



Cabarrus County Government

REVISED

Cabarrus County Planning and Zoning Commission Meeting
April 12, 2016
7:00 P.M.

Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval of March 8, 2016, Planning and Zoning Commission Meeting Minutes
3. **New Business – Planning Board Function:**

RZON2016-00004 – Request to rezone +/- 2 acres from CR to LC. Applicant is Randall Bruce Simpson (Xaris, Inc.). Property address: 9690 US HWY 601S (PIN#:5556-01-3169).

4. PLPR2016-00013 – Preliminary Plat Approval. Applicant is Gary Brooks, Intertape Polymer Group. Property address: 13722 Bill McGee Road (PIN# p/o 5544-72-0739)
5. Directors Report
6. Legal Update



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Mr. Richard Price, Vice-Chair, called the meeting to order at 7:03 p.m. Members present other than the Vice-Chair were Ms. Mary Blakeney, Mr. Adam Dagenhart, Mr. Andrew Graham, Mr. Jeff Griffin, Mr. Dane Laney, Mr. James Litaker, Mr. Chris Pinto, Mr. Aaron Ritchie and Mr. Stephen 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.

Roll Call

Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the March 8, 2016 meeting minutes. The Vote was unanimous.

New Business – Planning Board Function:

The Chair introduced Petition RZON2016-00004, Request to rezone +/- 2 acres from CR to LC. Applicant is Rondall Bruce Simpson (Xaris, Inc.). Property address: 9690 US HWY 601S (PIN#:5556-01-3169).

Mr. Jason Earliwine, Senior Planner, addressed the board presenting Petition RZON2016-00004. He said this is a rezoning request and the applicant is Rondall Bruce Simpson (Xaris, Inc.). The property is located on Highway 601 near the intersection of Jim Sossaman Road. The current use is a Bible College, but as he understands it, it ended that use there as of the end of February.

The property surrounding the subject property is mostly single family residential, wooded area, open vacant lots, and highly agricultural area. The current zoning is Countryside Residential (CR) and all of the surrounding zoning is CR or agricultural if it is in the Town of Midland Zoning District. The applicant is requesting to be rezoned from Countryside Residential (CR) to Limited Commercial (LC). The applicant has expressed an interest in getting some commercial use out of that property and he can tell the Board more about what his plans are for it in that respect.

According to the Midland Area Land Use Plan, the subject property is designated as Low Density Residential. It is primarily designated for residential use, so the rezoning is actually not consistent with the Midland Area Land Use Plan.

The property currently supports a Bible College which is an institutional use. It was issued a conditional use permit back in 2001 and until February of this year, it had been used for that use.

The Countryside Residential zoning designation is in keeping with the Low Density Residential use according to the Midland Plan, allowing for one dwelling unit per acre. The proposed Limited

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Commercial does not allow for single family residential, but it does allow for a broad range of non-residential uses. That was included in the Board Packet so that you could see what type of uses Limited Commercial allows.

The Vice-Chair asked the Board if there were any questions for staff. There being no additional questions for staff, he asked the applicant to come forward.

Mr. Rondall Simpson, the Owner and Applicant, addressed the Board. He is the Pastor of Bright Light Baptist Church. When he built the church, he was thinking it was commercial and when he built the house right behind it, he found out it had been changed to residential. He would like to get it back to where it was, because his real estate agent, T.R. Lawing in Charlotte, said he would have more options to rent it.

(He said the college was for men that could not go to school, the aged and children.) It has been a ministry to help people like that. Since 1991, he has been going out raising money, going out preaching, and putting money in there to keep the tuition down to \$15.00 per hour to help men out.

He is 69 years old and cannot go like he used to, and what he wants to do is to rent it, probably for offices. He lives behind it, so he is not going to put a junkyard in front; it is going to be clean. He has somebody who keeps it up and mows it.

It will be mainly to just underwrite the school; we will continue the school. He wrote a six year program, through a doctorate, and we have it correspondence and on line. He said everything is going towards technology. We were operating one night per week and using the building for offices. He moved the offices into the basement of his house, so he does not need the building as far as for the school, but he does need to rent it.

He sold his house and built the building years ago. He said mainly it is just to provide income to kind of underwrite the school and to keep it going and to keep tuition down. When he built the house, he came to the office and found out it had been changed to residential. If he was notified, he did not know it or he would have said no I did not want to change it and leave it like it is. Anyway, he is just doing this on the advice of T.R. Lawing, that it would have more options to rent.

He pays about \$5000.00 per year in taxes he needs to get some kind of return.

Mr. Aaron Ritchie asked if the Bible College was going to stay there.

Mr. Simpson said no; we do everything online now, internet and email. We run everything off of computers now. We have six computers in the basement of his house and we have 25 schools that are using the materials he wrote. He has over 200 missionaries that are using the material, we have 39 Spanish Bibles in use.

His wife is the computer expert, he can type and save, and that is about it. He writes the lessons and the homework. We used to print everything, but now we can get a four year program on a CD,

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lesson books, homework, test and everything. Technology has just kind of closed the school down. We just could not see the sense of operating it one night a week. That big building, 4,000 square feet, heating it and everything just for one night a week. He said since everything has gone on the computer; that is the main reason.

The Vice-Chair opened the Public Hearing. There being no one in favor or in opposition of the rezoning and there being no questions for staff, the Chair closed the Public Hearing.

Mr. Aaron Ritchie said it is an office space now, can he continue to use for an office as it is?

Mr. Earliwine said as a conditional use, or a special use, he can continue to use it as a Bible College. But if he were to use it for any other type of use, that is more intense, that would not be permitted on that parcel. It would have to remain either less intense, as it already is or continue as a Bible College. If he starts renting it out as commercial space, that is more of an intense use than institutional and that is why he is asking for the rezoning.

Mr. Earliwine said in the Table of Uses, although it is listed as Countryside Residential, we would not be able to see what the Office Institutional type uses are, but as a conditional use, he will have access to any type of institutional use or general office use that is not going to be more intense than what he is already using it for.

Ms. Morris said in the Board packet there is a list of what is allowed in CR. CR is a residential district and it is much more limited as far as what type of commercial uses you can have in the CR district versus what is allowed in the limited commercial district, which is intended to be a commercial district and one of those transitional districts. CR very much so limits what can happen, because it is a residential district. The uses for the CR are more intended to serve the neighborhood; like a convenience store or maybe a bank as a conditional use. But to get to a general office commercial type space, they would need the limited commercial zoning designation.

The Vice-Chair said the only issue that he has with it is looking a little far into the future. There is a pretty nice building there now that would not be suited for some of the uses that are allowed in the limited commercial, but in the future, he guesses that building could go away. Then it would be open to some of those.

Living in the area himself, he does not see anything that is in the Table of Uses for limited commercial to him that is especially offensive. There are a few iffy things in there such as the car wash and that sort of thing.

Mr. Graham said but, you could have a slaughter house under countryside residential.

Mr. Price said when he was reading through his packet, he got the Ordinance out and was comparing them. To him, if you take it in total, there is not a lot of difference between the uses allowed and the countryside residential and the limited commercial; other than the lack of single family residential in the limited commercial. Once again, being a resident in that area, he does not have a problem with it.

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Mr. Jeff Griffin said it was mentioned that the zoning may have changed at some point, when this was built in 2001 it was CR, is that correct?

Ms. Morris said we do not typically address zoning changes because this Board has to look at what it is now. Could it have changed back then, maybe? Did it, we cannot really confirm that.

There being no further discussion Mr. Aaron Ritchie **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE**, RZON2016-00004, Request to rezone +/- 2 acres from Countryside Residential (CR) to Limited Commercial (LC). The vote was 8 to 1 with Mr. Chris Pinto voting in opposition.

CONSISTENCY STATEMENT:

Despite the fact that the proposed rezoning is not consistent with the intent of the Midland Area Land Use Plan, based on the presentation of the Applicant and the application that has been submitted and the history of this property, the proposed rezoning is reasonable and in the public interest.

Mr. Aaron Ritchie **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the Consistency Statement. The vote was unanimous.

Mr. Richard Koch County Attorney addressed the Board in reference to PLPR2016-00013. He will give some back ground to this matter and why it was added to the agenda after the agenda was originally published and now there is an issue about whether to proceed with it.

This particular property is actually part of the Rob Wallace County Park. It is actually a land locked parcel and it is adjacent to the Aberdeen Carolina Western Railway. It has no access to it other than presumably by the railway or through the actual park property at this point.

As part of an economic development grant award by the County, to Intertape Polymer Corporation, which is listed as IPG, which is kind of a specialty bulk tape manufacturer. He understands that a lot of their product goes to people like Amazon. He does not know a lot about the manufacturing process or about the product itself, but they have decided to locate in an industrial facility in Cabarrus County on that parcel. Part of the attraction of that parcel is that it is adjacent to the railroad and they would need a spur and kind of a rail yard because a lot of their product, the raw material, would come in via the railroad and apparently the finished product would be shipped in the same way. So, they wanted a site that was on the railroad.

The County has been working with Rob Wallace, who developed that industrial park down in that southern area below the Rob Wallace Park on relocating the entrance to the park, which was originally going to be off of Wallace Road. There was a rail crossing and then the railroad restricted the rail crossing. We have been working on a new entrance off of Bethel School Road. That part it is still being worked out but we are very close to finalizing that.

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In the meantime, this project came up to locate another industrial facility in the County that would employ a number of people and it was a pretty substantial investment and that site was attractive.

So the County Commission has already awarded the grant, which consisted of their typical economic development grant of you pay your taxes and then based on the increased value of your investment, then there is a partial refund of a percentage of that. A part of that grant agreement included selling that particular piece of property, which is owned by the County at a reduced price. Which is all perfectly permissible under the economic development statutes.

He said the only way to get to the property at this point, aside from the railroad, would be to build a new road to it. McGee Brothers Corporation actually owns property that is to the immediate east of that site and they have a private road called Bill McGee Road that accesses their property. There have been a number of parties involved in this but the plan has been to actually have NCDOT come in and build an upgrade to Bill McGee Road, make it a public road and then extend it across the railroad on to this parcel where it would end in a cul-de-sac.

That has been the plan and the County would have the property that is sort of to the north of that cul-de-sac, if you have seen the plat. But, there was also going to be presumably, a ten acre parcel, that is on the other side of this new road that the County was going to retain that would be between that road and the railroad.

When it was ultimately surveyed and laid out and they were doing the final work on it, it was determined that this parcel is not 10 acres. It is rather more like 4 ½, which makes it pretty small and certainly not of much use to the County. So, then the thought was well, let's just sell it to IPG because it would make sense and it is certainly contiguous with the other part they were going to buy and it is on the same side of the new road.

He said that was the plan up until apparently, the end of last week, when there was some objection to the County selling that parcel that it might be able to be used in another way. We do not really know where that is going to come out. At this point, we have not signed a contract to sell that property to IPG, although the contract has been drafted. Now the issue is how many acres are selling to them; is it about 40 acres or is it about 35½.

The question is what we can do tonight to deal with this situation? The proposed plat that you see is not apparently the way it is going to apparently look. It is going to look like one of the earlier iterations of it. It has gone through about six changes. But it may go back to the way it looked a couple of iterations ago.

Ordinarily, we would just pull this and that is what he had talked to Mr. Mike Downs about this morning. That in view of this whole issue, we were just going to pull this and leave it until next month. But this is a very time sensitive project to get this in.

Apparently, Mr. Jonathan Marshall, who we were trying to contact to get some clarification from, was of the mind to go ahead and give some sort of approval to what you can do this afternoon.

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(Mr. Koch looked at a text from Mr. Marshall) He said apparently, Mr. Marshall has not talked with Mr. Downs. That is where Mr. Downs and I left it when we talked earlier.

Again, it is a time sensitive project and he thinks it is in everybody's best interest to keep it moving forward. There are a lot of parties involved in this and a lot of moving parts. There is money being advanced by the State to build this road as part of an Economic Development Grant, essentially on their part. The railroad is involved in it, we have IPG, and we have the County and the McGee Brothers. It is their road and they had to agree to it and it is their security and their fencing and all of that is going to be relocated to a different place to protect their property and that is being paid for by IPG. There are a lot of aspects to this, a lot of moving parts and he thinks the part that everyone is in agreement on is that we are trying to move this whole project forward without any undue delay.

What Mr. Marshall says in his text, is that he has not talked with Mr. Downs, but he does not see a down side to having the Board review it both ways, either for the 40 acres or the 35½. Mr. Koch supposes that given the time sensitivity of it, he does not have an issue with it that from a legal point of view if the Board does not. It would be the Board's call whether to approve it.

Mr. Koch asked Ms. Morris to point to the 4 1/2 acres on the plat. He said on the bottom side of that is the railroad. He said where the cul-de-sac is and that extension across the railroad that is going to be a brand new public road that does not exist at this point. Everything you see below the railroad is the existing Bill McGee private road, that will become a public road and they are going to have to run utilities up the side of it; so there are utility easements that you can see adjacent to it and whatnot.

He thinks the important thing to keep in mind about this is regardless of the amount of acreage that is going to go to IPG, that is where the road is going to go. It is going to be where you see it, so that part of it is not going to change. You can see where those two tables are on the left side of that proposed plat; that actually would be the IPG property. It runs below Muddy Creek, in between the railroad and then off to the left side of that plat. That will be what they will buy and it is either going to be the 40 acres or it is going to be 35½. That is where it is going to be there are no other sites.

He does not have any particular problem with the Board approving it. Essentially, it is the placement of the road with references to this plat, understanding that there might be another little lot carved out of it. We are having to go through this process because there is a public road coming into it. If all the parcels remaining in a subdivision were greater than 10 acres, we would not be dealing with this. But the road is the reason it is even coming before the Board. If that is the thing that we are really concerned about, that is not going to change. Everybody is in agreement, that is where the road is going to be and it is just a question as to how much they are going to buy. Originally, they were going to buy 35½ acres. We talked to them about buying 40 acres, now that apparently has changed. That is kind of where we are with it.

Ms. Morris said the plat overall qualifies as an exemption because the lots themselves are over 10 acres. The main thing is the road right-of-way. Like Mr. Koch said, Bill McGee was a private

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road and apparently that has been handled in Raleigh. That particular part of it now has been accepted onto the State system. But the end part has not, so they will have to go through the process for that. When we received the plat it had not been accepted by the State. Essentially, the right-of-way dedication is from Wallace Road up to where you see the terminus in the cul-de-sac and it is a 60 foot right-of-way. If it were not for that right-of-way being created, this would not have been a subdivision review. The main thing is that the road gets on record and gets dedicated like it needs to through the right process and then after that, the lots can be created using that frontage that exist through this process in the final platting process.

The Vice-Chair said how do we get into the form of a motion that will allow all of that to happen?

Ms. Morris said we can briefly go through the staff report. There are no conditions of approval that are proposed at this time. She has a revised staff report that she can present. They have made the revisions that were listed as conditions and she thinks Mr. Koch can help the Board craft the motion.

Mr. Koch thinks so and said there have been a number of meetings about this and for some reason he got tapped to scribe, to draft a Memorandum of Understanding among all of these parties. He said everyone signed off on it with the exception of the railroad, but they have sent an email saying that as soon as their representative gets back in town he will sign also. Everybody is on board with this concept and really the amount of acreage that IPG is going to purchase from the County is not the main component of this whole deal. It started out as a smaller amount then it went to a larger amount and it looks like it might go back to the original amount. But it is not going to change any of the rest of this in anyway.

He thinks that once Ms. Morris goes through the staff report we can do some language for a motion if you are inclined to approve this tonight and deal with it in the way that allows a little bit of flexibility as to the amount of acreage that is actually ultimately sold to IPG.

Ms. Susie Morris, said we have some larger copies that we can pass around of what was submitted today and what will be entered into record.

She said the name of the subdivision is currently Intertape Polymer Group. It is a major subdivision because of the dedication of the right-of-way. But for that the lots that are being created will all be over 10 acres. The 3 1/2 and 4 acre tracts that Mr. Koch is talking about actually will remain part of the overall Cabarrus County Wallace Park tract until it is created as a separate tract. (She showed the two parcels on the map and said they would be separated by the road, but it is all still one big parcel and would all have the same PIN number, it would just be split by this right of way). If that is the route that it goes, there is still over 10 acres and the main priority is just the dedication of the right-of-way. We do not have anything at this point that would qualify as a minor subdivision until the 4 1/2 acres comes back and they want to actually create that tract; if it goes that route.

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Ms. Susie Morris, Planning Manager, presented the staff report for PLPR2016-00013, the Applicant is Intertape Polymer Group (IPG) out of Sarasota, Florida. The zoning is General Industrial and the location is 13722 Bill McGee Road. That would be upon the extension of that road and the extension of the center line of that road to meet the new facility.

The property is currently vacant and as you can see by the plat, there are several wetlands on the property. There is also a stream on the property. That was one of the comments that we had as a condition and they did go back and revised that. The river stream overlay is shown as appropriate and they have also buffered the wetlands as our Ordinance requires them to do.

The adjacent land uses are industrial, residential and vacant. There is actually a neighborhood to the west of the property. If and when the project does come to fruition and they go through plan review, they will be required to buffer to that residential district that is next to it. The surrounding zoning is GI to the North, East and South, to the West is Midland City limits, so it is Midland Single Family Residential. The utility provider is the Town of Midland through the City of Concord for this particular property.

The Board has several exhibits, including the maps, so you can see where it is located. As far as code considerations, they are showing that they can meet the setbacks that would be required for the district. They are also showing that they can meet the landscape and buffering requirements. The way that the parcel is setup, they would be able to meet that for Industrial to Residential.

EMS had no comments, Fire had no code related issues with the subdivision of the property and its future use. Once that road is there, it should be completely accessible for EMS and for Fire. NCDOT did have two comments as of yesterday afternoon. Those comments were cleared with the revisions that were made. One comment was that they had to place the Certificate of Approval for the streets and street drainage plans for the District Engineer to sign. The other comment was that they had to revise the site triangles. Both of those comments have been taken care of and that is on the smaller version that the Board has in front of them.

She said as far as planning, they did fix the Waterbody buffer, they added the setbacks, the zoning designation and the two certificates that they needed to submit. Again, like we have talked about, it is an exemption, but it is not an exemption because of the dedication of the right-of-way. If that road was already there, it would not be coming to the Board. They would just be working with staff administratively on the subdivision itself.

She said at this point, the conditions of approval that were proposed are no longer proposed because they cleared those comments with us and NCDOT. The plat as presented currently meets the Ordinance. If they start shifting property lines or if the road alignment shifts or something like that, of course it would be subject to additional review.

Ms. Morris said at some point, there was some discussion about whether it was going to be a 70 foot right-of-way, 66 foot right-of-way or 60 foot right-of-way. At this point everybody seems to be in agreement that it will be 60 feet, that they can make that work. If at some point that needs

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to be adjusted, then potentially it would come back before this Board to create a new right-of-way to be recorded in the Register of Deeds Office.

Mr. Koch thinks that issue has been pretty well vetted because the original draft of the MOU indicated a 66 foot right-of-way and then they went back and changed it. He said 60 is what it is supposed to be. That is what is in the MOU and that is what is on the preliminary plat.

Ms. Morris said that is what is reflected on the plat that the Board received in their packet, as well as the paper copy that they have in front of them.

Mr. Koch only offers that to say that it is unlikely that it will be changed again, but if it is, it will have to come back before the Board.

Ms. Morris said this then will be used as the exhibit to send to the State for the road to be considered and to be added to the state maintained road list. She said this is a Planning Board function and will require a simple majority vote.

The Chair asked Mr. Koch to help craft a draft motion.

Mr. Koch thinks it would be sufficient if the motion simply states the following:

Move to approve this preliminary plat as it has been presented. With the exception, that if there is a lesser amount of property, than what is shown on that plat that is conveyed from the County owned property to IPG, as we have talked about in this meeting, that either way, the plat would nevertheless still be considered approved. Any other change will need to come back before this Board. But, that is really the only variable aside from what the Board has seen in this plat.

There being no further discussion, Mr. Aaron Ritchie **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE**, PLPR2016-00013 Preliminary Plat for Intertape Polymer Group (IPG), as it has been presented. With the exception, that if there is a lesser amount of property than what is shown on that plat that is conveyed from the County owned property to IPG, that either way the plat will nevertheless still be considered approved. Any other change will need to come back to the Planning and Zoning Commission. The vote was unanimous.

Directors Report

Ms. Susie Morris, Planning Manager, addressed the Board. She said the Board members that have signed up for the training are signed up and committed, and to please put it on their calendar. If there is anyone who has not signed up and would like to go, please let her or Lynn know by close of business tomorrow. The deadline is approaching, it is in Mooresville, and there is limited space.

The Vice-Chair asked what the training is.

Ms. Morris said it is the School of Government's Traveling Road Show. Last year they did a session on Board of Adjustment and this year it will be on Legislative Rezoning, Findings and

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Consistency Statements. The focus this time is going to be more on legislative actions than on the quasi-judicial actions. It will be on Wednesday, May 25th from 1:00 – 4:00 pm. If anyone else is interested in attending, we need a yes, I want to go and a valid email address because we will have to create an account for you. It will be at the Charles Mack Citizen Center in Mooresville.

She said again, if the Board knows of anyone that lives in the Central Area, we are still looking for a representative for that area. It is in the eastern boundary of Concord City limits towards Midland and Flowe Store Road area.

Legal Update

Mr. Koch said last month he gave an update on a lot of different cases and some of them are still about to come up; a couple of zoning violations.

The one he does want to mention that occurred yesterday was the hearing on the appeal of the Lodge Concord Wedding Facility. If the Board recalls, that is the one that is on the 17 plus acre tract that was in the backend of a subdivision. There were maybe 40 some homes in there of smaller lots. That (The Lodge Property) had originally been the property of the developer of that subdivision; his personal residence. But it subsequently had been sold and these people were using it for a wedding reception facility and for other events and they live there on the property and they have home school and they have some sort of farming activity and what not.

They had appealed a notice of violation and an interpretation of the Zoning Administrator, that they were operating an illegal wedding reception facility on that property. Then we had the hearing here, if you recall, an evidentiary hearing in which had Jim Scarborough representing the owners and then we had a number of neighbors who showed up and testified to the noise and the traffic issues. If the Board recalls, the only way to access that 17 acre tract was through that neighborhood. It did not have a separate access.

They were appealing it on a number of grounds to the Superior Court, which is where appeals from your Board of Adjustment decisions go. We had the hearing yesterday morning and the grounds on which they appealed it were as follows:

Argument #1:

That if you read the definition of reception facility in our Ordinance, it says a piece of property that is used “solely” for wedding receptions, private parties, events etc. So, they were arguing that the use of that word “solely” in that definition section of our Ordinance, basically said that if you are using your property for something more than just that purpose, that it takes you out of the Ordinance for that reason and that that particular provision does not apply to you.

Argument #2:

This was a complaint situation, where some neighbors complained about noise and traffic and Mr. Lowe went out to investigate. In talking with the Diefenbach's, who are the owners of the property, he learned that they actually live there with their six kids and they have all of these activities going on. They had built a large barn without any permits. That issue kind of got dealt with, but the barn

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is there and they use it for these events. They also use their home as a staging area and a place for the bride and bridesmaids and other wedding party members to dress and whatnot. So they kind of use the whole facility for these events.

So they were basically saying that you didn't really in your notice of violation say that it was not allowed as a home occupation. Even though they had been put on notice that you cannot have a wedding reception facility as a home occupation, in any zoning district, not just the AO district which applied to this property.

Argument #3:

That they had not been accorded procedural due process, that we had not followed the rules with reference to the handling of a Board of Adjustment function on a zoning ordinance interpretation.

Mr. Koch said the Board may recall that we did have an extended hearing on this. There were some objections Mr. Scarborough made at the beginning of the hearing that were spelled out in the minutes, but they were given the right to cross examine, they were given a copy of the staff report and they were afforded everything in advance of the hearing that they were required to be under the statute and they were given a full opportunity to present evidence, cross examine witnesses and be heard. Which are basically the chief components of procedural due process in a quasi-judicial matter of this sort. Those were the issues and it came out as follows:

The Judge in an appeal of that type, is allowed to substitute his own judgment for an interpretation of the Ordinance to that of the Board; that is called *De nova* review. When you review the Ordinance and you say it means this, he can look at it and say well it means something else. On that particular issue he said because you have the word "solely" in there that if you are using your property for purposes other than that, that particular provision does not apply to you. So he ruled in their favor on that issue and reversed the Board's decision.

The second issue about Home Occupation, he is saying that since we did not mention in the Notice of Violation (NOV) that the violation is based on it being used as a home occupation, that that did not apply. We were saying it is a violation either way, and the Judge is saying that does not even apply, because you did not put it in the NOV. (Mr. Koch said he will come back to that in a minute).

The third part where they raised an issue about the way the hearing was conducted, the Judge flatly rejected that. He said no, they were given a full and fair hearing. The procedural due process and also substantive due process were accorded them. That was not an issue and that one was decided in favor of the Board and of the County.

Mr. Koch is coming back to the home occupation business, he does not know if this was by design or what. Ms. Morris was at the hearing and she can give you an idea of how the arguments went because we had a pretty spirited discussion about some of these issues.

By the Judge saying that since our NOV originally dealt with the issue of saying it was a violation of the reception facility provision, as far as Mr. Koch is concerned, we can go back and give them

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an NOV on a violation with a home occupation. Because the Judge said that did not apply here, or rather he said that was not what this case was based on. Which basically leaves us free to say if you are living on the property and you are having wedding events, then you are in violation of that part of the Ordinance.

Mr. Koch said if you look at the NOV, it is very generic and we argued this. He personally thinks it covers both situations. We do not have to be that specific. However, by the Judge ruling in that fashion, he basically gives us an opening to go back and site them for what they have done, with reference to these other events under that particular provision and it will take it out of that reception facility definition. Because if you look in the home occupation part of the Ordinance, it does not allow you to do any of those other things. There are only specific things you can do.

While it may make us go back and have to cite them again, it leaves the matter open on that issue. The Judge took the matter under advisement and sent Mr. Koch an email this afternoon giving him his decision. There will be an order that will be entered that will have some specifics in it, but that is the way it seems to shape up.

We can go and make a tweak to that reception facility definition, to kind of make sure it covers these types of situations. He is not sure why it said "solely" in there originally. But he thinks it was probably because it contemplated the situation, where people would want to set this up as a separate little business and that is all they would do.

If you go back and look in the minutes he thinks from 2007 or 2008, the discussion among the members of the Board that were there at that time as to whether to relax the Ordinance to allow these in that type of zoning district. Mr. Koch remembers it was Mr. Ian Prince that said you are going to have trouble with this down the road if you do this and it turns out he was a bit of a prognosticator, because we now have had trouble with it and here is an example. He guesses it is in some ways a case of no good deed goes unpunished. He said because you try to let people use their property in the ways that they find beneficial. But when you are trying to craft an ordinance that will allow that, and you cannot think of every situation that could conceivable come up and then you have this one where they can make the whole thing turn on the word "solely". When the idea there was that it was trying to define what types of events you would have for a facility of this sort. He thinks the contemplation is that it would have been kind of a standalone deal. It would not be something where you are living there and you are doing something else and kind of like these people.

If you think about it, most of all of the other ones that the Board has had before them and we have had a few of them and that has been essentially what they have done. If you recall the Fulk situation where they split the property, so that they could live on one parcel and then they would have the other one. The Board did a few variances to allow them to use some of the view-scapes of a pond and what not to be able to kind to make them work together. But they lived one place and they had their events in the other.

Mr. Koch does not know what you could say about it, other than that is the way he looked at it and we are going to review this and decide. We may appeal it to the Court of Appeals, he does not

Planning and Zoning Commission

Minutes

April 12, 2016

know, he has not had a chance to really think it through. But the one thing to him that is important, is that the whole idea behind having these as a conditional use is to balance the interest of the neighbors against the ability of the property owner to be able to make good use of their property in a way that they want to do it. Here we have neighbors who had very legitimate complaints about noise and traffic, which seemed to be ones that the Diefenbachs paid no heed too. They were going to do what they wanted to do and they would have 120 to 130 people out there and they would be whooping it up outside, partying at the reception. Which is fine, but the idea under official use was to be able to put restrictions on whether to keep it in doors or put time limits on it or whatever in order to allow the neighbors to continue to enjoy their property without a whole lot of interference from these events. So they have kind of been able to do a temporary end-run around.

We had a bunch of the neighbors there at the hearing yesterday, fifteen or twenty, they turned out in force. So you can tell it means something to them.

Mr. Koch said apparently the Defienbachs have moved the wedding receptions to another parcel that they own in Charlotte. They are still doing other events on this property, apparently some farm to fork type stuff and they are still generating traffic in and out.

The Vice-Chair said at that time, he was thinking you probably should not have said that because that is a violation too.

Mr. Koch said for the moment they have tried to do an end-run around on this technicality and the Judge saw that issue their way and saw it our way on the others in a sense. But he has given us an opening to be able to go back and deal with this on the home occupation issue. Ms. Morris and I have not had a chance to talk about it yet. He said the Judge may be very solomonic in the way he dealt with this. We will let you know.

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 8:35 p.m.

APPROVED BY:



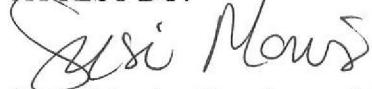
Mr. Richard Price, Vice Chair

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:



Susie Morris, Planning and Zoning Manager

**CABARRUS COUNTY
REZONING
APPLICATION**



STAFF INSPECTION
Application Acct# RZON 2016-00004
Received By JRC
Date Filed: 03/01/16
Amount Paid: 576.80

Instructions

1. Schedule a pre-application meeting with Staff to discuss the procedures and requirements for a zoning map amendment request.
2. Submit a complete application for an amendment to the official zoning map to the Planning Division. All applications must include the following:
 - Cabarrus County Land Records printout of all adjacent property owners. This includes properties located across the right-of-way and all on-site easement holders. The list must include owner name, address, and Parcel Identification Number.
 - A recent survey or legal description of the property or area of the property to be considered for rezoning.
 - Any additional documents essential for the application to be considered complete. (Determined as part of the pre-application meeting)
3. Submit cash, check, or money order made payable to Cabarrus County.

Fees:

 - Residential rezoning request less than 5 acres = \$400
 - Residential rezoning request greater than 5 acres = \$400 + \$5 per acre over 5 acres
 - Non-residential rezoning request = \$550 + \$5/acre
 - +3% technology fee based on total application fee
4. The deadline for submittal is always the same day as the Planning and Zoning Commission Meeting which is the second Tuesday of the month. Applications must be submitted before 2:00 PM that day for consideration on the next available agenda.

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

Process Summary:

1. Hold a pre-application meeting with Staff to discuss your rezoning request and the map amendment process.
2. Submit a complete Zoning Map Amendment application with the appropriate fees to the Cabarrus County Planning Division.

Staff will review your complete application, prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for rezoning.

Meeting Information: Meetings are held the second Tuesday of each month at 7:00 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

Expedited Vote: A vote of $\frac{3}{4}$ or more of the members of the Planning and Zoning Commission is considered an Expedited Vote and will constitute a final decision. If approval or denial of a rezoning request is by a vote of less than $\frac{3}{4}$ of the members, or if an appeal of the decision is filed within 15 days of the date of the decision, the application will automatically be forwarded to the Board of Commissioners for final consideration at a *de novo* hearing.

Questions: Any questions related to rezoning your property or to the rezoning process may be directed to the Planning Division at 704-920-2141, between 8 AM and 5 PM, Monday through Friday.

Subject Property Information

Street Address 9690 Hwy 601 Midland NC
PIN(s) (10 digit #) 55-56-01-31-69-
Deed Reference Book _____ Page _____
Township # _____

Description of Subject Property

Size (square feet or acres) 2 Acres
Street Frontage (feet) _____
Current Land Use of Property Bible College
Surrounding Land Use North Residential
South 11
East 11
West 11

Request

Change Zoning From Residential To Commercial Limited (per Mr. Simpson)
Date 03/01
Signature AB

Purpose for Request To Rent

Utility Service

Water Supply Well or Service Provider Cabarrus County
Wastewater Treatment Septic Tank(s) or Service Provider _____

Property Owner/Agent/Applicant Information

It is understood by all parties hereto including owner, petitioner, and/or agents that while this application will be carefully considered and reviewed, the burden of proving its need rests with the below named petitioner(s).

I do hereby certify that the information that I have provided for this application is, to the best of my knowledge, true and correct.

Property Owner

Xao's Inc. (Randall Bruce & Frances Simpson

Address

90 90 Hwy 601 Midland NC. 28607

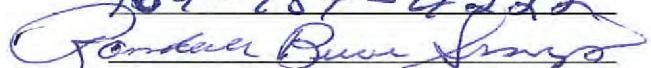
Phone

704-791-2056

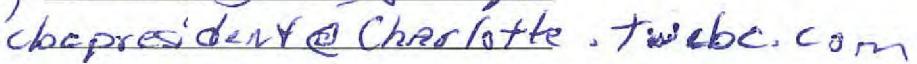
Fax

704-784-4222

Signature



E-mail Address



Agent (if any)

Address

Phone

Fax

Signature

E-mail Address

Applicant (if any)

Address

Phone

Fax

Signature

E-mail Address

Revised Staff Report and
Preliminary Plat
Presented at the meeting

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Staff Use Only
Approved
Denied
Tabled

Petition: PLPR2016-00013 Preliminary Plat Approval

Subdivision Name: Intertape Polymer Group

Subdivision Type: Major Subdivision

Applicant Information: Intertape Polymer Group
Gary Brooks
100 Paramount Drive
Suite 300
Sarasota, FL 34232

Zoning: General Industrial

Township: Cabarrus County

Property Location: 13722 Bill McGee Road

PIN#: p/o 5544-72-0739

Proposed Number of Lots: 1 new lot is proposed

Area in Acres: +/- 40.594 acres

Site Description: The property is currently vacant. There are several wetlands and a perennial stream located on the subject property.

Adjacent Land Uses: Industrial, Residential and vacant properties

Surrounding Zoning: North: GI (General Industrial)
East: GI (General Industrial)
South: GI (General Industrial)
West: Midland SFR (Single Family Residential)

Utility Service Provider: Town of Midland

Exhibits

- Exhibit A - Staff Report
- Exhibit B - Proposed Plat
- Exhibit C - Maps

Code Considerations

The General Industrial district has the following development standards:

- Minimum Front Yard Setback: 75'
- Maximum Front Yard Setback: 75'
- Minimum Side Yard Setback: 30'
- Minimum Side Accessory Setback: 30'
- Minimum Rear Yard Setback: 30'
- Minimum Rear Accessory Setback: 30'
- Maximum Impermeable Surface: 60%
- Maximum Structural Coverage: 40%
- Maximum Building Height: 60'
- Maximum Accessory Height: 30'

Agency Review Comments

EMS – No Comments.

Fire – No code related issues with the subdivision of this property and its future use.

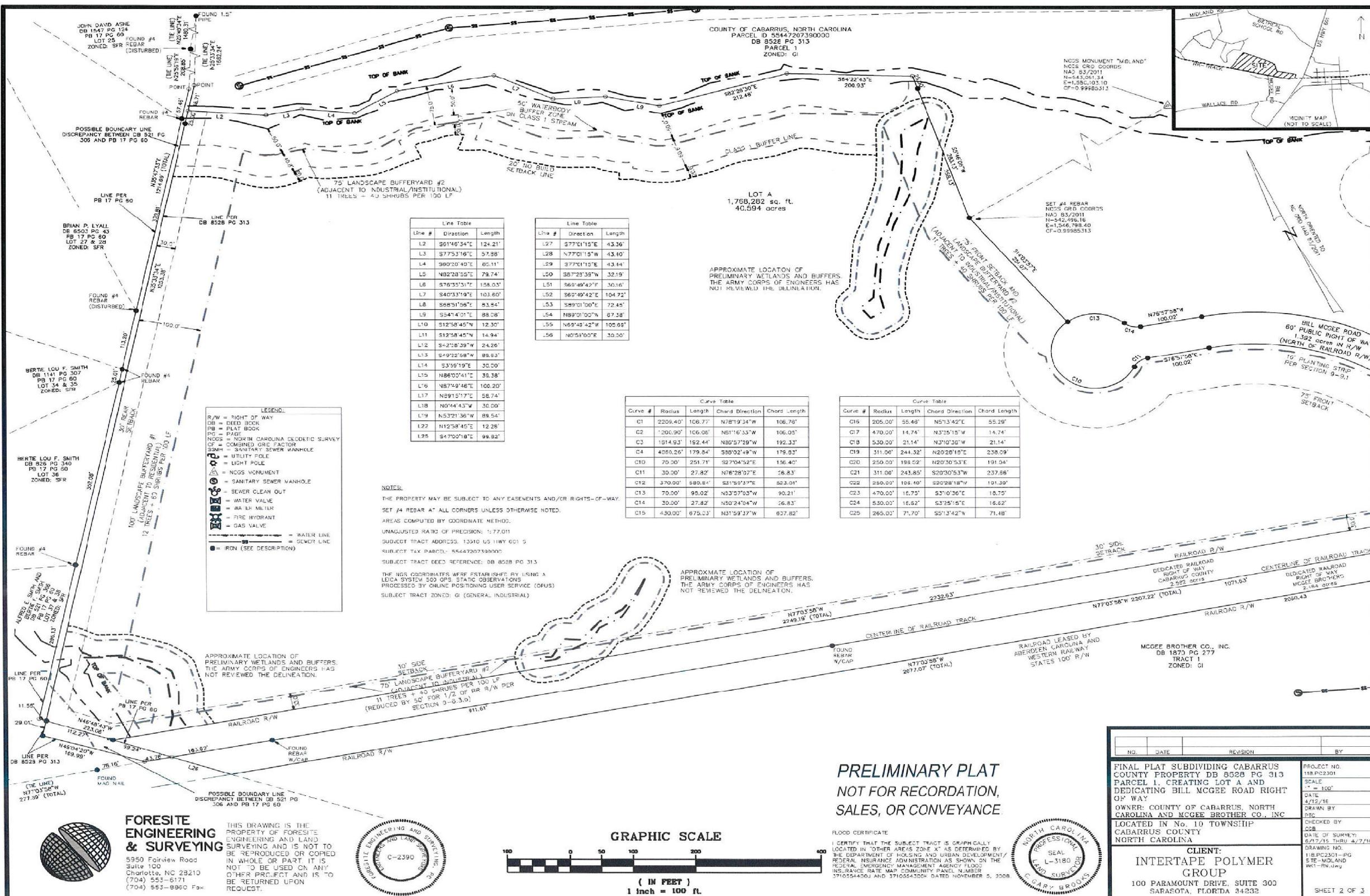
NCDOT – No comments.

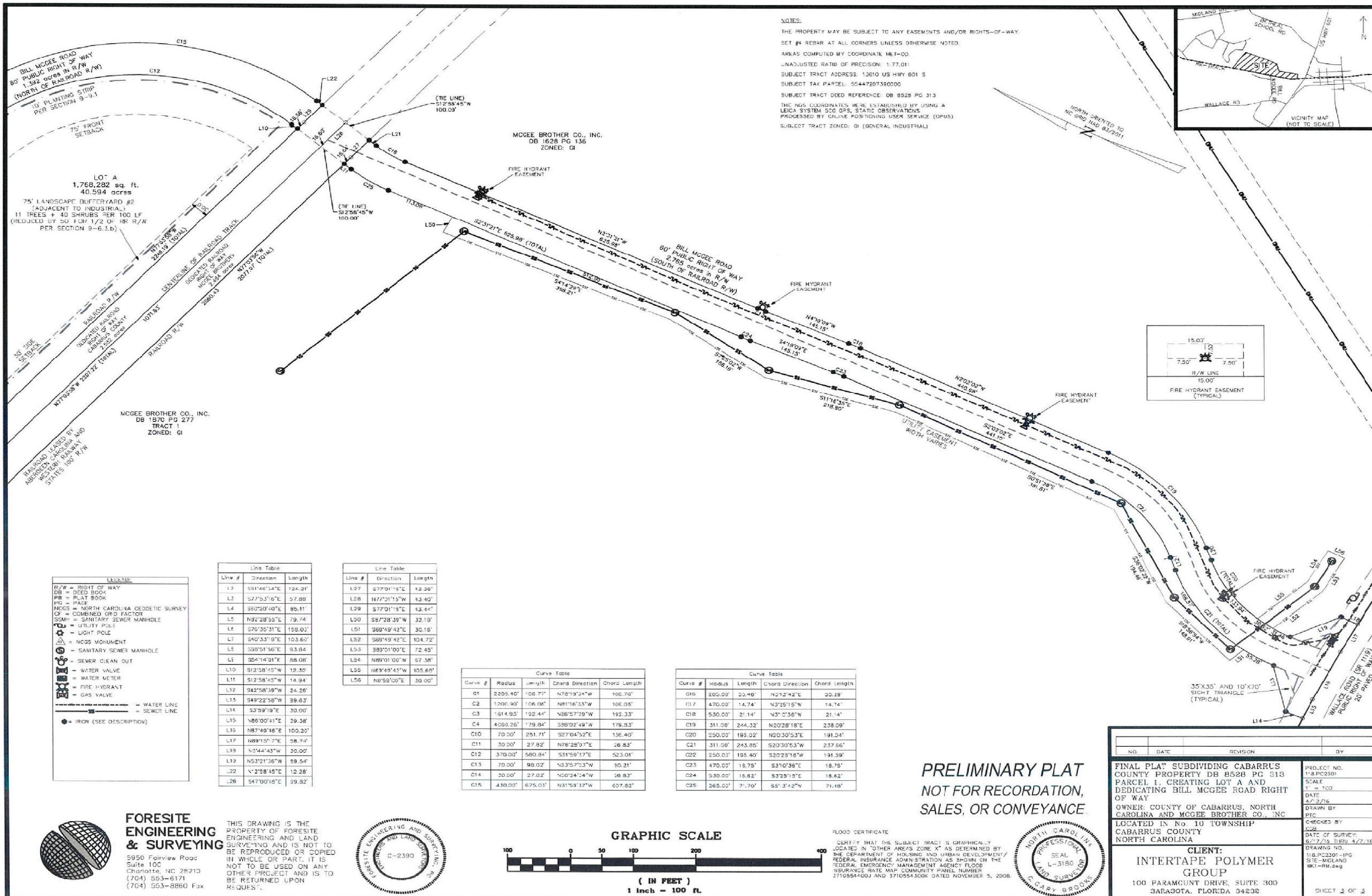
Planning – No comments.

Staff Analysis

The proposed subdivision would typically be processed as an exempt subdivision, as the parent tract and the proposed tract are both greater than 10 acres. However, public right-of-way is being extended (Bill McGee Road) from Wallace Road to the Intertape Polymer Group site and will be dedicated to the NCDOT. Since there is a 60-foot public right-of-way shown on the plat, it must be processed as a major subdivision.

Conditions of Approval





PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
03/01/2016

Sta EXHIBIT B
Approved: _____
Denied: _____
Tabled _____

Petition: RZON2016-00004 Rezoning

Applicant Information: Rondall Bruce Simpson (owner of Xaris Inc)
9690 US Hwy 601 S
Midland, NC 28107

Owner Information: Xaris, Inc
9690 HWY 601
Midland, NC 28107

Existing Zoning: CR (Countryside Residential)

Proposed Zoning: LC (Limited Commercial)

Permitted Uses: All uses permitted in the CR district are allowed on this subject property.

PIN#: 5556-01-3169

Area in Acres: 2

Site Description: The site is currently developed as the Bible College

Adjacent Land Use: North: Vacant, Residential, Heavily Wooded
East: Single Family Residential, Landscaped, Vacant
South: Single Family Residential, Pastures
West: Vacant, Residential, and Heavily Wooded

Surrounding Zoning: North: CR (Countryside Residential)
East: CR (Countryside Residential), AG (Agriculture - Town of Midland)
South: CR (Countryside Residential)
West: CR (Countryside Residential)

Utility Service Provider: Septic and City of Concord Water

Exhibits

- EXHIBIT A: Application
- EXHIBIT B: Staff Report
- EXHIBIT C: Aerial Map
- EXHIBIT D: Land Use Map
- EXHIBIT E: Zoning Map
- EXHIBIT F: Letter to Adjacent Property Owners
- EXHIBIT G: Adjacent Parcel List
- EXHIBIT H: List of Permitted Uses for CR and LC Zoning Districts
- EXHIBIT I: Zoning Sign

Intent of Zoning Districts

EXISTING DISTRICT: COUNTRYSIDE RESIDENTIAL (CR):

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

This land use district was created as a direct result of the County's systematic area planning process. As a reaction to the growth of the past decade (as much as 80% in some townships) many residents are anxious to see their areas retain the appeal that inspired the resident to make his or her original investment. This district helps implement a growth management philosophy before the fact, rather than after. In summary, the principle purpose of this district is to provide some land area in the County for a permanent country, rural residential life style.

PROPOSED DISTRICT: LIMITED COMMERCIAL (LC):

This district is intended to accommodate relatively small scale commercial and office development at intensities complementary to residential land uses.

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

Agency Review Comments

Fire Review: No comments were submitted by the Fire Marshal

Addressing/E911 Coordinator: Lee Snuggs – No issues.

Town of Midland: Richard Flowe - This property is in our Midland service/planning area. Our adopted Town Plan 2030 shows the area as Agricultural. Our local Midland Development Ordinance list a "Rural Market", among other things, as a permitted non-residential use in our Agricultural (AG) district. With this in mind, it is likely that the design of the facility will be suitable for such a use. While we don't see major commercial in this location, the limited nature of your LC use list is not inconsistent with the Town's adopted AG district uses.

Cabarrus County School System: Robert Kluttz – It does not appear that the rezoning will have any impact on our school system so we would not be opposed to the change in rezoning.

NCDOT: Michael Mariano - NCDOT does not have any comments on the proposed rezoning.

Land Use Plan Analysis

According to the Midland Area Land Use Plan, the subject property is designated as Low Density Residential (LDR). The Low-Density Residential district is primarily residential in nature with little or no likelihood of public utilities within a twenty year horizon. The minimum Lot Size is One (1) acre, $\frac{1}{2}$ acre if public water and sewer are available. Although the district is primarily residential in nature, there are a variety of non-residential uses that are permitted.

Conclusions

The proposed rezoning is not consistent with the intent of the Midland Area Land Use Plan.

The site currently supports a Bible College. The existing college was issued a Conditional Use Permit on October 18, 2001 and functioned as such until February 29, 2016. A college is considered an institutional use per Chapter 3, Section 3-8, Table of Permitted Uses.

The current Countryside Residential (CR) zoning designation appears to be in keeping with the intent of the Low-Density Residential land use designation as it allows for low density residential (.5 dwelling units per acre or up to 1 dwelling unit per acre if additional standards are met) and a variety of non-residential uses.

The proposed Limited Commercial (LC) district does not allow for single family residential. Multi-family residential and Townhouses are permitted in the LC district based on standards. The LC district does allow a broad range of non-residential uses.

PLANNING STAFF REPORT

CABARRUS COUNTY PLANNING AND ZONING COMMISSION

03/01/2016

Staff Use Only:

Approved:

Denied:

Tabled

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

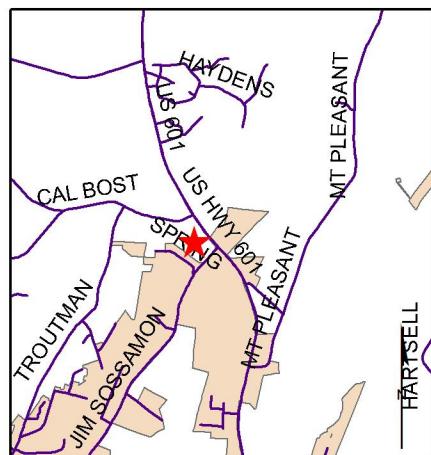
Aerial Map

Exhibit C



Applicant: Rondall Bruce Simpson
Owner: Xaris, Inc
Case: RZON2016-00004
Address: 9690 US HWY 601
Purpose: Rezoning from CR to LC
PIN: 5556013169

PARCEL LINES



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
March 3, 2016



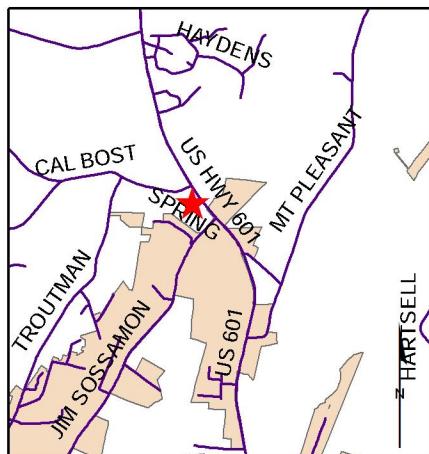
Future Land Use Map

Exhibit D



Applicant: Rondall Bruce Simpson
Owner: Xaris, Inc
Case: RZON2016-00004
Address: 9690 US HWY 601
Purpose: Rezoning from CR to LC
PIN: 5556013169

PARCEL LINES



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Map Prepared by Cabarrus County Planning & Development
March 3, 2016

Legend

	PARCEL LINES
	STREETS CENTERLINE
Midland Future Landuse	
LAND_USE	
	Agricultural/Open Space
	Countryside Residential
	Future Employment
	General Industrial
	Limited Commercial
	Low Density Residential
	Medium Density Residential
	Mixed Use
	Cabarrus County

Subject
Property

1 inch = 167 feet

0 75 150 300 450 600
Feet

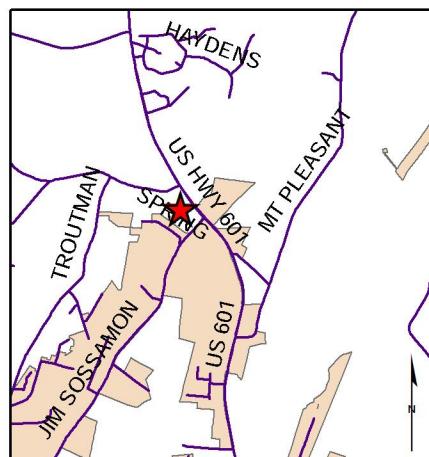


Zoning Map

Exhibit E

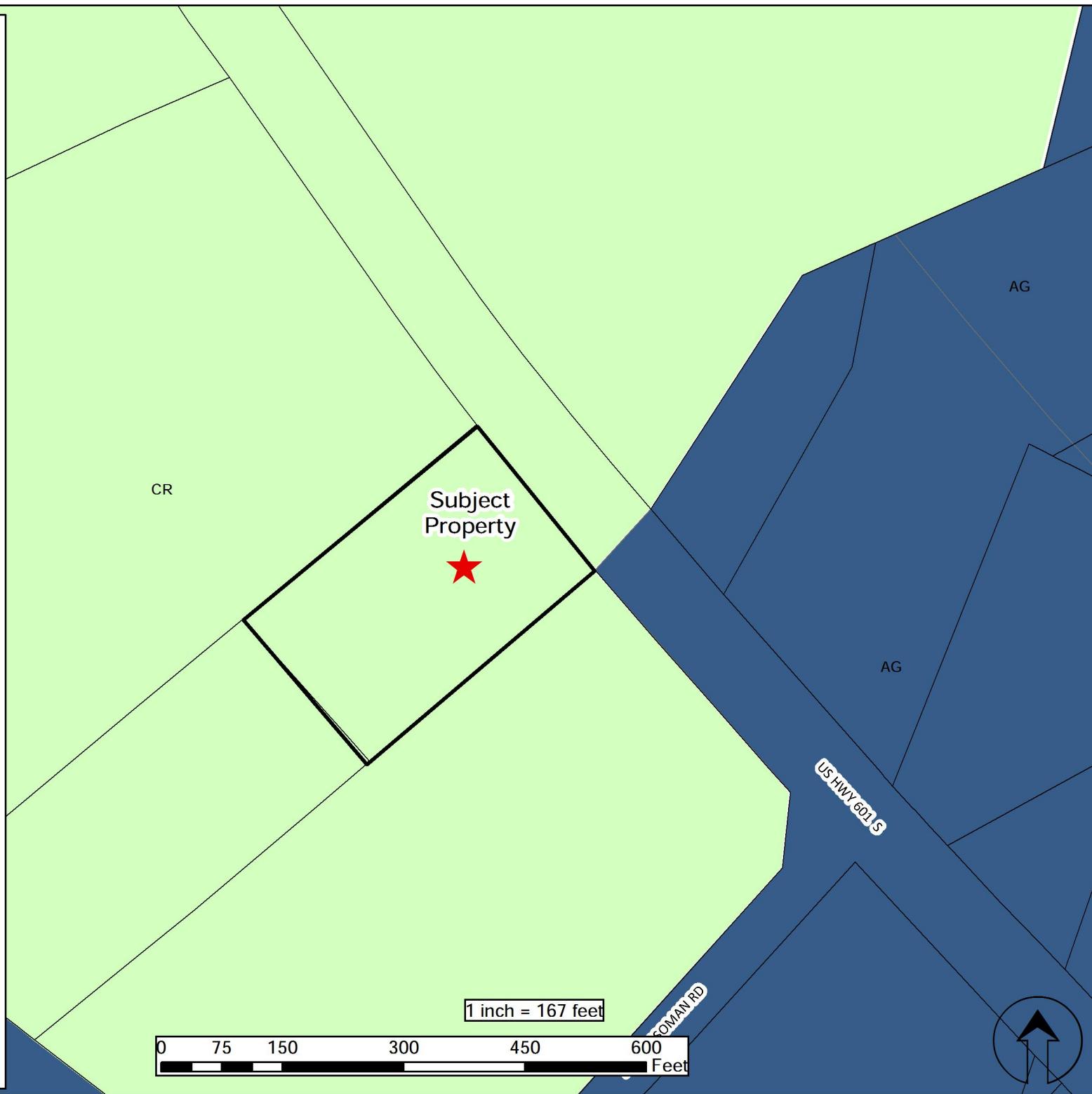


Applicant: Rondall Bruce Simpson
Owner: Xaris, Inc.
Case: RZON2016-00004
Address: 9690 US HWY 601
Purpose: Rezoning from CR to LC
PIN: 5556013169



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Map Prepared by Cabarrus County Planning & Development
March 3, 2016





Dear Cabarrus County Property Owner:

The Cabarrus County Planning and Development Department has received a request for a **Rezoning** for property located **adjacent** to your property. The specifics of the request are listed below.

The Cabarrus County Planning and Zoning Commission will consider the **Rezoning** request on Tuesday, April 12, 2016 at 7:00 PM. This meeting will be held in the Commissioners Meeting Room located on the second floor of the Governmental Center at 65 Church Street SE, Concord, NC 28025. A Public Hearing will be conducted as part of the consideration of the request and public input will be received during that time. If you have any comments or questions related to the request, you should plan to attend the meeting.

Applicant:	Randall Bruce Simpson
Case Number:	RZON2016-00004
Property Address:	9690 US HWY 601, MIDLAND, NC 28107
Parcel Number:	55560131690000
Existing Zoning:	CR (Countryside Residential)
Proposed Zoning:	LC (Limited Commercial)
Description:	Request to rezone subject property from Countryside Residential (CR) to Limited Commercial (LC).

If you have any questions regarding this request or the public hearing process please feel free to contact me at **(704) 920-2141**.

Sincerely,

Jason Earliwine

*If reasonable accommodations are needed
please contact the ADA Coordinator at **(704) 920-2100** at least 48 hours prior to the public hearing.*

EXHIBIT G

ADJACENT PARCELS OWNER LIST						
PIN#	Name	Name 2	Mail Address	City	ST	Zip
55560173670000	PRICE SARA A		1106 OAKWOOD AVE	KANNAPOLIS	NC	28081
55560047250000	WILSON GUDELIA C		9808 JIM SOSSOMAN RD	MIDLAND	NC	28107
55560008090000	SIMPSON RONDALL B	SIMPSON FRANCES R (WF)	9722 HWY 601	MIDLAND	NC	28107
55469174100000	ALTMAN JAMES H	ALTMAN BRENDA L/WIFE	6423 E MERCER WAY	MERCER ISLAND	WA	98040
55560131690000	XARIS,INC		9690 HWY 601	MIDLAND	NC	28107
55562315630000	FIVE M'S LLC / A VA LLC		1583 RIDGEDALE RD	HARRISONBURG	VA	22801

RESIDENTIAL DISTRICTS:**COUNTRYSIDE RESIDENTIAL**

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

Rationale

This land use district was created as a direct result of the County's systematic area planning process. As a reaction to the growth of the past decade (as much as 80% in some townships) many residents are anxious to see their areas retain the appeal that inspired the resident to make his or her original investment. This district helps implement a growth management philosophy before the fact, rather than after. In summary, the principle purpose of this district is to provide some land area in the County for a permanent country, rural residential life style.

COUNTRYSIDE RESIDENTIAL USES**CR Permitted (P) Uses**

Agriculture Excluding Livestock	Family Care Home	Nursery, Greenhouse
Agriculture Including Livestock	Group Care Facility	Single Family Detached Residential
Agritourism, Accessory to Agriculture	Livestock Sales	Wireless
Dairy Processing	Manufactured Home, In Manufactured Home Overlay District Only- See Chapter 4	Telecommunications Services, Stealth Antennae, 65 Feet or Less

CR Permitted Based on Standards (PBS) Uses

Accessory Dwelling Unit	Convenience Store with Petroleum Sales	Golf Course, Public or Private
Accessory Building	Convenience Store without Petroleum Sales	Home Occupation, General
Auction House	Country Club with Golf Course	Home Occupation, Rural
Auction, Estate or Asset Liquidation, Temporary Use	Dumpsters, Commercial Waste Containers, Temporary Use	Ice Production, Dispensing, Accessory to Convenience Store
Auction, Livestock, Temporary Use	Ethanol Fuel Production, Residential District, Private Use Only, Accessory Use	Ice Production, Dispensing, Accessory to Gas Stations
Barn, Greenhouse as Primary Structure	FEMA Trailers, Natural	Kennel, Private
Bed and Breakfast	Disaster or Significant Weather Event, Temporary	Landfill, Demolition-Less Than One Acre
Cemetery	For Profit Temporary Sign, Temporary Use	Mobile Personal Storage Unit, Renovation, Temporary Use
Civic Organization Facility	Gas station	Mobile Personal Storage Unit, Vacate or Occupy Premises, Temporary Use
Community Garden, Accessory Use		
Contractor Office, Construction Equipment Storage, Temporary Use		

Nursery, Daycare Center	Recreational Trail, Greenway, or Blueway Connector	Temporary Construction Sign, Temporary Use
Promotional Activities Involving the Display of Goods or Merchandise, Temporary Use at Existing Business	Religious Institution with Total Seating Capacity 350 or Less	Temporary Dwelling for Large Construction Projects, Temporary Use
Public Cultural Facility	Rest Home, Convalescent Home with 10 Beds or Less	Temporary Residence in Mobile Home during Construction of New Home on Same Site, Temporary Use
Real Estate Office in Construction Trailer or Modular Unit, Commercial or Mixed Use Projects, Temporary Use	Restaurant, Excluding Drive-Thru	Trail Head, Accessory Use
Real Estate Office in Construction Trailer or Modular Unit, Residential Projects, Temporary Use	Sawmill	Trail Head, Primary Use Site
Real Estate Office in Model Home, Temporary Use	Scientific Research and Development, Accessory to Agriculture	Wind Energy Facility, Accessory Use, On Site
	Stables, Commercial	Use Only
	Swim Club, Tennis Club, Country Club	Wireless Telecommunications Services, Co-location
	Temporary Agricultural Sign, Seasonal Sales on Site, Temporary Use	

CR Conditional (C) Uses

Animal Hospital	Elementary, Middle and High Schools	Recreational Facility, Outdoor
Animal Shelter	Kennel, Commercial	Recreational Therapy Facility, Rural Setting
College, University	Multimedia Distribution & Production Complex	
Communications Tower, 911	Public Service Facility	
Communications Tower	Public Use Facility	
Day Camp, Summer Camp, Civic Group Camp Facility	Reception Facilities	

CR Conditional (C) Uses Continued

Religious Institution with Total Seating Capacity 351 or More	Shooting Range with Outdoor Target Practice	Wireless Telecommunications Services
Religious Institution with School	Slaughter House, Meat Packing	
Rest Home, Convalescent Home with More Than 10 Beds	Sports and Recreation Instruction or Camp	

COMMERCIAL DISTRICTS:

OFFICE/LIMITED COMMERCIAL

This district is intended to accommodate relatively small scale commercial and office development at intensities complementary to residential land uses.

RATIONALE

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

USES IN THE OFFICE/LIMITED COMMERCIAL ZONE:

LC Permitted (P) Uses

Arcade, Game Room	Drug store	Hospitals, Ambulatory Surgical Care Center
Automobile Parts, Tires, Accessories	Dry Cleaning Pick Up Station	Hotels, Motels, Inns
Banquet Hall	Equipment Sales and Service	Laundromat
Barber, Beauty, Tanning, Nail or Skin Care Salon	Family care home	Locksmith
Car Wash, Detail Service	Farm Supply Sales	Mobile Home Retail Sales
Catering Service	Farmer's Market	Movie Theater
Civic Organization Facility	Flea Market, Indoor Vendors Only	Nursery, Greenhouse
College, University	Funeral Home	Office, Professional, Less Than 30,000 Square Feet
Convenience Store with Petroleum Sales	Group care facility	
Convenience Store without Petroleum Sales	Gunsmith	Parking Lot, Parking Garage, Commercial or Private
	Health Club, Fitness Center	Pawn Shop

Pet shop, Grooming, Enclosed	Capacity of 351 or More	Taxidermy Studio, No Outdoor Processing
Photographic studio	Restaurant, Excluding Drive-Thru	Towing Service, No Vehicle Storage Lot, Office Only, Storage of Tow Truck, Car Haulers Permitted On Site
Printing and Reprographic Studio	Retail Sales- Shopping Centers 10,000 - 50,000 Square Feet	
Public cultural facility	Retail Sales- Shopping Centers 10,000 Square Feet and Less	
Public use facility	Tattoo Studio	Wireless Telecommunications Services, Stealth Antennae, 65 Feet or Less
Religious Institution with Total Seating Capacity of 350 or Less		
Religious Institution with Total Seating		

LC Permitted Based on Standards (PBS) Uses

Accessory Dwelling Unit	Community Garden, Accessory Use	Dumpsters, Commercial Waste Containers, Temporary Use
Accessory Building	Communications Tower, 911	
Auction, Estate or Asset Liquidation, Temporary Use	Communications Tower	Duplex, Commercial Use, Individual Lots
Automated Teller Machine as Accessory	Contractor or Trade Shop	Event, Tent or Temporary Structure, Temporary Use
Automobile Rental	Contractor Office, Construction Equipment Storage, Temporary Use	FEMA Trailers, Natural Disaster or Significant Weather Event, Temporary Use
Automobile Sales, New and Used	Country Club with Golf Course	
Bank, Financial Institution, Automated Teller Machine	Day Camp, Summer Camp, Civic Group Camp Facility	Fireworks Stand, Temporary Use
Bed and Breakfast		For Profit Temporary
		Sign, Temporary Use

LC Permitted Based on Standards (PBS) Uses Continued

Golf Course, Public or Private	Promotional Activities Involving the Display of Goods or Merchandise, Temporary Use at Existing Business	Includes Christmas Trees and Pumpkins, Temporary Use
Government Buildings, Storage Only	Real Estate Office in Construction Trailer or Modular Unit, Commercial /Mixed Use Projects, Temporary Use	Self-Service Storage Facility
Home Occupation, General	Real Estate Office in Construction Trailer or Modular Unit, Commercial /Mixed Use Projects, Temporary Use	Shooting Range, Indoor
Ice Production, Dispensing, Accessory to Convenience Store	Real Estate Office in Construction Trailer or Modular Unit, Residential Projects, Temporary Use	Sports and Recreation Instruction or Camp
Itinerant Merchant, Temporary Use, Existing Business	Real Estate Office in Model Home,	Storage Building Sales, with Display Area
Landfill, Demolition- Less Than One Acre	Temporary Use	Swim Club, Tennis Club, Country Club
Mobile Personal Storage Unit, Renovation, Temporary Use	Recreational Facility, Indoor	Temporary
Mobile Personal Storage Unit, Vacate or Occupy Premises, Temporary Use	Recreational Trail, Greenway, or Blueway Connector	Amusement Enterprise, Temporary Use
Moving Van, Truck or Trailer Rental	Recyclable Materials Drop Off	Temporary Construction Sign, Temporary Use
Moving Van, Truck or Trailer Rental, Accessory to Self- Storage Facility	Repair Garage, Automobile	Temporary Dwelling for Large Construction Projects, Temporary Use
Motorcycle Sales, New and Used	Repair Shop, Small Engine	Townhouses
Multifamily Residential	Restaurant with Drive-Thru Facility	Trail Head, Accessory Use
	Scientific Research and Development	Trail Head, Primary Use Site
		Wireless

Recreational

Nursery, Daycare Center

Seasonal Sale of Agriculture Products,

Telecommunications Services, Co-location

LC Conditional (C) Uses

Animal Hospital

Recreational Facility, Outdoor

Wireless Telecommunications Services

Animal Shelter

Trade and Vocational Schools

Kennel, Commercial

Veterinarian

Public Service Facility

EXHIBIT I



PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

Petition: PLPR2016-00013 Preliminary Plat Approval

Subdivision Name: Intertape Polymer Group

Subdivision Type: Major Subdivision

Applicant Information: Intertape Polymer Group
Gary Brooks
100 Paramount Drive
Suite 300
Sarasota, FL 34232

Zoning: General Industrial

Township: Cabarrus County

Property Location: 13722 Bill McGee Road

PIN#: p/o 5544-72-0739

Proposed Number of Lots: 1 new lot is proposed

Area in Acres: +/- 40.594 acres

Site Description: The property is currently vacant. There are several wetlands and a perennial stream located on the subject property.

Adjacent Land Uses: Industrial, Residential and vacant properties

Surrounding Zoning: North: GI (General Industrial)
East: GI (General Industrial)
South: GI (General Industrial)
West: Midland SFR (Single Family Residential)

Utility Service Provider: Town of Midland

Exhibits

- Exhibit A - Staff Report
- Exhibit B - Proposed Plat
- Exhibit C - Maps

Code Considerations

The General Industrial district has the following development standards:

- Minimum Front Yard Setback: 75'
- Maximum Front Yard Setback: 75'
- Minimum Side Yard Setback: 30'
- Minimum Side Accessory Setback: 30'
- Minimum Rear Yard Setback: 30'
- Minimum Rear Accessory Setback: 30'
- Maximum Impermeable Surface: 60%
- Maximum Structural Coverage: 40%
- Maximum Building Height: 60'
- Maximum Accessory Height: 30'

Agency Review Comments

EMS – No Comments.

Fire – No code related issues with the subdivision of this property and its future use.

NCDOT – No comments.

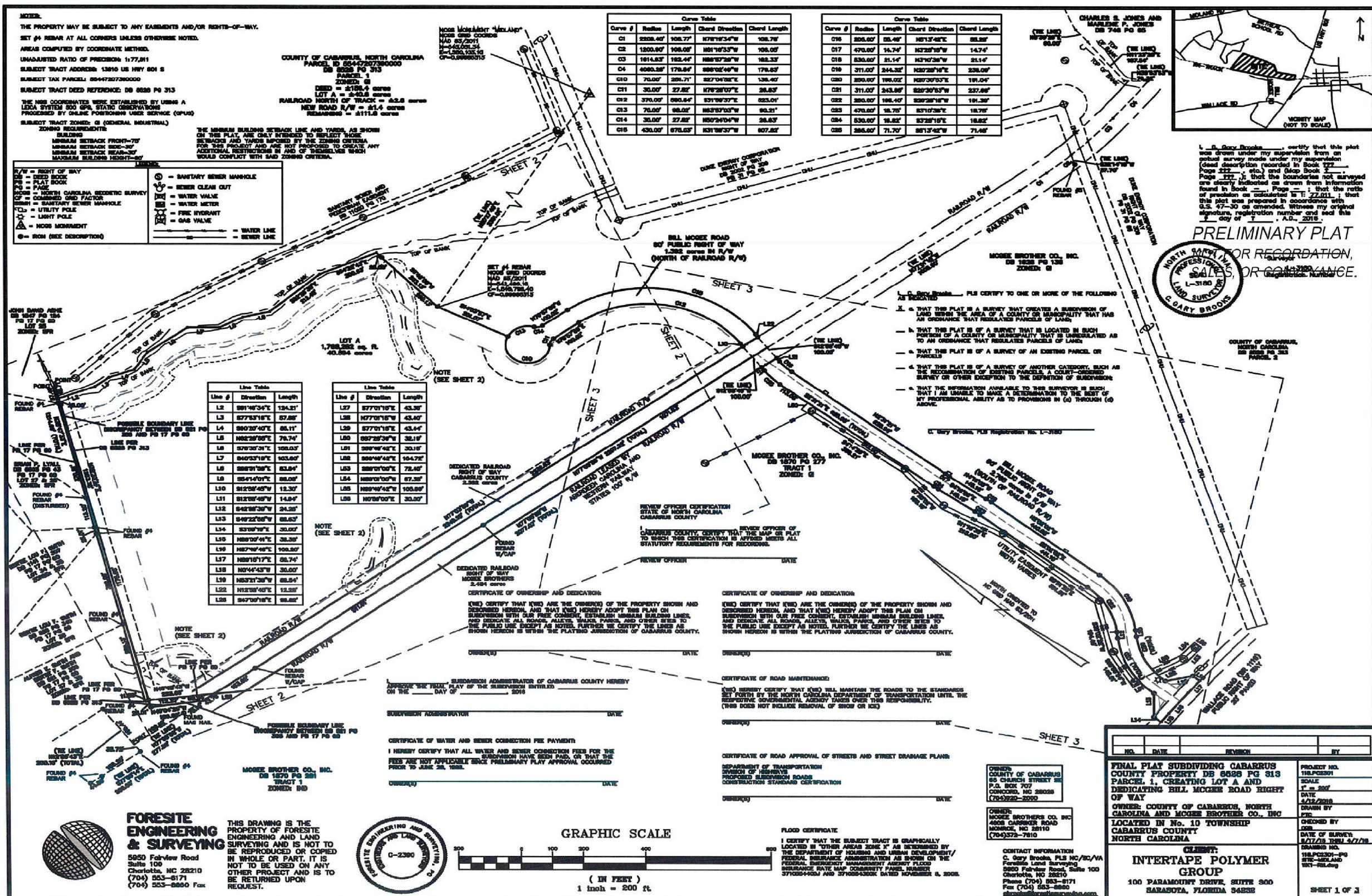
Planning – No comments.

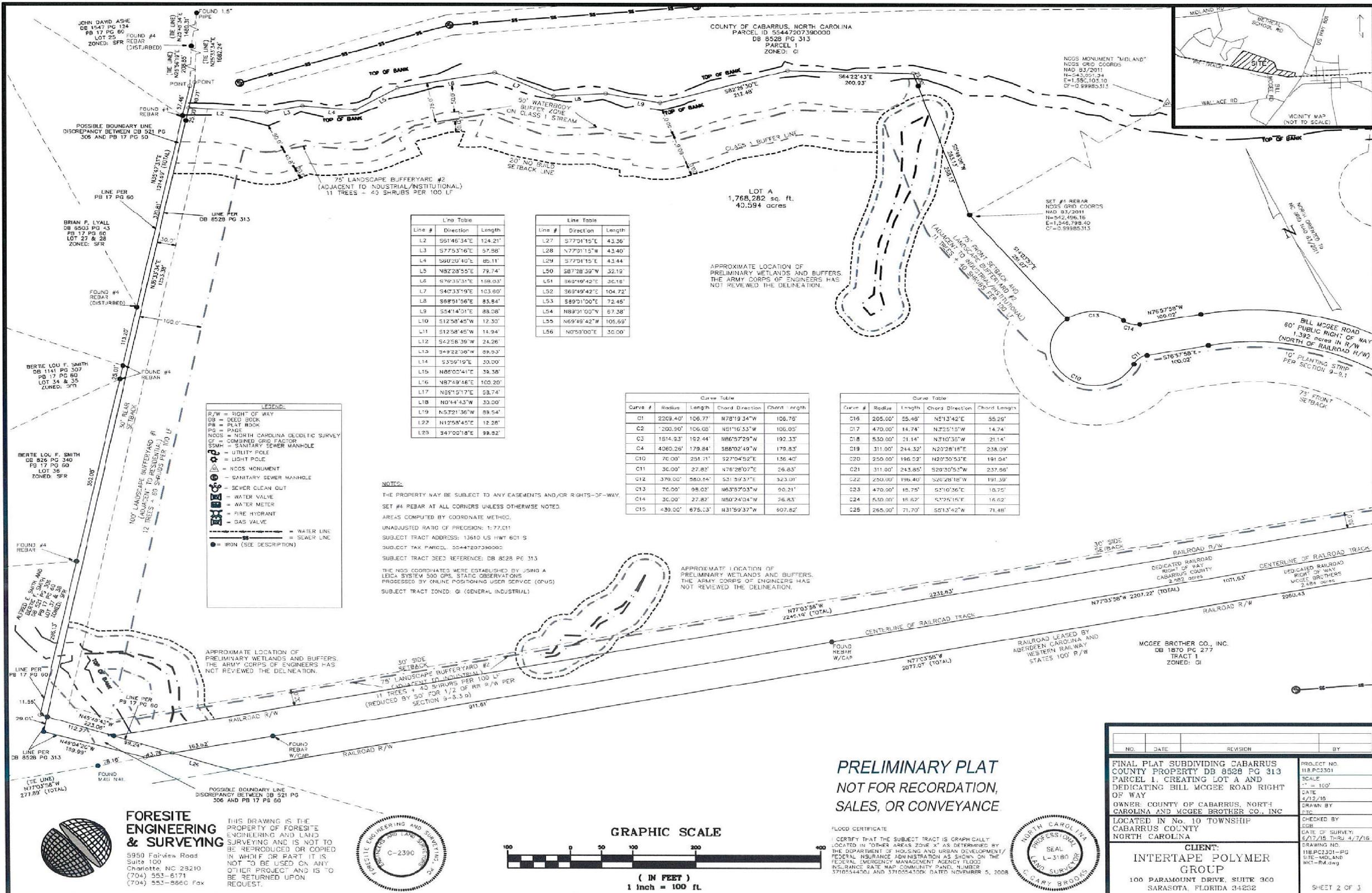
Staff Analysis

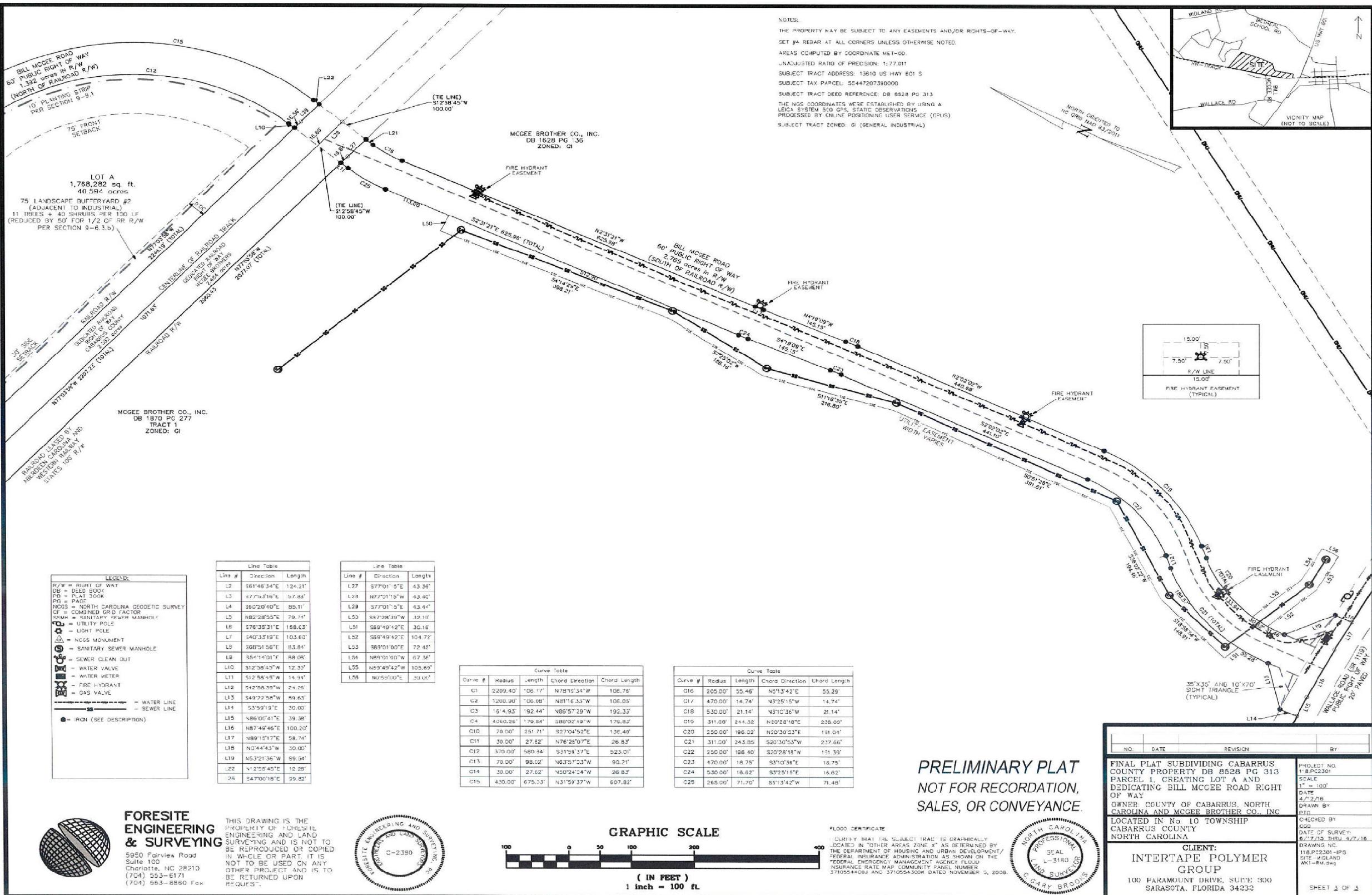
The proposed subdivision would typically be processed as an exempt subdivision, as the parent tract and the proposed tract are both greater than 10 acres. However, public right-of-way is being extended (Bill McGee Road) from Wallace Road to the Intertape Polymer Group site and will be dedicated to the NCDOT. Since there is a 60-foot public right-of-way shown on the plat, it must be processed as a major subdivision.

Conditions of Approval

Revised
Preliminary plat
presented at
meeting







PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION

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

Petition: PLPR2016-00013 Preliminary Plat Approval

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Subdivision Type: Major Subdivision

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Agency Review Comments

EMS – No Comments.

Fire – No code related issues with the subdivision of this property and its future use.

NCDOT

Planning The following items were not shown on the proposed plat and shall be provided before final approval:

- Waterbody buffer overlay and no build setback
- Building setbacks in table format
- Current zoning designation for site and for surrounding properties
- “Certificate of Approval of Streets and Street Drainage Plans”
- “Certificate of Water and Sewer Connection Fee Payment”

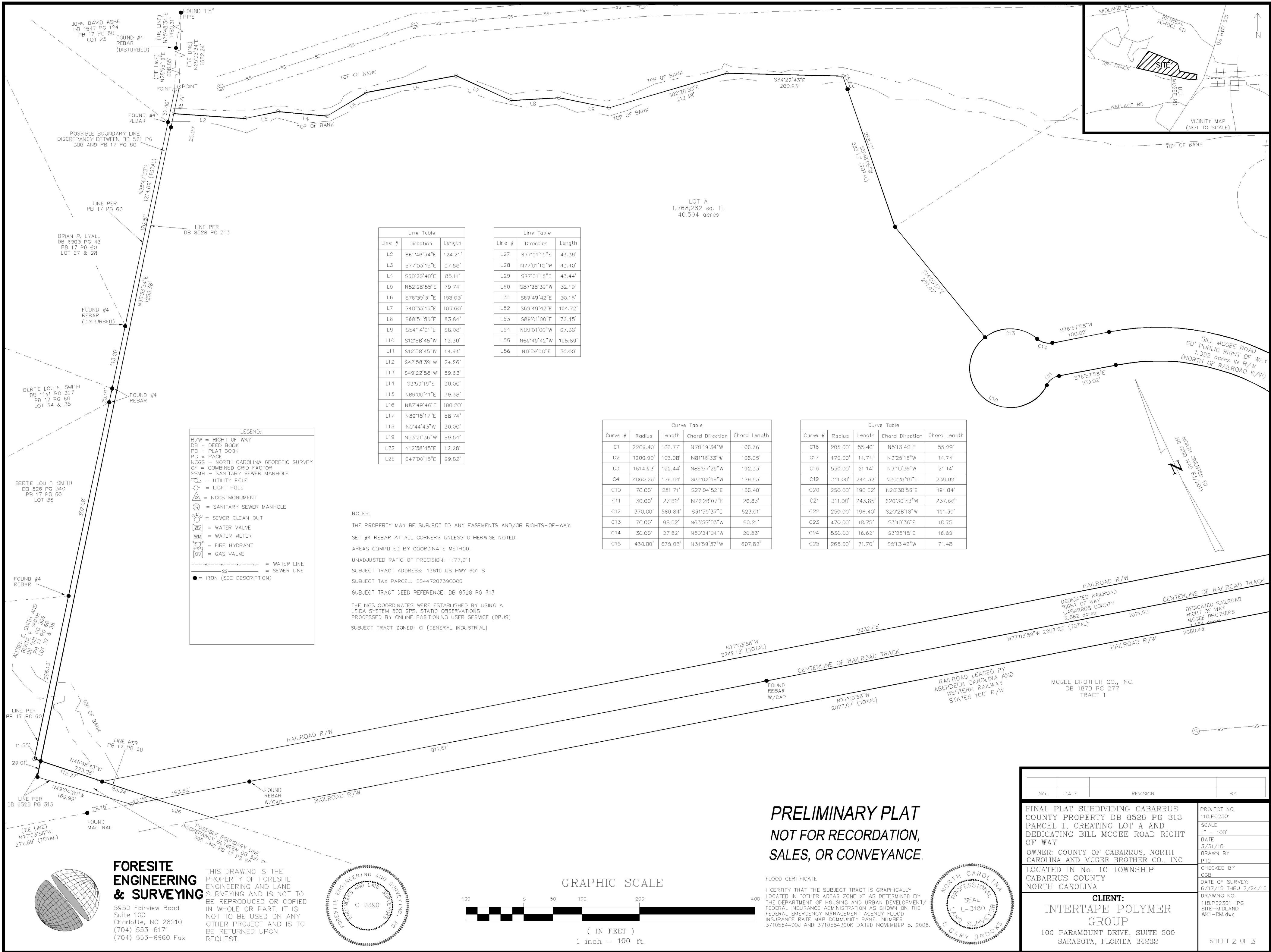
Staff Analysis

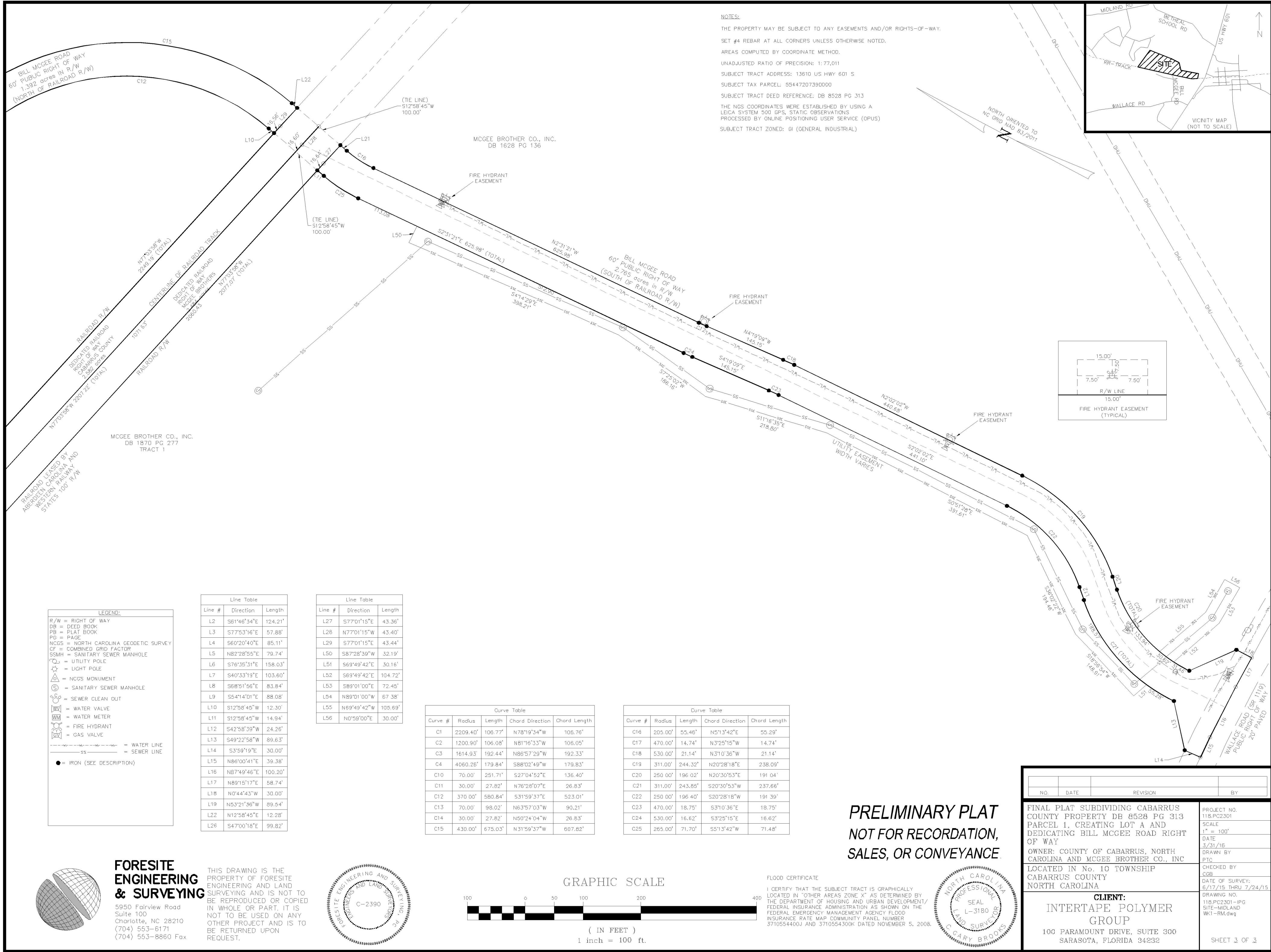
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Conditions of Approval

The applicant will need to show the following on the approved plat

- Waterbody buffer overlay and no build setback
- Building setbacks in table format
- Current zoning designation for site and for surrounding properties
- “Certificate of Approval of Streets and Street Drainage Plans”
- “Certificate of Water and Sewer Connection Fee Payment”





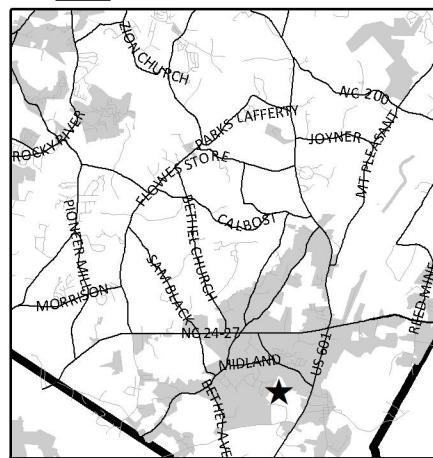
Subdivision



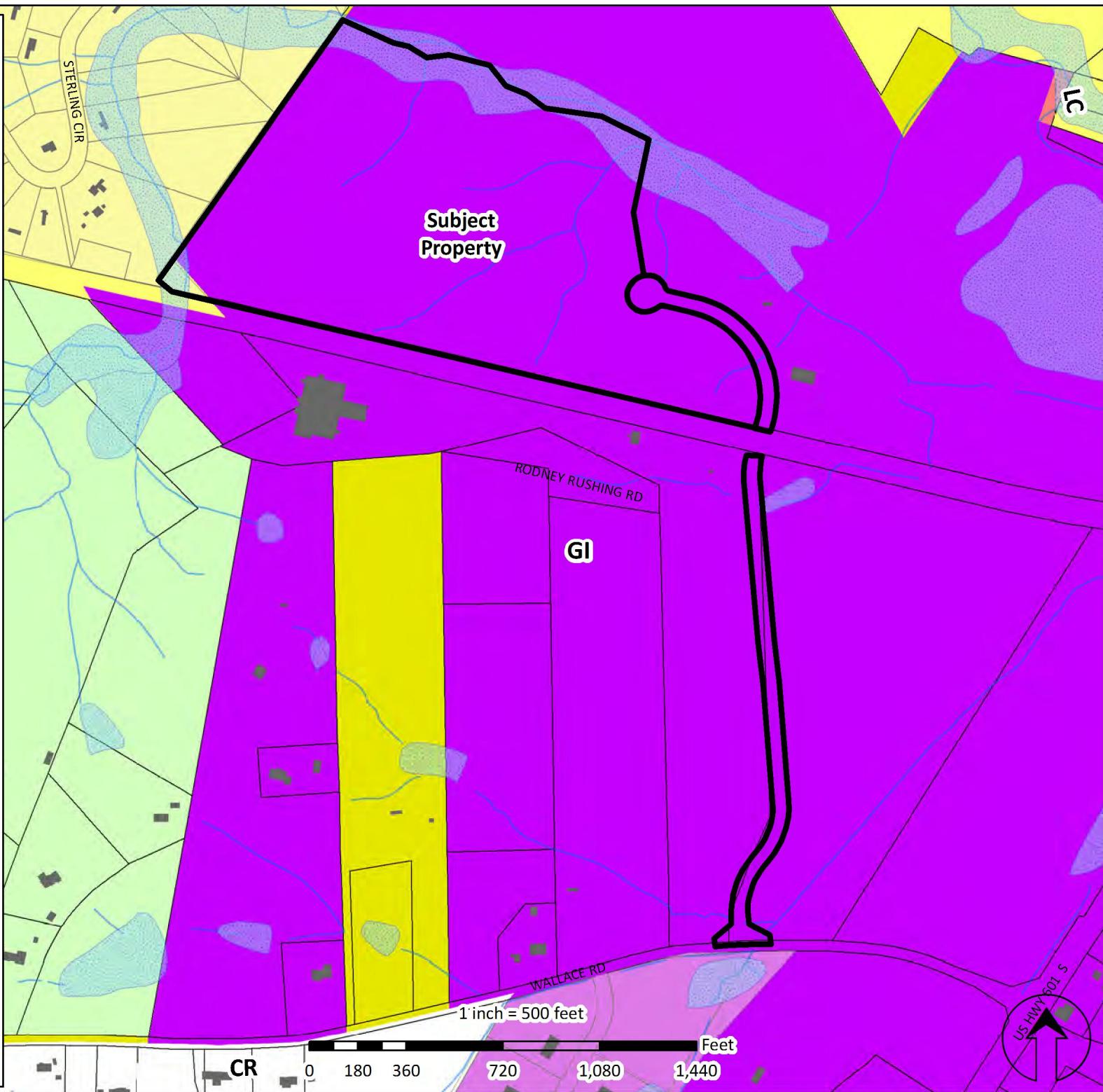
Applicant: Foresight Engineering & Surveying
Owner: Cabarrus County & McGee Brothers
Case: PLPR2016-00013
Address: 13722 Bill McGee Road
Purpose: Subdivision
PIN: p/o 5544-72-0739

Legend for Water Supply Watershed map:

- Streams: Blue line
- Structures: Dark grey rectangle
- Parcels: White rectangle with blue diagonal stripes



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.



Subdivision

Midland Area Plan Future Land Use



Applicant: Foresight Engineering
& Surveying

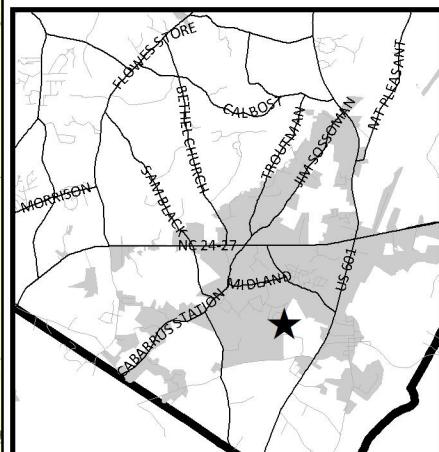
Owner: Cabarrus County &
McGee Brothers

Case: PLPR2016-00013

Address: 13722 Bill McGee Road

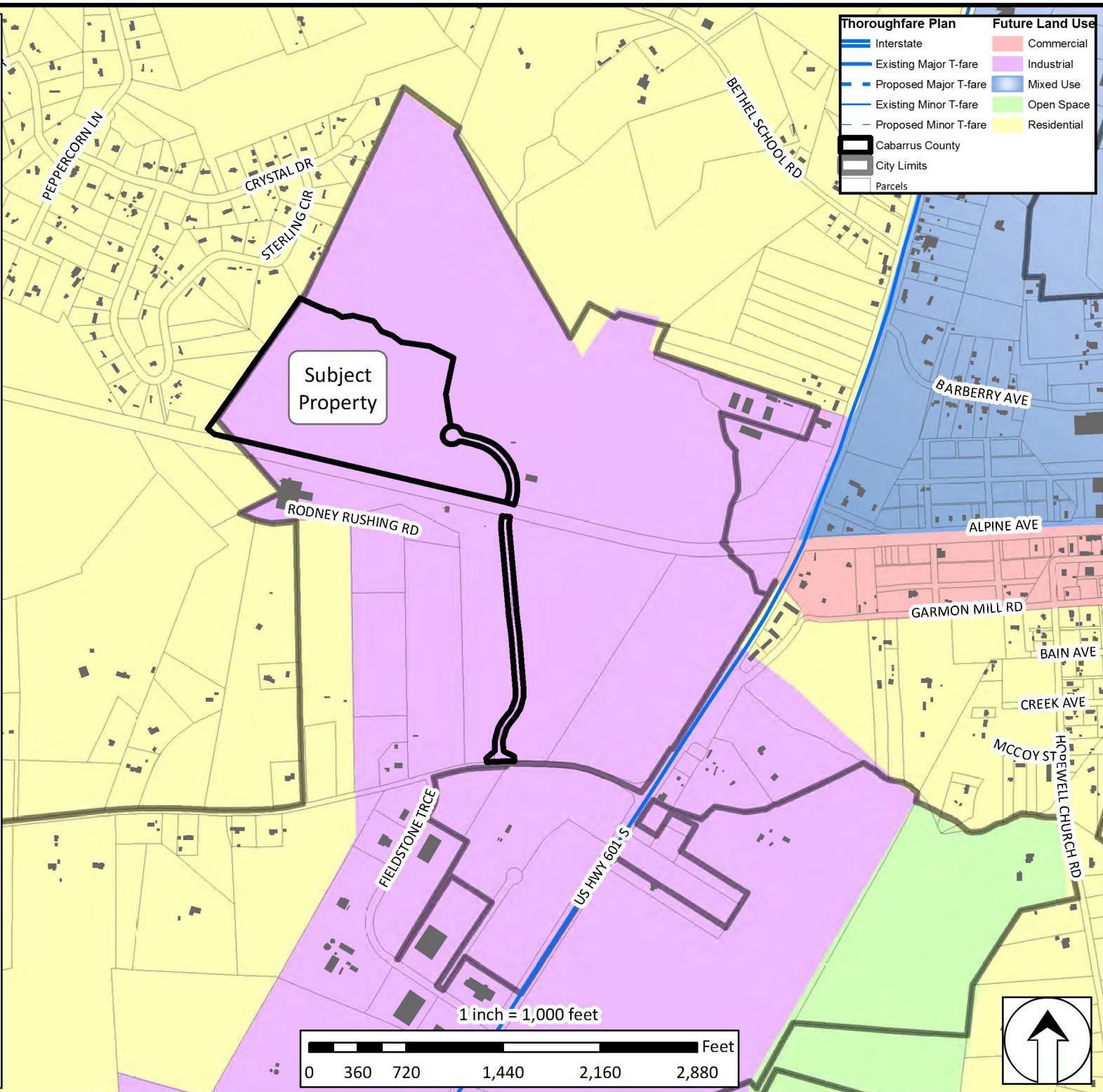
Purpose: Subdivision

PIN: p/o 5544-72-0739



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Map Prepared by Cabarrus County Planning & Development, April, 2016



Subdivision



Applicant: Foresight Engineering
& Surveying

Owner: Cabarrus County &
McGee Brothers

Case: PLPR2016-00013

Address: 13722 Bill McGee Road

Purpose: Subdivision

PIN: p/o 5544-72-0739

- Parcels
- Cabarrus County
- City Limits



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Map Prepared by Cabarrus County Planning & Development, April, 2016

