

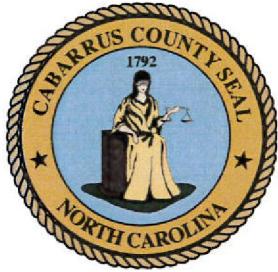


## Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting  
November 8, 2016 @ 7:00 P.M.  
Multi-Purpose Room 230, 2<sup>nd</sup> Floor  
Cabarrus County Governmental Center

### Agenda

1. Roll Call
2. Approval of October 11, 2016, Planning and Zoning Commission Meeting Minutes
3. Approval of Findings of Fact for **APPL2016-00001**
4. New Business – Board of Adjustment Function:
  1. **Petition CUSE2016-00001** - Request for Conditional Use Permit for Public Service Facility. Agent is Michael Coleman on behalf of Public Service Company of North Carolina (PSNC). Located on the north side of 101 Running Brook Road (PIN 5536-12-6269)  
REQUEST TO TABLE
  2. **Petition CUSE2016-00002** – Request to amend Conditional Use Permit for Public Service Facility. Applicant – Water and Sewer Authority of Cabarrus County. Located at 2950 Mt. Pleasant Road South (PIN 5569-85-8179).
  3. **Petition VARN2016-00004** – Request for Variance from Reception Facility Standards in Chapter 8. Applicant – Virginia Moore as agent for Patricia and Mark Honeycutt. Located at 5540 Rockwell Road (PIN 5673-97-1701)
5. Directors Report
6. Legal Update



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### Planning and Zoning Commission Minutes November 8, 2016

Ms. Shannon Frye, Chair called the meeting to order at 7:00 p.m. Members present in addition to the Chair, were Ms. Mary Blakeney, Mr. Jeffrey Corley, Mr. Adam Dagenhart, Mr. Jeff Griffin, Mr. Dane Laney, Mr. James Litaker, Mr. Chris Pinto, Mr. Richard Price, Mr. Aaron Ritchie and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning, Manager, Mr. Phillip Collins, 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 October 11, 2016 meeting minutes. The Vote was unanimous.

Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE** the Findings of Fact for **APPL2016-00001**. The vote was unanimous.

The Chair asked all persons speaking for any of the Board of Adjustment cases or who plan to testify during the public hearings 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 for this meeting:

1. The Cabarrus County planning staff person(s) shall first to present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. After staff presents, the applicant will have the opportunity to make a presentation and answer questions from the Commission. There will be a 15 minute time limit on this presentation.
3. After the presentations and questions, the proponents (those speaking generally in favor of the case) will have a total of 10 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.
4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 10 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.

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5. 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.
6. 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.
7. 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.
8. 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.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE** the Rules of Procedures. The vote was unanimous.

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

The Chair introduce **Petition VARN2016-00003** - Request for Variance from Reception Facility Standards in Chapter 8. The applicant is Virginia Moore acting Agent for Patricia and Mark Honeycutt.

Mr. Phillip Collins, Sr. Planner, addressed the Board presenting the staff report. The applicant is Virginia Moore, acting for the property owner. Ms. Moore could not be here tonight due to a family illness. We talked with the property owner and they are okay with moving forward tonight.

The subject property is approximately 4.42 acres in size. The applicant is proposing to use the subject property as a reception facility. Reception facilities are permitted as a conditional use in the AO zoning district and are subject to performance standards. If the variance is approved, the applicant intends to return to the Board of Adjustment to apply for a conditional use permit. The surrounding properties are zoned AO as well.

The subject property is currently occupied by a vacant barn located in the center of the property. The barn is accessed by a gravel driveway extending to Rockwell Road. The rear portion of the subject property is wooded and an intermittent stream runs along the rear property line from north to south.

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The subject property has historically been used for agricultural purposes until recently when the applicant began holding wedding receptions on the premises. The facility was not properly permitted.

The subject property is surrounded by residential uses to the North, residential uses, Silviculture and vacant properties to the East, Silviculture to the South and Agriculture to the West.

The purpose of this variance request is for:

- Relief from the size requirements for reception facilities
- Relief from the required setbacks for reception facilities
- Relief from the landscaping/buffering requirements for reception facilities
- Relief from Appendix B, Non-residential design standards

**Variance 1: Size Requirements for Reception Facilities**

The subject property is +/- 4.42 acres in size. Reception facilities are required to be at least five acres in size. Therefore, the applicant is requesting relief from Section 8-4.21.b of the Cabarrus County Development Ordinance (Ordinance).

**Variance 2: Setback Requirements for Reception Facilities**

The applicant is proposing to use an existing barn, a new bathroom facility, temporary bathrooms and a temporary tent as part of the reception facility on the subject property.

The subject property is approximately 200 feet in width. The existing and proposed structures do not meet the required 100-foot setback for reception facilities as required in Section 8-4.21.d of the Ordinance. Therefore, the applicant is requesting relief from this provision. As shown on the site plan:

- The existing barn encroaches 12.4 feet into the required setback along the northern property line,
- The existing barn encroaches 17.1 feet into the required setback along the southern property line,
- The proposed bathroom facility encroaches 36.87 feet into the required setback along the northern property line,
- The proposed area for the tent encroaches 72.3 feet in to the required setback along the northern property line, and
- The temporary bathrooms encroach 51.58 feet into the required setback along the northern property line

### **Variance 3: Landscaping/Buffering Requirements for Reception Facilities**

The applicant is requesting relief from Section 8-4.21.g of the Ordinance which requires reception facilities to meet the requirements of a level two buffer yard as defined in Chapter 9 of the Ordinance. Currently, the back half of the northern, southern and the entirety of the eastern property lines are heavily vegetated. The applicant is requesting relief from the requirement of six trees per one hundred feet along these sections of the property boundaries. The applicant proposes to supplement with shrubbery where needed. This request would equate to relief from planting 54 trees along these portions of the property boundaries.

The proposed tent area encroaches 18.34 feet into the required level two 46-foot wide landscape buffer and the applicant is seeking relief for this.

### **Variance 4: Non-Residential Design Standards**

Section 8-4.21.c of the Ordinance requires that all new construction associated with reception facilities meet the commercial design standards of Appendix B of the Ordinance. The applicant is requesting relief from this Section of the Ordinance for the following:

- Use of a temporary tent which cannot meet the design guidelines,
- The temporary bathroom facilities which do not meet the design guidelines
- Proposed new bathroom facility that will not meet the design guidelines.

Mr. Collins said as stated early, the facility was not properly permitted. Staff became aware of the illegal reception facility when an easement plat for the septic system was submitted.

The applicant was informed that the facility was not permitted and that they should meet with staff to discuss options. It was determined during the meeting on July 14, 2016, that the first step for the facility to attempt to comply with the Ordinance was a variance request.

The applicant understands that the project will be subject to a conditional use permit review with the Board of Adjustment and a site plan review if the variance is approved.

The application states that the site will be serviced by well and septic. The Cabarrus Health Alliance is aware of the proposed use and stated that the facility currently uses porta johns/chemical toilets for restrooms. The site was evaluated for a bathroom facility and found to be suitable for location of a septic system off site. The applicant understands that the permanent bathroom facility must be included as part of the Conditional Use Permit Application.

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

- Conditional Use Permit review and approval by the Board of Adjustment is required subsequent to approval of the variance.

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- Site plan review and approval is required subsequent to Conditional Use Permit approval to ensure compliance with all applicable development requirements and conditions
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project.
- Applicant shall extend the length of the concrete apron to 25 feet.
- The applicant shall procure appropriate permits from the Fire Marshal's Office for the temporary tent, as allowed by variance approval. If the duration of the use of the tent exceeds what is considered a temporary use, the applicant shall proceed with commercial site plan review for the tent to be permitted as a permanent structure.

The Chair said just to be clear, the variance is for the lots size, the yard requirements, the landscaping and the design standards?

Mr. Collins said yes.

Mr. Chris Pinto said what do they mean by septic system offsite?

Mr. Collins thinks the applicant could probably talk about that, but he thinks it perked just off to the north of the property and it is just outside of the property.

Mr. Pinto asked who owned that property.

Mr. Mark Honeycutt, property owner, addressed the Board stating that he owns the property that is adjacent. He had an engineer to run the lines down in front of his house. The County man and the engineer came up with that. The septic tank will be at the back of the barn. (Showed the septic tank on the site plan). It is supposed to be some kind of low pressure or slow drip or something like that. He was running the lines with the property line and going across doing an easement to our house.

Mr. Pinto said are there two separate PIN's.

Mr. Honeycutt said yes.

Mr. Pinto asked if Mr. Honeycutt had sold one to somebody else.

Mr. Honeycutt said they own both properties.

Mr. Pinto said if you did sell one to somebody else, then the leach field would be on theirs.

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Mr. Honeycutt said there would be an easement and they could not do anything. The engineer and the County man told him he could do an easement through a lawyer, which would be a 20 foot easement to his front yard, from the barn and it would always be an easement.

Mr. Collins said before this was submitted, there was an easement and a plat submitted to our office that had this on it. That is how it came to light that there was a reception facility there.

The Chair asked Mr. Collins to put up the existing zoning map. She said looking at that map, the structures that are immediately adjacent to this proposed use, what is on that property?

Mr. Honeycutt said it was his mother-in-law's property line; she passed away a few years back. Actually, her house was sitting on the neighbor's property, so they had those trailers moved out. She claimed she lived over there, when she bought it, the property owner told her the line was the tree line. But when the neighbor had it surveyed, it showed different. So they had the doublewide and single wide moved and they are no longer there.

The Chair said the aerial that we have, the structures that are showing up there, you are saying are no longer there? If she is looking at the label subject property, that tree line, south of that property line, on that zoning map, she is seeing two rectangles. Which she would infer would be existing buildings. Then on the aerial she does not see any structures and based on what you are describing have they been removed. She is trying to understand the relationship.

Mr. Honeycutt said yes, they have been removed

Mr. Collins can explain. He said these are made from aerials from 2010 and these aerials are from 2015. So during that time frame they were removed.

The Chair is trying to understand the relationship of granting a variance and looking at the proximity of existing structures, but understanding that they are no longer existing and have been removed.

The Chair asked if there were any other questions for staff. There being no further questions for staff the Chair asked the applicant to make their presentation.

Mr. Honeycutt said he is here to answer any questions.

The Chair asked Mr. Honeycutt if he was going to make a presentation or have any more representation.

Mr. Honeycutt said no.

The Chair asked if the Board had any more questions for the applicant.

Mr. Corley asked Mr. Honeycutt to explain temporary restrooms and temporary tent. He asked if they could be moved and if that is what makes them temporary, and if they could be taken down.

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Mr. Honeycutt said yes, he takes them down.

Mr. Corley asked if they were there when events are not being held or they are?

Mr. Honeycutt said they are, but like in cold weather they will be taking it down, so they will not be up. It is not permanent. As far as the restrooms it is just the outhouses.

Mr. Honeycutt asked if the easement is possible to go on to the other property.

Mr. Collins said that is something that the Health Alliance would have to answer.

Ms. Morris said that would be something we typically try to have folks avoid; going on to another parcel and doing the easements and things like that, because ownership changes. If they have talked to the Health Alliance and that is what the Health Alliance says their options are since that particular parcel did not perc. Typically, folks will try to realign parcel lines to get it on their site or sometimes they do the easements. But typically, if it is new construction they don't normally do easements. She thinks maybe they are trying to accommodate an existing situation or because we are getting out in to the eastern area of the county, the soil conditions out there are not good.

What Mr. Honeycutt was talking about the slow drip and the other things, they start getting into something that is not necessarily a conventional system, just because the soils are so bad in that area. She said we do see it, but we do not see it a lot, but we do see it sometimes. If they said it was okay based on the fact that this is commercial then it should be okay. She cannot answer that question. We do see it typically with residential not nonresidential.

Mr. Pinto asked Mr. Honeycutt if he could cut off the 20 feet and put it on the PIN he has with the 4.42 acres. You could take that 20 foot off the other parcel? Then you would have the easement and you then you would be within the five acres. That is like a 600 foot line there.

Mr. Honeycutt said that is the only place the engineer said it would work.

Mr. Pinto said if you went 20 foot onto the parcel next to it, then you would eliminate that easement if you own both.

The Chair asked Mr. Honeycutt if he owned the property to the north of the subject property.

Mr. Honeycutt said yes. We have a mortgage on it and we cannot divide it. He said that is what they were planning to do later, but talking to the engineer he said even with it mortgaged he could still put an easement through there.

Mr. Pinto said do you know that from your mortgage company?

Mr. Honeycutt said no, he is going by what the guy he hired to represent him said. He guess he needs to get his name.

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Mr. Pinto said that would eliminate a lot of questions.

Mr. James Litaker thinks the mortgage company would not be real happy about that.

The Chair said what we are asking him to do by asking him to combine a portion of his property to relieve the need to get the variance from that acreage, is reducing the total acreage that that mortgage has been set for. So, by asking him to do that, she feels we are outlining the remedies and putting it out there as an option.

Mr. Honeycutt thinks he could call the mortgage company and put both properties on the mortgage and run the easement and they would probably be fine with it.

Ms. Patricia Honeycutt said she and Ginger Moore talked about that. Ms. Moore proposed, that if we ran into this situation, to talk with the mortgage company and see if we could swap out footage on the front of that property for footage on our property; the ten acres rather than take it off completely because it is financed. Seeing if we could get it surveyed to where we could swap that property footage out.

Mr. Pinto said that may be something to consider.

Ms. Honeycutt said we did talk about that option and Ms. Moore was the one to make that recommendation. Unfortunately, she could not be here today.

Ms. Morris said to keep in mind that the variance request includes temporary bathrooms. The applicant understands if they were to move forward, this would all have to be addressed before they could come back with their conditional use permit. Because that is an outstanding question, but right now they are using the temporary facilities and are asking for a variance to continue to do that. They think that they can get a permitted facility, but at this point, based on the comments from the Health Alliance, there seems to be some more work to be done with that.

The Chair asked if there were any other questions for the applicant specific to the variances being sought; either for the lot size, not meeting the setbacks, the landscaping standards, or any of the residential design standards since those are the four areas that they are specifically seeking relief.

Mr. Pinto is wondering if it is best for them to come back at a different time; after they check with the mortgage company to see if they can do that. He does not know if we turn something down, how long they would have, a time table, before they could come back and ask for a variance.

Mr. Honeycutt said that is for the septic tank right?

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Mr. Pinto said it all kind of meshes together. He said you have 4.42 acres, you are below the five acres. So, if you get turned down, he does not know how long the process is after that. Maybe Mr. Collins can answer that.

Mr. Collins said there is no time limit.

Ms. Morris asked Ms. Honeycutt to walk the Board through what she is doing out there now. How you are using the facility, how you are using what is there and what her intent was. Because they have a site plan, they see what is there now, what your future plans are. You are operating the facility now, so, if you could explain how you are doing that and what you plan to do in the future, barring any complications or the variance not being approved or not being able to proceed with you permanent structures.

Ms. Honeycutt said primarily, the barn is just a back drop for the setting. It has been there for 30 plus years and we have always used it as a horse facility. But, when we decided we were going to convert it, we were not aware that we needed to be zoned.

When we went for the septic tank application, that is when we found that out and we talked about the easement. She and Ms. Moore did discuss that, she thinks that is something they could overcome and get a definite answer on.

Our plan is to use it primarily as a reception facility and family gatherings. We do that now on the weekends, Saturdays primarily; we do have the occasional Sunday event. The barn is the back drop and we are using porta johns. We want to do a permanent structure for the bathrooms of course, with our conditional use permit. We would proceed with that in hopes that we could run that business there close to our home and provide a source of income for their family.

She feels like they are trying to be compliant and definitely wants to be compliant. They want to do it the right way. If that takes going back to the mortgage company and speaking to our real estate attorney to see what their options are for swapping that property out, then they will definitely do that to make that happen.

Mr. Litaker said what kind of volume are you talking when you have your event?

Ms. Honeycutt said 125 to 150 guests max.

Mr. Litaker said that septic system will handle that volume?

Ms. Honeycutt said yes. Wendell Overby, a Soil Scientist came out and he discussed a special drip system and it will pump so many gallons over a course of seven days. Although, all of that volume will be one day, it will pump the water at a certain rate. It depends on how many gallons you use that day, as to how many gallons are pumped every four hours down to the line to be distributed.

Mr. Litaker asked if it is profitable to only have one event a week like that.

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Ms. Honeycutt said yes it is.

The Chair said looking at the proposed parking area, it seems like if you average 125, that is two per car, but not a total. She is looking at the site plan and she does not think that if they had that many cars they would be able to park them. Again, it being a sized parcel that is not meeting the minimum and then not meeting the setbacks when you are already compressed.

Ms. Honeycutt said they could probably park about 250. The plan that Ms. Moore proposed has to allow for the state to pave the edge of the road and so many feet off the property line for parking. Because we have to be able to allow for the tree buffer that is there, as well as having adequate footage from the barn; to keep the cars away from the barn area where the reception is held behind the barn. They have actually parked up to 200 cars out there, but that is without the buffer.

The Chair said you are using all of that area as you are currently operating. Understanding that if you proceed and you have a conditional plan, that implies these buffers and these constraints that you are not operating under currently; she is making sure that they are not setting themselves up for being so compacted by the restrictions of setbacks and planted material, that that useable area is now being reduced to a regulated area.

Ms. Honeycutt said that is definitely a valid concern, but it is a long piece of property and if they had to take parking down closer to the barn they can. (She showed on the map where they stop the parking right now). She said if they have to take it down closer to the front of the barn they could because the receptions are back in the wooded area. The edge of the woods is where the tent is located.

Mr. Price asked if they used that barn.

Ms. Honeycutt said it is just used for backdrop primarily and storage. If she had to guess, they are using probably a fourth of that property right now for parking.

The Chair said back to Mr. Price's question, and looking back on the site plan. If you have that existing barn and you are saying it is backdrop, the area she would say is the rear of the property, is what you are using for the function?

Ms. Honeycutt said correct; at the back of the barn.

Mr. Litaker asked what kind of time table the applicant was thinking about. You are using this temporarily until you expand or build?

Ms. Honeycutt said to be honest, as they stated before, they did not realize that they were not being compliant with zoning and that they had to be rezoned. They have operated this year and do not have anything during the winter. It is an outdoor facility, so nothing is booked

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throughout the winter. As far as conditional use, until they start their bathroom, is that what you are asking?

Mr. Litaker said you were talking about building a structure.

Ms. Honeycutt said they would like to do that immediately; the bathroom. But they were kind of waiting for the zoning process. To be sure it was going to go through, prior to doing that. We probably would have already had it finished if the zoning had not come into play. They definitely want to be compliant; it is just going through the motion of doing what they need to do to do so.

The Chair said going back to the variance application, under the finding of facts checklist, it stated that the property owner also owns the parcel to the north and under ideal conditions, an adjustment would be made to the property line to meet the five acre requirement. In this scenario, it is not possible due to bank financing on the residential parcel. The subject parcel is not part of the loan guaranteeing the residential parcel and the setback is impractical to remove the existing structure.

The Chair thinks what they are hearing tonight, in this presentation, is that it is not conclusive that you all cannot move this property line or come up with an alternative to what we are being presented and going forward with this request as is and knowing that that exists, she guess is something that is possible. To increase to meet the five acre and then what that does to possibly move that property line totally to increase that parking and mitigate for some of these constraints being based on the parcel as it exist today.

The Chair is being forth coming, that she sees that relationship in this application, that says this is not possible but she is hearing that you could go back. She is trying to manage, understanding if we are going to go with what we have or do we want to go back and try to readjust this and reassess this based on some of the concerns that we have discussed. That is completely the applicant's decision.

Ms. Honeycutt said yes; she thinks she understands what the Chair is asking. She and Ms. Moore had lengthy discussions about this; considering that we were not at the five acre mark. Ms. Moore asked that question and Ms. Honeycutt explained that the property was financed, and that is why Ms. Moore asked for the variance. We did talk about if down the road this became an issue or the septic. She and Ms. Moore did discuss that and asked for the variance originally due to that. It is something they discussed. If they need to look into that further they will certainly do so.

Ms. Morris asked Ms. Honeycutt to let the Board know that based on their application their intent is to only use the tent. When Mr. Litaker asked about another structure, the only structure you will be constructing at this time is the bathrooms; because you intend to use the tent.

Ms. Honeycutt said correct; for receptions.

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Ms. Morris said even if site conditions change, some of these items she believes will remain as items that would be variance items.

Mr. Honeycutt asked if it had to be added on to the whole side to make it five acres or could we just do a corner.

The Chair does not have any direction, anyway you could configure it, she is not steering you to a specific design outcome. She thinks what Ms. Morris just said about what you will still need a variance for, that is not an end all, it is an instrumental aspect of total request.

Mr. Corley understands the need for relief for the temporary facilities. He asked Ms. Honeycutt to explain to him the relief for the permanent bathrooms from the design standards.

Ms. Honeycutt does not understand the question.

Mr. Corley said there are three items for the nonresidential design standards; two are the temporary facilities and the last one is relief from the design standards for proposed new bathroom facilities. He asked if that is in relation to their location again or is it the actual architectural standards for those facilities.

Ms. Honeycutt believes it is more related to location. She would have to look at Ms. Moore's notes.

Mr. Collins said it is architecture, it is the commercial design standards.

Mr. Corley asked Mr. Collins to explain the construction of that facility and what that is going to look like and the type of construction that will be used.

Mr. Collins said we do not have any plans for that just yet, that will come with the conditional use permit application. Right now they are just saying that they do not think they are going to meet the design requirements for the permanent bathrooms. He is not sure what is not going to meet the standards.

The Chair is reading on the application that it is relief from commercial design standards for temporary tent and temporary toilets. Is it specifically just for anything that is temporary, with the understanding that if it is permanent you are not going to comply?

Mr. Collins said we may have missed that when we updated the application.

The Chair said the one that we have that is 8.14.2014 has been modified?

Mr. Collins said yes, it should include the permanent bathrooms.

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The Chair said just to verify, if I am looking at the application, what specifically in the staff report is the summary of the variance request items 1-4? She does see in Item 4 relief from the design standards for the proposed new bathroom facilities as well. Each of those bullet items are specifically what is being requested.

Mr. Collins put up the site plan.

The Chair asked Mr. Collins to walk the Board through item #3 where the applicant is requesting relief from the requirement of six trees per one hundred feet. She asked if that is where there is existing vegetation.

Mr. Collins said it is the shaded or hatched areas. (He showed the area on the site plan)

The Chair said based on the aerial that is all hardwoods.

Mr. Collins said yes.

The Chair asked Mr. Collins to reference the portion where the proposed tent would encroach.

Mr. Collins showed that area.

The Chair asked Mr. and Mrs. Honeycutt if there were any alternative placement of the tent that would result in them not being inside of that portion of the buffer.

Ms. Honeycutt asked how many feet that would be.

The Chair said it says the proposed tent encroaches 18 feet for 1,065 feet into this 46 foot wide landscape buffer.

Mr. Collins said it encroaches about 18 feet.

Ms. Honeycutt said then it would need to go south; it would be close. We could move it in the location it is in but she cannot say for sure 18 feet, it could be 15 feet. We would have to measure it, but they could move it a portion. There is actually a tree line on the outer edge of where the tent sits and it is all open and the hardwoods are behind it. So we could bring it southeast. She just does not know if it would be exactly 18 feet.

The Chair said the reason she is asking is so that Ms. Honeycutt understands why she is bringing it to her attention. She understands that the structure is in a fixed location and what the hardship is based on the parcel configuration. But, when you go proposing these additional items that are going into these other required areas that have buffer requirements, it is hard for her to understand, if all of that is vacant to the rear, why we are pushing it in to there and not using that area to stay out of that.

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Ms. Honeycutt can honestly see totally your question, but when you walk the property, you would see why it is sitting there. It is a visual thing when you are on the property.

The Chair said in relationship to the barn and where you are putting the bathroom.

Ms. Honeycutt said exactly, it is just a beautiful spot for the tent to sit, in the middle of those woods. She said they could move it; they have that option because it is definitely not a permanent structure. But we would like to keep it there if possible. It was already set up for this year when they went into this process. Ms. Moore proposed it where it is sitting now.

The Chair said the only other aggravating part of that conversation is that even those items are temporary, none of the design standards that would be applicable are being considered. So, it is that conflict between you are in the buffer but you are not going to do any of the design standards. The Chair is just walking through and giving the applicant an opportunity to explain the perspective that you are giving us.

Ms. Honeycutt hopes that made sense.

The Chair said yes.

Mr. Aaron Ritchie asked if there had been any complaints from any of the neighbors.

Ms. Honeycutt said no, they have been pretty fortunate. That area has hardwoods already there and 17 acres south of them is not occupied by residents.

The Chair asked if there were any other proponents for this case to come forward.

Mr. Douglas Lyerly, 5950 Lowerstone Church Road, Rockwell, NC addressed the Board. He owns the property to the south. He has no problem with it. These are good people and it is a beautiful place out there. They put a lot time and effort into it, to make it look like it does right now. He does not have any problem with it and he does not know a single neighbor around there that says anything against. He said the Board should see this place it is really nice.

There being no further comments the Chair closed the public hearing.

The Chair likes how staff has broken this down into each of the areas that we have discussed. For that reason, she would like to take them one at a time, so that if we make any modifications or additional conditions, we can do it on each of the items.

The applicant is requesting individual votes for each variance item.

Variance #1 - Relief from the five acre size requirement and as noted the subject property is 4.42 acres in size.

The Chair asked if there was any additional discussion on this specific request.

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There being no additional comments or discussion, Mr. Aaron Ritchie Motioned, Seconded, by Mr. Richard Price to Approve the Variance for the relief for the 5 acre lot size. The Vote was 8 to 1 with Mr. Chris Pinto opposed. Approved

Mr. Koch would like some understanding of the thoughts about the Findings of fact check list to support that variance.

Mr. Ritchie said the applicant owns the land adjacent to it but we are dealing with this piece of property.

Mr. Koch said what is the hardship? He needs to put it in the findings and he needs some sense of what that would be in this case

Mr. James Litaker said mortgage restraints.

The Chair thinks the conflict that they have is in the record. That the applicant presented testimony that there would be an opportunity to have that further evaluated. Such that, they would resultantly, not need the variance for the acreage if they could combine additional areas from the parcel that they own. If they own this and they were not the adjoining property owner and we didn't exactly hear that it would be, maybe palatable for them to go do that and come back and not need this variance, that we are kind of sitting here trying to give Mr. Koch Findings of fact that are hardship; where we have what might be a remedy for the hardship.

Mr. Koch said that is true but the alleged hardship is not on the property itself. He wants to get some thoughts as to what constitutes the elements for the variance in that situation. He is not asking the Board to change their vote, he just wanted to get some clarification as to how it met the requirements.

The Chair said for her own clarification, when we have placed conditions on variances, where we have talked about this, a condition of them being granted a variance to not meet the acre would be only if they demonstrated and documented that they cannot alter the property size by combining it. She said that is there hardship, if they cannot basically remedy this by moving their property line then they have demonstrated the hardship was based on that mortgage constraint.

Mr. Rick Price said to him the hardship is they are asking to use that parcel for a legal use allowed by the ordinance, but they do not meet the prescribed acreage that the use will have. The property around them to his way of thinking does not matter. They could sell the house they live in, move completely out of the county and they still own that 4.42 acres that they are trying to run their business on; a legitimate business. So the hardship does exist.

There is nothing we can do or anyone can do to wave a magic wand and make that parcel five acres. It is 4.42 acres. To him the hardship is there. Certainly remedies, if you pursue, probably are available somewhere down the line. Who knows, maybe another neighbor to the south or the east would sell them that small amount that they would need to add to that. But that is not

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what we are here to consider tonight. He thinks the hardship is that they are dealing with 4.42 acres and they need five.

The Chair understands exactly what Mr. Price said. She said but the facts of this are, we have a map and a site plan before us that has the applicant as the adjoining property owner which is the fact. That is the current condition. They own this and they own this, we know that to be factual.

Mr. Price said but the residential parcel does not figure into it at all, because they could sell that tomorrow.

The Chair said the only reason that it figures into it is because we heard them say that they had been talking about this being an option; to combine the property and just asserted some conversation or presentation to the Board that is all going into the facts of what we have heard tonight.

Mr. Price said that is not the only remedy available to them. That is one, since they do own that, that would be one remedy. But there are even other remedies that are available. As far as the septic encroaching, if you will, for lack of a better term onto another property, he has seen that numerous times and as a matter of fact it is happening in his family right now.

A family member is hoping to move in to their new house next month and a very similar situation took place there. They bought the property to build their house with an easement onto a neighboring property for their entire septic field, not just a part of it; the whole thing. So, it does happen, it just encumbers that property and that is not anything that we are here to consider. That would be between them and their mortgage company as to whether that would be allowable and that sort of thing.

As far as he is concerned, he is completely satisfied that they do have a hardship in the fact that it is 4.42 acres and not five. He said that is the long and the short of it.

The Chair asked Mr. Koch if he had what he needed.

Mr. Koch said yes.

Variance #2 - Relief from the required 100 foot setback for existing and proposed structures near the northern and southern property lines.

The Chair said this is where the existing barn is encroaching 12.4 feet into that setback and then it is 17.1 feet on the southern side. Then the proposed bathroom facility encroaches 36.87 feet and the proposed tent encroaches 72.3 feet and the temporary bathrooms are encroaching 51.58 feet into the required setback.

Mr. Jeff Corley said the way he reads that, with a 200 foot wide lot, the entire property; there is no area outside of that 100 foot setback, if he reads that correct. So, the center line that you see is the

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100 foot setback from the north and the south property line. So in reality there is no piece of that property that is outside of the 100 foot setback.

The Chair said before we vote on this one, can we answer that previous question about if there is a condition on the variance. She cannot remember how this has been done previously.

Mr. Koch said you can put conditions on a variance approval but he is not sure what type of condition the chair is speaking of.

The Chair said it is not specifically on this one because she understands what Mr. Corley just said about the buffer. But when we were discussing during the presentation about the tent being in that buffer, that alternatively, it could shift here or go here. She understands the part about the view point, but if we grant the variance to encroach into a buffer, that however the applicant makes a site plan modification, or does something to lessen, or do we just leave it as it is. The Chair thought that we had done some conditions.

Mr. Koch said that sounds more like an option than a condition. If it is an option rather than a condition there would be no requirement that they do it. If it is a condition then they would be required to do it.

Mr. Corley asked if the concern is that if we allow that structure in the buffer that then they could take it even further.

The Chair thinks we are holding to the dimensional, this is so implicit that it is only going to encroach in this instance.

Mr. Koch said it would be no greater than what you would approve.

Ms. Morris thinks what the Chair is possibly thinking about is in the past when there were some that had different elements to them in the variances. The Board talked about each one of those and whether or not there was agreement before you went back and did the overall vote. She does not know if that is what the Chair is thinking about or that you can split the pieces out.

The Chair said the one she is thinking of is the one that had those buffers, the farm was back in here and then the road and buffer and we went around it and we did dimensionally on this one and this on this one.

Ms. Morris said that would be fine if that is how the Board chooses to do it. We set up the staff report so that landscaping was together, setback encroachment were together. It is the Board's pleasure as to how those get split out and voted on. The applicant did not want everything tied to one vote.

The Chair understands. She needed that for her own clarification when we have all of these various encroachments. She gets that the barn encroaches because that is an existing structure that is a hardship. That setback has been imposed, the barn is sitting in it. But when we go around these

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other proposed uses, she understands the septic, that the engineer says that is where the septic is going to be and that sits the bathroom there. But the tent and some of the other items, when the 100 foot setback, the amount of encroachment she questions. Is there an option or another way to do this that lessens the need for the variance in some of these areas? That is the only reason she needed to get her head back around what we have done in the past and how we have managed this.

The Chair said to summarize there are two areas where the barn encroaches, then both the proposed bathroom facilities and the proposed tent area and the temporary also all encroach.

There being no further discussion Mr. Aaron Ritchie **MOTIONED**, to approve Variance #2, stating that this is an extreme narrow lot, it is long and narrow. They are trying to make the best use of this property. If this lot was half as long and twice as wide we would not be here. He said that is the hardship.

The Chair said there is a motion to approve the Variance #2 with a finding of fact that the size and shape of the parcel would be considered.

Mr. Litaker **SECOND** the Motion. The vote was 8 to 1 with Ms. Mary Blakeney opposing.  
Approved

Variance #3, Landscaping/Buffers on the northern, southern and entire western property line. The applicant is requesting relief from the requirement of six trees per 100 feet along these sections. Supplementing shrubbery where needed. The request would equate to relief from planting 54 trees along these portions of the property boundaries.

The Chair understands that is where there is existing hardwoods and were shown in the gray area around the box.

The proposed tent area encroaches 18.34 feet in to that required 46 foot wide level two buffer and the applicant is seeking relief for this.

The Chair **MOTIONED** to grant relieve for the landscape buffers on the western, southern and northern property line and request an option that if the applicant can propose any modification to the location of the tent that reduces that encroachment for that portion of the buffer that they would consider an alternative location than what is proposed; which is currently 18 feet or 1,065 square feet. She is okay with everything else except for that one Part D. eliminating the six trees, supplementing with the shrubs.

Mr. Price said your motions is to approve the request but if it is possible for them to move it that they move it?

The Chair said everything on the external boundary is noted with a caveat that there is an option to consider reducing that encroachment for the proposed tent location in an alternative placement.

Mr. Price **Second** the **MOTION**. The vote was unanimous. **APPROVED**.

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Variance #4, Relief for the Non-Residential Design Standards, which would be applicable for the proposed temporary tent, temp bathroom facilities and the proposed new bathroom facilities.

Mr. Corley is personally still a little confused, on how we are asking for relief and we do not even know how they are going to build it yet. He is not sure, his mind cannot wrap around that.

The Chair had that question. She understands on the temporary because they are not permanent structures and they are just being used in the interim until such time they can secure the permit and go with the permanent design. At the time that you do that, granting relief to not have to meet any architectural designs or standards she cannot understand why we are going that far in granting relief on the proposed future structures. She can get there on the temporary because they are temporary uses and are not permanent. But relief from the design standards for the proposed new bath room facilities?

Mr. Price said without a site plan in hand is that what you are saying.

The Chair said what is the hardship? She does not see where it meets a hardship because it is proposed. It is not like these other things that we have identified are existing constraints; because it does not exist and has not yet been proposed.

The Chair Motioned to support the request for a variance for relief of design standards for the proposed temporary tent and relief for design stands for relief of the temporary bathroom facilities and not at this time grant relief for design standards for the proposed new bathroom facilities.

Mr. Koch thinks it would be better to break that up into two, otherwise your vote may not reflect what peoples thoughts are about the two alternative things. So, if you are proposing to grant a variance for the first two, the temporary tent and the temporary bathroom facilities, he would keep that as one separate motion. See how that goes and then deal with the other separately.

Ms. Mary Blakeney **MOTIONED, SECONDED** by Mr. Aaron Ritchie to grant relief for the design standards for just the proposed temporary tent and the temporary bathroom facilities. The vote was unanimous. **APPROVED**.

The Chair said we have discussed that we would not support a variance request for relief from the design standards for the proposed new bathroom facilities. The Chair asked for a motion.

Mr. Aaron Ritchie **MOTIONED, SECONDED** by Mr. James Litaker to **DENY** the request for relief from the design standards for the proposed new bathroom facilities. The Vote was unanimous. **DENIED**

Ms. Morris stated that there were some conditions proposed as part of that and we would need a separate vote and the findings as well.

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The Chair said we had the specific conditions of approval in the staff report that we also need to have a motion that those conditions of approval be included as a part of the approval of these variances. The Chair read the conditions recommended by staff.

Mr. Richard Price, **MOTIONED, SECONDED** by Mr. Aaron Ritchie to **Approve** the Conditions recommended by staff. The vote was unanimous. **APPROVED**.

It was the consensus of the Board to have Mr. Rich Koch prepare the Findings of fact. (See Findings attached)

The Chair introduced Petition CUSE2016-00001- Request for Conditional Use Permit for Public Service Facility. Agent is Michael Coleman on behalf of Public Service Company of North Carolina.

There is a request to Table because the applicant is still addressing review comments. Staff anticipates that it will be on the December agenda. If not, the applicant will be required to restart the process and they are aware of this requirement.

Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **Table** Petition CUSE2016-00001, Request for Conditional Use Permit for Public Service Facility until the December 2016 meeting. The vote was unanimous.

The Chair introduced **Petition CUSE2016-00002**- Request to amend Conditional Use Permit for Public Service Facility. The applicant is the Water and Sewer Authority of Cabarrus County.

Mr. Phillip Collins, Sr. Planner, addressed the Board presenting the staff report for CUSE2016-00002. He said the entire property is 17.33 acres in size and is divided by Mt. Pleasant Road South. The lease site is located on the western portion, which is just over 4 acres in size. He wrote in the staff report that the lease area was approximately 38,000 square feet but it is actually an acre. The remaining portion of the subject property on the western side of Mt. Pleasant Road is heavily wooded. There is an overhead power line dissecting the property as well.

The purpose of this request is to amend an existing conditional use permit and site plan to upgrade equipment on site and replace it with new equipment. The fence line to the north will also be expanded. It appears that the pump station was in existence prior to the previous request in 2006. The amendment in 2006 was to add the round dome structure.

The current request includes removal of the existing electrical building, electrical panels and generator with base slab in the southeastern corner of the fenced area. The applicant is requesting to expand the fenced area to the north of the site and replace the referenced equipment. Changes to existing permitted conditional use sites such as this one, require approval from the Board of Adjustment.

The adjacent land uses consist of residential uses and vacant properties. The current zoning of the property is Countryside Residential (CR), Mt. Pleasant RL surrounds the property to the north. CR

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and AO surround the subject property to the east and CR surrounds the property to the south and west.

The applicant provided documentation compliant with Section 8-3 of the Cabarrus County Zoning Ordinance, Petitioning for a Conditional Use Permit and has submitted a complete application which includes the "Findings of Fact" sheet along with a site plan showing the location of the additions to the property.

An existing Public Service Facility occupies the subject property. The facility currently meets the standards of the zoning ordinance. Buffering and/or landscaping may have changed since the time the original Conditional Use Permit was issued, but the current proposal complies with the intent of the ordinance. The existing landscaping will be replaced when the fence is moved.

The applicant submitted the required Emergency Action Plan and the materials to satisfy the requirements found in Section 8-4.17 of the Zoning Ordinance.

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

- Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of the project.
- Expansion of project, as well as modifications, or changes to approved site plan must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
- The driveways must be upgraded to include a hard surface the width of the driveway and extending 25 feet from the roadway.

There being no questions for staff the Chair asked to applicant to come forward.

Mr. Tim Kiser, Engineering Director for WSACC, addressed the Board stating that with him is Mr. Thomas Hahn. We simply need the public use approval to move forward with rebuilding this pump station and upgrading it. That is their request and he will be happy to answer any questions. Also with them is Mr. Greg Wells, Willis Engineers, he is the design engineer for the project.

There being no further comments or questions the Chair closed the public hearing.

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There being no further discussion from the Board, Mr. Aaron Ritchie, **MOTIONED**, **SECONDED** by Ms. Mary Blakeney to **Approve** Petition CUSE2016-00002- Request to amend Conditional Use Permit for Public Service Facility with the conditions recommended by staff. The vote was unanimous. **APPROVED**.

It was the consensus of the Board to have Mr. Rich Koch prepare the Findings of fact. (See Findings attached)

**Directors Report**

Ms. Morris said the first thing that we are going to talk about is the Morehead Road Small Area Plan. We were going to talk about this information last month and because the meeting ran so long we didn't. She sent the information out to the Board and did not really get a lot of feedback and we need some feedback on this plan.

In February of this year, we partnered with the Town of Harrisburg. For those of you who have been around a while, you will know this as the Preserve at Grayson site or the Epic site. This is the property west of Morehead Road down to Caldwell Business Park and over to the County line.

When the Epic project came in, they essentially were proposing about 1600 residential units. You may remember this as we talk about it because you probably saw it in the newspaper. She said 1600 residential units, over a million square feet of retail, a golf course, a clubhouse and everything that went along with a country club.

She said with that project, the property was rezoned to a PUD Planned Unit Development zoning designation. Which is essentially, like a very souped up conditional use rezoning. They have their own standards that go along with that; they govern the property.

As that project moved into the approval process, it did gain approval from the Town of Harrisburg. It was going to change the face of Harrisburg very much. At that time, this was probably around 2005- 2006, the Town Center was trying to get on its feet and a lot of people were concerned that with the approval of that project, that essentially, it was going to shift downtown Harrisburg over to the County line.

Two different developers had that project and that project has not come to fruition. There is an option in the UDO's and in our Ordinance that says if there is a conditional use rezoning and if they do not do things in a certain amount of time, the Board can go back and actually change that zoning.

A couple of times folks have come to the Town of Harrisburg and asked for the zoning to be changed on the property, to put it back to what it was, or to change it to something else. If you are familiar with where Hudspeth Road is located, some of that property has been rezoned.

The Town did not want to do a blanket rezoning on the area because they want to have some say

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so in what happens. The Speedway is a very large landholder in this area. So they want to have a plan in place and they also want to have a plan in place that the EDC and their in-house Economic Development person can take out and can market the land with.

If you are familiar with the area, if you just look at an aerial map you might ask why they haven't done anything out there; look at all the nice trees. Once you actually get back in there the topography is terrible. If you flew over it in 2007 or 2008, near the Speedway, you probably would have seen that the golf course had already been graded and was there. There was some work done without permits, so the site itself has some issues at this point.

The Eldorado Hills Subdivision, which is now called Founders Reserve, once you get to the County line, before you get to the Cabarrus County Country Club, there is a driveway that extends back and the Memorial Park is there. That particular part of the project actually did continue. It is a residential development and it has a new builder now and they are trying to build it out. The rest of it has not really taken off.

Because there are so many parcels involved in it and people want out, the purpose of this plan is twofold; one is to have a more detailed plan in place for that area than what we typically see with a land use plan and two is for it to be used as a marketing tool, proximity to the speedway, how it could be developed; what would happen.

She showed the initial plan that went out to the public meeting. It was really a bubble plan; you know what can happen in this area, what are we looking at? What you are seeing is the blue area that was a general land use category. That was expected to be auto sports related, automotive related. She showed where the Speedway, the Business Park, and Hudspeth Road is located on the plan. She said that is what is anticipated or what the proposed overall land use category is.

Looking at the green areas, she showed the Speedway property. If you have been down Morehead Road there is a giant borrow pit there now and where the larger pond used to be, it is gone. What has been proposed there and it has been through a couple of public iterations; the vision is kind of for private recreation. She said a lot of people are now into riding side by sides and motorcycle racing is still popular. The Speedway has tried to get the X games and has not been successful, but they have been able to get part of those games at the dirt track. So, trying to determine what that would be.

The vision, if you would think about it; not really what is at the River Walk project in South Carolina, but somewhat similar to using that property and having it as a private space. Something maybe like the White Water Center, where people come and it is also maybe different uses. But, then also having, as we flip to the actual land use map that actually drills down into it, some commercial in the front.

Ms. Morris showed where the Cross Charlotte Trail is coming through. Those Board members who have been on the Board, you know about the Carolina Thread Trail and trying to make those connections. The Cross Charlotte Trail will actually come to the County line; so this is an opportunity for the County and for Harrisburg to make some of those connections.

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She showed Mallard Creek. She said again, that the topography is not great, so it makes sense for it to be a greenway, it makes sense for uses to be along that greenway so that there are eyes on the greenway.

She showed an area that is proposed to be a conservation subdivision area. We actually have a family there who has 40 acres that they are trying to get into the Soil and Water Conservation District's conservation easement program. That particular family, (the line that you see is the gas line) they already participate in the North Carolina Wildlife program and are also part of the North Carolina Butterfly Highway Program. They are doing some very unique things in that particular area.

There is some property left. That particular property belongs to the Speedway, the darker green area on the map. That area primarily has been discussed as an area that would be conservation. So, looking at our Ordinance, that would be similar to an open space subdivision.

Harrisburg does have a conservation type subdivision where you can get the smaller lots as long as you give up a lot of open space, buffer the streams, save the flood plain; all of those types of things.

Ms. Morris showed another area that is anticipated (because of the topography) to potentially develop as medium density residential. She showed the part of the property that has been developed with the continuation of the Preserve project (showed project on the map).

As you can see, we kind of have the challenge of the county line, to the west she thinks is an R3 designation which is residential designation. As you are going down Highway 29, there signs up for a project called Trevi Village. It is supposed to be an active living type of development. Those road connections that you see is the Caldwell Road Extension that has been on the CTP for a long time and on the MPO's radar.

We need that north south connection in Harrisburg. If you have gone down Morehead Road, you know there is only so much space on Morehead, so you cannot do a lot. Especially, when you get to the intersection of Morehead Road and Highway 49; to try to get an alternate route where people could come over and not come out at that light.

If you remember, eight to ten years ago, there was talk of Bruton Smith Boulevard actually closing and a new road coming around through the mobile home park. Tom Johnson would relocate across the street and then all of Bruton Smith Boulevard, would be abandoned and become part of the Speedway, so that it would be more pedestrian friendly and pedestrians would not be crossing over Bruton Smith Boulevard, crossing over Highway 29; to try to make that happen and the light would be shifted. What you see on the plan as far as the street alignment is some of that reflected.

Ms. Morris said this particular street she thinks is called Smith Corners. It is where ECPI or maybe it is University of Phoenix that is located in that business park. She said that is a Speedway property.

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Ms. Morris showed another piece of property and said that a lot of people do not know it is in the Town of Harrisburg. As you are heading down Morehead Road, there is a convenience store and the field and everything next to it is actually in Harrisburg's jurisdiction.

Some of you may know it as the Christenbury property. There are some old historic homes on that property, so there is an opportunity to potentially do some reuse there or to relocate those buildings and save the historic structures; the Town has done some of that at there park.

Ms. Morris said the red area that you see is anticipated to be a commercial area. We are working with the consultants on some drawings. They will be representative drawings for the types of buildings that would go there. It is a little more high density and does not look like a shopping center. It looks more like a Birkdale, but not necessarily with two story buildings, more commercial, retail, office oriented and maybe medical park.

Right now, Harrisburg is kind of a hot bed for residential and part of that residential is for 55 and over restricted housing. People like the area, they have access to good health care, access to grandchildren that have moved here. They are having a lot of success with the age restricted housing. They have not quite gotten to apartments yet, but they have done some townhouses.

There is a marketing consultant on board and he is doing a lot of feasibility studies as far as topography and what it can really support. It says that this might be an area for Harrisburg to develop some apartments, maybe it is appropriate and maybe it would be a good location for age restricted or folks that want out of a house into more of the resort style apartments that you see now.

Ms. Morris said the purple area is currently an industrial park; Caldwell Business Park. It lines up with the current park and the Town is looking at acquiring additional property there. There was some talk about a potential rail station going on that property. Since we started this project, it actually appears that the rail station would be more appropriate, to be located further down the line, maybe where the new Publix shopping center is going to be. That is yet to be determined, but a lot of people are familiar with the rail project and know that there were discussions going on and know that was a property that was targeted for that and again, along the creek additional greenways for multi-modal transportation.

She said that is the overall gist of the plan and you can see that we are working on paring it down. This would be a plan that the Board would use. She showed on the map two areas along Hudspeth, she said several of those parcels are under the County's jurisdiction. We have light industrial property over there and some general industrial too she thinks.

You can see drilling down, it kind of follows that same pattern that was put out to the public initially, just for the feedback. The red circles represent places where commercial wants to be. It is either a corner or an intersection where it makes sense for commercial to locate. Again, you can see with the green and pinkish the color in front of it, the private recreation to the back with some lighter commercial up front to support that function. If it ends up being a BMX track, maybe

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it is a bike shop, if it is a motorcycle racing facility maybe it ends up being someone that sells aftermarket to motorcycle folks.

This kind of ended up being like a north and a south just because of the Mallard Creek function. That is why you do not see really any residential on that north side. It is more oriented toward the Speedway, more toward industrial, some commercial with some office in there; maybe high performance manufacturing or precision parts. Also, opportunities to partner with UNC's Motor Sports Program and with some of the other colleges on different types of programs that would be appropriate to locate near a Speedway. There are a lot of things that they do at the speedway that people don't even know that they do at the Speedway; it is not just about racing.

Ms. Morris said the residential components gets into more density where that commercial node is going to be and then recognizes some of the existing properties there. The light industrial and commercial that exist along the corridor and the also the park properties.

The transportation features are not on this one. Everybody has their own ideas about how the transportation piece should work out. Not only is this related to NCDOT streets, Concord has a piece of it, Harrisburg has piece of it and then Mecklenburg is also involved. So, trying to get everyone on the same page, we are trying, but everybody really has their own ideas about what it should look like, how it should be.

At this point you would have a major thoroughfare coming through. These road pretty much would end up being a private investment to open that site up. For the Caldwell Extension to happen, that would probably end up being some type of public investment.

She said just trying to get a plan in place so that when people come in:

1. It is going the way that the County and the Town would like to see it develop
2. Allowing people the opportunity to get out of the PUD designation and to rezone to something else.

Ms. Morris said right now it is all linked together.

Some of the Board members had given her comments on the transportation piece. She would love to have some feedback on this to provide to the consultants as far as if you think this is heading in the right direction. If any of you are familiar with the area, do you see anything that looks off. There are no utilities there now and that is a huge investment that has to be made. That is why it has not developed, between the topography, lack of utilities and lack of roads. It is probably going to be a while, it is envisioned as a twenty year plan.

Once we come back after this, we will actually be looking at working with the Town of Harrisburg to update the overall land use plan that we did with them in 2008 or 2009. This is taking that and paring it down to that smaller section so that we can get into those design features of what does that road look like, what do the buildings look like, what does Highway 49 look like at that point.

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She said Highway 49 was downgraded from a freeway to a boulevard, which opens up some opportunities for different access points that were not there before, but also the opportunity for beautification projects or installation of medians to try to slow the traffic down.

Ms. Morris asked the Board for feedback or comments on the Morehead Road Small Area Plan. She said the public seems to be pretty much in line with it. If you look through the presentation, every time they ask what do you want or think should be in this area or that area; the consistent answer we get is restaurants. Whether it is in the motorsports area, the commercial or the industrial, they wanted restaurants.

Mr. Price is not so certain that the impact of Caldwell Road Extension is fully appreciated. He thinks that thing is going to suck a lot of traffic if it were built. He thinks it is being under estimated as to what it is going to do.

Ms. Morris said yes, because you can now get from Interstate 485 at Rocky River once Plaza extension happens. You could snake your way up that end of the county and never have to get on the interstate.

Mr. Price hopes that once the plans are somewhat firmed up and you start looking at a reality of a Caldwell Road Extension, the traffic impact is accounted for correctly.

Ms. Morris said when they did the traffic impact study for Epic project, it actually generated from that parcel right there. Essentially it is the same configuration except for a little bit at Morehead Road; it did not go across Morehead Road. It was generating triple turn lanes just for that particular project.

Again this is why we are trying to plan ahead knowing that land, especially in Harrisburg right now, land is being snatched up for residential developments, commercial developments, you name it. Everybody right now wants to be in Harrisburg.

Eventually, someone is going to be knocking on the door for properties in this area. The PUD did not work and people want out of it. She thinks the expectation is once the plan is adopted, the Town and the County potentially would be asked to go in and do rezonings that are more consistent with the plan.

Ours is not terribly off, but if you consider that it is calling for it to be residential, it probably should not be light industrial. We will have to take that as it comes.

Mr. Price said that is kind of what is in there now; that general area around Hudspeth Road.

Ms. Morris said this would be south of that. Some of that along there is ours; the light industrial. Which is what Hudspeth is still being proposed as; motorsport, light industrial and office park classification.

Mr. Aaron Ritchie said once they get infrastructure they will have to go into the city of Harrisburg.

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Ms. Morris said typically, to have water and sewer service, they do require them to annex. Either way, they are probably looking at annexation and rezoning. But from a marketing stand point, it makes sense for us to rezone it to what is consistent with the plan, since it is going to be used as an economic development tool as well. Only about 10 percent of what is there is actually in the county's jurisdiction.

The Chair asked where it is in the process in terms of a timeline.

Ms. Morris said right now we are trying to work with the Speedway to get some input from them on what they think about what the public has said. Trying to find out if there is anything that does not really match up. Trying to determine as far as where those road would go. There is one place that is pretty much over to the west; that is really the best place. The plans that were turned in, the road always seem to veer over that way, because that is the shortest place for you to cross Mallard Creek, even though it is going to cost an arm and a leg to get that bridge in anyway.

The traffic engineers are looking at that. At first they were operating under the assumption that they had to hold the light at the Speedway and that is not necessarily the case. That light can be moved down and does not have to stay at the Speedway, it could be shifted down to the Business Park or shifted down to the Christenbury property. But ultimately the plan would be to come through either Christenbury or the Business Park and it would ultimately wrap around and tie to Weddington.

So, from Great Wolf Lodge you would be able to take Weddington extension down Mallard Creek and eventually come out over here. That is currently between Cabarrus County and Mecklenburg County.

She said there is a lot going on in this area, a lot of potential, a lot of activity. Especially when you start getting that close to Concord Mills, plus the Speedway. Hopefully, it will be a plan that the community likes and maybe someone will be willing to make an investment in it. Right now the PUD designation is tying everybody's hands out there.

The Chair said Mecklenburg County just did that 2,000 acres over Riverwalk/Crescent the whole west side of Mecklenburg County and looking at a swath that is this large and that had environmental challenges just like this does, it seems most important in figuring that out and whether that is going to be an Option 1 or an Option 2. What the bones are and that being the road network, getting that to a place of finality as best you can based on the traffic engineers and what you know about those existing conditions. Simply because, once that horizontal piece is defined then it starts to lock in certain parcel boundaries and sizes. It just seems to be going down this path and be speculating and not being more definitive, but know that you can present it with that type of conclusive, that we are not going into this changing it in five years or ten years; this is the defined alignment.

She has worked on projects before where the developer gets in and like we are sitting here saying it is more favorable for me to push it over here, but if it works and functions in the balance of the

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whole area as best served, that to her seems the highest priority, especially given the players in this.

Ms. Morris said the Board will probably see it back sometime this spring for consideration if we continue on the path that we are going right now. Then we would start moving into RFP for consultants.

On this particular plan, it is Nealon Design which is Meg Nealon who was with LandDesign. She is partnering with Land Design and then she has partnered with a transportation group that we have not worked with in the past. She does not know how familiar they are with Cabarrus County and with contacts in Cabarrus County, but we are trying to move the transportation piece along.

We have been working hard and hopefully will be able to have a finished product soon. As we move along, we will try to give you updates as we have in the past. There might be some minor modifications to it as far as the motorsports related area. She thinks overall this is probably the big picture that is going to continue to move through the process.

Ms. Morris said on the issue of temporary tents, we have almost every group that comes in here want a temporary tent, they want temporary bathrooms and that was not necessarily the intent of what that language was. The Text Amendment Committee has already revisited that language one time. We are going back to revisit that language again, along with the language for bed and breakfast. Also, a potential standalone event center that would not necessarily be enclosed. We will probably move those three things together with the Text Amendment Committee and then bring it back to the Board.

If the Board remembers, the intent of that original language was for it to be historic structures. One of the folks on the Board said they did not agree with it not being historic structures and the other folks said it would be okay.

As you can see, month after month people are coming in and asking for variances and there is not a lot of consistency to what we are doing. We will be going back and looking at that and working on it. Trying to determine; here is the parcel, this is kind of what it is, either you meet the standards or you do not meet the standards. She said there is a lot going on and there are a lot of moving parts.

The Fire Marshal's office actually contacted the State. The State says you can have a tent for a period of six months within a twelve month period. We have to make sure that we are being consistent with the fire code. When folks are asking for variances on these tents, you will see staff carry that comment back to you as part of the conditional use process. When the fire marshal called the State, one of the questions asked was what these people can do to make these things permanent, because they want to come in and make them permanent.

The intent, of our Ordinance, is not for these to be permanent. It is for them to be temporary or to be overflow. Again, these are some discussions that we need to have, because we are all over the place with this and we need to have more consistency.

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Ms. Morris said since we have some new members on the Board, she will be sending material on Board expectations and the Board protocol. Some of it will be from the School of Government, some of it from the Citizen Guide to Planning, which was put out for commissioners. It kind of walks you through the basics. What is ex parte communication? If someone ask you something outside of this room about a case and it is a conditional use or a variance, you are supposed to disclose that at the meeting.

Some of you have not had the opportunity to have those conversations. She will get the materials to the Board and start working through those and have some training sessions as part of the meetings so that everyone is familiar with the dos and don'ts. When it comes to Quasi-Judicial matters, they are based on facts and not opinion. When you are talking about legislative items you can take into account opinions.

Some of you did not have the opportunity to attend some of the training that others have attended. To get everyone on an even playing field and so we know what we need to do as a Board, we know what we need to do as staff and so that we are creating that record.

We need to be having the discussions that we need to be having, to create the record, so that if someone says, they do not like your decision and are appealing it, we need to have the appropriate record for the Judge. Because when that happens, they do a Writ of Certiorari and then it is a de novo case.

What the Judge looks at is the record from that meeting, the staff report and the minutes. Does that Judge come to the same conclusion that the Board did? That is really where we want it to be. That the Judge can read the record and say that this was reasonable, it was in the public interest and come to that same conclusion so that your decision will be upheld.

Ms. Morris thinks we are going to need to start doing some of that training again. We have had a lot of new people come on and next year some folks may leave. We need to make sure that everyone understands their role and also when it comes to those legal procedures, you know how that works; building the record and making sure that legally, we have what we need if a case does go to court.

The Chair said she has been away from work since October 3<sup>rd</sup>. She does this every day at the City of Charlotte. She has been unplugged from her life for six weeks and plugged back in this morning and read the minutes from last month's meeting.

The Chair is glad that Ms. Morris said what she said. But the Chair would be remiss not to say that in reading the summary of that discussion, and just a little bit of what happened tonight, just kind of going back to that place of mindfulness, that eyes are on us with what we say and how we treat each other.

The Chair thinks Ms. Morris said it very professionally, about the record and the legal binding impacts for that. But, as a Mom and based on watching all these recent commercials and what we

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are going to find out when we leave this meeting tonight; just going back to that place of treating each other with respect.

She gets questioned so many times after doing this five days a week at the Government Center in Charlotte, why would she possibly go down to Cabarrus County Government Center and do this on top of working in the planning department forty plus hours a week?

She has learned so much going from the other side of being staff, to being on this Board and working with a peer group that is not the professionals that she is with day in and day out. But, having done that for the period of time that she has been doing it, she has come to a place of working with the Board, with a certain amount understanding and respect for each other. She just wants that to be sustainable.

As Ms. Morris says, as people come on and come off, because that is part of what make this enjoyable. We get in here for long times and can start to glance at each other and she can feel it sometimes and just say that we take a deep breath and get back on task. These are her Chair remarks on top of what Ms. Morris has shared with us. When Ms. Morris sends out the training and if it works for your schedule; being mindful about what is legislative and what is Quasi-Judicial, all of those things matter.

### **Legal Update**

Mr. Koch said we are probably going to have a few more zoning violation matters come up. Mr. Lowe is swamped and he told Mr. Koch the other day that he has some coming.

He said there is no change in the Shelly case.

He will have to file a motion for contempt against Mr. Phillip Little because his trailer is still sitting there. He just moved it down to the side. Mr. Koch laid off of it until after the race in October, but he thinks we are going to have to go ahead and move forward with it.

The DeComo house is moving along. He was down there last week and they have the roof on it and the windows in. There were actually several trades down there working on it the day he went by. Hopefully, that will get into compliance, they have until the end of the year.

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**FINDINGS OF FACT**  
**VARIANCE APPLICATION**  
**APPLICANT: PATRICIA HONEYCUTT**  
**5540 Rockwell Road, Rockwell, NC**  
**VARN 2016-00003**

1. Honeycutt and husband Mark are the owners of the Property. It is approximately 4.42 acres in size. The Property is zoned Agricultural Open (“AO”).

2. Honeycutt is proposing to continue to use the Property as a reception facility. Reception facilities are permitted as a conditional use in the AO zoning district and are subject to performance standards. If the variances from the Cabarrus County Development Ordinance (the “Ordinance”) are approved, Honeycutt intends to return to the Board of Adjustment to apply for a conditional use permit.

3. The purposes of these variance requests are:

- a) relief from the size requirements for reception facilities (Variance No. 1);
- b) relief from the required setbacks for reception facilities (Variance No. 2);
- c) relief from the landscaping/buffering requirements for reception facilities (Variance No. 3); and
- d) relief from Appendix B, Non-Residential Design Standards of the Ordinance (Variance No. 4).

4. Variance No. 1: Size Requirements for Reception Facilities. The Property is +/- 4.42 acres in size. Reception facilities are required to be at least five acres in size. Honeycutt is requesting relief from Section 8-4.21.b of the Ordinance.

5. Variance No. 2: Setback Requirements for Reception Facilities. Honeycutt is proposing to use an existing barn, a new bathroom facility (to the rear of the existing barn), temporary bathrooms and a temporary tent as part of a reception facility on the Property.

6. The Property is approximately 200 feet in width. The existing and proposed structures do not meet the required 100-foot setback for reception facilities as required in Section 8-4.21.d of the Ordinance. Honeycutt is requesting relief from this provision. As shown on the site plan:

- a) The existing barn encroaches 12.4 feet into the required setback along the northern Property line;
- b) The existing barn encroaches 17.1 feet into the required setback along the southern Property line;
- c) The proposed bathroom facility encroaches 36.87 feet into the required setback along the northern Property line;

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- d) The proposed area for the tent encroaches 72.3 feet into the required setback along the northern Property line; and
- e) The temporary bathrooms encroach 51.58 feet into the required setback along the northern Property line.

7. Variance No. 3: Landscaping/Buffering Requirements for Reception Facilities. Honeycutt is requesting relief from Section 8-4.21.g of the Ordinance, which requires reception facilities to meet the requirements of a Level Two buffer yard as defined in Chapter 9 of the Ordinance. Currently, the back half of the northern, southern and the entirety of the eastern Property lines are heavily vegetated. Honeycutt is requesting relief from the requirement of six trees per one hundred feet along these sections of the Property boundaries. Honeycutt proposes to supplement with shrubbery where needed. This request would equate to relief from planting 54 trees along these portions of the Property boundaries. The proposed tent area encroaches 18.34 feet into the required Level Two 46-foot wide landscape buffer (approximately 1,065 square feet). Honeycutt is also seeking relief from this.

8. Variance No. 4: Non-Residential Design Standards. Section 8-4.21.c of the Ordinance requires that all new construction associated with reception facilities meet the commercial design standards of Appendix B of the Ordinance. The applicant is requesting relief from this section of the Ordinance for the following:

- a) Use of a temporary tent which cannot meet the design guidelines;
- b) The temporary bathroom facility which does not meet the design guidelines; and
- c) Proposed new bathroom facility that will not meet the design guidelines.

9. The Property is currently occupied by a vacant barn located in the center of the Property. The barn is accessed by a gravel driveway extending to Rockwell Road. The rear portion of the Property is wooded and an intermittent stream runs along the rear Property line from south to north.

10. Staff became aware of the existing unapproved reception facility on the Property when an easement plat for the septic was submitted. Honeycutt was informed that the facility was not permitted and that Honeycutt should meet with staff to discuss options. It was determined during the meeting on July 14, 2016 that the first step for the facility to attempt to comply with the Ordinance was a variance request.

11. Honeycutt understands that the project will be subject to conditional use permit review with the Board of Adjustment and site plan review if the variances are approved.

12. The application states that the site will be serviced by well and septic. The Cabarrus Health Alliance is aware of the proposed use and stated that the facility currently uses porta johns/chemical toilets for restrooms. The site was evaluated for a bathroom facility and found to be suitable for location of a septic system off site. Honeycutt understands that a permanent bathroom facility must be included as part of the Conditional Use Permit Application.

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13. A strict application of the Ordinance would create practical difficulties and unnecessary hardship relative to Honeycutt's proposed use of the Property as a wedding and reception facility for the following reasons:

- a) The barn already exists on the Property and has been in its present location for many years.
- b) There exist heavy to moderate tree lines along the perimeter of the Property such that there already exists a substantial buffer from adjacent properties.
- c) In order to make reasonable use of the parcel proposed for the wedding and reception facility, the septic field needs to be located off site. The adjacent property on that side of the proposed parcel is also owned by Honeycutt and used as part of their residence parcel. There is sufficient space on that parcel for the septic field.

14. These practical difficulties and hardships result from conditions peculiar to the Property.

- a) The Property is approximately 4.42 acres and is a rectangle that is not wide enough to meet the setbacks for the barn.
- b) Although Honeycutt owns the adjacent parcel the property line cannot be adjusted due to existing mortgage financing on the adjacent parcel.

15. These practical difficulties and hardships did not result from any action taken by Honeycutt.

16. The requested variances are consistent with the spirit, purpose and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

- a) The variances collectively do not adversely impact adjacent property owners.
- b) No property owner adjacent to this property has expressed any objection to this application for the variances.

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

## **CONCLUSIONS OF LAW**

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law so as to give full effect to the provisions of this Order Granting a Variance.

2. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the Property.

3. The hardship results from conditions that are peculiar to the Property, such as location, size, or topography.

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4. The requested variances are consistent with the spirit, purpose and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

5. Granting the variances, except for the proposed new bathroom facility variance, in this situation is consistent with the spirit, purpose and intent of the Ordinance.

Based on the foregoing Findings of Fact and Conclusions of Law, the Cabarrus County Board of Adjustment hereby grants the variances, except for the proposed new bathroom facility variance, consistent with and limited to the variances requested in the application. The following conditions of approval have been imposed:

- a) A conditional use permit review and approval by the Board of Adjustment is required subsequent to approval of the variances.
- b) Site plan review and approval is required subsequent to conditional use permit approval to ensure compliance with all applicable development requirements and conditions.
- c) Honeycutt shall procure any and all applicable federal, state and local permits prior to commencement of the project.
- d) Honeycutt shall install landscaping as stated in the application with future road construction to mitigate the approved variances.
- e) Honeycutt shall extend the length of the concrete apron to 25 feet.
- f) Honeycutt shall procure appropriate permits from the Fire Marshal's Office for the temporary tent, as allowed by variance approval. If the duration of the use of the tent exceeds what is considered a temporary use, Honeycutt shall proceed with commercial site plan review for the tent to be permitted as a permanent structure.

**FINDINGS OF FACT**  
**CONDITIONAL USE PERMIT APPLICATION**  
**APPLICANT: WSACC**  
**WASTEWATER PUMP FACILITY**  
**4100 COLD SPRINGS ROAD**  
**CUSE 2016-00002**

**FINDINGS OF FACT**

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

a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*

b) *The proposed use adds no new additional burden to the property that would affect the public adversely, as it involves replacement of equipment and related features within the existing pump station.*

c) *This is an amendment of a previously approved conditional use permit application (CUSE 2006-00114)*

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

a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*

b) *All such facilities, which are not specifically required for this modification of the use, are located nearby.*

c) *This is an amendment of a previously approved conditional use permit application (CUSE 2006-00114)*

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

a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*

b) *The proposed use adds no new additional burden to the property that would affect the public adversely, as it involves replacement of equipment and related features within the existing pump station.*

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c) *This is an amendment of a previously approved conditional use permit application (CUSE 2006-00114)*

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

a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*

b) *The proposed use adds no new additional burden to the property that would affect the public adversely, as it involves replacement of equipment and related features within the existing pump station.*

c) *This is an amendment of a previously approved conditional use permit (CUSE 2006-00114).*

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There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by the Chair to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 9:20 p.m.

**APPROVED BY:**

Ms. Shannon Frye, Chair

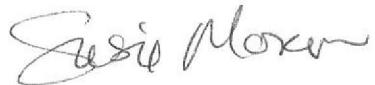


**SUBMITTED BY:**

Arlena B. Roberts

**ATTEST BY:**

Susie Morris, Planning and Zoning Manager



FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS

FILED Jan 11, 2017  
AT 02:20 pm  
BOOK 12315  
START PAGE 0302  
END PAGE 0306  
INSTRUMENT # 00853  
EXCISE TAX \$0.00  
MKL

SCANNED AND RETURNED

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

CABARRUS COUNTY PLANNING  
AND ZONING COMMISSION  
BOARD OF ADJUSTMENT  
VARN 2016-00004

In re

PATRICIA HONEYCUTT ) ORDER GENERALLY  
VARIANCE APPLICATION ) GRANTING VARIANCES  
)

THIS MATTER came before the Cabarrus County Board of Adjustment at its regular monthly meeting on November 8, 2016 on the application of Ginger Moore of Carlos Moore Architect, P.A. in behalf of Patricia Honeycutt ("Honeycutt") for four variances on the "Property" of Honeycutt located at 5540 Rockwell Road, Rockwell, Cabarrus County, North Carolina and designated PIN 5673-97-1701.

Notice was given to Honeycutt and to adjacent property owners as required by law.

A full complement of nine members of the Board of Adjustment, including alternates, were present at the start of the hearing. All of the witnesses were duly sworn and documents were received in evidence. After hearing and receiving the evidence, the Board makes the following

#### **FINDINGS OF FACT**

1. Honeycutt and husband Mark are the owners of the Property. It is approximately 4.42 acres in size. The Property is zoned Agricultural Open ("AO").

2. Honeycutt is proposing to continue to use the Property as a reception facility. Reception facilities are permitted as a conditional use in the AO zoning district and are subject to performance standards. If the variances from the Cabarrus County Development Ordinance (the

5/26-26-

“Ordinance”) are approved, Honeycutt intends to return to the Board of Adjustment to apply for a conditional use permit.

3. The purposes of these variance requests are:

- a) relief from the size requirements for reception facilities (Variance No. 1);
- b) relief from the required setbacks for reception facilities (Variance No. 2);
- c) relief from the landscaping/buffering requirements for reception facilities (Variance No. 3); and
- d) relief from Appendix B, Non-Residential Design Standards of the Ordinance (Variance No. 4).

4. Variance No. 1: Size Requirements for Reception Facilities. The Property is +/- 4.42 acres in size. Reception facilities are required to be at least five acres in size. Honeycutt is requesting relief from Section 8-4.21.b of the Ordinance.

5. Variance No. 2: Setback Requirements for Reception Facilities. Honeycutt is proposing to use an existing barn, a new bathroom facility (to the rear of the existing barn), temporary bathrooms and a temporary tent as part of a reception facility on the Property.

6. The Property is approximately 200 feet in width. The existing and proposed structures do not meet the required 100-foot setback for reception facilities as required in Section 8-4.21.d of the Ordinance. Honeycutt is requesting relief from this provision. As shown on the site plan:

- a) The existing barn encroaches 12.4 feet into the required setback along the northern Property line;
- b) The existing barn encroaches 17.1 feet into the required setback along the southern Property line;
- c) The proposed bathroom facility encroaches 36.87 feet into the required setback along the northern Property line;
- d) The proposed area for the tent encroaches 72.3 feet into the required setback along the northern Property line; and
- e) The temporary bathrooms encroach 51.58 feet into the required setback along the northern Property line.

7. Variance No. 3: Landscaping/Buffering Requirements for Reception Facilities. Honeycutt is requesting relief from Section 8-4.21.g of the Ordinance, which requires reception facilities to meet the requirements of a Level Two buffer yard as defined in Chapter 9 of the Ordinance. Currently, the back half of the northern, southern and the entirety of the eastern Property lines are heavily vegetated. Honeycutt is requesting relief from the requirement of six trees per one hundred feet along these sections of the Property boundaries. Honeycutt proposes to supplement with shrubbery where needed. This request would equate to relief from planting 54 trees along these portions of the Property boundaries. The proposed tent area encroaches 18.34 feet

into the required Level Two 46-foot wide landscape buffer (approximately 1,065 square feet). Honeycutt is also seeking relief from this.

8. Variance No. 4: Non-Residential Design Standards. Section 8-4.21.c of the Ordinance requires that all new construction associated with reception facilities meet the commercial design standards of Appendix B of the Ordinance. The applicant is requesting relief from this section of the Ordinance for the following:

- a) Use of a temporary tent which cannot meet the design guidelines;
- b) The temporary bathroom facility which does not meet the design guidelines; and
- c) Proposed new bathroom facility that will not meet the design guidelines.

9. The Property is currently occupied by a vacant barn located in the center of the Property. The barn is accessed by a gravel driveway extending to Rockwell Road. The rear portion of the Property is wooded and an intermittent stream runs along the rear Property line from south to north.

10. Staff became aware of the existing unapproved reception facility on the Property when an easement plat for the septic was submitted. Honeycutt was informed that the facility was not permitted and that Honeycutt should meet with staff to discuss options. It was determined during the meeting on July 14, 2016 that the first step for the facility to attempt to comply with the Ordinance was a variance request.

11. Honeycutt understands that the project will be subject to conditional use permit review with the Board of Adjustment and site plan review if the variances are approved.

12. The application states that the site will be serviced by well and septic. The Cabarrus Health Alliance is aware of the proposed use and stated that the facility currently uses porta johns/chemical toilets for restrooms. The site was evaluated for a bathroom facility and found to be suitable for location of a septic system off site. Honeycutt understands that a permanent bathroom facility must be included as part of the Conditional Use Permit Application.

13. A strict application of the Ordinance would create practical difficulties and unnecessary hardship relative to Honeycutt's proposed use of the Property as a wedding and reception facility for the following reasons:

- a) The barn already exists on the Property and has been in its present location for many years.
- b) There exist heavy to moderate tree lines along the perimeter of the Property such that there already exists a substantial buffer from adjacent properties.
- c) In order to make reasonable use of the parcel proposed for the wedding and reception facility, the septic field needs to be located off site. The adjacent property on that side of the proposed parcel is also owned by Honeycutt and used as part of their residence parcel. There is

sufficient space on that parcel for the septic field.

14. These practical difficulties and hardships result from conditions peculiar to the Property.

- a) The Property is approximately 4.42 acres and is a rectangle that is not wide enough to meet the setbacks for the barn.
- b) Although Honeycutt owns the adjacent parcel the property line cannot be adjusted due to existing mortgage financing on the adjacent parcel.

15. These practical difficulties and hardships did not result from any action taken by Honeycutt.

16. The requested variances are consistent with the spirit, purpose and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

- a) The variances collectively do not adversely impact adjacent property owners.
- b) No property owner adjacent to this property has expressed any objection to this application for the variances.

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

## **CONCLUSIONS OF LAW**

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law so as to give full effect to the provisions of this Order Granting a Variance.

2. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the Property.

3. The hardship results from conditions that are peculiar to the Property, such as location, size, or topography.

4. The requested variances are consistent with the spirit, purpose and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

5. Granting the variances, except for the proposed new bathroom facility variance, in this situation is consistent with the spirit, purpose and intent of the Ordinance.

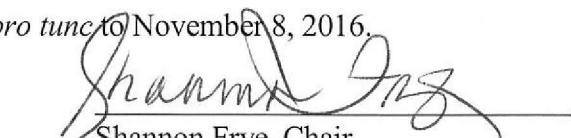
Based on the foregoing Findings of Fact and Conclusions of Law, the Cabarrus County Board of Adjustment hereby grants the variances, except for the proposed new bathroom facility variance, consistent with and limited to the variances requested in the application. The following

conditions of approval have been imposed:

- a) A conditional use permit review and approval by the Board of Adjustment is required subsequent to approval of the variances.
- b) Site plan review and approval is required subsequent to conditional use permit approval to ensure compliance with all applicable development requirements and conditions.
- c) Honeycutt shall procure any and all applicable federal, state and local permits prior to commencement of the project.
- d) Honeycutt shall install landscaping as stated in the application with future road construction to mitigate the approved variances.
- e) Honeycutt shall extend the length of the concrete apron to 25 feet.
- f) Honeycutt shall procure appropriate permits from the Fire Marshal's Office for the temporary tent, as allowed by variance approval. If the duration of the use of the tent exceeds what is considered a temporary use, Honeycutt shall proceed with commercial site plan review for the tent to be permitted as a permanent structure.

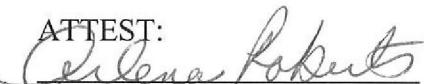
This Order shall run with the land with reference to the Property and shall be recorded by Honeycutt in the Cabarrus County Public Registry.

This 10<sup>th</sup> day of January, 2017, *nunc pro tunc* to November 8, 2016.



Shannon Frye, Chair  
Cabarrus County Board of Adjustment

ATTEST:

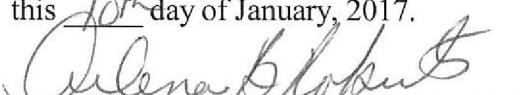


Arlena Roberts,  
Clerk to the Board of Adjustment

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

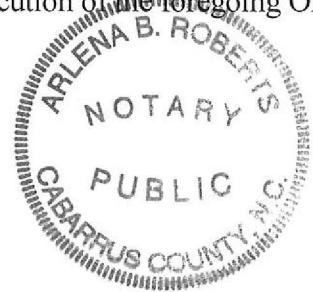
I, Arlena B. Roberts, a Notary Public in and for the said State and County do hereby certify that Shannon Frye as Chair of the Cabarrus County Board of Adjustment personally appeared before me this day and acknowledged the due execution of the foregoing Order.

Witness my hand and notarial seal,  
this 10<sup>th</sup> day of January, 2017.



Notary Public

My Commission Expires: March 21, 2017



FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS

FILED Jan 11, 2017  
AT 02:21 pm  
BOOK 12315  
START PAGE 0307  
END PAGE 310A  
INSTRUMENT # 00854  
EXCISE TAX \$0.00  
MAO

Prepared by and Return to:  
Richard M. Koch  
Cabarrus County Attorney  
ROD Box 74

Application Number CUSE 2016-00002

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A CONDITIONAL USE PERMIT

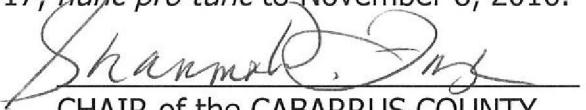
The Board of Adjustment for the County of Cabarrus, having held a public hearing on November 8, 2016, to consider application number CUSE 2016-00002, submitted by the Water and Sewer Authority of Cabarrus County and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.

4. It is the Board's CONCLUSION that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, the use does not adversely affect the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical developments of the County as embodied in the Ordinance or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.
6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

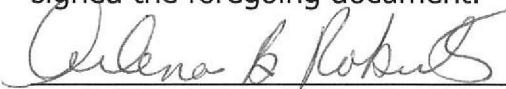
Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT have been satisfied, it is ORDERED that the application for the issuance of a CONDITIONAL USE PERMIT be GRANTED, subject to the conditions contained in the staff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

Ordered this 10th day of January, 2017, *nunc pro tunc* to November 8, 2016.

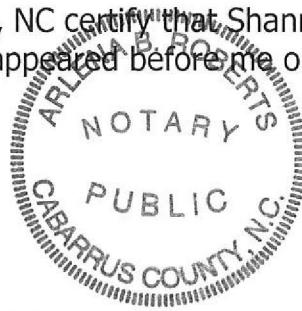


Shannon Frye  
CHAIR of the CABARRUS COUNTY  
PLANNING AND ZONING COMMISSION  
Sitting as the BOARD OF ADJUSTMENT

I Arlena B. Roberts, Notary for Cabarrus County, NC certify that Shannon Frye, Chair of the Cabarrus Planning and Zoning Commission appeared before me on this day and signed the foregoing document.



\_\_\_\_\_  
Arlena B. Roberts, Notary Public  
My Commission expires March 21, 2017



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

**FINDINGS OF FACT**  
**CONDITIONAL USE PERMIT APPLICATION**  
**APPLICANT: WSACC**  
**WASTEWATER PUMP FACILITY**  
**4100 COLD SPRINGS ROAD**  
**CUSE 2016-00002**

**FINDINGS OF FACT**

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

a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*

b) *The proposed use adds no new additional burden to the property that would affect the public adversely, as it involves replacement of equipment and related features within the existing pump station.*

c) *This is an amendment of a previously approved conditional use permit application (CUSE 2006-00114)*

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

a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*

b) *All such facilities, which are not specifically required for this modification of the use, are located nearby.*

c) *This is an amendment of a previously approved conditional use permit application (CUSE 2006-00114)*

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

a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*

b) *The proposed use adds no new additional burden to the property that would affect the public adversely, as it involves replacement of equipment and related features within the existing pump station.*

c) *This is an amendment of a previously approved conditional use permit application (CUSE 2006-00114)*

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

a) *See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.*

b) *The proposed use adds no new additional burden to the property that would affect the public adversely, as it involves replacement of equipment and related features within the existing pump station.*

c) *This is an amendment of a previously approved conditional use permit (CUSE 2006-00114).*

**EXHIBIT 2**  
**CONDITIONS**  
**APPLICATION CUSE2016-00002**

- Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of the project.
- Expansion of project, as well as modifications, or changes to approved site plan must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
- The driveways must be upgraded to include a hard surface the width of the driveway and extending 25 feet from the roadway.

PLANNING STAFF REPORT  
 CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
 11/08/2016

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

**Conditional Use Permit: CUSE2016-00002**

Applicant Information: Thomas Hahn, Water & Sewer Authority of Cabarrus County  
 Acting as Agent for William & Kay Smith  
 232 Davidson Highway  
 Concord, NC 28027

Owner Information: William & Kay Smith  
 2921 Mt. Pleasant Road South  
 Mt. Pleasant, NC 28124

PIN#: p/o 5569-85-8179

Area in Acres: +/- 17 acres (+/- 38,000 square feet for total lease area)

Purpose of Request: The purpose of this request is to amend an existing conditional use permit and site plan to upgrade equipment on site and replace it with new equipment. The fence line to the north will also be expanded. It appears that the pump station was in existence prior to the previous request in 2006 (CUSE2006-00114). The amendment in 2006 was to add the round dome structure.

The current request includes removal of the existing electrical building, electrical panels and generator with base slab in the southeastern corner of the fenced area. The applicant is requesting to expand the fenced area to the north of the site (approximately 3,000 square feet) and replace the referenced equipment. Changes to existing permitted conditional use sites such as this one, require approval from the Board of Adjustment.

Site Description: The subject property is approximately 17.33 acres in size. The subject property is divided by Mt. Pleasant Road South and the lease site is located on the western portion, which is approximately 1.5 acres in size. The site is a lease area and is approximately 38,000 square feet in size. The remaining portion of the subject property on the western side of Mt. Pleasant Road (other than the lease area) is heavily wooded. There is an overhead power line dissecting the property as well.

Current Land Uses: Public Service Facility (*Waste Water Pump Facility*)

Adjacent Land Uses:	<ul style="list-style-type: none"> <li>• North – Single Family Residential</li> <li>• East – Vacant/Residential</li> <li>• South – Single Family Residential &amp; Vacant</li> <li>• West – Single Family Residential</li> </ul>
Permitted Uses:	All uses permitted within the Countryside Residential zoning district
Existing Zoning:	CR (Countryside Residential)
Surrounding Zoning:	<p>North: CR (Countryside Residential) and Mt. Pleasant RL (Residential Low Density - ETJ)</p> <p>East: CR (Countryside Residential) and AO (Agricultural/Open)</p> <p>South: CR (Countryside Residential)</p> <p>West: CR (Countryside Residential)</p>
Signs Posted:	10/17/2016
Newspaper Notification:	10/26/2016
Newspaper Notification 2:	11/02/2016
Notification Letters:	10/17/2016

### Exhibits

- Exhibit A – Staff Report
- Exhibit B – Application
- Exhibit C – Site Plan
- Exhibit D – Comparison (GIS Mapping/Site Plan)
- Exhibit E – Site Maps
- Exhibit F – Adjacent Property Owner Information
- Exhibit G – Signs
- Exhibit H – Emergency Action Plan

### Agency Review Comments

#### EMS Review: Approved

*No EMS related concerns (per James Lentz, EMS Assistant Director).*

#### Fire Review: Approved

*No Fire Code issues related to this variance request (per Matt Hopkins, Fire Marshal's Office).*

**NCDOT Review: Approved with Conditions**

*Both entrances should now have a hard surface apron extending from the edge of pavement 25' deep and for the width of the drive. (per Leah Wagner, NCDOT)*

**Sheriff Review: Approved**

*No Sheriff's Department related comments (per Ray Gilleland, Lieutenant Sheriff).*

**Soil-Water Conservation Review: Approved**

*No Soil & Water Conservation related comments (per Erin Lineberger, Resource Conservation Coordinator)*

**Zoning Review: Approved****History / Other Information**

1. The applicant provided documentation compliant with Section 8-3 of the Cabarrus County Zoning Ordinance, Petitioning for a Conditional Use Permit
2. The applicant submitted a complete application which includes the "Findings of Fact" sheet along with a site plan showing the location of the additions to the property.
3. An existing Public Service Facility (wastewater treatment facility) occupies the subject property. The facility currently meets the standards of the zoning ordinance. Buffering and/or landscaping may have changed since the time the original Conditional Use Permit was issued, but the current proposal complies with the intent of the ordinance. The existing landscaping will be replaced when the fence is moved.
4. The applicant submitted the required Emergency Action Plan.
5. The applicant submitted the materials to satisfy the requirements found in Section 8-4.17 of the Zoning Ordinance.

**Conditions of Approval**

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

- Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions. (Zoning)
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property. (Zoning)

- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project. (Zoning)
- Expansion of project, as well as modifications, or change to approved site plan must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit. (Zoning)
- The driveways must be upgraded to include a hard surface the width of the driveway and extending 25 feet from the roadway. (NCDOT)

# CONDITIONAL USE PERMIT APPLICATION

Staff Use Only:  
Application/Accela#:

Date Filed: \_\_\_\_\_  
Received By: \_\_\_\_\_  
Amount Paid: \_\_\_\_\_



## Instructions

1. Schedule a pre-application meeting with Staff to discuss the procedures and requirements for a Conditional Use Permit request.

Date of Pre-Application Meeting: 8/3/16 Staff Facilitator(s): Phillip Collins

2. Submit a complete application 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.
- 15 folded copies of the proposed site plan.
- Any additional documents essential for the application to be considered complete. (Determined at pre-application meeting)

3. Submit cash, check, or money order made payable to Cabarrus County.

Fees: Conditional Use Permit \$550.00 +\$5.00 per acre  
+3% technology fee based on total application fee

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 Conditional Use Permit request and the Conditional Use Permit process.
2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.

Staff and appropriate agents will review your complete application and site plan and comments will be forwarded to you. You will need to address the comments in writing, revise the site plan accordingly and resubmit a site plan showing that all comments are addressed and errors corrected.

3. Once advised that the site plan is correct and ready to be presented to the Board of Adjustment, you will need to submit 18 folded copies of the plan.
4. When the copies of the plan are received, Staff will begin to prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for the Conditional Use Permit.

**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.

**Conditional Use Permit:** Conditional Use Permits are considered by the Board of Adjustment during a quasi-judicial hearing. This means that anyone wishing to speak regarding the application must be sworn in. The vote requirement for the Conditional Use Permit to pass is a simple majority. Additional conditions may be added as part of the Conditional Use Permit approval process.

**Questions:** Any questions related to the Conditional Use Permit process may be directed to the Planning Division at 704-920-2141, between 8 AM and 5 PM, Monday through Friday.

*TO THE BOARD OF ADJUSTMENT:*

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

Applicant's Name

Water and Sewer Authority of Cabarrus County

Applicant's Address

232 Davidson Highway

Concord, NC 28027

Applicant's Telephone Number

(704) 786-1783

Property Owner's Name

Same

Property Owner's Address

Same

Property Owner's Telephone Number

Same

**Parcel Information**

Existing Use of Property

Easement - wastewater pump station

Proposed Use of Property

Easement - wastewater pump station

Existing Zoning

CR

Property Location

4100 Cold Springs Road

Property Acreage

Easement acreage - 1.00 acres

Parcel Number (PIN)

55698581790000

### **Land Use of Adjacent Properties**

NORTH CR \_\_\_\_\_ SOUTH CR \_\_\_\_\_  
EAST AO \_\_\_\_\_ WEST CR \_\_\_\_\_

### **General Requirements**

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

1. The Board must find that the use(s) as proposed “are not detrimental to the public health, safety or general welfare.”

The project includes replacement of equipment and related features within an existing wastewater pump station, including wastewater pumps, electrical equipment, generator, and associated features.

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

Proposed facility is a modification / improvement to an existing public wastewater transmission facility, within an existing easement.

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

Proposed facility is a modification / improvement to an existing public wastewater transmission facility.

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

Proposed facility is a modification / improvement to an existing public wastewater transmission facility.

### **Specific Requirements**

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

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

Modification / improvement to an existing public wastewater transmission facility, within an existing water / sewer easement.

Accessory uses (if any):

None.

Setback provisions:

Principle Use

Front: 70 feet Side yard Single: 20 feet Side yard Total: 40 feet Rear:       

Accessory Use

Front: N/A Side yard Single:        Side yard Total:        Rear:       

Height provisions: Principle Use: N/A Accessory Use: N/A

Off street parking and loading provisions: (include calculations)

No additional driveways, parking, etc. are proposed at / for the site.

Sign provisions: (include sketch drawing with dimensions)

N/A

Provisions for screening landscaping and buffering: (show on site plan)

Screening / landscaping will be installed as shown on the Development Plan.

Provisions for vehicular circulation and access to streets: (provide NCDOT permit and/or TIA)

Per attached correspondence with NCDOT, no driveway permit or TIA is needed.

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

No proposed changes to existing grades, curb/gutter, drainage systems, etc.; sedimentation and erosion control features will be installed per the project plans and specifications prepared by Willis Engineers.

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

N/A

Compliance with applicable overlay zones: (see Chapter 4 of Zoning Ordinance)

No conflicts with overlay zones.

Compliance with the Flood Damage Prevention Ordinance: (see County Code Chapter 38)

The site is located outside the 100 year flood plain as referenced on the attached drawings.

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

None requested by the applicant.

#### **Predefined Standards**

Each individual Conditional Use listed in the Zoning Ordinance may have specific standards imposed. Refer to Chapter 8, the Conditional Use section of the Zoning Ordinance for these requirements. Each standard should be addressed in the site plan submitted along with this application.

#### **Certification**

I hereby confirm that the information contained herein and herewith is true and correct and that this application shall not be scheduled for official consideration until all of the required contents have been submitted to the Planning and Development Department.

Signature of Applicant

J. Thomas Hall Date 10/10/2016

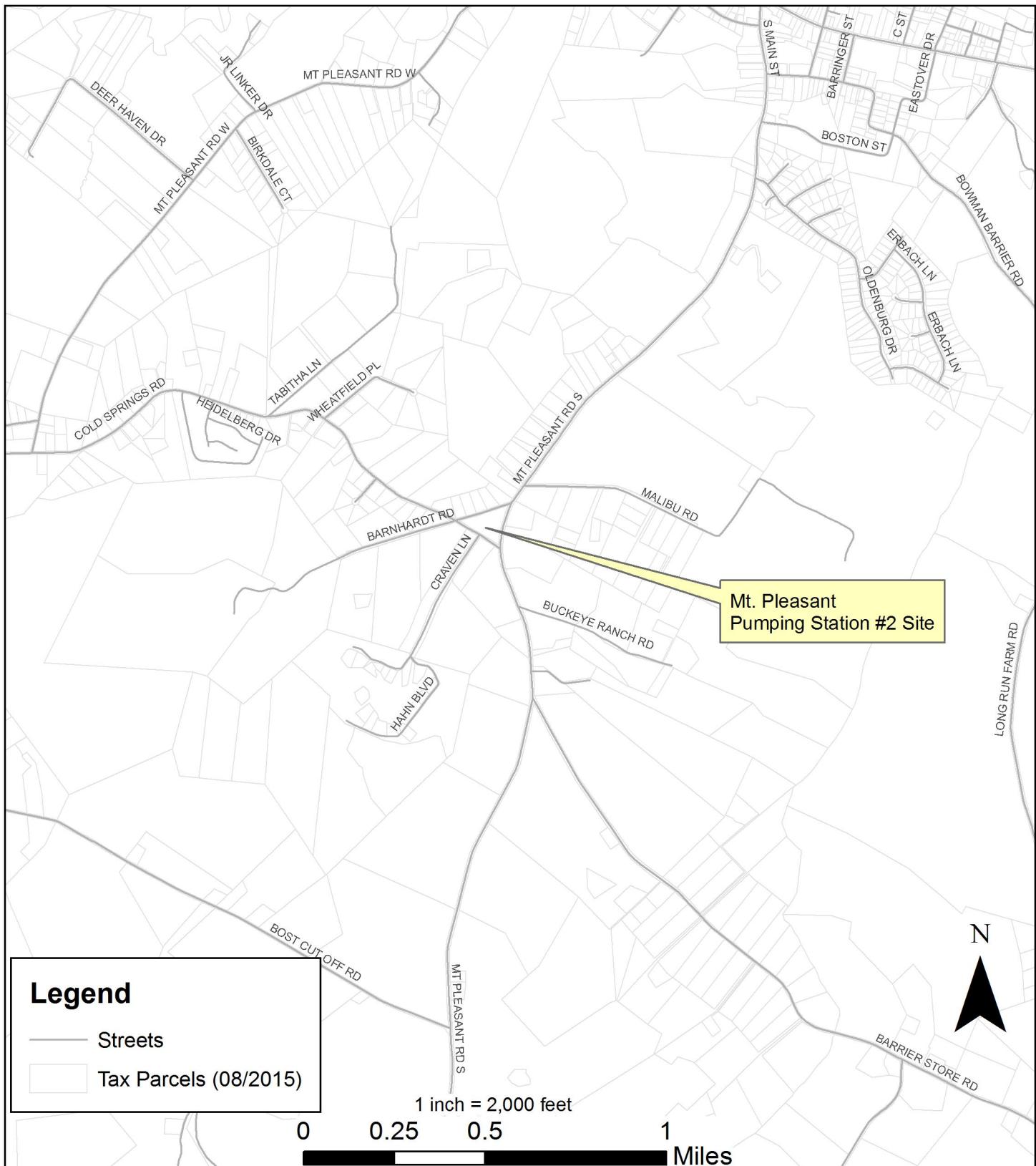
Signature of Owner

J. Thomas Hul Date 10/10/2016

## **Location Map**

Features required to be shown on the Location Map are shown in the attached drawing as indicated below:

- ✓ The site and adjacent lots or tracts of land
- ✓ The intersection of at least two (2) public streets nearest the property and the names of all public ways, opened or unopened, clearly indicated
- ✓ North arrow



Applicant:  
 Water and Sewer Authority of Cabarrus County  
 PO Box 428  
 Concord, NC 28026  
 Contact:  
 Thomas Hahn, PE  
 (704) 788-4164, ext. 104

Engineer:  
 Willis Engineers  
 10700 Sikes Place  
 Charlotte, NC 28277  
 Contact:  
 Greg Wells, PE  
 (704) 377-9844

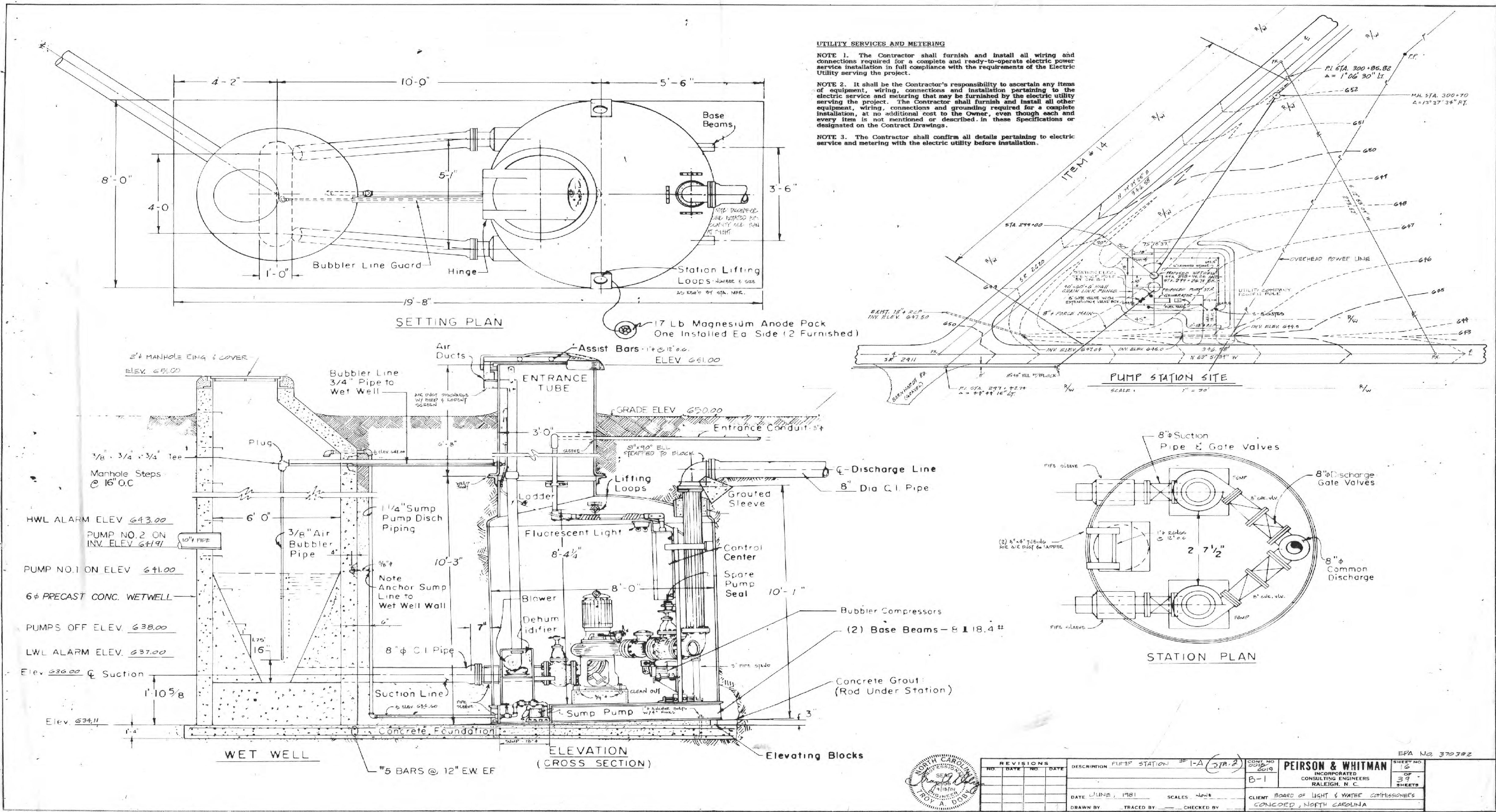
**Location Map**  
 Mt. Pleasant  
 Pumping Station  
 No. 2 Improvements

## **Survey Map**

Features required to be shown on the Survey Map are shown in the attached drawing as indicated below:

- ✓ Name and address of architect, land planner, landscape architect, engineer or surveyor who prepared the map.
- ✓ Date survey was made
- ✓ Scale, date and north arrow
- ✓ Dimensions of the easement
- ✓ Deed Book and Page Number of Property

The name, signature, and seal of the engineer who prepared the survey / drawing are included. No address for the engineer is included due to the length of time elapsed since the drawing was prepared.



NORTH CAROLINA  
CABARRUS COUNTY

CABARRUS COUNTY, Plaintiff,  
vs-  
GOLDIE HERRIN SMITH, (Widow), Defendant.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 82 CVS 266

## JUDGMENT

A TRUE COPY  
CLERK OF SUPERIOR COURT  
CABARRUS COUNTY  
BY *Terriet Greene*  
Assistant Deputy Clerk Superior Court

This cause coming on to be heard before the Honorable F. Fetzer Mills, Judge Presiding at the March 17 and March 26, 1984, Sessions of the Superior Court of Cabarrus County; and it appearing to the Court and the Court finding as a fact that this is an action to acquire rights of way under the power of Eminent Domain and that the plaintiff is entitled to acquire a right of way over the First Tract as the same is defined in Exhibit B of the Complaint and Declaration of Taking; and that Commissioners have been appointed and reported to the Court, their Report having been filed on January 16, 1984, that the sum of \$7,500.00 is just compensation for the taking of said interest in said land and is just and reasonable as full compensation to the defendant and that said sum ought to be paid to the defendant in full settlement of her claim for the taking of said right of way; that defendant has filed no objection to said Report of Commissioners;

IT IS, THEREFORE, CONCLUDED AS A MATTER OF LAW that plaintiff is entitled to the right of way and interest described as the First Tract in Exhibit B of the Complaint and Declaration of Taking and defendant is entitled to the sum of \$7,500.00 as just compensation for said taking;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that plaintiff is entitled to a perpetual right of way for sewer and water line and to all purposes to which plaintiff is authorized by law to subject the same, in and over the following described real property:

PAGE

Mar 14 3 00 PM '95

CHARLES B. ROSS  
REGISTER OF DEEDS  
CABARRUS CO. N.C.

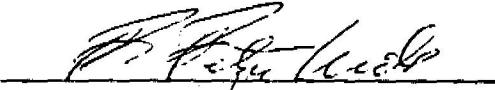
BOOK 1386 PAGE 300

Lying and being in No. 8 Township, Cabarrus County, North Carolina,  
on the North side of Cold Springs Road and the South side of Freeman Road and  
being more particularly described as follows:

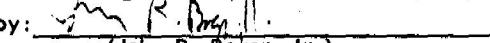
BEGINNING at a p.k. nail in the intersection of Freeman Road (SR 2620)  
and Cold Springs Road (SR 2411), an old corner; and runs thence with the center of  
Freeman Road N. 79-39-25 E. 346.58 feet to a p.k. nail, a new corner; thence a new  
line S. 12-53-09 W. 273.52 feet to a p.k. nail in the center of Cold Springs Road;  
thence with the center of Cold Springs Road, N. 53-51 W. 346.58 feet to the BEGIN-  
NING, containing one acre as surveyed by Peirson & Whitman, Registered Engineers,  
the same being a part of the 155.59-acre tract in Deed dated December 12, 1946,  
and recorded in Deed Book 197, page 301, Cabarrus County Registry.

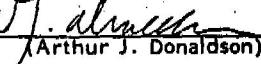
IT IS FURTHER ORDERED that the defendant is entitled to the sum of  
\$7,500.00 as just compensation and that the plaintiff deposit the sum of \$1,400.00  
with the Clerk of Superior Court in addition to the \$6,100.00 heretofore deposited  
and that said \$7,500.00 be disbursed to the defendant.

This the 27 day of March, 1984.

  
JUDGE PRESIDING

CONSENT:

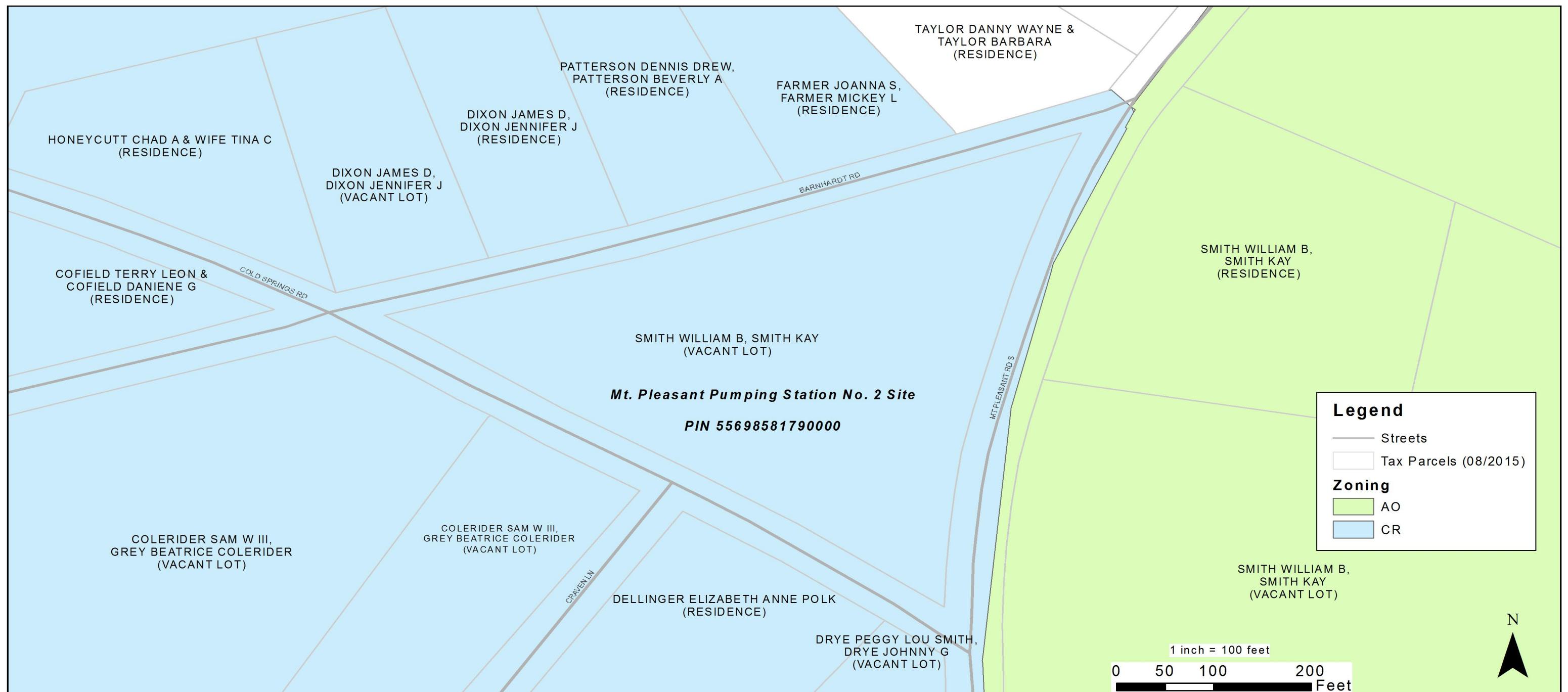
Williams, Boger, Grady, Davis & Tuttle, P. A.  
by:   
(John R. Boger, Jr.)  
Attorney for Plaintiff

Burke and Donaldson  
by:   
(Arthur J. Donaldson)  
Attorney for Defendant.

## Existing Features Map

Features required to be shown on the Existing Features Map are shown in the attached drawings as indicated below:

- ✓ Parcel Identification Number for site – **Existing Features Map, Sheet 1**
- ✓ Ownership, use and zone of adjacent lots or tracts of land – **Existing Features Map, Sheet 1**
- ✓ The location of existing public rights-of-way, utility easements, railroads, power lines, culverts, drain pipes, drainage channels, flood channels, water bodies, streams, swamps, parks, cemeteries, bridges, irrigation ditches, waterlines, sewer lines, and/or natural gas lines – **Existing Features Maps, Sheet 2**
- ✓ All existing structures including walls, fences, and other manmade features of the site – **Existing Features Map, Sheet 2**
- ✓ Topography shown at not greater than five (5) foot contour intervals – **Existing Features Map, Sheet 2**
- ✓ Proposed finished grade at not greater than five (5) foot contour intervals – **Existing Features Map, Sheet 2**. No major changes to existing grade are proposed which would affect the existing five (5) foot contour intervals.
- ✓ Delineation of the 100-year flood plain with FEMA map used and date – **Existing Features Map, Sheet 1**
- ✓ Existing driveways, walk-ways, and curb-cuts – **Existing Features Map, Sheet 2**



**Applicant:**  
Water and Sewer Authority of Cabarrus County  
PO Box 428  
Concord, NC 28026  
**Contact:**  
Thomas Hahn, PE  
(704) 788-4164, ext. 104

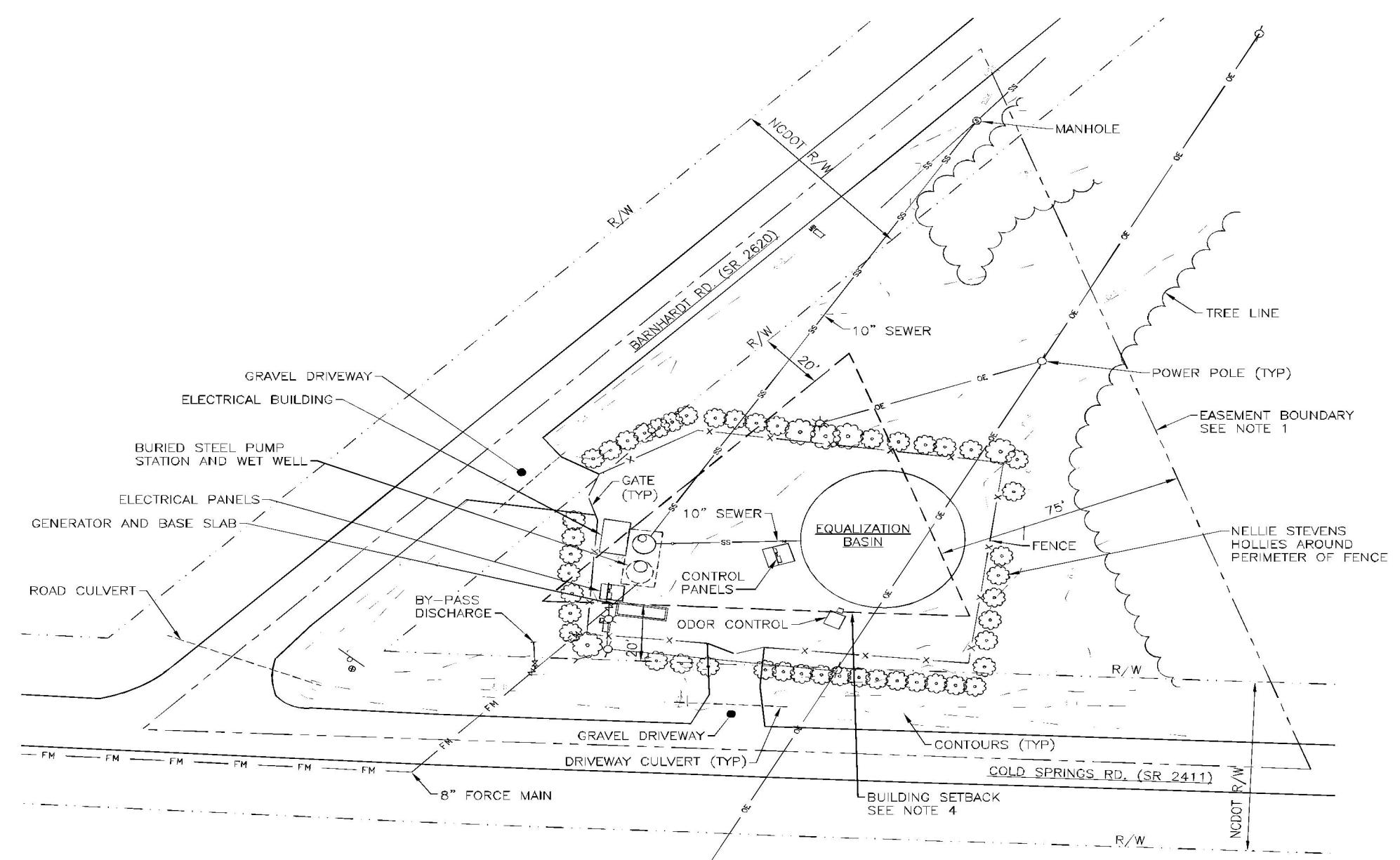
**Engineer:**  
Willis Engineers  
10700 Sikes Place  
Charlotte, NC 28277  
**Contact:**  
Greg Wells, PE  
(704) 377-9844

This lot is not in a floodplain, as shown on FEMA National Flood Insurance Map No. 3710556900J, Panel 5569 (revised 11/5/2008).

### Existing Features Map, Sheet 1

Mt. Pleasant  
Pumping Station  
No. 2 Improvements

Plan Prepared October 2016



26 OCT 2016



IN CHARGE GJW	NO.	REVISION	DATE
DESIGNED SEG	1	STAFF COMMENTS DATED 10/21/16	26 OCT 16
MADE BY AMA			
CHECKED CAWjr			

20'	0	20'	40'
FM	FM	FM	FM
FM	FM	FM	FM
FM	FM	FM	FM
FM	FM	FM	FM

**willis** ENGINEERS  
10700 SIKES PLACE, SUITE 115  
CHARLOTTE, NORTH CAROLINA 28277  
CONTACT: GREG WELLS, P.E. 704.377.9844

WATER AND SEWER AUTHORITY  
OF CABARRUS COUNTY  
POST OFFICE BOX 428  
CONCORD, NORTH CAROLINA 28026  
CONTACT: THOMAS HAHN, P.E. 704.788.4164 EXT. 104

MT. PLEASANT PUMPING STATION NO. 2  
**EXISTING FEATURES MAP**

1968.010  
FIG1.DWG  
OCTOBER 2016

SHEET  
2

## Development Plan Maps:

Features required to be shown on the Development Plan Maps are shown in the attached drawings as indicated below:

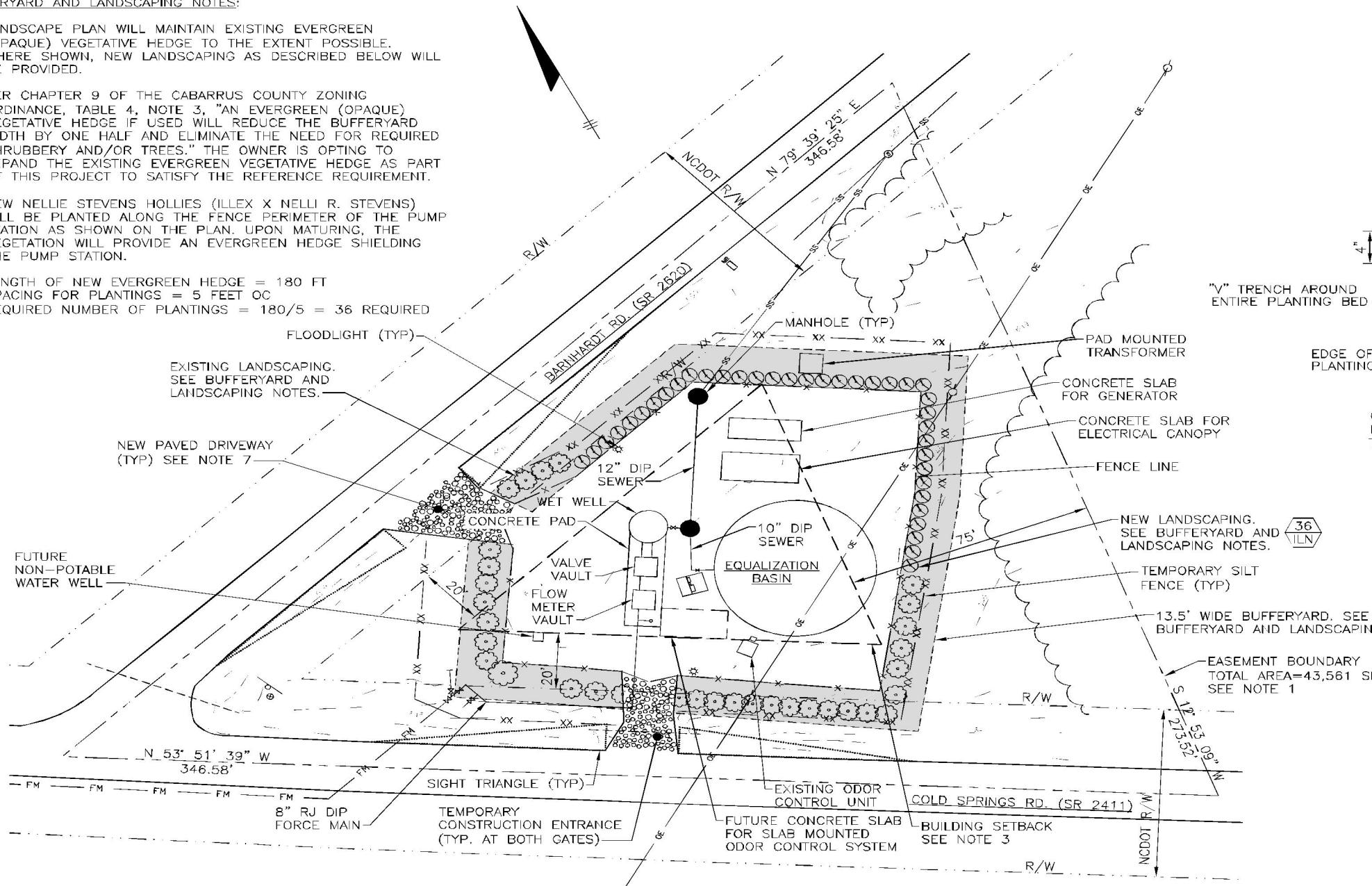
- ✓ Proposed Use(s) – **Development Plan Map**
- ✓ Location of all proposed structures, fences, walls, signs, and exterior lighting of the structure(s) – **Development Plan Map**.
- ✓ Location of required building setback lines – **Development Plan Map**
- ✓ Renderings of building elevations – Photo of electrical equipment canopy same type as proposed is included.
- ✓ Proposed roadway improvements, if any, serving the site should be provided – No road improvements are planned as part of this project.
- ✓ Natural features including landscaping to be left undisturbed – **Development Plan Map**
- ✓ Proposed drainage and erosion control measures – **Development Plan Map**. Appropriate drainage and erosion control measures will be included as part of continuing design activities.
- ✓ Proposed location of utilities – **Development Plan Map**
- ✓ Proposed location of easements, public streets and private drives, including rights-of-way and pavement widths, curb-cuts, pedestrian ways and other paths – **Existing Features Map, Sheet 2; Development Plan Map**
- ✓ Location of off-street parking areas and loading areas along with proposed paving material, include parking and loading calculations – The pump station is operated remotely, with periodic visits for routine checks and maintenance. Per email correspondence with Phil Collins, no additional parking or loading calculations are required.
- ✓ Area (square feet) of building coverage, area of all impervious vehicular areas (parking areas, loading areas, access ways, etc.), total impervious coverage for all impervious structures (buildings, vehicular areas, sidewalks, etc.) – **Development Plan Map**.
- ✓ Delineation of all areas of special flood hazard and/or wetlands to encroach proposed structures – Not applicable, no special flood hazard or wetlands in vicinity of proposed improvements.
- ✓ Location of Overlay Zones, if applicable – Not applicable
- ✓ Location of solid waste containers including proposed design provisions for screening – No additional solid waste containers beyond those already at the site are included with this project.
- ✓ Number of proposed dwelling units or commercial units by type, size, and proposed ownership – Not applicable
- ✓ Height (both number of floors and linear feet) and floor area of all structures – **Development Plan Map**. Proposed height for the electrical equipment canopy is up to 11 feet.
- ✓ Gross Leasing Floor area (for shopping centers) – Not applicable
- ✓ Sight Triangles – **Development Plan Map**

## Landscape Plan

From Chapter 9 of the *Cabarrus County Zoning Ordinance*, Table 4, Note 3, “An evergreen (opaque) vegetative hedge if used will reduce the bufferyard width by one half and eliminate the need for required shrubbery and/or trees.” Per the **Development Plan Map**, the landscape plan will maintain existing evergreen (opaque) vegetative hedge to the extent possible. Additionally, new Nellie Stevens Hollies will be planted along the fence perimeter of the pump station as shown on the plan. Upon maturing, the vegetation will provide an evergreen hedge shielding the pump station.

BUFFERYARD AND LANDSCAPING NOTES:

- LANDSCAPE PLAN WILL MAINTAIN EXISTING EVERGREEN (OPAQUE) VEGETATIVE HEDGE TO THE EXTENT POSSIBLE. WHERE SHOWN, NEW LANDSCAPING AS DESCRIBED BELOW WILL BE PROVIDED.
- PER CHAPTER 9 OF THE CABARRUS COUNTY ZONING ORDINANCE, TABLE 4, NOTE 3, "AN EVERGREEN (OPAQUE) VEGETATIVE HEDGE IF USED WILL REDUCE THE BUFFERYARD WIDTH BY ONE HALF AND ELIMINATE THE NEED FOR REQUIRED SHRUBBERY AND/OR TREES." THE OWNER IS OPTING TO EXPAND THE EXISTING EVERGREEN VEGETATIVE HEDGE AS PART OF THIS PROJECT TO SATISFY THE REFERENCE REQUIREMENT.
- NEW NELLIE STEVENS HOLLIES (ILLEX X NELLI R. STEVENS) WILL BE PLANTED ALONG THE FENCE PERIMETER OF THE PUMP STATION AS SHOWN ON THE PLAN. UPON MATURING, THE VEGETATION WILL PROVIDE AN EVERGREEN HEDGE SHIELDING THE PUMP STATION.
- LENGTH OF NEW EVERGREEN HEDGE = 180 FT  
SPACING FOR PLANTINGS = 5 FEET OC  
REQUIRED NUMBER OF PLANTINGS =  $180/5 = 36$  REQUIRED



26 OCT 2016

KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE
ILN	36	ILLEX X "NELLI R. STEVENS"	NELLIE STEVENS HOLLY	6' HT. MIN.



IN CHARGE GJW	DESIGNED SEG	MADE BY AMA	CHECKED CAWjr	NO.	REVISION	DATE
				1	STAFF COMMENTS DATED 10/21/16	26 OCT 16

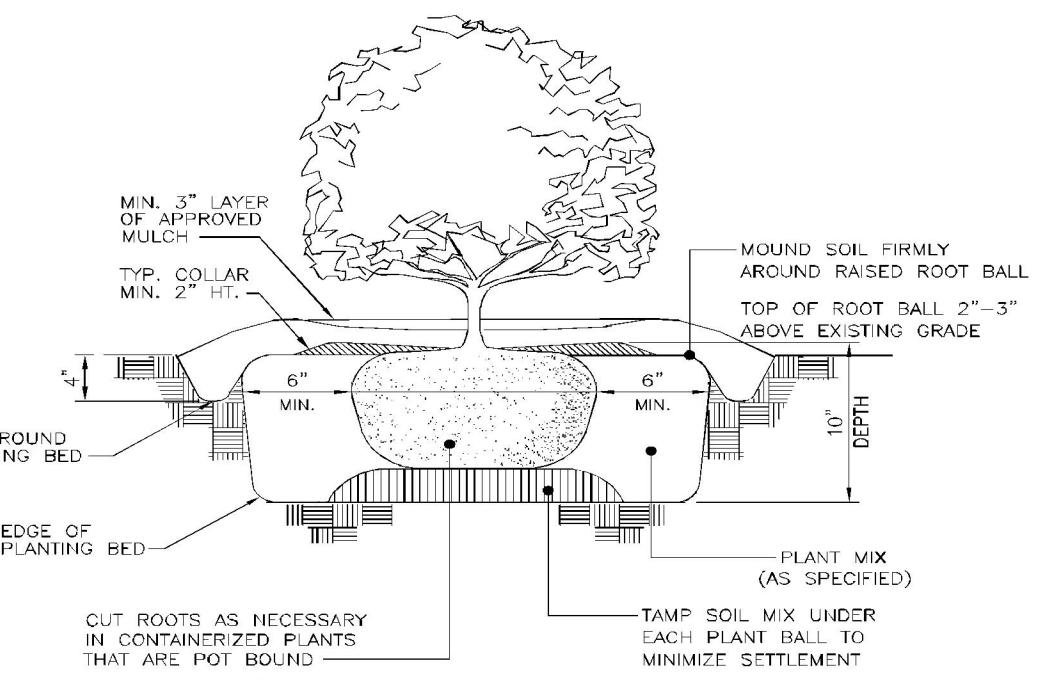
20'	0	20'	40'
—	—	—	—

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CONCORD, NORTH CAROLINA 28026  
CONTACT: THOMAS HAHN, P.E. 704.788.4164 EXT. 104

MT. PLEASANT PUMPING STATION NO. 2  
DEVELOPMENT PLAN MAP

1968.010	FIG2.DWG
OCTOBER 2016	

PLANTING DETAIL

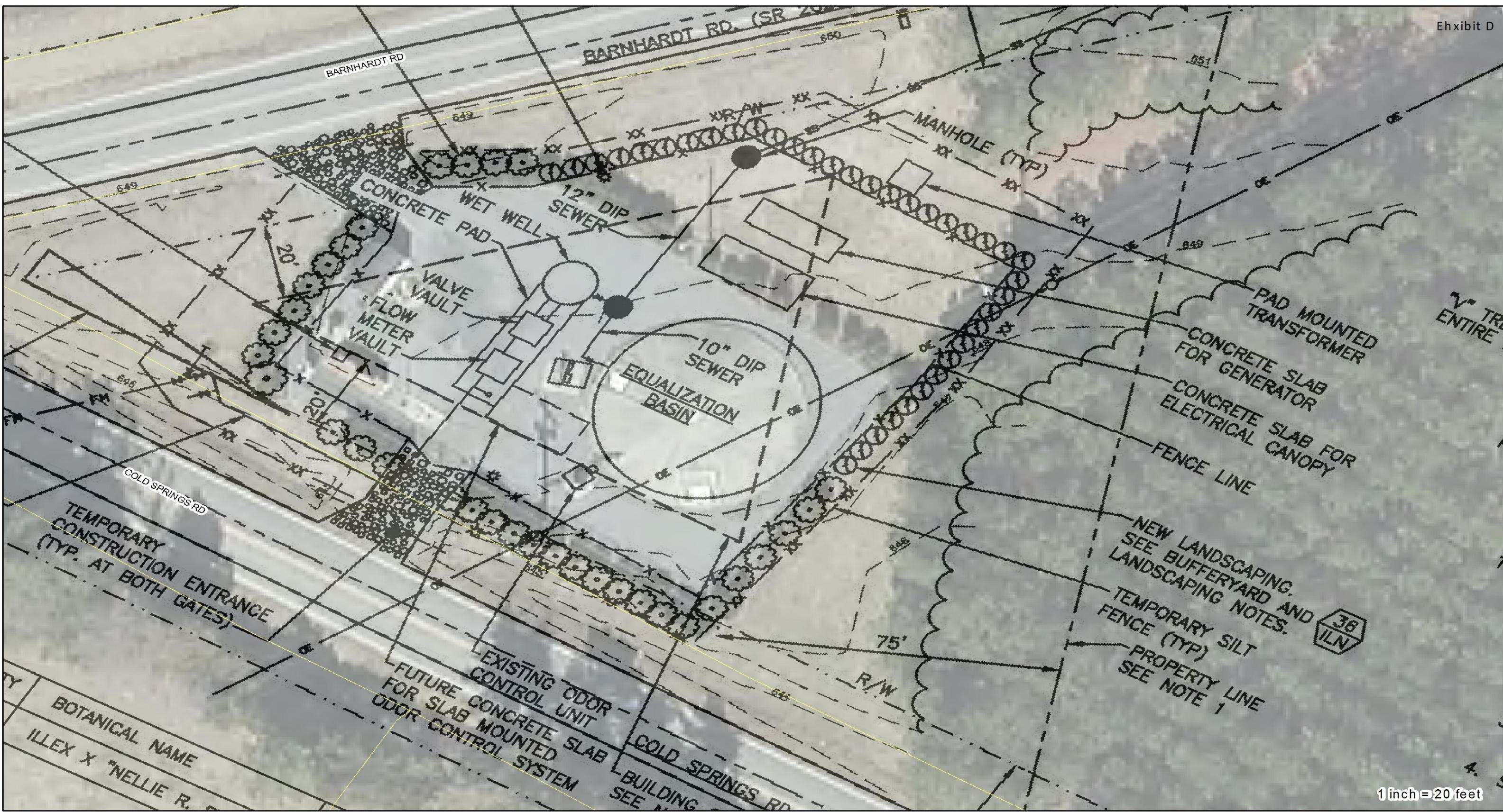
- EASEMENT BOUNDARY BASED ON PUMP STATION SITE SURVEY SIGNED AND SEALED BY TROY A. DOBY ON SEPTEMBER 18, 1981.
- SITE IS LOCATED OUTSIDE 100-YEAR FLOOD ELEVATION PER FEMA-FIRM COMMUNITY PANEL NUMBER 3710556900J LAST REVISED NOVEMBER 5, 2008.
- BUILDING SETBACKS ARE 75 FEET AT THE FRONT, 20 FEET AT EACH SIDE.
- DRIVeways AND AREA SURFACE INSIDE FENCE AROUND STRUCTURES IS GRAVEL.
- WSACC PERSONNEL VISIT THE SITE IN SERVICE VEHICLES WHEN NEEDED. THE SERVICE VEHICLES MAY BE PARKED AT VARIOUS AREAS OF THE SITE, DEPENDING ON WHICH EQUIPMENT ITEM AT THE SITE REQUIRES SERVICE.
- THE FACILITY'S LIGHTING WILL BE SHIELDED TO PREVENT LIGHT AND CLARE SPILL-OVER ON ADJACENT RESIDENTIAL PROPERTIES.
- EXISTING GRAVEL DRIVeways SHALL BE REPLACED WITH PAVED DRIVeways FROM EDGE OF PAVEMENT TO OPENING IN FENCE AT GATE (MIN. 25 FEET). ENSURE A MINIMUM OF 8" OF ABC STONE AS BASE WITH 2" OF I-2 ASPHALT.
- PROPOSED IMPERVIOUS AREA:  
DRIVeways = 1,061 SF (0.024 AC)  
INSIDE FENCE = 10,911 SF (0.250 AC)  
TOTAL IMPERVIOUS = 11,972 SF (0.274 AC)

## **Electrical Equipment Canopy, Same Type as Proposed**

Approximate Sizing for Electrical Equipment Concrete Pad is shown on Development Plan Map



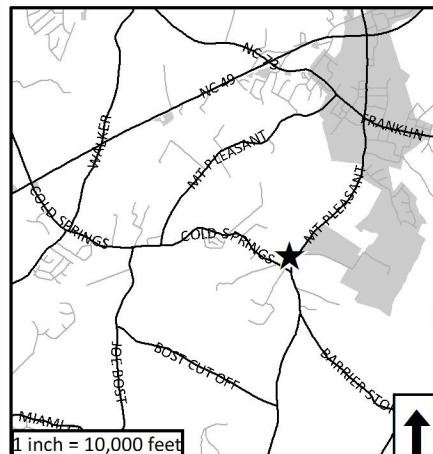
Exhibit D



## Existing Zoning

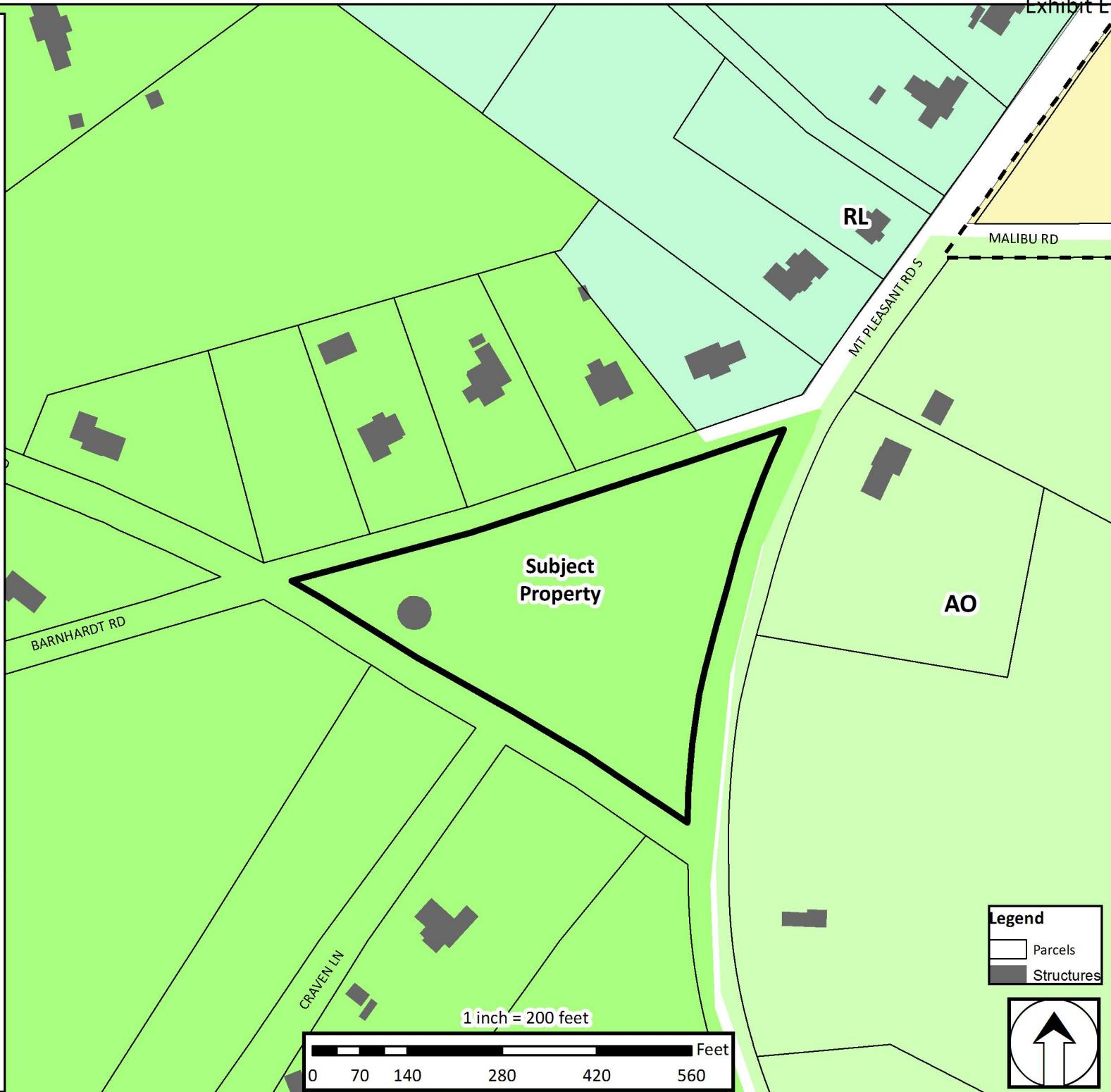


Applicant: Thomas Hahn  
 Owner: WSACC  
 Case: CUSE2016  
 Address: 2950 Mt Pleasant Road S  
 Purpose: Amendment to existing  
 Conditional Use Permit for a  
 Public Service Facility  
 PIN: 5569-85-8179



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 2016

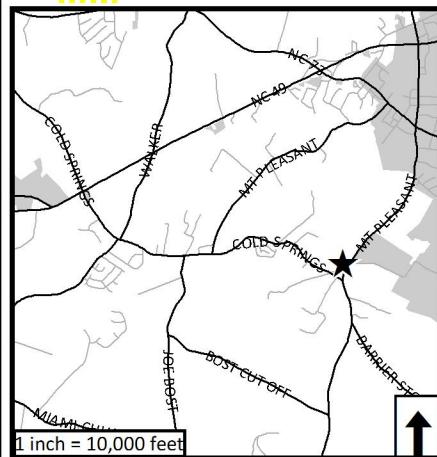


## Aerial Map



Applicant: Thomas Hahn  
Owner: WSACC  
Case: CUSE2016  
Address: 2950 Mt Pleasant Road S  
Purpose: Amendment to existing  
Conditional Use Permit for a  
Public Service Facility  
PIN: 5569-85-8179

- Parcels
- Cabarrus County
- City Limits



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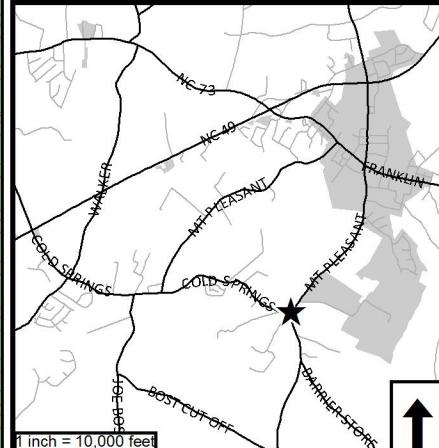
Map Prepared by Cabarrus County Planning & Development - October 2016



**Eastern Planning Area**  
**Future Land Use**

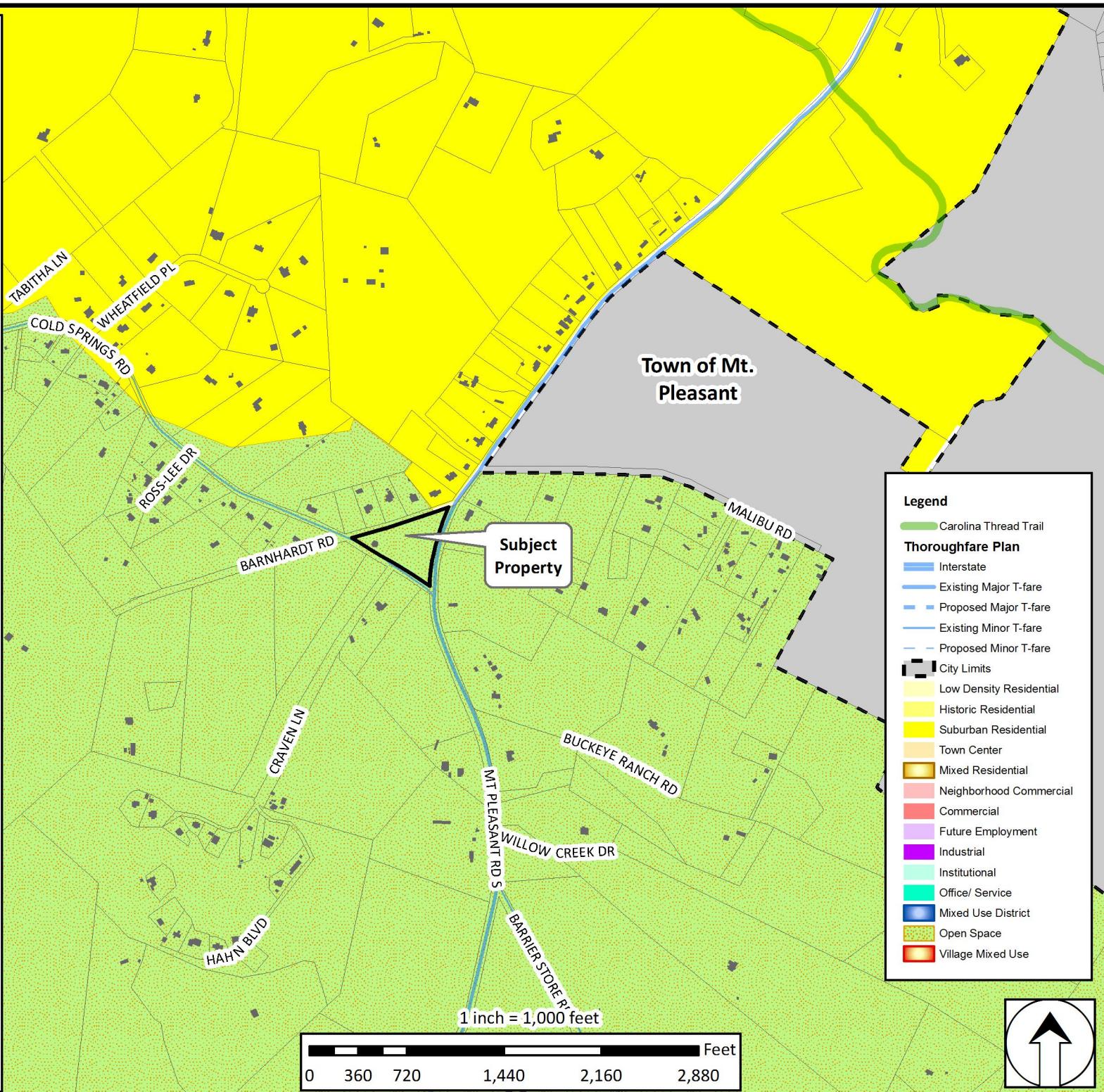


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Map Prepared by Cabarrus County Planning & Development - October 2016



**Cabarrus County Government – Planning and Development Department**

---

October 17, 2016

Dear Property Owner:

A Conditional Use Permit Application has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday, November 8, 2016 at 7:00 PM in the 2<sup>nd</sup> floor Commissioner's Chambers 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 this request, I encourage you to attend this meeting.

- **Petitioner:** Water & Sewer Authority of Cabarrus County
- **Petition Number:** CUSE2016-00002
- **Property Location:** 2950 Mt Pleasant Road South
- **Parcel ID Number:** 5569-85-8179
- **Existing Zoning:** Agricultural Open Space (AO)
- **Variance Request:** Amendment of existing Conditional Use Permit

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip Collins".

Phillip Collins, AICP  
Senior Planner  
Cabarrus County Planning and Development  
704.920.2181



## Cabarrus County Government – Planning and Development Department

---

October 17, 2016

Dear Property Owner:

A Conditional Use Permit 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 petition on Tuesday, November 8, 2016 at 7:00 PM in the 2<sup>nd</sup> floor Commissioner's Chambers 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 this request, I encourage you to attend this meeting.

- **Petitioner:** Water & Sewer Authority of Cabarrus County
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- **Existing Zoning:** Agricultural Open Space (AO)
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Sincerely,

A handwritten signature in black ink, appearing to read "Phillip Collins".

Phillip Collins, AICP  
Senior Planner  
Cabarrus County Planning and Development  
704.920.2181

### Adjacent Landowners - Names, Addresses, and Parcel Identification Numbers

Owner Name	Address	City	State	Zip Code	Parcel Identification Number
Smith William B, Smith Kay	2921 Mt. Pleasant Road South	Mt. Pleasant	NC	28124	55698581790000
Smith William B, Smith Kay	2921 Mt. Pleasant Road South	Mt. Pleasant	NC	28124	55698576360000
Taylor Danny Wayne & Taylor Barbara	PO Box 385	Mt. Pleasant	NC	28124	55698539670000
Farmer Joanna S, Farmer Mickey L	2940 Barnhardt Road	Mt. Pleasant	NC	28124	55698529100000
Patterson Dennis Drew, Patterson Beverly A	2950 Barnhardt Road	Mt. Pleasant	NC	28124	55698508860000
Dixon James D, Dixon Jennifer J	2960 Barnhardt Road	Mt. Pleasant	NC	28124	55697598230000
Dixon James D, Dixon Jennifer J	2960 Barnhardt Road	Mt. Pleasant	NC	28124	55697577890000
Honeycutt Chad A & Wife Tina C	3975 Cold Springs Road	Concord	NC	28025	55697558700000
Cofield Terry Leon & Cofield Daniene G	3984 Cold Springs Road	Concord	NC	28025	55697535890000
Colerider Sam W III, Grey Beatrice Colerider	188 Hahn Place SE	Concord	NC	28025	55697552180000
Colerider Sam W III, Grey Beatrice Colerider	188 Hahn Place SE	Concord	NC	28025	55697445370000
Dellinger Elizabeth Anne Polk	4050 Cold Springs Road East	Concord	NC	28025	55698511250000
Drye Peggy Lou Smith, Drye Johnny G	3250 Mt. Pleasant Road South	Mt. Pleasant	NC	28124	55698425850000
Smith William B, Smith Kay	2921 Mt. Pleasant Road South	Mt. Pleasant	NC	28124	5569-85-9970
Helms Michael E, Helms Dianne G	7900 Mailibu Road	Mt. Pleasant	NC	28124	5569-95-4543
Meyers Thomas H, Meyers Susan M	7850 Mailibu Road	Mt. Pleasant	NC	28124	5569-95-2875
Wellman James D, Althea Smith, c/o James Wellman	8519 Circle Drive	Mt. Pleasant	NC	28124	5569-94-5329



10/20/2016

**CABARRUS COUNTY**

**ZONING**

**NOTICE**

**Pet # CUSE 2016-00002**

**FOR DETAILS CALL**

**704 - 920 - 2141**

**10/20/2016**

PLANNING STAFF REPORT  
CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
11/02/2016

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

**Variance: VARN2016-00003**

Applicant Information: Ginger Moore, Carlos J Moore Architect  
Acting as Agent for Patricia Honeycutt  
222 Church Street  
Concord, NC 28025

Owner Information: Patricia Honeycutt  
5560 Rockwell Road  
Rockwell, NC 28138

PIN: 5673-97-1701

Area in Acres: +/- 4.42

Purpose of Request: The applicant is proposing to use the subject property as a reception facility. Reception facilities are permitted as a conditional use in the AO zoning district and are subject to performance standards. If the variance is approved, the applicant intends to return to the Board of Adjustment to apply for a conditional use permit.

The purpose of this variance request is for:

- Relief from the size requirements for reception facilities
- Relief from the required setbacks for reception facilities
- Relief from the landscaping/buffering requirements for reception facilities
- Relief from Appendix B, non-residential design standards

**Variance 1: Size Requirements for Reception Facilities**

The subject property is +/- 4.42 acres in size. Reception facilities are required to be at least five acres in size. Therefore, the applicant is requesting relief from Section 8-4.21.b of the Cabarrus County Development Ordinance (Ordinance).

**Variance 2: Setback Requirements for Reception Facilities**

The applicant is proposing to use an existing barn, a new bathroom facility (to the rear of the existing barn), temporary bathrooms and a temporary tent as part of a reception facility on the subject property.

The subject property is approximately 200 feet in width. The existing and proposed structures do not meet the required 100-foot setback for reception facilities as required in Section 8-4.21.d of the Ordinance. Therefore, the applicant is requesting relief from this provision. As shown on the site plan:

- The existing barn encroaches 12.4 feet into the required setback along the northern property line,
- The existing barn encroaches 17.1 feet into the required setback along the southern property line,
- The proposed bathroom facility encroaches 36.87 feet into the required setback along the northern property line,
- The proposed area for the tent encroaches 72.3 feet in to the required setback along the northern property line, and
- The temporary bathrooms encroach 51.58 feet into the required setback along the northern property line

#### **Variance 3: Landscaping/Buffering Requirements for Reception Facilities**

The applicant is requesting relief from Section 8-4.21.g of the Ordinance which requires reception facilities to meet the requirements of a level two buffer yard as defined in Chapter 9 of the Ordinance. Currently, the back half of the northern, southern and the entirety of the eastern property lines are heavily vegetated. The applicant is requesting relief from the requirement of six trees per one hundred feet along these sections of the property boundaries. The applicant proposes to supplement with shrubbery where needed. This request would equate to relief from planting 54 trees along these portions of the property boundaries.

The proposed tent area encroaches 18.34 feet into the required level two 46-foot wide landscape buffer (approximately 1,065 square feet) and the applicant is seeking relief for this.

#### **Variance 4: Non-Residential Design Standards**

Section 8-4.21.c of the Ordinance requires that all new construction associated with reception facilities meet the commercial design standards of Appendix B of the Ordinance. The applicant is requesting relief from this Section of the Ordinance for the following:

- Use of a temporary tent which cannot meet the design guidelines,
- The temporary bathroom facilities which do not meet the design guidelines

- Proposed new bathroom facility that will not meet the design guidelines.

**Site Description:** The subject property is currently occupied by a vacant barn located in the center of the property. The barn is accessed by a gravel driveway extending to Rockwell Road. The rear portion of the subject property is wooded and an intermittent stream runs along the rear property line from south to north.

**Current Land Uses:** Reception Facility (that is not properly permitted)

**Adjacent Land Uses:**

- North – Single Family Residential
- East – Single Family Residential, Silviculture & Vacant
- South – Silviculture
- West – Agriculture

**Permitted Uses:** All uses permitted within the Agriculture Open Space zoning district are allowed on the subject property

**Existing Zoning:** AO (Agriculture Open)

**Surrounding Zoning:**

- North: AO (Agriculture Open)
- East: AO (Agriculture Open)
- South: AO (Agriculture Open)
- West: AO (Agriculture Open)

**Signs Posted:** 10/20/2016

**Newspaper Notification 1:** 10/26/2016

**Newspaper Notification 2:** 11/02/2016

**Notification Letters:** 10/17/2016

## Exhibits

- Exhibit A – Staff Report
- Exhibit B – Application
- Exhibit C – Site Plan
- Exhibit D – Property Maps
- Exhibit E – Adjacent Parcel Letter & List
- Exhibit F – Variance Signs

## Agency Review Comments

**Emergency Services Review:**

*No EMS related concerns (per James Lentz, EMS Assistant Director).*

**Fire Review: Approved**

*No Fire Code issues related to this variance request (per Matt Hopkins, Fire Marshal's Office).*

**Health Alliance Review:**

*The application states that the site will be serviced by well and septic. The Cabarrus Health Alliance is aware of the proposed use and stated that the facility currently uses porta johns/chemical toilets for restrooms. The site was evaluated for a bathroom facility and found to be suitable for location of a septic system off site. A consultant (licensed soil scientist) is working with the property owner to finalize these septic issues. According to the Cabarrus Health Alliance, chemical toilets could be considered a valid means of sewage disposal as long as there is no plumbing on site. (per David Troutman, Environmental Health Director).*

**NCDOT Review: Approved with conditions**

*Please have the length of concrete apron extended to 25'. A driveway permit will be required. (per Leah Wagner, NCDOT)*

**Sheriff's Department Review:**

*No Sheriff's Department related comments (per Ray Gilleland, Lieutenant Sheriff).*

**Soil & Water Conservation Review:**

*No Soil & Water Conservation related comments (per Erin Lineberger, Resource Conservation Coordinator)*

**Zoning Review: Approved****History / Other Information**

1. The subject property is currently zoned AO and has historically been used for agricultural purposes, until recently when the applicant began holding weddings/receptions on the premises.
2. A barn is located on the subject property.
3. Staff became aware of the illegal reception facility when an easement plat for the septic was submitted. The applicant was informed that the facility was not permitted and that the applicant should meet with staff to discuss options. It was determined during the meeting on July 14, 2016 that the first step for the facility to attempt to comply with the Ordinance was a variance request.

4. The applicant understands that the project will be subject to conditional use permit review with the Board of Adjustment and site plan review if the variance is approved.
5. The application states that the site will be serviced by well and septic. The Cabarrus Health Alliance is aware of the proposed use and stated that the facility currently uses porta johns/chemical toilets for restrooms. The site was evaluated for a bathroom facility and found to be suitable for location of a septic system off site. The applicant understands that permanent bathroom facility must be included as part of the Conditional Use Permit Application.

### **Conditions of Approval**

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

- Conditional Use Permit review and approval by the Board of Adjustment is required subsequent to approval of the variance. (Zoning)
- Site plan review and approval is required subsequent to Conditional Use Permit approval to ensure compliance with all applicable development requirements and conditions (Zoning)
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property. (Zoning)
- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project. (Zoning)
- Applicant shall install landscaping as stated in application with future road construction to mitigate any approved variances. (Zoning)
- Applicant shall extend the length of the concrete apron to 25 feet. (NCDOT)
- The applicant shall procure appropriate permits from the Fire Marshal's Office for the temporary tent, as allowed by variance approval. If the duration of the use of the tent exceeds what is considered a temporary use, the applicant shall proceed with commercial site plan review for the tent to be permitted as a permanent structure. (Zoning)

The applicant is requesting individual votes for each variance item from the ordinance. A Summary of the variance requests is as follows:

1. Relief from the five acre size requirement for reception facilities (see variance request one on site plan and in the application)
  - The subject property is 4.42 acres in size

2. Relief from the required 100-foot setback for existing and proposed structures near the northern and southern property lines (see variance request 2 on site plan and in the application):
  - The existing barn is encroaches 12.4 feet into the required setback along the northern property line,
  - The existing barn encroaches 17.1 feet into the required setback along the southern property line,
  - The proposed bathroom facility encroaches 36.87 feet into the required setback along the northern property line,
  - The proposed area for the tent encroaches 72.3 feet in to the required setback along the northern property line, and
  - The temporary bathrooms encroach 51.58 feet into the required setback along the northern property line.
3. Relief from the level two landscaped buffer requirements along portions of the northern, southern and the entirety of the western property boundaries (see variance requests 3 & 5 on site plan and in the application):
  - The applicant is requesting relief from the requirement of six trees per one hundred feet along these sections of the property boundaries.
  - The applicant proposes to supplement with shrubbery where needed.
  - Request would equate to relief from planting 54 trees along these portions of the property boundaries.
  - The proposed tent area encroaches 18.34 feet (approximately 1,065 square feet) into the required 46-foot wide level two landscape buffer and the applicant is seeking relief for this.
4. Relief from Appendix B, Non-residential Design Standards (see variance request 4 & 6 on the application and 4, 5 & 6 on the site plan):
  - Relief from the design standards for use of a proposed temporary tent
  - Relief from the design standards for temporary bathroom facilities
  - Relief from the design standards for proposed new bathroom facilities

# CABARRUS COUNTY VARIANCE APPLICATION



STAFF USE ONLY:

Application Acela#: \_\_\_\_\_  
 Received By: \_\_\_\_\_  
 Date Filed: \_\_\_\_\_  
 Amount Paid: \_\_\_\_\_

## Instructions

1. Schedule a pre-application meeting with Staff. During this meeting, Staff will assess the proposed variance request to evaluate options that may be available to you through the zoning ordinance. If it is necessary to proceed with the request, Staff will explain the procedures and requirements, including the thresholds of consideration for Variance requests.
2. Submit a complete application 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.
  - 18 folded copies of the proposed site plan. At a minimum, the site plan shall show the following:
    - The subject property and any adjacent properties.
    - All existing buildings, including setbacks from property lines.
    - All proposed buildings, parking facilities and accessory uses, including setbacks from property lines (if applicable).
    - The location and type of screening and buffering proposed (if applicable).
    - Impervious surface ratio (if applicable).
    - Waterbody buffers (if applicable).
    - Delineation of the proposed Variance on the site plan so that type of variance the applicant is seeking is clear. (This may be accomplished by submitting two site plans. One to show the requirements of the ordinance and a second to show what the variance request will achieve.)
    - Any additional item(s) that should be illustrated on the plan as determined during the pre-application meeting.
  - Any additional documents essential for the application to be considered complete. (Determined at pre-application meeting)
3. Submit cash, check, or money order made payable to Cabarrus County.  
 Fees: Residential Variance request = \$500.00 or Non-residential Variance request = \$600.00 +3% technology fee based on total application fee

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 request and the variance process.

2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.
3. When the complete application is received, Staff and appropriate agents will review the application and site plan and will make comments on the proposed request.
4. Staff will begin to prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for the Variance request.

**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.

**Variance:** Variance requests are considered by the Board of Adjustment during a quasi-judicial hearing. This means that anyone wishing to speak regarding the application must be sworn in. The vote requirement for the Variance request to pass is 80% or greater. Additional conditions may be added as part of the Variance approval process.

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

### **Application Information**

Applicant's Name	Property Owner's Name
<u>Patricia Honeycutt c/o</u>	<u>Patricia &amp; Mark Honeycutt</u>
<u>Carlos J. Moore Architect</u>	
Applicant's Address	Property Owner's Address
<u>222 Church Street</u>	<u>5540 Rockwell Road</u>
<u>Concord, NC 28025</u>	<u>Rockwell, NC 28183</u>
Applicant's Telephone Number	Property Owner's Telephone Number
<u>704.788.8333</u>	

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Legal Relationship of Applicant to Property Owner	<u>Architect</u>
Existing Use of Property	<u>Vacant Lot</u>
Existing Zoning	<u>AO</u>
Property Location	5540 Rockwell Road, Rockwell, NC
28183	
Tax Map and Parcel Identification Number (PIN)	<u>5673971701</u>

### **TO THE BOARD OF ADJUSTMENT**

I, Patricia Honeycutt c/o Carlos J. Moore Architect, HEREBY PETITION THE BOARD OF ADJUSTMENT FOR A VARIANCE FROM THE LITERAL PROVISIONS OF THE ZONING

ORDINANCE. UNDER THE INTERPRETATION GIVEN TO ME BY THE ZONING ADMINISTRATION, I AM PROHIBITED FROM USING THE AFOREMENTIONED PARCEL OF LAND. I REQUEST A VARIANCE FROM THE FOLLOWING PROVISION(S) OF THE ORDINANCE.

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

1. Variance Request Including Related Zoning Ordinance Section(s)

Section:

1. Property: Section 8-4. 21.b – Variance for size of parcel.
2. Set Backs: Section 8-4.21.d - The existing barn, temporary tent, temporary bathrooms, and proposed bathroom building encroaches into the 100' building set back. The temporary tent encroaches into the setback and buffer.
3. Landscape: Section 8-4.21. g – Relief from landscaping requirements is requested where heavy tree line exists.
4. Use of temporary toilets while bathroom building is being constructed.
5. Allow temporary tent to be located inside both the buffer and setback. Section 8-4.21.d and Section 8-4.21g
6. Relief from appendix b commercial design standards for the temporary tent and temporary toilets.

Reason(s) for Seeking a Variance

1. Property: Section 8-4.21.b- The subject property is 4.42 acres
2. Set Backs: Section 8-4.21.d- Existing parcel is 200.75' wide. Buildable area is .75' wide. The barn is existing in the approximate center of the parcel. New Toilet Facilities: Section 8-4.21.d- The existing parcel is 200.75' wide with little to no buildable area. We propose to construct a new structure 14'x32' in the existing tree line. Location is determined by proximity to septic field and to shield/screen from public view.
3. Landscape: Section 8-4.21.g -A. Along the north property line there is an existing (approximately 523.6') heavy tree line. We propose to plant the required amount of shrubbery to meet the intent of the buffer. B. Along the east property line there is an existing (approximately 200.75') heavy tree line. We propose to plant the required amount of shrubbery to meet the intent of the buffer. C. Along the south property line there is an existing (approximately 183') heavy tree line. We propose to plant the required amount of shrubbery to meet the intent of the buffer.

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

In order to make its determination, the Board will review the evidence submitted in this application as well as receive public comment during the scheduled public hearing. This application will be entered into the official record of the public hearing.

***The responsibility for presenting evidence to support the Variance request, as described during the meeting and to the Board of Adjustment, lies completely with the Applicant.***

## **FINDING OF FACT CHECKLIST**

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

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

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

- A. The parcel is 4.42 acres with no flexibility to adjust the property lines. The existing barn encroaches into the set back and is situated approximately 87.6' from the north property line and 82.9' from the south property line. B. We are requesting relief from tree requirements where there are substantial amount of trees existing and currently meet or exceed the intent of the landscape ordinance.**

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

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

- A. Acreage: The property owner also owns the parcel to the north. Under ideal conditions an adjustment would be made to the property line to meet the 5-acre requirement. In this scenario it is not possible due to bank financing on the residential parcel. The subject parcel is not part of the loan guaranteeing of the residential parcel. B. Setback: It is impractical to remove the existing structure.**

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

*(This is a second way to address reasonableness. This is also where the issue of "where did the hardship originate from?" should be addressed. Self-inflicted hardships should be carefully reviewed for reasonableness.)*

Allowing the existing vegetation to remain and supplementing with shrubbery enhances the buffer and provides a more natural buffer. We plan to supplement any areas as required. The proposed landscape buffer as shown on SP-1 does not injure the rights of others and we feel meets the intent of the ordinance.

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

*(If a variance is granted, is the overall "spirit" of the zoning ordinance still intact? While difficult to explain, some types of variance are usually not in accord with the general intent and purpose of the ordinance and therefore must be cautiously reviewed. These often include*

*extending a non-conforming use in scope, a use variance (clearly not allowed), and modifying a dimensional standard so as to the detriment of a neighborhood or area.*

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

Yes, if the variance is granted the overall spirit of the agricultural open/ countryside residential zoning ~~remains~~ intact as there are open farming parcels of land to the west. There is also residential countryside parcels of land to the north and northeast.

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

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

If the variance is approved, the character of the property and properties around the parcel will not be altered.

#### **Possible Conditions, suggested by the applicant**

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

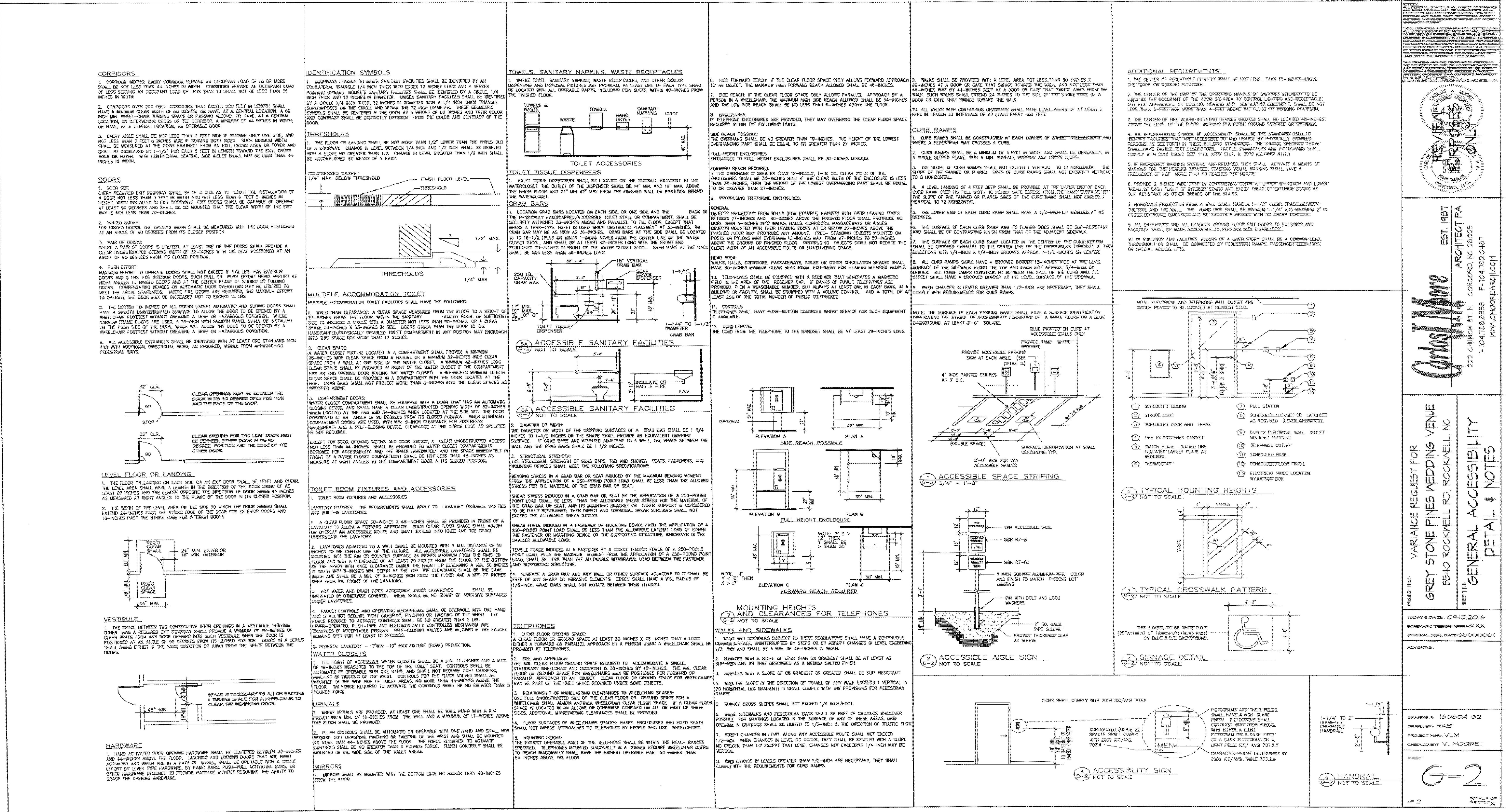
N/A

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

SIGNATURE OF OWNER: Patricia Honywell DATE: 9/13/16

SIGNATURE OF APPLICANT: Carlos Moore Architect DATE: 09.13.2016  



## Existing Zoning



Applicant: Carlos J. Moore, Architect  
Owner: Patricia & Mark Honeycutt  
Case: VARN2016-00004  
Address: 5540 Rockwell Road  
Purpose: Relief from the requirements  
of Section 8-4.21 & Appendix  
B of the Zoning Ordinance  
PIN: 5673-97-1701

----- Ingress\Egress Easement

Parcels

Ponds

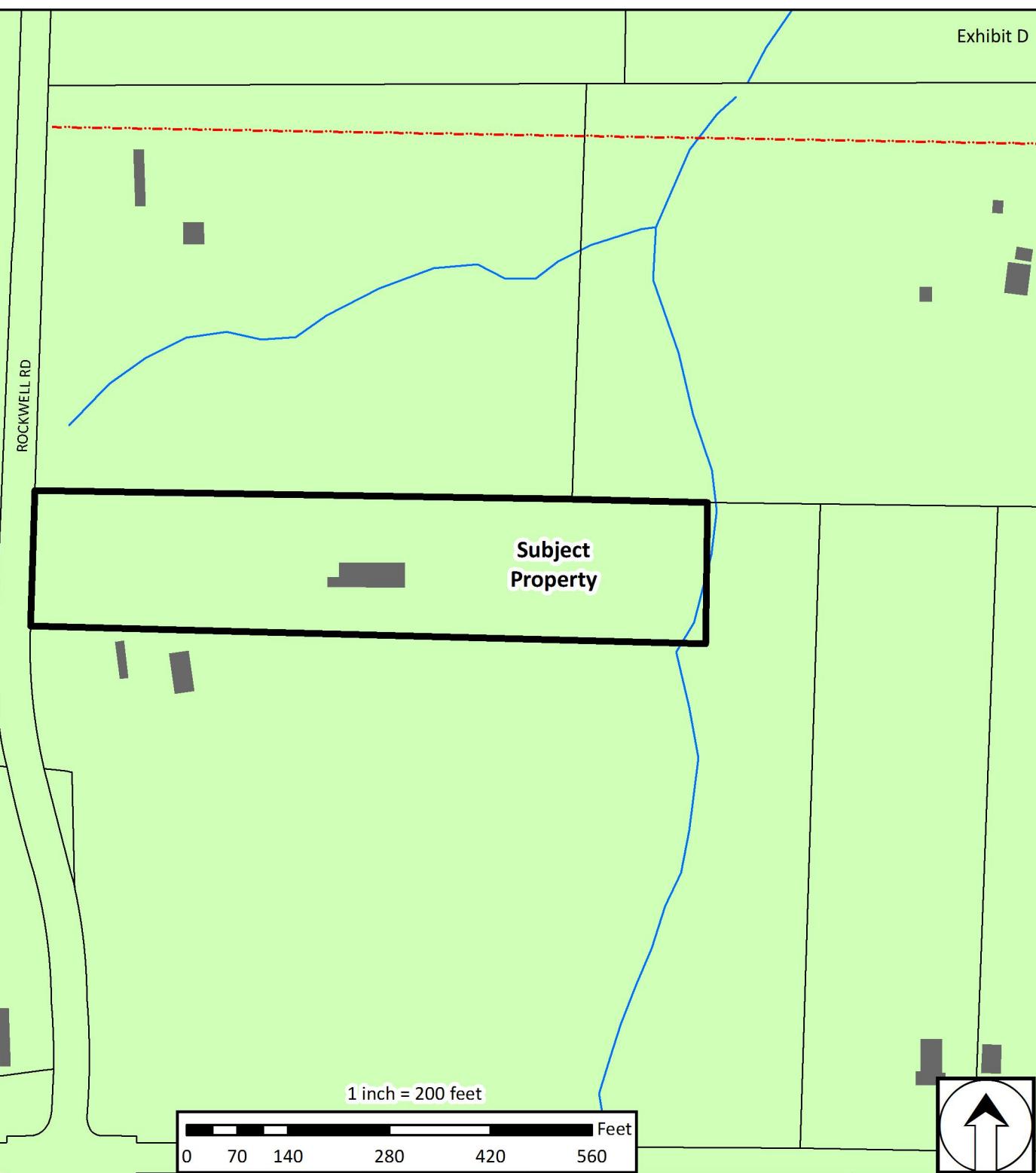
— Streams

Structures

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 2016

## Exhibit D

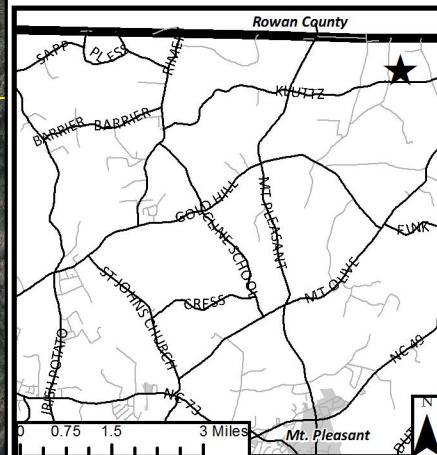


## Aerial Map



Applicant: Carlos J. Moore, Architect  
Owner: Patricia & Mark Honeycutt  
Case: VARN2016-00004  
Address: 5540 Rockwell Road  
Purpose: Relief from the requirements  
of Section 8-4.21 & Appendix  
B of the Zoning Ordinance  
PIN: 5673-97-1701

Cabarrus County  
 City Limits  
 Parcels



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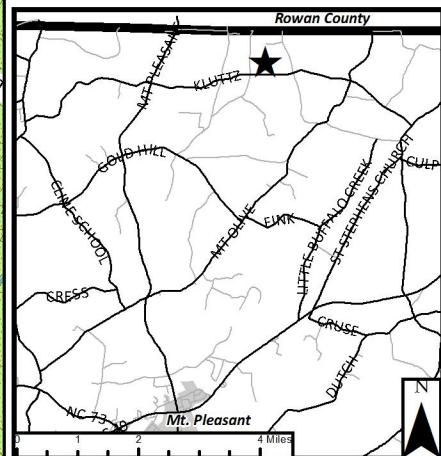
Map Prepared by Cabarrus County Planning & Development - October 2016



## Eastern Plan Area Future Land Use



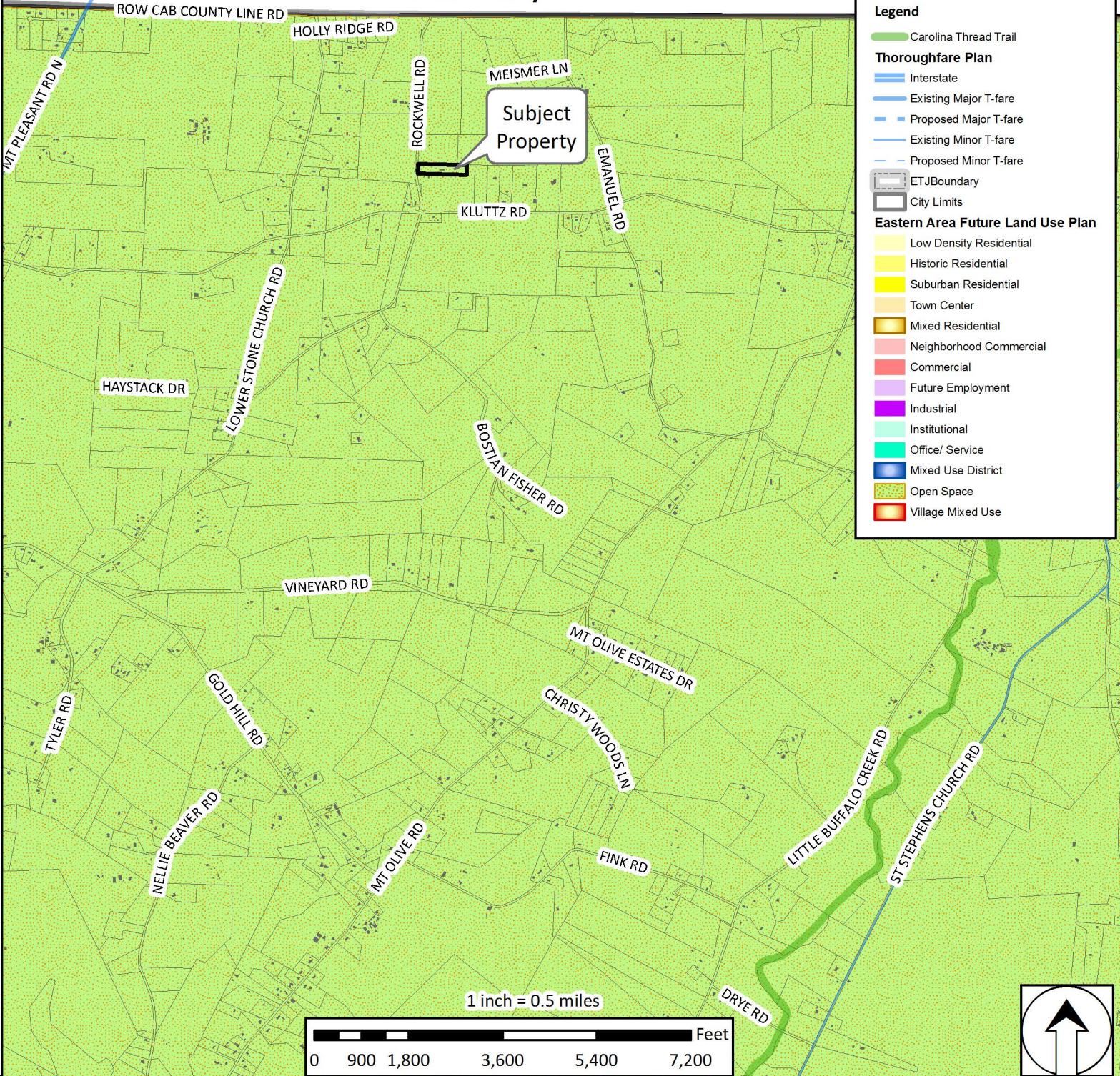
Applicant: Carlos J. Moore, Architect  
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 Address: 5540 Rockwell Road  
 Purpose: Relief from the requirements  
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 B of the Zoning Ordinance  
 PIN: 5673-97-1701



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Map Prepared by Cabarrus County Planning & Development - October 2016

## Rowan County





**Cabarrus County Government – Planning and Development Department**

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October 17, 2016

Dear Property Owner:

A Variance Application has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday, November 8, 2016 at 7:00 PM in the 2<sup>nd</sup> floor Multi-Purpose Room 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 this variance request, I encourage you to attend this meeting.

- **Petitioner:** Carlos Moore Architect (Gray Stone Pines Reception Facility)
- **Petition Number:** VARN2016-00004
- **Property Location:** 5540 Rockwell Road
- **Parcel ID Number:** 5673-97-1701
- **Existing Zoning:** Agricultural Open Space (AO)
- **Variance Request:** Relief from the Supplemental Requirements of Reception Facilities in the AO zoning district

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development – 704.920.2181.

Sincerely,

A handwritten signature in black ink that reads "Phillip Collins".

Phillip Collins, AICP  
 Senior Planner  
 Cabarrus County Planning and Development  
 704.920.2181

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



## Cabarrus County Government – Planning and Development Department

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October 17, 2016

Dear Property Owner:

A Variance Application has been filed in our office for property **adjacent** to yours. The property and specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday, November 8, 2016 at 7:00 PM in the 2<sup>nd</sup> floor Multi-Purpose Room 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 this variance request, I encourage you to attend this meeting.

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If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,

A handwritten signature in black ink that reads "Phillip Collins".

Phillip Collins, AICP  
Senior Planner  
Cabarrus County Planning and Development  
704.920.2181

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

**Adjacent Landowners - Names, Addresses, and Parcel Identification Numbers**

<b>Owner Name</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>	<b>Parcel Identification Number</b>
Patricia Honeycutt	5540 Rockwell Road	Rockwell	NC	28138	5673-98-0131
Selena Ussery	5576 Rockwell Road	Rockwell	NC	28138	5673-98-7067
Douglas & Karen Lyerly	5950 Lowerstone Church Road	Rockwell	NC	28138	5673-97-1236
Ralph Eudy	5890 Emmanuel Road	Rockwell	NC	28138	5673-88-0152

**CABARRUS COUNTY  
ZONING**

**NOTICE**  
Pet # Varn2016-0004  
FOR DETAILS CALL  
704 - 920 - 2141

10/20/2016