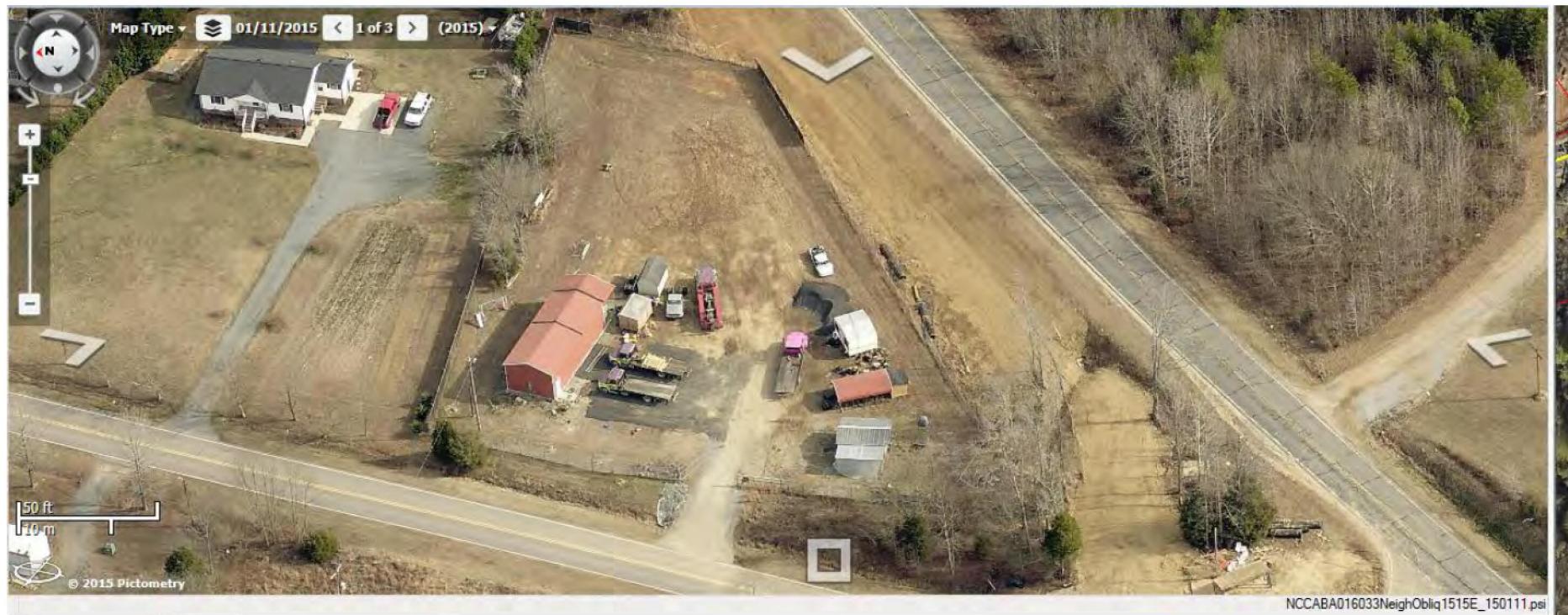


CABARRUS COUNTY PICTOMETRY IMAGES

JANUARY 2015



JANUARY 2015



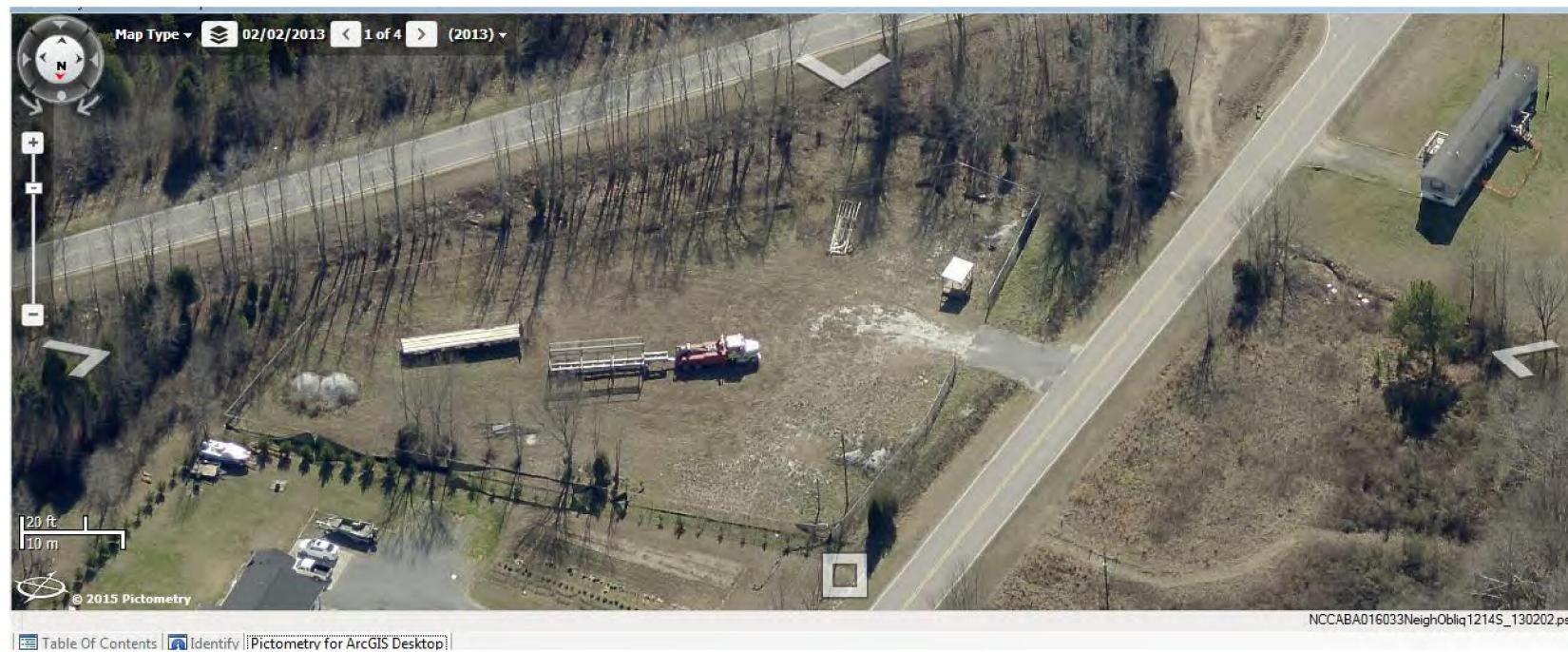
JANUARY 2015



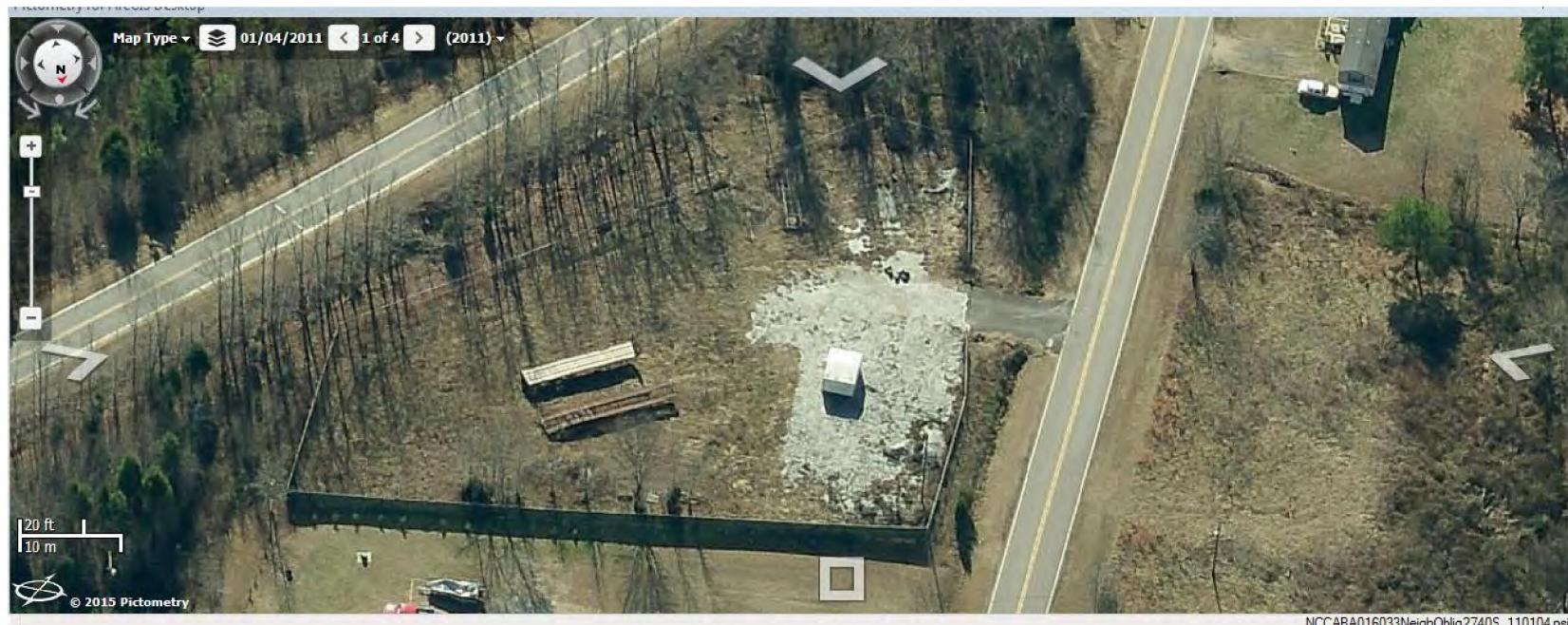
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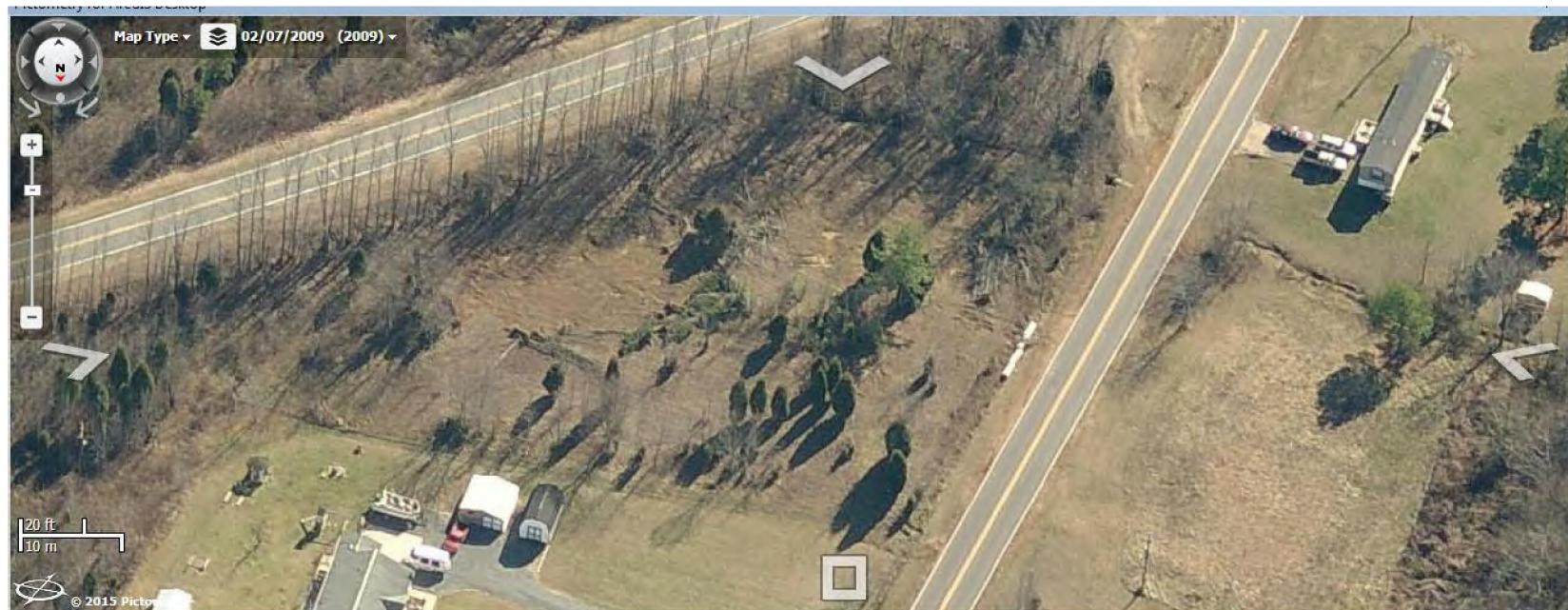
FEBRUARY 2013



JANUARY 2011



FEBRUARY 2009



8474
0339

FILED
CABARRUS COUNTY NC
LINDA F. McABEE
REGISTER OF DEEDS

FILED Oct 30, 2008
AT 04:25 pm
BOOK 08474
START PAGE 0339
END PAGE 0341
INSTRUMENT # 32945
EXCISE TAX \$31.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$31.00

Parcel Identifier No. 7-13-6.12 Verified by _____ County on the _____ day of _____, 20____
By: _____

Mail/Box to: _____ Grantee

This instrument was prepared by: HOWARD S. IRVIN, P.A., Attorney At Law, Concord, North CarolinaBrief description for the Index: North Carolina Highway Number 49 and St. Stephens Church RoadTHIS DEED made this 30th day of October, 2080, by and between

GRANTOR

**JOHN E. BUSBIN and wife
FLORENCE H. BUSBIN;
and
EUGENE M. WHEELER and wife
VERA S. WHEELER**

GRANTEE

**CARTER'S TOWING, INC.,
a North Carolina Corporation
10813 Highway 49 East
Mt. Pleasant, NC 28124**

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

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

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in ~~the City of~~ _____, Number Seven (7) Township, Cabarrus County, North Carolina and more particularly described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO FOR A DESCRIPTION OF THE
PROPERTY BEING CONVEYED HEREIN**

The property hereinabove described was acquired by Grantor by instrument recorded in Book 2744 page 175.

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

8474

0340

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

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

Subject to Easement to the Department of Transportation contained in Fee Simple Deed dated September 29, 2004 and recorded in Book 5689, Page 118, and rerecorded in Book 5841, Page 231, Cabarrus Registry.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name)

John E. Busbin (SEAL)

(John E. Busbin)

By:

Title:

Florence H. Busbin (SEAL)

(Florence H. Busbin)

By:

Title:

Eugene M. Wheeler (SEAL)

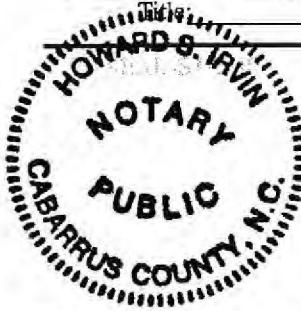
(Eugene M. Wheeler)

By:

Title:

Vera S. Wheeler (SEAL)

(Vera S. Wheeler)



State of North Carolina - County of Cabarrus

I, the undersigned Notary Public of the County and State aforesaid, certify that John E. Busbin and wife Florence H. Busbin personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 30th day of October, 2008

My Commission Expires: June 16, 2012

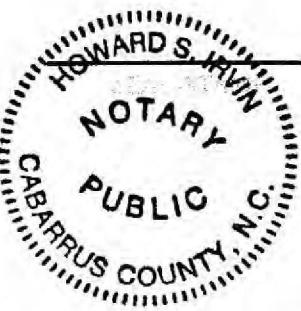
Howard S. Irvin
Howard S. Irvin
Notary Public

State of North Carolina - County of

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is the _____ of _____, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of each entity, he signed the forgoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal this _____ day of _____, 20____.

My Commission Expires: _____

Notary Public



State of North Carolina - County of Cabarrus

I, the undersigned Notary Public of the County and State aforesaid, certify that Eugene M. Wheeler and wife Vera S. Wheeler personally appeared before this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 30th day of October, 2008

My Commission Expires: June 16, 2012

Howard S. Irvin
Howard S. Irvin
Notary Public

The foregoing Certificate(s) of _____ is/are certified to be correct.

This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Register of Deeds for _____ County

By: _____ Deputy/Assistant - Register of Deeds

EXHIBIT "A"

Lying and Being in Number Seven (7) Township of Cabarrus County, North Carolina in the Northeastern corner of the intersection of North Carolina Highway Number 49 and St. Stephens Church Road (SR 2444), Being a part of Lot number ONE (1) as shown on the unrecorded plat of the property of William Dewey Caudle and wife Doris Troutman Caudle by Joe Franklin, III, R.L.S., dated January 15, 1994, and being more fully described as follows;

BEGINNING at an existing iron stake on the North side of Highway 49, an old corner of Lot number 1, and also the Southwestern corner of another tract of William D. Caudle (now or formerly)(Deed Book 589, Page 315) and runs thence with the North side of North Carolina Highway 49, in a generally Western direction at a radius of 3868.89 feet, in a counterclockwise direction, an arc distance of 210.04 feet to existing bridge spike on the North side of Highway 49, a corner of the property of the Department of Transportation (Book 5689, Page 118, and rerecorded in Book 5841, Page 231); thence with three (3) lines of the Department of Transportation, and with the new right of way lines of Highway 49 and St. Stephens Church Road as follows: First, North 63-13-57 West 99.21 feet to an existing bridge spike; thence Second, North 20-23-08 East 137.89 feet to an existing bridge spike; thence Third, North 26-31-47 East 71.21 feet to a new iron stake, a corner in the line of F. H. Bombard (now or formerly)(Book 1572, Page 234)(said stake being South 77-31-52 East 6.51 feet from an existing iron stake, an old corner); thence with the line of Bombard South 77-31-52 East 241.91 feet to an existing iron stake, a corner of Bombard in the line of William D. Caudle; thence with the line of Caudle South 26-24-07 West 95.78 feet to the point of BEGINNING, containing 1.02 acre, more or less, as surveyed and platted by Joe Franklin, III, P.L.S., February 2004.

This conveyance is made SUBJECT TO the Temporary Construction Easements contained in Fee Simple Deed dated September 29, 2004 to the Department of Transportation and recorded in Book 5689, Page 118, and rerecorded in Book 5841, Page 231, Cabarrus Registry.

JHC Caudle
VSW JEB

Appraisal Card

CABARRUS COUNTY, NC												10/14/2015 11:14:19 AM											
CARTER'S TOWING INC A NC CORP 1348 ST STEPHENS CHURCH RD 60181												Return/Appeal Notes: Parcel: 5681 46 3664 0000 PLAT: / ID NO: 07 013 0006.12 0000											
COUNTY TAX (100), NORTHEAST FIRE TAX (100) Reval Year: 2012 Tax Year: 2015 P/O LOT 1 WILLIAM CAUDLE Appraised by 08 on 05/27/2015 17003 LENTZ HARNESS SHOP RD												CARD NO. 1 of 1 1.000 AC TW-07 CI-00 FR-15 SRC= Owner EX- AT- LAST ACTION 20150527											
CONSTRUCTION DETAIL			MARKET VALUE						DEPRECIATION						CORRELATION OF VALUE								
TOTAL POINT VALUE			USE	MOD	Eff. Area	QUAL	BASE RATE	RCN	EYB	AYB			% GOOD						CREDENCE TO				
BUILDING ADJUSTMENTS			01R	00															DEPR. BUILDING VALUE - CARD				
TOTAL ADJUSTMENT			TYPE: SINGLE FAMILY RURAL STYLE:												DEPR. OB/XF VALUE - CARD		35,090						
FACTOR															MARKET LAND VALUE - CARD		26,400						
TOTAL QUALITY INDEX															TOTAL MARKET VALUE - CARD		61,490						
															TOTAL APPRAISED VALUE - CARD		61,490						
															TOTAL APPRAISED VALUE - PARCEL		61,490						
															TOTAL PRESENT USE VALUE - PARCEL		0						
															TOTAL VALUE DEFERRED - PARCEL		0						
															TOTAL TAXABLE VALUE - PARCEL		61,490						
															PRIOR								
															BUILDING VALUE		0						
															OBXF VALUE		0						
															LAND VALUE		13,200						
															PRESENT USE VALUE		0						
															DEFERRED VALUE		0						
															TOTAL VALUE		13,200						
												PERMIT											
												CODE	DATE	NOTE	NUMBER		AMOUNT						
												ROUTE: WTRSHD:											
												SALES DATA											
												OFF. RECORD	DATE	DEED TYPE			INDICATE SALES PRICE						
												BOOK	PAGE	MO/YR									
												08474	0339	10/2008	GW		Q V		15500				
												01316	0029	9/1994	WD		Q V		5000				
												HEATED AREA											
												NOTES											
												APPL'D 08 REVAL											
SUBAREA			CODE	DESCRIPTION			COUNT	LTH	WTH	UNITS	UNIT PRICE	ORIG % COND	BLDG#	AYB	EYB	ANN DEP RATE	OVER	% COND	OB/XF DEPR. VALUE				
TYPE	GS AREA %	RPL CS	69	STG PF MT				46	20	920	14.00	100	—	2014	2014	55	100	100	15456				
FIREPLACE			24P	SHED POLE				10	20	200	4.15	100	—	2014	2014	55	100	996					
SUBAREA			03L	CARPORT ML				12	20	240	1.50	100	—	2014	2014	55	100	432					
TOTALS			01	STORAGE WD				14	12	168	17.00	100	—	2014	2014	S3	100	3570					
			01	STORAGE WD				15	12	192	17.00	100	—	2014	2014	S3	100	4080					
			066	FENCE CL6				0	0	780	10.45	100	—	2014	2014	55	100	7743					
			01	STORAGE WD				16	8	128	13.00	100	—	2014	2014	S3	100	2080					
			01	STORAGE WD				9	5	45	13.00	100	—	2014	2014	S3	100	731					
												TOTAL OB/XF VALUE										35,088	
BUILDING DIMENSIONS												LAND INFORMATION											
HIGHEST AND BEST USE	USE CODE	LOCAL ZONING	FRON TAGE	DEPTH	DEPTH / SIZE	LND MOD	COND FACT	OTHER ADJUSTMENTS AND NOTES			ROAD TYPE	LAND UNIT PRICE	TOTAL LAND UNITS	UNIT TYP	TOTAL ADJST	ADJUSTED UNIT PRICE	LAND VALUE	OVERRIDE VALUE	LAND NOTES				
RURAL AC	0120	AO	240	0	2,4000	4	1.1000	+10	+00	+00	+00	RP	10,000.00	1,000	AC	2,640	26,400.00	26400	0				
												TOTAL MARKET LAND DATA										1,000	
												TOTAL PRESENT USE DATA											

§ 153A-340. Grant of power.

(a) For the purpose of promoting health, safety, morals, or the general welfare, a county may adopt zoning and development regulation ordinances. These ordinances may be adopted as part of a unified development ordinance or as a separate ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. The ordinance may provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.

(b) (1) These regulations may affect property used for bona fide farm purposes only as provided in subdivision (3) of this subsection. This subsection does not limit regulation under this Part with respect to the use of farm property for nonfarm purposes.

(2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- d. A forest management plan.
- e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

(3) The definitions set out in G.S. 106-802 apply to this subdivision. A county may adopt zoning regulations governing swine farms served by animal waste management systems having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater provided that the zoning regulations may not have the effect of excluding swine farms served by an animal waste management system having a design capacity of 600,000 pounds SSLW or greater from the entire zoning jurisdiction.

(c) The regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained, provided no change in permitted uses may be authorized by variance.

(c1) The regulations may also provide that the board of adjustment, the planning board, or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures

specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When deciding special use permits or conditional use permits, the board of county commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the board of county commissioners or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the board of county commissioners or planning board shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160A-388.

(d) A county may regulate the development over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12, within the bounds of that county.

(e) For the purpose of this section, the term "structures" shall include floating homes.

(f) Repealed by Session Laws 2005-426, s. 5(b), effective January 1, 2006.

(g) A member of the board of county commissioners shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members of appointed boards providing advice to the board of county commissioners shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(h) As provided in this subsection, counties may adopt temporary moratoria on any county development approval required by law. county development approval required by law, except for the purpose of developing and adopting new or amended plans or ordinances as to residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the board of commissioners shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 153A-323. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 153A-357 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to G.S. 153A-344.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the county prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the county prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

- (1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the county and why those alternative courses of action were not deemed adequate.
- (2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

- (3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- (4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the city shall have taken all reasonable and feasible steps proposed to be taken by the county in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the county shall have the burden of showing compliance with the procedural requirements of this subsection.

(i) In order to encourage construction that uses sustainable design principles and to improve energy efficiency in buildings, a county may charge reduced building permit fees or provide partial rebates of building permit fees for buildings that are constructed or renovated using design principles that conform to or exceed one or more of the following certifications or ratings:

- (1) Leadership in Energy and Environmental Design (LEED) certification or higher rating under certification standards adopted by the U.S. Green Building Council.
- (2) A One Globe or higher rating under the Green Globes program standards adopted by the Green Building Initiative.
- (3) A certification or rating by another nationally recognized certification or rating system that is equivalent or greater than those listed in subdivisions (1) and (2) of this subsection.

(j) An ordinance adopted pursuant to this section shall not prohibit single-family detached residential uses constructed in accordance with the North Carolina State Building Code on lots greater than 10 acres in size in zoning districts where more than fifty percent (50%) of the land is in use for agricultural or silvicultural purposes, except that this restriction shall not apply to commercial or industrial districts where a broad variety of commercial or industrial uses are permissible. An ordinance adopted pursuant to this section shall not require that a lot greater than 10 acres in size have frontage on a public road or county-approved private road, or be served by public water or sewer lines, in order to be developed for single-family residential purposes.

(k) A zoning or unified development ordinance may not differentiate in terms of the regulations applicable to fraternities or sororities between those fraternities or sororities that are approved or recognized by a college or university and those that are not. (1959, c. 1006, s. 1; 1967, c. 1208, s. 4; 1973, c. 822, s. 1; 1981, c. 891, s. 6; 1983, c. 441; 1985, c. 442, s. 2; 1987, c. 747, s. 12; 1991, c. 69, s. 1; 1997-458, s. 2.1; 2005-390, s. 6; 2005-426, s. 5(b); 2006-259, s. 26(a); 2007-381, s. 1; 2011-286, s. 1; 2011-363, s. 1; 2011-384, s. 5; 2013-126, ss. 5, 8; 2013-347, s. 1; 2013-413, s. 6 (a).)