



FAYETTEVILLE CITY COUNCIL
AGENDA
MAY 29, 2012
7:00 P.M.
City Hall Council Chambers

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 PLEDGE OF ALLEGIANCE

4.0 APPROVAL OF AGENDA

5.0 ANNOUNCEMENTS AND RECOGNITIONS

- 5.1 Recognize the winners of FAST's Bus Rodeo held on May 6, 2012
Presenter(s): Randy Hume, Transit Director

6.0 CONSENT

- 6.1 Amending Chapter 6, Animals and Fowl
- 6.2 P11-70F Rezoning from SF-6 Single Family Residential and CC Community Commercial District to HI Heavy Industrial Conditional District, or a more restrictive district, on property located at 1326 Sapona Road. Containing 14.8 acres more or less and being the property of Thomas Cooper, Jr
- 6.3 P12-12F Rezoning from SF-10 Single Family Residential District to CC/CZ Community Commercial Conditional District, or a more restrictive district, on properties located at 4950 Redwood Drive. Containing 0.24 acres more or less and being the property of Charles Singletary and Louise Singletary (Deceased)
- 6.4 P12-19F Rezoning from SF-10 Single Family Residential to CC Community Commercial District, or a more restrictive district, on property located Lake Valley Drive and across All American Freeway. Containing 0.34 acres more or less and being the property of Suite Development of FNC, LLC
- 6.5 Resolution Accepting State Revolving Loan Offer to Construct the Edgewater/Northview Sewer Main Relocation Project
- 6.6 Approval of amendment to DOT grant for Cape Fear Rivertrail -Phase 2

6.7 Special Revenue Fund Project Ordinance 2012-17 (FY11 Federal Homeland Security Grant)

6.8 Tax Refunds of Greater Than \$100

7.0 PUBLIC HEARINGS

For certain issues, the Fayetteville City Council may sit as a quasi-judicial body that has powers resembling those of a court of law or judge. The Council will hold hearings, investigate facts, weigh evidence and draw conclusions which serve as a basis for its decisions. All persons wishing to appear before the Council should be prepared to give sworn testimony on relevant facts.

7.1 Public Hearing on the Recommended Fiscal Year 2012-2013 City and Public Works Commission Budgets
Presenter(s): Kristoff T. Bauer, Interim City Manager

7.2 Text Amendment request to amend City Code Section 30-5 Development Standards to add standards for fire-flow and fire hydrant locations in accordance with Appendices B and C of the North Carolina Fire Code as amended.
Presenter(s): Scott Shuford, AICP Director, Development Services Department

7.3 Amend City Code Chapter 30, Articles 4 and 9, to create, classify and set special standards for transitional housing, and establish conditions to allow modification of the separation standards for certain group living facilities in business zoning districts through the special use permit process.
Presenter(s): Scott Shuford, Development Services Director

7.4 P12-13F Request for a Special Use Permit for Halfway House in a Community Commercial District, on property located at 3611-B Ramsey Street. Containing a portion of 5.63 acres more or less and being the property of Cedar Creek Crossing West LLC.
~~XXXXX~~ Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.5 P12-21F Request for a Special Use Permit to allow a recycling/salvage yard in an HI district on property located at 525 S. King Street. Containing 24.47 acres more or less and being the property of Advanced Internet Technologies
~~XXXXX~~ Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.6 P12-15F Request for a Special Use Permit for Dog Kennel, on property located at 7351 Stoney Point Road. Containing 4 acres more or less and being the property of Ronald and Joy Whitehead.
Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.7 P12-26F Request for a Special Use Permit for a drive-thru in a commercial transition area on property located at 6915 Cliffdale Road. Containing 0.34 acres more or less and being the property of SVP Construction and Quality Oil Company.

~~7.7.7~~ Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.8 P12-28F Initial zoning from CD – Conservation District, R5A - Residential, R10 - Residential, RR – Rural Residential (County) to CD – Conservation District, MR-5 Mixed Residential, SF-10 Single Family District, and AR – Agricultural Residential or a more restrictive district, on property located between Dundle and Stoney Point Roads in the area known as Gates Four and the surrounding newly annexed areas. Containing 780 acres more or less
Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.9 P11-23F Initial zoning from R40 Residential (County) to SF-15/CZ Single Family Conditional District, or a more restrictive district, on property located on Underwood Road. Containing 116.77 acres more or less and being the property of John Koenig Estate Builders LLC
Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.10 Public Hearing to Consider a Petition Requesting Annexation for a Non-Contiguous Area Known as Lexington Woods Subdivision
Presenter(s): David Nash, AICP, Planner II

7.11 P11-24F Initial zoning from C3 Commercial (County) to CC Community Commercial District, or a more restrictive district, on property located at 3836 Cumberland Road. Containing 0.65 acres more or less and being the property of Mary and Jay Rivers.
Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.12 Public Hearing to Consider a Petition Requesting Annexation for a Non-Contiguous Area Known as the Rivers Property
Presenter(s): David Nash, AICP, Planner II

7.13 P12-20F Rezoning from SF-6 Single Family Residential to LC Limited Commercial District, or a more restrictive district, on property located at 535 & 541 Bunce Road. Containing 2.21 acres more or less and being the property of Horizon's Property Management, LLC [NC Recommended]
Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.14 P12-22F Rezoning from SF-6 Single Family Residential to CC/CZ Community Commercial Conditional District, or a more restrictive district, on property located at 408 Waddell Drive. Containing 1.34 acres more or less and being the property of John and Pearlie Hodges
Presenter(s): Craig Harmon, AICP, CZO - Planner II

7.15 P11-38F Rezone SF-6 Single Family Residential to MR-5/CZ Mixed Residential Conditional District for property at 2377 Dundle Rd. owned by March Riddle.
Presenter(s): Craig Harmon, Planner II

8.0 OTHER ITEMS OF BUSINESS

8.1 Uninhabitable Structures Demolition Recommendations

- 4606 Blanton Road
- 211 Deep Creek Road
- 1156 Fay Hart Road

Presenter(s): Scott Shuford, Development Services Director

9.0 ADMINISTRATIVE REPORTS

9.1 Tax Refunds of Less Than \$100

10.0 ADJOURNMENT

CLOSING REMARKS

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 p.m. and 7:00 p.m.

POLICY REGARDING CITY COUNCIL MEETING PROCEDURES SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM

Individuals who have not made a written request to speak on a non-public hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

COUNCIL MEETING WILL BE AIRED

**May 29, 2012 - 7:00 PM
COMMUNITY CHANNEL 7**

COUNCIL MEETING WILL BE RE-AIRED

**May 30, 2012 - 10:00 PM
COMMUNITY CHANNEL 7**

Notice Under the Americans with Disabilities Act (ADA): *The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Any person who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in any City program, service, or activity, should contact the office of Ron McElrath, ADA Coordinator, at rmcelrath@ci.fay.nc.us, 910-433-1696, or the Office of the City Clerk at cityclerk@ci.fay.nc.us, 910-433-1989, as soon as possible but no later than 72 hours before the scheduled event.*

CITY COUNCIL ACTION MEMO

TO: Mayor and Council Members
FROM: Randy Hume, Transit Director
DATE: May 29, 2012
RE: Recognize the winners of FAST's Bus Rodeo held on May 6, 2012

THE QUESTION:

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government - Cost Effective Delivery

BACKGROUND:

Fayetteville Area System of Transit (FAST) held its second Bus Rodeo on Sunday, May 6, 2012. The driving competition included two categories: 1) Light Transit Vehicle (LTV); and 2) 35 ft. Bus.

There were ten competitors. The winners were as follows:

35 Ft. Bus

1st - Evan Legans
2nd - Louis Tellefsen
3rd - Ernest Poinsette

LTV

1st - Paula Bowers
2nd - Leonard Pellom
3rd - Valerie Hair

ISSUES:

None

BUDGET IMPACT:

Rodeo was included in the Transit operating budget.

OPTIONS:

RECOMMENDED ACTION:

Recognize the winners.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Karen M. McDonald
DATE: May 29, 2012
RE: **Amending Chapter 6, Animals and Fowl**

THE QUESTION:

Whether to make the County's Animal Control Ordinance applicable within the municipal limits of Fayetteville.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government

BACKGROUND:

At the City Council's May 14, 2012, regular meeting, the County Attorney presented proposed revisions to the Animal Control Ordinance. The Board of Commissioners unanimously adopted the revised Animal Control Ordinance on May 21, 2012. Adoption of the County's ordinance will ensure the standards are the same within the unincorporated areas of the County and within the municipal limits of Fayetteville and will alleviate confusion regarding enforcement. In order to meet the City Council's interest, attached is a resolution making the County's ordinance applicable within the municipal limits of Fayetteville and an ordinance repealing the relevant sections of the City's Code.

ISSUES:

Whether the Council has an interest in making the County's Ordinance applicable within the municipal limits of Fayetteville.

BUDGET IMPACT:

None

OPTIONS:

1. Adopt the proposed resolution and ordinance.
2. Not adopt the proposed resolution and ordinance.
3. Provide further direction to staff.

RECOMMENDED ACTION:

Staff recommends that the City Council adopt the attached resolution making the County's ordinance applicable within the municipal limits of Fayetteville and that the City Council also adopt the attached ordinance repealing the relevant sections of the City Code.

ATTACHMENTS:

Resolution 153A-122 County Applicable within City Limits
County's Proposed Revisions to Animal Control Ordinance
City Ordinance Repealing City Animal Ordinance

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, PURSUANT TO N.C.G.S. § 153A-122, MAKING THE ANIMAL CONTROL ORDINANCE, CHAPTER 3 OF THE CUMBERLAND COUNTY, NORTH CAROLINA, CODE OF ORDINANCES, ADOPTED BY THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS ON MAY 21, 2012, APPLICABLE WITHIN THE CITY OF FAYETTEVILLE

WHEREAS, on May 21, 2012, the Cumberland County Board of Commissioners enacted Chapter 3 of the Cumberland County Code of Ordinances, an Animal Control Ordinance for Cumberland County; and

WHEREAS, said ordinance established a comprehensive program designed to address animal control in Cumberland County and its municipalities; and

WHEREAS, it is beneficial to the City of Fayetteville and its citizens to become a part of this comprehensive plan for managing animal control within its incorporated limits.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fayetteville, North Carolina, that pursuant to N.C.G.S. § 153A-122, Chapter 3 of the Code of Ordinances of Cumberland County, the Cumberland County Animal Control Ordinance, adopted May 21, 2012, by the Cumberland County Board of Commissioners, a copy of which is attached hereto, shall be applicable, have the same force and effect of, and shall be enforced to the same extent, within the incorporated limits of the City of Fayetteville, as within Cumberland County, and shall be designated as Ordinance No. S2012-_____, of the Code of Ordinances of the City of Fayetteville.

ADOPTED this the 29th day of May, 2012, by the City Council of the City of Fayetteville.

CITY OF FAYETTEVILLE

(SEAL)

By: _____
ANTHONY G. CHAVONNE, Mayor

ATTEST:

PAMELA MEGILL, City Clerk

**AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS
REPEALING CHAPTER 3, ANIMALS, OF THE CUMBERLAND COUNTY CODE AND
ADOPTING A REVISED CHAPTER 3, ANIMALS, OF THE CUMBERLAND COUNTY CODE**

WHEREAS, the Cumberland County Board of Commissioners adopted a revised County Animal Control Ordinance in August, 2000, and has amended it from time to time; and

WHEREAS, the Cumberland County Animal Control Ordinance has been codified as Chapter 3, Animals, of the Cumberland County Code; and

WHEREAS, the Board of Commissioners wishes to make a comprehensive revision of the Cumberland County Animal Control Ordinance by the repeal of Chapter 3, Animals, of the Cumberland County Code and the adoption of the revised Chapter 3, Animals, of the Cumberland County Code as set forth below; and

Whereas, the Board of Commissioners finds the comprehensive revision of Chapter 3, Animals, of the Cumberland County Code to be in the public interest and to promote the public health, safety and welfare,

NOW, THEREFORE, BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 3, Animals, of the Cumberland County Code is hereby repealed in its entirety and a revised Chapter 3, Animals, of the Cumberland County Code is hereby adopted.

**CHAPTER 3
ANIMALS**

- Art. I. Administration**
- Art. II. General Provisions**
- Art. III. Dangerous Dogs.**
- Art. IV. Rabies Control and Animal Bites**
- Art. V. Licensing of Dogs and Cats**
- Art. VI. Injured Animal Stabilization Fund**
- Art. VII. Miscellaneous**
- Art. VIII. Enforcement**

ARTICLE I. ADMINISTRATION

Sec. 3-1. Animal Control Department established.

There is hereby established in the government of the County an Animal Control Department.

Sec. 3-2. Animal Control Director.

The Animal Control Department shall be supervised by the Animal Control Director, who shall be the director of that department, appointed by the county manager.

Sec. 3-3. Functions of Animal Control Department.

The Animal Control Department shall have and perform the duties and responsibilities set forth herein, shall enforce the provisions of this Chapter and of state law relating to animal control and animal

welfare, shall administer and enforce an animal control program within such municipalities within the county as by interlocal agreement may contract with the County for such services and apply this Chapter in their municipal jurisdictions, and shall maintain and operate the county animal shelter.

Sec. 3-4. Animal Control Board established.

- (a) There is established the Cumberland County Animal Control Board.
- (b) The Animal Control Board shall be composed of seven (7) members to be appointed by the Board of Commissioners. Of the seven members, two shall be residents of the City of Fayetteville appointed by the Board of Commissioners from among the names of four persons nominated by the Fayetteville City Council, that is, two nominations for each seat. At least one member shall be a person with knowledge and experience in dog behavior and/or handling, one member shall be ex officio the veterinarian on contract to the Animal Control Department, one member shall have an interest in promoting the goals of the Animal Protection Society or the Humane Society or another such broadly-based and representative organization interested in the care and protection of animals, and the other members shall represent the public at large. The members shall serve staggered two-year terms; four members shall have terms that expire on June 30 in even-numbered years following the year of their initial appointment and three members shall have terms that expire on June 30 of odd-numbered years.
- (c) The powers and duties of the Animal Control Board shall include:
 - (1) Appointing three (3) of its members to sit on the Dangerous Dog Appeal Board;
 - (2) Hearing any appeals provided for in this ordinance other than appeals of the Director's determinations of potentially dangerous dogs;
 - (3) Providing advice and information to the Animal Control Department;
 - (4) Upon coordination with the Animal Control Director, making recommendations to the Board of Commissioners or the Fayetteville City Council, as appropriate, for the betterment of the County's animal control program;
 - (5) In conjunction with the Animal Control Department and the County's Public Information Director, providing for a program of public education, information and outreach concerning responsible pet ownership, animal cruelty, and the County's animal control program; and
 - (6) Selecting officers of the board, including a chairperson, and adopting rules of procedure.
- (d) A majority of the members shall constitute a quorum for the Animal Control Board to conduct its meetings. The Animal Control Board shall adopt a schedule of regular meetings and post and file it with the Clerk to the Board of Commissioners and otherwise as required by the Open Meetings Law. The Animal Control Board shall schedule at least four regular quarterly meetings, at which meetings the Animal Control Director or his designee shall appear and participate. In addition, the Animal Control Board may hold such special or emergency meetings, upon the call of the chairperson or any three members, as may be appropriate in the circumstances, subject to compliance with the Open Meetings Law.

Sec. 3-5. Dangerous Dog Appeal Board established.

- (a) There is established the Dangerous Dog Appeal Board.

(b) The Dangerous Dog Appeal Board shall consist of three (3) members to be appointed by the Animal Control Board from among its members. The members shall serve staggered two-year terms. Any two (2) members of the Dangerous Dog Appeal Board shall constitute a quorum for conducting a meeting.

(c) The powers and duties of the Dangerous Dog Appeal Board shall include:

- (1) Selecting a chairperson to preside over its appeal hearings;
- (2) Hearing the appeals of the determinations of potentially dangerous dogs by the Animal Control Director (or his designee) pursuant to Article III of this ordinance or Chapter 67 of the General Statutes.

(d) The administrative assistant to the Animal Control Director shall be the Clerk to the Animal Control Board and the Dangerous Dog Appeal Board.

Sec. 3-6 through Sec. 3-9. Reserved.

ARTICLE II. GENERAL PROVISIONS

Sec. 3-10. Definitions

(a) As used in this ordinance, the following terms shall have the meanings respectively ascribed to them in this section:

"Abandon" means to cease providing for the care, control or maintenance of an animal without the transfer of ownership of such animal.

"Animal Shelter or Department's Shelter" means the premises operated by the Animal Control Department for the purposes of impounding, sheltering or caring for animals or any other premises operated by another entity with which the county contracts for such purposes.

"Animal Control Department" means the Cumberland County Animal Control Department.

"Animal Control Director" means the Director of the Animal Control Department, or his/her designee.

"Animal Control Officer" means a person employed by the Animal Control Department as its enforcement officer in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this Chapter.

"At large" or "running at large" means any animal which is not confined on the property of its owner, the leased premises of the animal's owner, or under the actual physical control of a competent person, other than a licensed, currently privilege tax paid, hunting dog under supervision while engaged in a lawful actual or simulated hunt.

"Chapter" means the provisions of this Animal Control Ordinance as may be in effect in Cumberland County or any municipal jurisdiction located therein.

"Confinement" means to secure an animal in a locked house, run, enclosure or fenced yard within the boundaries of the owner's, leaseholder's, or keeper's property (i.e., house, fenced yard).

"County Manager" shall mean the duly appointed County Manager of the County or his/her designee.

"Cruelty" means to endanger by any act of omission or commission the life, health or safety of an animal.

"Director" means the Director of the Animal Control Department.

"Exposed to rabies" means any animal that has been bitten by or exposed in a manner proven to be able to transmit rabies, to any other animal known to have been infected with rabies or any other animal reasonably suspected of being infected with rabies that is not available for laboratory diagnosis.

"Fee Schedule" means any schedule of fees related to the administration of this ordinance, which may be adopted by the Board of Commissioners.

"Fowl" means chickens, guineas, geese, ducks, pigeons, and other avian animals.

"Harboring" means regularly feeding, sheltering or caring for an animal.

"Impoundment" means placing an animal in an animal control vehicle or unit, or holding an animal at the animal shelter, or holding an animal at any other location at the written direction of the Director of Animal Control.

"Keeper" means any person, acting in the capacity of the owner, or at the owner's request, who is responsible for the care, welfare and maintenance of the animal.

"Livestock" includes, but is not limited to, equine animals, bovine animals, sheep, goats, llamas and swine.

"Neuter" means to render a male dog or cat unable to reproduce.

"Owner" shall mean anyone taking care of or having custody of an animal, such as by providing food, water, shelter or medical care, but shall not include taking care or having custody of the animal for compensation.

"Permit" means a permit issued by the Animal Control Department or similar agency of any applicable governmental unit having jurisdiction.

"Potentially Dangerous Dog" and "Dangerous Dog" shall have the meanings set forth in Section 3-30 hereof.

"Restraint" means that an animal is actually physically controlled by leash or tether held by a competent person or within any vehicle, trailer or other conveyance being driven, pulled or parked on the street or confined within the property limits of its owner or keeper.

"Run" means an area used to confine a dog or dogs of a size that complies with any of the requirements of this Chapter.

"Sanitary" means a condition of good odor and cleanliness, which precludes the probability of disease transmission and insect breeding and which preserves the health of the public.

"Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce.

"State law" means the General Statutes of North Carolina.

"Stray" means any animal reasonably presumed not to have any owner, including but not limited to an animal running at large or not under restraint.

"Tethered" or "tethering" mean attaching an animal to a stationary object by means of a chain, cable, rope or similar device.

"Vaccination" means an injection of United States Department of Agriculture approved rabies vaccine administered by a licensed veterinarian or certified rabies vaccinator as defined in G.S. 130A-186.

"Transfer" means to convey or change ownership from one person to another with or without the exchange of money or other consideration.

(b) All other words or phrases used herein shall be defined and interpreted according to their common usage.

Sec. 3-11. Applicability of state laws to custody of animals.

No person owning or having in his custody any animal shall violate any laws, rules, or regulations of the state applicable thereto. The provisions of this Chapter shall govern where the provisions of the laws, rules and regulations of the state are less restrictive than the provisions of this Chapter.

Sec. 3-12. Injuring, poisoning or trapping animals prohibited.

(a) A person who accidentally or otherwise strikes an animal with an automobile and injures it shall promptly notify the Animal Control Department or any law enforcement agency having jurisdiction.

(b) No person shall knowingly expose or give to any animal any poisonous substance, whether mixed with food or not. This provision, however, does not apply to the eradication or population control of certain species of rodents.

(c) No person shall set or expose an open jaw type trap, leg hold trap, or any type trap which would likely cause physical harm or injury to any animal. This provision shall not apply to persons who are licensed by the state to trap animals, to Animal Control Officers or to persons using humane live capture traps.

Sec. 3-13. Diseased animals; injured or sick animals.

(a) Every person owning or having any animal under his charge which he knows or suspects to be sick or injured shall isolate the animal from other animals, shall obtain or provide appropriate treatment for such animal within two days or may have the animal humanely euthanized.

(b) Any animal which comes into possession of the Department's shelter which is seriously injured, sick or exhibiting symptoms of contagious disease shall be humanely euthanized by the shelter personnel without waiting for the expiration of the period in which such animal may be placed for adoption. Provided, however, that before such sick, diseased or injured animal is euthanized, the shelter personnel shall contact the animal's owner, if known, to determine the disposition of such animal. If the owner indicates that the animal will be reclaimed but fails to reclaim the animal within two days of such

notification, or if the owner of such animal is not known, the sick or injured animal shall be euthanized by the shelter personnel. The shelter supervisor shall keep a record of such animal, to include breed and sex of the animal, when the animal came into possession of the shelter, the type of injury, disease or sickness of such animal, the date the animal was euthanized, and any other information relevant to the health, condition and description of such animal.

Sec. 3-14. Property owner may impound animal.

(a) Any person who finds a domesticated animal or fowl on his property to his injury or annoyance may:

- (1) Take such animal to the Animal Control shelter; or
- (2) Retain possession of such animal or fowl and, within one business day, notify the Animal Control Department of this custody, giving a description of the animal and the owner's name, if known. Any person removing the animal from the impounder's property shall remove the animal in such a manner so as not to cause injury to the animal.

(b) No person shall knowingly and intentionally harbor, feed or keep in possession by confinement or otherwise any stray animal which does not belong to him, unless he shall have within one business day from the time such animal came into his possession notified the Animal Control Department of his intention either to: (i) surrender the animal to the animal shelter, or (ii) advertise for five (5) consecutive days such stray animal in the local newspaper with the greatest average daily circulation in the community. If the person possessing such stray animal elects to so advertise and the owner thereof shall not have responded by the tenth (10th) day after the date of the first publication, the person so advertising shall be presumed the legal owner of such animal. If the advertisement of a stray animal shall not have been first published within seventy-two (72) hours after so notifying the Animal Control Department, then the animal shall be surrendered to the Animal Control Department.

Sec. 3-15. Nuisance animals; animals posing a threat to the public.

(a) For the purposes of this section, "nuisance" means the conduct or behavior resulting from any act of omission or commission by the owner or keeper of any small or large animal, fowl, cat or dog which molests passersby or passing vehicles, damages private or public property; barks, whines, howls, crows or makes other noises in an habitual or continuous fashion which annoys the comfort, repose, health or safety of the people in the community; is unconfined in season; habitually defecates on the property of someone other than the owner; or habitually eats or otherwise destroys the plants, shrubs or similar landscaping on the property of someone other than the owner.

(b) For the purposes of this section, "nuisance animal" means any animal that commits any of the acts, conduct or behaviors defined as constituting a nuisance in this section.

(c) No person shall keep any animal which is a nuisance animal or which causes a nuisance as defined in this section.

(d) Notice of violation. When an Animal Control Officer determines that a violation of this section has occurred, he may issue a written warning of violation and notice of public nuisance, which shall be served on the owner or keeper of the animal. The owner or keeper shall be responsible for abating the nuisance within seventy-two (72) hours by making sure his animal does not engage in any further act or acts which may constitute a nuisance under this section.

(e) Failure to abate the nuisance. If the Animal Control Officer determines that the animal has engaged in any further act(s) constituting a nuisance, or if the owner or keeper of the animal fails to abate the condition which constitutes the nuisance within seventy-two (72) hours after issuance of the written warning of violation, the Animal Control Officer may issue a notice of violation and civil penalty for the first offense and additional penalties for each subsequent offense. If the owner fails to abate the nuisance after the second civil penalty, the Animal Control Officer may seize and impound the animal. If the animal is seized, the Animal Control Officer must post a notice of seizure and impoundment with the owner or keeper of the animal. The owner or keeper may reclaim the animal upon payment of any civil penalties and shelter fees or charges for the impoundment. If the animal is not reclaimed within five (5) days, it shall become the property of the Animal Control Department and shall be disposed of according to the Department's policies.

(f) Owner unknown. In situations where the owner of a nuisance animal is unknown, the Animal Control Officer shall impound the animal without posting notice of the impoundment. If the owner does not redeem the animal within five (5) days, the animal shall become the property of the Animal Control Department and shall be disposed of according to the Department's policies.

(g) Animal housed or restrained less than fifteen (15) feet from public way. When an Animal Control Officer has determined that an animal is being housed or restrained within fifteen (15) feet of a public street, road or sidewalk, and the animal poses a threat to the public, but the animal is not in the street, road or on the sidewalk, the Animal Control Officer shall issue a warning to the owner or keeper of the animal directing that the animal be moved to a distance greater than fifteen (15) feet from the public street, road or sidewalk. If the owner or keeper refuses to move the animal, the Animal Control Officer shall issue a notice of violation and civil penalty for the first offense and additional penalties for each subsequent offense. After the second offense the animal services officer may impound the animal. The Animal Control Officer must leave a notice of impoundment with the owner keeper or affix the notice to the premises from which the animal has been seized. The owner shall have five (5) days to redeem the animal. If the animal is redeemed, the owner must pay all civil penalties and shelter fees for the impoundment. If the owner fails to redeem the animal within five (5) days the animal shall become the property of the Animal Control Department and shall be disposed of according to the Department's policies.

(h) Animal found in the public way. If an animal is housed or restrained within fifteen (15) feet of a public street, road or sidewalk and the animal poses a threat to the public, and the Animal Control Officer finds it to be in the public street, road or on the sidewalk and the owner or keeper is not at home or refuses to remove the animal from the public street, road or sidewalk, the Animal Control Officer may impound the animal. The Animal Control Officer must leave a notice of impoundment with the owner or keeper or affix the notice to the premises from which the animal was housed or restrained. The animal services officer may issue a notice of violation and civil penalty for a first offense and additional penalties for each subsequent offense. The owner shall have five (5) days to redeem the animal. If the animal is redeemed the owner or keeper must pay all civil penalties and shelter fees for the impoundment. If the owner or keeper fails to redeem the animal within five (5) days the animal shall become the property of the Animal Control Department and shall be disposed of according to the Department's policies.

(i) Private remedies. This section shall not be construed to prevent a private citizen from pursuing a private cause of action for damages against the owner or keeper of any animal that has caused injury to said private citizen or his property for damages or any other loss resulting from an animal being a nuisance as defined by this section or otherwise.

Sec. 3-16. Animal fighting and animal fighting paraphernalia prohibited.

(a) No person shall permit or conduct any dog fights, cock fights, or other combat between

animals, or between animal and human.

(b) It shall be unlawful for any owner or person to keep, own, possess, maintain, control, or use materials used or intended to be used in dog fighting or cock fighting. Such items shall include but are not limited to treadmills; fighting or fight training pit; wooden sticks or handles used or capable of being used to pry open jaws; magazines, photographs, film, or videotapes depicting animal fighting or animal fight training; breeding stands; jaw strengthening devices; spurs; gaffs or slasher cases; gaff or knife gauges; mounting blocks; leather wraps; scabbards and leg or wing bands; training, conditioning, or fight contracts or records; veterinary drugs; suture kits, needles; and syringes and other veterinary supplies used for the administration of veterinary treatment for wounds or injuries from animal fighting or animal fight training.

(c) Upon criminal charges being brought for violations of this section, the Animal Control Director may petition the court for the confiscation of any animals kept or involved, or materials used or intended to be used in such fighting.

Sec. 3-17. Keeping of wild or exotic animals.

(a) For the purpose of this section, a wild or exotic animal means an animal which is usually not a domestic animal and which can normally be found in the wild state, including, but not limited to alligators, apes, bats, bears, crocodiles, deer, elephants, foxes, leopards, lions, lynxes, monkeys, panthers, raccoons, rhinoceroses, wolves, poisonous snakes, skunks, tigers, and like animals. Hybrids or cross-breeds of any wild or exotic animals shall also be considered as wild or exotic animals.

(b) It is unlawful to keep, harbor, breed, sell or trade any wild or exotic animal for any purpose, except as may be licensed by the state Wildlife Resources Commission under its regulations pertaining to wildlife rehabilitators.

(c) This section shall not apply to zoological parks, zoos, educational or medical institutions, or circuses that perform in Cumberland County for not more than seven (7) days. If a circus is scheduled to be in Cumberland County for more than seven (7) days, then the circus may apply to the Animal Control Director for an extension permit for a period not to exceed an additional seven (7) days, on such terms as the Animal Control Director shall determine will protect the public health, safety and welfare.

Sec. 3-18. Inhumane or cruel treatment prohibited.

It is unlawful for any owner or person to:

- (1) Perform or carry out any inhumane or cruel treatment against any animal; or
- (2) Keep, possess, own, control, maintain, use or otherwise exercise dominion over any animal or animals which by reason of noise, odor or sanitary conditions become offensive to a reasonable and prudent person of ordinary tastes and sensibilities or which constitute or become a health hazard as determined by the Animal Control Director, the Cumberland County Inspections Director or the Cumberland County Environmental Health Supervisor, as appropriate.

Sec. 3-19. Control of animals required; at large; strays; impoundment; confinement in season.

(a) It is unlawful for any owner or person to permit or negligently allow any domestic animal or livestock to run at large. Any dog or cat that is not confined as provided in this Chapter, and

not under the actual physical control or restraint of its owner or keeper, shall be deemed to be running at large. Any such animal found running at large shall be either:

- (1) Impounded by an Animal Control Officer at the Department's shelter subject to being reclaimed by its owner or keeper in accordance with the Department's policies; or
 - (2) In the discretion of the Animal Control Officer, a dog or cat found at large which is licensed by the county and vaccinated for rabies, except a dangerous dog, as that term is defined in Article III of this ordinance, may be released to its owner, upon such terms and conditions as the Animal Control Officer deems appropriate.
- (b) No impounded animal shall be returned to its owner until any applicable impoundment and boarding, vaccination, other fees or costs and any penalties are paid.
- (c) Any impounded animal not claimed by its owner after a three day holding period, exclusive of Sundays and county-observed holidays, shall become the property of the county and shall be adopted or disposed of in accordance with the Department's policies.
- (d) Every female dog or cat in season (heat) shall be kept confined in such a manner that such female dog or cat cannot come in contact with other animals, except for controlled breeding purposes. Female animals picked up by the Animal Control Department which are in season (heat) shall be kept separate from male animals at all times.

Sec. 3-20. Records; disposition of animals; adoption.

- (a) An Animal Control Officer, upon receiving any animal for impoundment, shall record the description, breed, color and sex of the animal and whether or not it is licensed and the date and time of impoundment. If the animal is licensed or if the owner is known, the officer shall enter the name and address of the owner or the county license on the impoundment records. If the owner is known, the Animal Control Department shall telephone the owner or, if unsuccessful in attempting to telephone such owner, shall mail notice at the address shown on the Department's records to notify the owner, that unless reclaimed within seventy-two (72) hours after mailing of notice, Sundays and county-observed holidays excluded, the animal may be adopted or humanely disposed of by the Department's shelter. Attempts to contact the owner will be recorded on the impoundment record.
- (b) After the seventy-two (72) hours of impoundment as prescribed above, animals that have not been reclaimed by the owner thereof shall be adopted or otherwise disposed of in a humane manner and as required by law. Provided, however, in the discretion of the Animal Control Director, a healthy animal may be retained for an additional period for the purpose of adoption or transferred to an approved local animal adoption or rescue agency.
- (c) Before any dog or cat is released for adoption from the Department's shelter, the adopter shall pay such fee(s) as may be prescribed therefore in any fee schedule adopted from time to time by the board of commissioners. Such dog or cat also shall be issued any required rabies vaccination and county license.
- (d) Any employee of the Animal Control Department may adopt one cat and one dog in any calendar year and such number of other animals as the Animal Control Director may by written policy prescribe.
- (e) There is hereby established a grace period of five (5) days beginning on the day of adoption and ending at the close of business of the fifth day thereafter (or the first business day which falls after the fifth day if such fifth day is a Sunday or legal holiday), during which period an animal

adopted from the animal shelter may be returned to the animal shelter without refund for a replacement animal, conditioned solely upon the presentation of written certification of a licensed veterinarian that the adopted animal is in poor health.

Sec. 3-21. Redemption of impounded animals; impoundment where no one is present to care for an animal.

(a) An owner shall be entitled to resume possession of his impounded dog or cat or other small animal kept as a house pet, upon compliance with the vaccination provisions of this Chapter and payment of any applicable impoundment, boarding, vaccination or other fees. Such dog or cat also shall be issued any required county license, as provided for in this Chapter, if such dog or cat has not previously been licensed. Animals four (4) months old and older will be vaccinated for rabies by shelter rabies vaccinators. New owners of adopted animals less than four (4) months old shall have three (3) business days from the time that the animal reaches the age of four (4) months, in which to have the animal vaccinated against rabies and return the proof to the Department's shelter. Failure to obtain the required rabies vaccination shall constitute a violation of this section.

(b) When a law enforcement officer takes a person into custody who is in possession of an animal, and no other competent person is immediately present at the scene to take care of the animal, the animal will be impounded for its welfare. The animal will be impounded at the Department's shelter until contact can be made with the animal's owner and an appropriate disposition of the animal determined. Once an Animal Control Officer makes contact with the owner, the owner will have seventy-two (72) hours to arrange for the appropriate disposition of the animal. After the seventy-two (72) hour period expires, the animal shall become the property of the county and shall be disposed of as provided in this Chapter.

Sec. 3-22. Spaying or neutering as condition for adoption of dogs and cats; violations.

(a) No dog or cat may be adopted from the animal shelter unless the animal has been surgically spayed or neutered, or the adopting owner agrees to do have the animal surgically spayed or neutered in accordance with any time limit imposed by the Animal Control Director.

(b) The Animal Control Director shall implement procedures to enforce this section.

(c) The failure of any person adopting an impounded animal to comply with this section shall constitute a violation of this section and shall constitute the forfeiture of the animal to the Animal Control Department.

Sec. 3-23. Keeping of animals; mistreatment, abandonment prohibited; care; restraining of dogs; exercise area for dogs.

(a) All dogs, cats and other small animals kept as house pets shall be housed, fed and protected from the weather in such a manner as not to create a nuisance.

(b) No person shall willfully or negligently:

- (1) Torture, cruelly beat, injure, maim, mutilate or without good cause destroy or kill any animal, whether wild or tame, belonging to himself or to another;
- (2) Deprive any animal of food, drink or shelter; or
- (3) Cause any other person to do any of the above acts.

(c) If an animal is found by any Animal Control Officer to be in one of the above described

conditions in subsection 3-23(a) or (b), the officer shall take appropriate measures, including civil or criminal enforcement, to protect the welfare of the animal. If the Animal Control Officer determines that a confined animal's life is in immediate danger or the animal has been abandoned, the Animal Control Officer shall seize such animal if such seizure is not prohibited by applicable law and shall report the conditions to an appropriate law enforcement agency if seizure is not permitted. The Animal Control Officer shall leave a notice for the owner or keeper advising why the animal has been taken.

(d) No dog, cat or other small animal shall be confined within or on a motor vehicle under such conditions as may endanger the health or well-being of the animal, including, but not limited to, dangerous temperature or lack of adequate food or water.

(e) No person shall abandon or cause to be abandoned any dog, cat or any other type of animal.

(f) Owners and keepers of dogs, cats and other small animals shall provide food, shelter and medical attention to such animals, including but not limited to the following:

- (1) Sufficient wholesome food that is nutritious for the species;
- (2) Fresh, potable drinking water;
- (3) Medical attention to relieve such animals from suffering;
- (4) Shade from the sun; and
- (5) Shelter to allow the animal to remain dry and protected from the elements. Such shelter shall be fully enclosed on three (3) sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the animal's entry and exit, and sturdy enough to block entry of wind or rain. The shelter shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair.

(g) It shall be unlawful to tether a dog except in accordance with this subsection.

(1) No dog shall be tethered outdoors unless the keeper or owner of the dog is holding the tether.

(2) It shall be an affirmative defense to a violation of this subsection that the tethering is required to protect the safety or welfare of a person or the dog, provided that the keeper or owner of the dog acquires a permit from the Animal Control Director for the temporary tethering of a dog while acquiring kennels or fencing.

(3) The provisions of this subsection (g) shall not apply to a temporary tether:

- (a) During a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity; or
- (b) To a keeper or owner walking a dog with a hand-held leash, or during lawful hunting activities if reasonably necessary for the safety of the dog, or while a dog is actively engaged in shepherding or herding livestock; or
- (c) When meeting the requirements of a camping or recreation facility; or
- (d) When the animal's caretaker is outside and within eyesight of the animal; or

- (e) After taking possession of a dog that appears to be a stray dog and after having advised the Animal Control Department of the stray.
- (4) The provisions of subsections (g)(2) and (3) above shall apply only if:
 - (a) The tether is not placed directly round the dog's neck and is attached to a properly fitting collar or harness of nylon or leather worn by the dog; and
 - (b) The weight of the tether does not exceed more than one-tenth of the dog's body weight; and
 - (c) The tether is unlikely to become tangled or twisted; and
 - (d) The tether is arranged to be free of any obstacles which may limit the moveable length of the tether; and
 - (e) The dog is tethered in a manner that permits access to necessary shelter and water.
- (5) Any dog that remains tethered in violation of this subsection for more than fourteen (14) days after the owner receives a notice of violation may be seized by an Animal Control Officer or law enforcement officer and impounded at the Department's shelter. If the dog's owner does not show that an adequate confinement enclosure complying with the requirements of this ordinance has been installed on the owner's property within 72 hours of the impoundment, exclusive of Sundays and county government holidays, the dog shall be deemed to have been forfeited to the county and shall be disposed of in accordance with the Department's policy.

(h) Any dog confined within a fenced yard or run must have an adequate space for exercise. Provided, however, that where dogs are kept or housed on property without a fenced yard and such dogs are kept in an enclosure or run, such enclosure or run shall provide adequate space for exercise. Such an enclosure or run shall be constructed of chain link or similar type of materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from such enclosure. The top of such enclosure shall be sufficiently covered to provide the dog with adequate shade and protection from the elements.

Sec. 3-24. Dead animal pickup; relinquishing animals to the shelter.

- (a) Dead animals may be picked up from residences by waste/ sanitation haulers as provided by the Cumberland County Solid Waste Department's policies as in effect from time to time.
- (b) Owners may relinquish their animals to the Department's shelter provided the owner signs an impoundment card releasing possession of the animal to the shelter. Once the animal is released to the shelter, the animal shall become the property of the county and may be adopted or humanely disposed of in accordance with the Department's policies.

Sec. 3-25. Apprehension of wild dogs.

If the Animal Control Director shall determine that:

- (1) A dog or dogs are running wild in any area within the jurisdiction of this ordinance; such dogs are feral and do not have an owner, keeper or custodian; such dogs appear not to have been vaccinated for rabies because such dogs are not wearing current and valid

rabies tags; such dogs are substantially interfering with the use and enjoyment of property or the conduct of business, or are harassing or threatening persons; and that such dogs cannot after extraordinary effort be apprehended; or

- (2) an animal or animals are running wild and appear to be rabid or terminally diseased, present an imminent threat to any person or to livestock or domestic pets, or are harassing and threatening persons, and cannot be apprehended without extraordinary effort;

then the Director shall be authorized to cause deadly force to be used to humanely euthanize said dogs or wild animals. Prior to making such a determination, in the case of wild dogs, the Director shall have documented that persistent and repeated efforts to apprehend such dogs through use of traps, baited food, and tranquilizer darts have been ineffective. After making such a determination, the Animal Control Director may:

- (1) Authorize any Animal Control Officer that has, in the discretion of the Animal Control Director, received appropriate training and certification in firearms to use deadly force; or
- (2) Request assistance from the Sheriff or from appropriate municipal police authorities in order that the application of deadly force shall be effected by a sworn law enforcement officer that has a marksman rating and/or qualification; or
- (3) Seek the services of any private business, corporation, organization or other governmental organization or agency as may be approved by the County Manager for the application of deadly force.

If such deadly force is proposed to be effected, the Animal Control Director shall take every precaution to assure the safety of persons and property in the area within which the dogs or animals are running wild.

Sec. 3-26. Regulation of the number of dogs which may be kept on certain premises.

(a) No more than three (3) dogs more than five (5) months of age shall be owned, possessed, kept, harbored, or maintained at any premises located in any area with a zoning classification for single-family, residential lots of 20,000 square feet or less (R20 or less).

(b) No more than two (2) dogs more than five (5) months of age shall be owned, possessed, kept, harbored, or maintained at any premises located in any area with a zoning classification for multifamily residential housing.

(c) In any area in which the applicable zoning regulations are more restrictive as to the keeping of dogs than the requirements of this section, the zoning regulations shall control.

(d) This section shall not be construed to limit the right of any landlord to impose more restrictive limits on the number of pets which may be possessed at any leased premises.

(e) All dogs which have been listed with the Cumberland County Tax Administrator for an annual Cumberland County privilege license for the calendar year 2012 by the date this revised Chapter becomes effective shall be exempt from this section.

Sec. 3-27 through Sec. 3-29. Reserved.

ARTICLE III. DANGEROUS DOGS

Sec. 3-30. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

“Attack by a dog” means any behavior or action by a dog which could reasonably be expected to cause physical injury to a person or domestic animal, to include biting, felling or toppling, tearing of clothing, or provoking flight to escape attack.

“Bite by a dog” means any seizing, gripping or grasping, no matter how slight or momentary by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

“Dangerous dog” means any of the following dogs:

- (1) A dog that without provocation has killed or inflicted severe injury on a person; or
- (2) A dog that has been determined as provided herein to be potentially dangerous; or
- (3) A dog that is owned or harbored primarily, or in part, for the purpose of dog fighting or a dog trained for dog fighting.

“Dog” means a domesticated animal (*canis familiaris*) of the Canidae family; provided that no wild specie of the Canidae family, such as a wolf, fox or coyote, shall be considered a domesticated animal, even though raised by humans in domestic surroundings.

“Guard dog” means a dog trained by a skilled trainer to recognized security industry or other reasonable standards and presently used under the control of trained handlers to protect persons and property.

“Law enforcement dog” means a dog, trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.

“Lawful hunt” means a hunt for lawful game conducted on private or public property with the consent of the owner or custodian of the property by a person with a valid license (if required) during the lawful season for the game concerned using dogs customarily employed and suitable for such game.

“Owner of a dog” or “owning a dog” means any person or legal entity that has a possessory property right in a dog, including the harbinger or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner.

“Owner or keeper's real property” means any real property owned or leased by the owner or keeper of the dog, not including any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

“Potentially dangerous dog” means a dog that had been determined, as provided herein, to have:

- (1) Inflicted a bite on a person that required medical care more than first aid,
- (2) Killed or inflicted injury upon a domestic animal when not on the real property of the owner of the dog; or

- (3) Attacked a person or approached a person in an area of the keeper's property open and accessible to invitees, or when not on the owner's property, in a vicious or terrorizing manner in an apparent attitude of attack.

"Severe injury" means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

"Territorial jurisdiction of Cumberland County" means all territory within the boundaries of the County of Cumberland, North Carolina, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this Chapter in its jurisdiction.

Sec. 3-31. Application of ordinance; exceptions.

The provisions of this Article do not apply to:

- (1) A law enforcement dog or guard dog being used by a law enforcement officer or a bona fide professional security guard while in the performance of official duties or professional responsibilities;
- (2) A dog being used in a lawful hunt;
- (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under control of its owner, and the damage or injury was to a species or a type domestic animal appropriate to the work of the dog; or
- (4) A dog where the injury inflicted by the dog was sustained by a person who at the time of the injury, was tormenting, abusing, or cruelly treating the dog, or had tormented, abused, or cruelly treated the dog, or was committing or attempting to commit a crime.

Sec. 3-32. Reporting requirements.

(a) Reporting required. An owner of a dog that has attacked or bitten a person or domestic animal, a victim of an attack or biting by a dog, the owner of any domestic animal that has been attacked or bitten by a dog, any person witnessing such an attack or biting, a veterinarian treating a domestic animal for such an attack or biting, or a health care professional treating a person for such an attack or biting, shall report the following events to the Animal Control Department within three (3) business days after the event has occurred:

- (1) Any attack or biting by a dog upon any person or domestic animal; or
- (2) The transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the county, or its death.

(b) Report data required. The data required in the report and the format thereof shall be as set forth in administrative procedures established by the Animal Control Director.

Sec. 3-33. Determination that a dog is potentially dangerous; appeals.

(a) Generally. Upon receipt of a report submitted in accordance with subsection 3-32, or upon the receipt of any other complaint, or when he has reasonable suspicion that a dog is potentially

dangerous, the Director or his designee shall make a determination whether or not such dog is a potentially dangerous dog. Any determination that a dog is potentially dangerous shall be made in a writing stating the facts relied upon by the Director to make his determination. The written declaration shall be personally delivered to the owner of the subject dog or shall be mailed by certified mail, return receipt requested, to the owner. If the determination is made that the subject dog is potentially dangerous, the written determination shall order compliance with the appropriate provisions of this Article and the Director may impose reasonable conditions to maintain the public health and safety. The Director may pursue such other civil or criminal penalties and remedies as authorized by this Chapter or state law.

(b) If, at any time after the receipt of any report or complaint made pursuant to section 3-32, the Director determines that the conditions under which the subject dog is being kept or confined do not adequately protect the public health or safety, the Director shall require that the subject dog be impounded at the Department's shelter until completion of the investigation and any appeal of the decision of the Director.

(c) Appeals from determinations.

(1) The owner of any dog determined by the Director to be potentially dangerous may appeal the decision of the Director to the Appeal Board within three (3) business days of receiving notice of the determination. Appeal to the Appeal Board may be taken by filing written objections to the Director's determination with the Clerk for the Appeal Board.

(2) The Appeal Board shall schedule and hear such appeal within ten (10) days of the filing of the written objections or at such later time as the appellant consents.

(3) The vote of the Appeal Board shall be taken, and the announcement of its decision shall be made, in an open public meeting. A written statement of the decision of the Appeal Board shall be delivered to the Director and the appellant. The notice shall be sent by certified mail, return receipt requested, and filed concurrently with the Director and the Cumberland County Attorney.

(d) An appeal hearing before the Appeal Board shall be conducted as follows:

(1) The hearing shall be subject to the Open Meetings Law, and the required notice shall be posted and given as applicable;

(2) The Chairperson of the Appeal Board shall preside at the hearing;

(3) The Director shall be represented by the County Attorney;

(4) The County Attorney shall present the Director's case;

(5) The appellant may be represented by an attorney;

(6) The Director and the appellant may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;

(7) The Chairperson of the Appeal Board shall rule on the admissibility of any evidence and on any procedural issues that might arise;

(8) The Director and the appellant shall be entitled to cross-examine any witnesses;

- (9) The hearing shall be quasi-judicial in nature and all testimony shall be under oath;
- (10) The appellant shall be entitled to obtain a transcript of the proceeding at his own cost;
- (11) the Appeal Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.

(e) The purpose of the hearing before the Appeal Board shall be to determine whether or not the determination of the Director is in the best interests of the public health, safety and welfare.

(f) The function of the Appeal Board shall be to affirm, reverse, or modify the determination of the Director which has been appealed. Any conditions imposed by the Appeal Board shall be reasonable, relevant to the issues in the matter, and have the effect of promoting the public health, safety and welfare.

(g) The hearing shall be administrative in nature and the decision of the Appeal Board shall be final

Sec. 3-34. Registration required.

(a) Generally. Any person owning a dangerous dog as defined by this Chapter or Chapter 67 of the General Statutes, shall register such dog with the Animal Control Department within five (5) days of such event which established the dog to be dangerous or may, in lieu of any hearing, register such dog voluntarily, which shall constitute an admission and final determination that the dog is dangerous.

(b) Permanent identification mark required. Each dog registered pursuant to this section shall be assigned a registration number by the Animal Control Department, which shall be affixed to the dog by permanent chip implant, at the expense of its owner. No person shall remove such identification once it is assigned and affixed.

Sec. 3-35. Permit required.

(a) Generally. After registration of a dangerous dog or after a final determination that such dog is potentially dangerous in accordance with this Chapter or Chapter 67 of the General Statutes, no person shall own such dog thereafter within the territorial jurisdiction of this Chapter without applying for and obtaining a permit from the Animal Control Department.

(b) Issuance of permit. The Animal Control Department shall issue a permit for a dangerous dog only upon submission of a complete, verified application, payment of the permit fee and a finding by the Director or his designee that:

- (1) The required conditions for keeping and housing the dog and other public health and safety protective measures are in effect, and
- (2) The dog for which a permit is issued does not pose an unreasonable threat to the public health, safety and general welfare if the owner shall comply with the provisions of this Article and the conditions of the permit.

(c) Issuance of a permit shall be conditioned on continued compliance with the provisions of this Article and other provisions of state law, on continued compliance with and maintenance of the conditions for housing the dog and public safety set forth in the permit, and any special conditions the Director may deem reasonably necessary to protect the public health, safety and welfare in view of the

particular circumstances and history of the dog for which the permit is issued.

(d) Temporary permits. Following the registration of a dangerous dog or the impoundment of a dog declared to be potentially dangerous, upon application therefore and for good cause, the Director may issue a temporary permit allowing the owner of a registered dangerous dog or a dog declared to be potentially dangerous to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Director. The Director may also issue a temporary permit to allow the transport of a dangerous or potentially dangerous dog from the territorial jurisdiction of this Chapter. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Director may deem necessary to protect the public health, safety and welfare consistent with the provisions of this Article. A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of this section.

(e) Term of permits and renewal thereof. No permit shall be issued under this section for a term of more than three (3) years but may, in the Director's discretion, be issued for a shorter period. Permits must be renewed, subject to the same terms and conditions required for initial permits.

(f) Revocation of permits. The Director may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If the Director deems it necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) days. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this Article or with any term, condition or provision of a permit.

(g) Inspections. The Director shall cause periodic inspections to be made of the premises of the owner of a permitted dangerous or potentially dangerous dog to assure compliance with the provisions of this Article and the applicable permit.

(h) Insurance. Every person owning a dangerous dog, as determined in accordance with this Article or Chapter 67 of the General Statutes, shall purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. Minimum policy limits shall be Fifty Thousand Dollars (\$50,000.00) for personal injury or property damage, per occurrence. Such owner shall cause a certificate or declaration of insurance to be furnished to the Director annually. Every day that the required insurance is not in full force and effect shall constitute a violation of this Article.

Sec. 3-36. Regulation of dangerous dogs; security and restraint requirements.

No person shall own a dangerous dog except in compliance with all provisions of this Article, including the following regulations:

- (1) While on the real property of its owner, such dog shall be kept, secured and restrained as follows:
 - (a) In a building with doors, windows and other exits securely fastened shut and under the supervision and control of a responsible, capable adult person; or
 - (b) Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children; or
 - (c) While outside a building or enclosure described above, securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a

muzzling device sufficient to prevent such dog from biting persons or other animals.

- (2) Such dog shall only be removed from the real property of its owner as follows:
 - (a) For transportation to and from a veterinarian or the Department's shelter; or
 - (b) For its permanent removal from the territorial jurisdiction of this Chapter; or
 - (c) To provide bona fide exercise necessary for its continued good health.
- (3) While off its owner's real property such dog shall be securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- (4) Notwithstanding the foregoing, no person shall own a dangerous dog that has killed a person, except in the care and custody of a veterinarian for the purposes of treatment or quarantine; or in the custody of the Department's shelter pending disposition in accordance with the provisions of this Chapter, the Department's policies, or the order of any court.
- (5) Signage. The owner of a dangerous dog shall erect a sign with dimensions of at least 2' x 2' on the enclosure housing such dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!

Sec. 3-37. Impoundment of dangerous dogs.

(a) Apprehension and surrender. Upon an initial determination of a dog as potentially dangerous or upon registration of a dog to be dangerous, or if the Director has reasonable suspicion to believe that a dangerous, or potentially dangerous dog is being kept or harbored within the territorial jurisdiction of this Chapter in violation of it or of a permit issued hereunder, Animal Control Officers and law enforcement officers of Cumberland County and of any municipality subject to this Chapter shall impound such dog. It shall be a violation of this Article to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the Department's shelter.

(b) Surrender. Hiding, removing or failing to surrender a dangerous or potentially dangerous dog, or impeding any investigation concerning the same shall be a violation of this Article.

(c) Confinement. A dog impounded by or surrendered to an Animal Control Officer or law enforcement officer as provided herein shall be confined in the Department's shelter or, upon request of the owner hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the Director, subject to the following conditions:

- (1) Costs of impoundment. Impoundment shall be at the expense of the owner of the dog. Costs of impoundment at the Department's shelter shall be paid by the person liable therefore at the daily rate. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefore pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall

Cumberland County or any municipality subject to this Chapter be liable for or pay for impoundment at such private facility or kennel.

- (2) Release from impoundment. No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance of a permit or temporary permit allowing such release. No such dog shall be released from the Department's shelter until costs of confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.
- (3) Disposition of unclaimed or abandoned dogs. The following dogs impounded at the Department's shelter pursuant to this Article shall be deemed abandoned and shall be disposed of in accordance with the provisions of this Chapter and the rules and regulations of the Department:
 - (a) Any dog which remains unclaimed by its owner for a period more than ten (10) days or a period of lawful quarantine, whichever is longer; and
 - (b) Any dog claimed by its owner which is confined for a period in excess of ten (10) days, or a period of lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the Director shall extend such time upon a showing of justifiable delay in such action by the owner.

Sec. 3-38. Violations, penalties and other remedies.

- (a) Violations. Each act or conduct prohibited by this Article and each failure to comply with a mandatory provision hereby and each day's continuing failure to comply shall constitute a separate and distinct offense.
- (b) State law violations.
 - (1) Nothing in this Chapter shall be constructed to prevent an Animal Control Officer or any other person from pursuing remedies under Chapter 67, Article 1A, of the North Carolina General Statutes.
 - (2) The Director or his designee is designated as the person responsible for making the determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making such determinations, the Director or his designee shall follow the procedure set forth in this Article.
 - (3) The Dangerous Dog Appeal Board is designated as the appellate board to hear appeals of determinations made pursuant to N.C.G.S., Section 67-4.1(c).

Sec. 3-39. Administrative provisions.

- (a) Responsibility. The Director shall administer and enforce this Article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.
- (b) Authority to enter upon premises. Animal Control Officers shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the

curtilage thereof, or any yard or other enclosure to:

- (1) Conduct any investigation of a dog alleged or suspected of being potentially dangerous or dangerous, or
 - (2) Apprehend a dog determined to be potentially dangerous or dangerous or as to which there is reasonable suspicion to believe is potentially dangerous or dangerous, or
 - (3) Investigate any violation of this Article, or
 - (4) Serve a citation upon a person for violation of this Article.
- (c) Notwithstanding the foregoing, an Animal Control Officer shall only make such entry upon consent, pursuant to an administrative search warrant under G.S. 15-27.2, or otherwise as authorized by law.
- (d) Authority to immobilize or kill a dangerous or potentially dangerous dog.
- (1) If in the course of investigating, apprehending or otherwise taking custody of a potentially dangerous or dangerous dog, or a dog as to which there is reasonable suspicion to believe is potentially dangerous or dangerous, such dog is not securely restrained and an Animal Control Officer or a law enforcement officer has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, said officer shall have authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then the officer may humanely dispose of said dog.
 - (2) If a potentially dangerous or dangerous dog impounded in the Department's shelter cannot be cared for or handled without risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Department shall render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then the Department may humanely dispose of said dog.
 - (3) The Animal Control Department may humanely dispose of any dog being investigated under the provisions of this Article at the request of or with the consent of its owner.

ARTICLE IV. RABIES CONTROL AND ANIMAL BITES

Sec. 3-40. Rabies control.

- (a) Enforcement authority. The Animal Control Director and the Cumberland County Health Director are authorized to enforce the rabies control provisions in Part 6 of Chapter 130A of the North Carolina General Statutes and are further authorized to implement any reasonable administrative procedures necessary to enforce this state law locally.
- (b) Impoundment term. The impoundment period for animals held pursuant to this section shall be seventy-two (72) hours, excluding Sundays and legal holidays.
- (c) Compliance with rabies law. It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(d) Provisions supplementary to state law. It is the purpose of this section to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by the state law.

(e) Vaccination required. It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog, cat or ferret four (4) months of age or older. Should the County Health Director deem it necessary that other pets be vaccinated in order to prevent a threatened rabies epidemic or control an existing rabies epidemic, it shall be unlawful for an owner or keeper to fail to provide vaccination for that pet.

(f) Vaccination schedule. A rabies vaccination shall be deemed current for a dog, cat or ferret if the first two (2) doses of vaccine are administered twelve (12) months apart and each subsequent booster dose of vaccine is administered according to the manufacturer's recommended schedule.

(g) Persons to administer; issuance of a certificate. All rabies vaccines shall be administered by a licensed veterinarian, a registered veterinary technician under the direct supervision of a licensed veterinarian, or a certified rabies vaccinator. A person who administers a rabies vaccine shall complete a rabies vaccination certificate in such form as is approved by the Animal Control Director pursuant to the regulations of the Commission for Public Health. An original rabies vaccination certificate shall be given to the owner of the animal that receives the rabies vaccine. A copy of the rabies vaccination certificate shall be retained by the licensed veterinarian or the certified rabies vaccinator. A copy shall also be given to the Animal Control Director.

(h) Owner or keeper to be issued rabies tag. Upon vaccination pursuant to this section, the owner or keeper of the dog, cat or ferret that has been vaccinated shall be issued a rabies tag stamped with a number and the yard for which issued and a rabies vaccination certificate.

(i) Unlawful for dog, cat or ferret not to wear rabies tag. It shall be unlawful for any dog, cat or ferret owner or keeper to fail to provide the dog, cat or ferret with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with the attached tag, must be worn at all times the animal is off its owner's property.

(j) Untagged dog, cat or ferret subject to impoundment. In addition to all other penalties prescribed by law, a dog, cat or ferret may immediately be impounded in accordance with the provisions of this section if it is found off its owner's or keeper's property not wearing a currently valid rabies tag.

(k) Unlawful to switch rabies tag. It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one assigned the tag.

(l) Dogs, cats or ferrets brought into County. All dogs, cats or ferrets shipped or otherwise brought into the territorial jurisdiction of this Chapter, except for exhibition purposes where the dogs, cats or ferrets are confined and not permitted to run at large, shall be securely confined and vaccinated within one (1) week after entry, and shall remain confined for two (2) additional weeks after vaccination, unless accompanied by a certificate issued by a licensed veterinarian showing the dog, cat or ferret is apparently free from rabies and has not been exposed to rabies and that the dog or cat has received a proper dose of rabies vaccine not more than six (6) months prior to the date of issuing the certificate.

(m) Animals exposed to rabies.

(1) If the Animal Control Director determines that an animal has not been vaccinated against rabies at least twenty-eight (28) days prior to being exposed to rabies from a suspected rabid animal, the animal shall be immediately euthanized unless the owner or keeper

agrees to strict isolation of the animal at a veterinary hospital for a period of six (6) months at the owner's or keeper's expense.

- (2) If the Animal Control Director determines that an animal with a current rabies vaccination has been exposed to rabies from a suspected rabid animal, it shall be revaccinated and returned to the owner or keeper who shall be responsible for the cost of the rabies vaccination.

(n) Health Director may declare quarantine. When reports indicate a positive diagnosis of rabies, to the extent that the lives of persons are endangered, the County Health Director may declare a county-wide quarantine for such period of time as he deems necessary. Once such emergency quarantine is declared, no dog, cat or ferret may be taken or shipped from the county without written permission of the County Health Director. During such quarantine, the County Health Director, the Animal Control Director, law enforcement officers, or other persons duly authorized by the County Health Director or Animal Control Director may seize and impound any dog, cat or ferret running at large in the county. During the quarantine period the County Health Director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county. If additional confirmed cases of rabies occur during the quarantine period, the County Health Director in his discretion may extend the quarantine period.

(o) Carcass to be surrendered to Health Department. The carcass of any animal suspected of dying of rabies, or dying while under observation for rabies, shall be submitted to the County Health Department for the implementation of appropriate diagnostic procedures

(p) Unlawful to kill or release animal under observation. It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal under observation for biting a human, or to remove such animal from the county without written permission from the County Health Director, provided that a licensed veterinarian or the County Health Director or other person duly authorized by the County Health Director, may authorize any animal to be killed for rabies diagnosis.

(q) Unlawful to fail to surrender animal. It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this Article, when demand is made therefore by the County Health Director, the Animal Control Director or any law enforcement officer.

(r) Unlawful to fail to provide proof of vaccination. It shall be unlawful for any person to fail or refuse to provide proof of rabies vaccination for any animal that they own or control when request is made therefore by the Animal Control Director or his designee, the County Health Director or his designee, or any sworn law enforcement officer.

(s) Animals subject to impoundment. Any animal which appears to be lost, stray, unwanted, not wearing a currently valid tax tag or a currently valid rabies vaccination tag as required by state law or this section, or not under restraint in violation of this Chapter, may be seized, impounded and confined in a humane manner in the Department's shelter. Any dog or cat that has bitten or scratched a human must be quarantined for ten (10) days, either at the home of its owner or keeper, if an Animal Control Officer determines that the public health and safety shall be reasonably maintained by such quarantine, or otherwise in the Department's shelter or in a veterinary hospital at such owner's or keeper's expense. If such dog, cat or ferret is quarantined at the home of its owner or keeper and escapes, any Animal Control Officer shall impound such dog, cat or ferret at the Department's shelter for ten (10) days.

(t) Owner liable. Impoundment of such animal shall not relieve the owner/keeper thereof from any penalty which may be imposed for violation of this section.

(u) The County Health Director shall direct the disposition of any animal found to be infected with rabies.

Sec. 3-41. Reports of bite cases; report by veterinarian.

(a) Every physician, veterinarian or health care provider shall report to the Animal Control Director the names and addresses of persons treated for bites and scratches inflicted by animals that break the skin, together with such other information as will be helpful in rabies control.

(b) Every licensed veterinarian shall report to the Animal Control Director his diagnosis of any animal observed by him to be a suspect rabid animal.

Sec. 3-42. Records.

The Animal Control Director shall keep or cause to be kept:

- (1) an accurate and detailed record of the licensing, impounding and disposition of all live animals, fowl and domestic birds coming into his custody and any dead dogs or cats picked up that possess rabies tags or county license; and
- (2) an accurate and detailed record of all bite cases reported to him, with a complete report of the investigation or disposition of each case.

Sec. 3-43 Interference.

No person shall interfere with, hinder, delay or obstruct any Animal Control Officer or authorized representative of the county in the performance of any duty under this Article or seek to release any animal in the custody of the Animal Control Department or its shelter impounded pursuant to this Article, except as provided by law.

Sec. 3-44 through Sec. 3-49. Reserved.

ARTICLE V. LICENSING OF DOGS AND CATS, EFFECTIVE THROUGH DECEMBER 31, 2012

Sec. 3-50. License for dogs and cats.

It shall be unlawful for any person to own, possess or have under his control any dogs or cats, or any combination thereof, over four (4) months of age, without obtaining an annual privilege license for each such animal from the Cumberland County Tax Administrator. Every person owning, possessing or having under their control any dog or cat shall properly list such dog or cat annually with the Cumberland County Tax Administrator during the month of January to obtain a county license. Failure to list as provided herein shall be a violation of this Article and shall subject the offender to a civil penalty in the amount of \$100.00 per dog or cat not listed annually as provided herein. Each privilege license issued shall be for a calendar year. The Tax Administrator may delegate authority to issue such licenses to the Animal Control Department or to licensed veterinarians within the County duly registered for such purpose with the Tax Administrator upon such terms and conditions, including payment of a processing fee, as he deems advisable.

Sec. 3-51. Terms of license; exemption.

- (a) The license issued under this Article shall be renewed every year, upon proof of rabies

vaccination.

(b) County residents who are sixty-five (65) years of age or older may obtain a permanent license for up to three cats or dogs, or any combination thereof, at no cost; provided that this permanent license shall be limited to no more than three animals per household. County residents may obtain a permanent license at no cost for a bona fide seeing-eye or aid dog.

Sec. 3-52. Issuance of records.

(a) Upon issuance of a license, a tag shall be issued for each dog and cat so licensed. The tag shall be of durable material and shall be designed to be easily fastened or riveted to the animal's collar or harness. The tag shall bear a number registered with the Tax Administrator or the Animal Control Department.

(b) The Tax Administrator shall maintain records of licensed dogs and cats and such records shall be open to public inspection.

Sec. 3-53. Fastening of tags to collar or harness.

Each person who owns or maintains a dog or cat that is primarily kept, kenneled or otherwise located in the county shall affix to such dog or cat the following identification:

- (1) a durable tag securely affixed to a collar or harness which is securely buckled or otherwise securely joined so that it cannot be removed unless unbuckled; the tag shall contain the name and address of the owner of the dog or cat or a number registered with the Animal Control Department; or
- (2) an implanted computer chip capable of being scanned by a chip reader.

Sec. 3-54. License fee in addition to other fees.

The privilege license fee shall be in addition to any fee in the fee schedule under this Chapter.

Sec. 3-55. Use of revenues collected from license fees.

The revenues collected for the licensing or adoption of dogs and cats shall be specifically expended for physical improvements to the animal shelter or the equipment of the Animal Control Department, for the cost of administration and enforcement of this Chapter, and for costs associated with public education programs and activities.

Sec. 3-56. Transfer of cats and dogs.

(a) When ownership of a dog or cat is transferred within the county's jurisdiction, the new owner will have thirty days to obtain a new privilege license for the animal.

(b) When ownership of a dog which has been declared dangerous or potentially dangerous under Article III of this Chapter is transferred within the county's jurisdiction, the previous owner shall within three (3) business days notify the Animal Control Department and provide the name and address of the new owner. The new owner shall:

- (1) Immediately register the dog with the Animal Control Department; and
- (2) Insure that the requirements of this Chapter for maintaining a dangerous or

potentially dangerous dog are complied with prior to the dog being relocated to the new owner's property.

Sec. 3-57. Non-applicability of Article.

The provisions of this Article shall not apply to cats or dogs in the custody of a veterinarian, or whose owners are non-residents visiting in the county for a period not exceeding thirty (30) consecutive days.

ARTICLE V. LICENSING OF DOGS AND CATS, EFFECTIVE JANUARY 1, 2013

Sec. 3-50. License for dogs and cats.

(a) It shall be unlawful for any person to own, possess or have under his control any dogs or cats, or any combination thereof, over four (4) months of age, without obtaining an annual privilege license for each such animal from the veterinarian administering the rabies vaccination for the animal or the Cumberland County Animal Control Department, as provided in this Article.

(b) The annual privilege license shall be assigned the same number as the rabies vaccination certificate for each animal and shall be registered with the Animal Control Department at the time of each annual rabies vaccination for the animal. The annual privilege license fee shall be paid to the Animal Control Department at the time of each rabies vaccination. For rabies vaccinations of three (3) years duration, the annual privilege license fee shall be due on the annual anniversary date of the vaccination. It shall be the responsibility of the Animal Control Department to notify owners with privilege license fees due in the second and third year of a three (3) year rabies vaccine.

(c) All veterinarians administering rabies vaccinations shall issue the privilege license and collect the privilege license fee at the time of the vaccination and remit the registration and fee to the Cumberland County Animal Control Department with the rabies vaccination certification in accordance with such procedures and using such forms as established by the Animal Control Director from time to time. A participating veterinarian shall retain an administrative fee as established by the Cumberland County Board of Commissioners from time to time.

(d) The Animal Control Director shall be responsible for the administration of the privilege licensing of dogs and cats and for the collection of all privilege license fees not collected and/or remitted by participating veterinarians.

Sec. 3-51. Terms of license; exemption.

(a) The license issued under this Article shall be renewed every year, upon proof of rabies vaccination.

(b) County residents who are sixty-five (65) years of age or older may obtain a permanent license for up to three cats or dogs, or any combination thereof, at no cost; provided that this permanent license shall be limited to no more than three animals per household. County residents may obtain a permanent license at no cost for a bona fide seeing-eye or aid dog.

Sec. 3-52. Issuance of records.

(a) The rabies vaccination tag shall constitute the privilege license tag for all dogs and cats registered for the privilege license and for which the privilege license fee has been paid. The tag shall be of durable material and shall be designed to be easily fastened or riveted to the animal's collar or harness.

The tag number shall be registered with the Animal Control Department.

(b) The Animal Control Department shall maintain records of licensed dogs and cats and such records shall be open to public inspection.

Sec. 3-53. Fastening of tags to collar or harness.

Each person who owns or maintains a dog or cat that is primarily kept, kenneled or otherwise located in the county shall affix to such dog or cat the following identification:

- (1) a durable tag securely affixed to a collar or harness which is securely buckled or otherwise securely joined so that it cannot be removed unless unbuckled; the tag shall contain the name and address of the owner of the dog or cat or a number registered with the Animal Control Department; or
- (2) an implanted computer chip capable of being scanned by a chip reader.

Sec. 3-54. License fee in addition to other fees.

The privilege license fee shall be in an amount established by the Cumberland County Board of Commissioners from time to time and shall be in addition to any fee in the fee schedule adopted pursuant to this Chapter.

Sec. 3-55. Use of revenues collected from license fees.

The revenues collected for the licensing or adoption of dogs and cats shall be specifically expended for physical improvements to the animal shelter or the equipment of the Animal Control Department, for the cost of administration and enforcement of this Chapter, and for costs associated with public education programs and activities.

Sec. 3-56. Transfer of cats and dogs.

(a) When ownership of a dog or cat is transferred within the county's jurisdiction, the new owner will have thirty days to obtain a new privilege license for the animal.

(b) When ownership of a dog which has been declared dangerous or potentially dangerous under Article III of this Chapter is transferred within the county's jurisdiction, the previous owner shall within three (3) business days notify the Animal Control Department and provide the name and address of the new owner. The new owner shall:

- (1) Immediately register the dog with the Animal Control Department; and
- (2) Insure that the requirements of this Chapter for maintaining a dangerous or potentially dangerous dog are complied with prior to the dog being relocated to the new owner's property.

Sec. 3-57. Non-applicability of Article.

The provisions of this Article shall not apply to cats or dogs in the custody of a veterinarian, or whose owners are non-residents visiting in the county for a period not exceeding thirty (30) consecutive days.

Sec. 3-58 - 3-59. Reserved.

ARTICLE VI. INJURED ANIMAL STABILIZATION FUND

Sec. 3-60. Control of injured animals; stabilization fund.

(a) Any Animal Control Officer or law enforcement officer is authorized to take possession of any seriously injured dog, cat, wildlife, livestock, bird or other animal which has suffered a painful and potentially mortal injury and which is found in any location open or accessible to the public, any public or private vehicular right of way, or apparently off the property of its owner. Any such animal which does not have a current rabies tag or identification tag shall be conclusively presumed abandoned for purposes of this Article.

(b) Any Animal Control Officer or law enforcement officer finding any such animal shall make reasonable efforts to locate the owner of any such animal. If the owner is promptly located, the owner shall immediately seek veterinary care of the animal or shall authorize such officer to humanely euthanize such animal. If the owner cannot be promptly located or contacted, the Animal Control Officer or law enforcement officer is authorized, in his or her discretion, to humanely euthanize such animal in an emergency situation where safe, humane transport of the animal is not possible, or promptly transport such animal to a veterinarian participating in the Injured Animal Stabilization Fund for stabilization of such animal's injuries. Every owner of any animal so found shall conclusively be presumed to have irrevocably appointed any such officer, or veterinarian participating in the Injured Animal Stabilization Fund, his or her authorized agent for any purposes under this Article. Every such owner also shall be deemed to have released any officer, or veterinarian participating in the Injured Animal Stabilization Fund, from any cause of action or claim arising out of or related to any action such officer or veterinarian may take under this Article, except for actions which constitute gross negligence.

(c) Each Animal Control Officer or law enforcement officer acting under this Article shall within a reasonable time report to the Animal Control Director the nature and extent of the injuries of each such animal and the disposition thereof. The Animal Control Department shall maintain a record of the nature and extent of each such animal's injuries and of the disposition thereof.

(d) There is hereby established the Cumberland County Injured Animal Stabilization Fund, to which contributions, grants, donations, or restitution may be made for the purpose of reimbursing veterinarians agreeing to participate with the Fund in stabilizing the injuries of injured animals transported to them for stabilization under this Article. The Director may solicit or raise funds for the Fund. The Fund shall be administered by a committee which shall include the Cumberland County Finance Officer or his or her designee and a veterinarian designated by the Cumberland County Animal Control Board. Funds shall be disbursed from the Fund by the Finance Officer under guidelines established by the committee.

(e) Any Animal Control Officer or law enforcement officer, or any veterinarian to which an injured animal may be transported under this Article for stabilization of injuries, shall be deemed to be an authorized agent of and acting on behalf of Cumberland County and its Animal Control Department pursuant to the authority of this Article. Any such officer or veterinarian acting pursuant to this Article shall be entitled to all the defenses, immunities and rights afforded by law or available to Cumberland County and its officers, employees or agents.

(f) If any owner of an animal transported under this section to a veterinarian participating in the Injured Animal Stabilization Fund shall subsequently be identified by the Animal Control Department, he or she shall make restitution to the Fund of the amount disbursed by it to the participating veterinarian.

Sec. 3-61 through Sec. 3-69. Reserved.

ARTICLE VII. MISCELLANEOUS.

Sec. 3-70. Keeping chickens or rabbits - Sanitation requirements.

It shall be unlawful to keep, house or pen chickens or rabbits on premises which fail to meet sanitary standards established by the Cumberland County Board of Health.

Sec. 3-71. Stables to be kept clean.

Every stable or other place where cattle, horses or animals are kept shall be maintained at all times in a clean and healthful condition.

Sec. 3-72. Grazing animals.

It shall be unlawful for any owner or keeper to stake or graze any cow, horse or other animal in any park, cemetery or other public place or near any public sidewalk. This section shall not apply to horses used by any law enforcement agency for mounted patrol.

Sec. 3-73. Disposition of dead animals.

The owner of any animal dying from any cause within the jurisdiction of the county shall cause the same to promptly be buried in a sanitary manner within 24 hours after such owner has knowledge of such death.

Sec. 3-74. Selling live animals in public rights of way and other public property prohibited.

It is unlawful to sell, auction, trade, barter, and display for commercial purposes or give away any live animal within the right of way of any public highway, public vehicular area, public sidewalk, public property or street within Cumberland County. The Animal Control Department may immediately take custody of and impound any live animals found being sold in violation of this section. This section shall not apply to any animal welfare organization or humane society qualified under Section 501(c)(3) of the Internal Revenue Code acting pursuant to a permit issued by the Animal Control Director, which permit may be conditioned on reasonable conditions to assure the health, welfare and safety of the animals being sold, auctioned, traded, bartered, displayed or given away.

Sec. 3-75 Provisions only applicable within the corporate limits of any municipality in which this ordinance is applied.

(a) No hogs, pigs, swine, or animals of the porcine family shall be kept within the corporate limits of any municipality in which this ordinance is applied.

(b) No horse, mule, pony, cow, or goat shall be stabled or housed within one hundred (100) feet of any dwelling house, school, church, or eating establishment within the corporate limits of any municipality in which this ordinance is applied.

(c) No more than ten (10) chickens or rabbits shall be kept, housed, or penned at a dwelling or on the lot on which such dwelling is located within the corporate limits of any municipality in which this ordinance is applied.

(e) No cow, horse, or other animal shall be tethered or permitted to graze or stand within thirty (30) feet of any wall, or within fifty (50) feet of the front door, of any residence within the corporate limits of any municipality in which this ordinance is applied. This subsection shall not apply to

horses used by any law enforcement agency for mounted patrol.

(f) For the purpose of Sec. 3-15 of this ordinance, "nuisance" also includes the habitual accumulation of animal feces on the owner's property in locations or amounts that produce odors that can be perceived from adjoining properties, within the corporate limits of any municipality in which this ordinance is applied.

(g) For the purpose of Sec. 3-36(5) of this ordinance, the owner of a dangerous dog shall erect a sign with the dimensions provided in that section, unless municipal sign regulations provide more stringent requirements for such warning signs in terms of size, height, and placement, within the corporate limits of any municipality in which this ordinance is applied.

(h) For the purpose of Sec. 3-70 of this ordinance, it shall be unlawful to keep, house, or pen chickens or rabbits on premises which fail to meet sanitary standards established by the Cumberland County Board of Health or the code enforcement department of any municipality within the corporate limits in which this ordinance is applied.

Sec. 3-76 through Sec. 3-79. Reserved.

ARTICLE VIII. ENFORCEMENT.

Sec. 3-80. Enforcement, generally.

(a) The primary responsibility for the enforcement of this Chapter shall be vested in the Animal Control Department.

(b) Any person authorized to enforce this Chapter may do so by issuing a notice of violation or civil penalty citation, or by applying to the General Court of Justice for a temporary restraining order, a preliminary injunction, a permanent injunction or an order to abate a nuisance, as may be appropriate in the circumstances.

(c) Upon information made known to or complaint lodged with the Animal Control Department that any owner, possessor, or custodian of any dog or animal is in violation of this Chapter, an Animal Control Officer may investigate the complaint to determine whether to issue a notice of violation (civil citation) requiring the owner, possessor or custodian of the dog or animal to pay the stated civil penalty and abate the nuisance specified or whether to take such other enforcement action as may be authorized under this Chapter.

(d) If the owner, possessor or custodian of any dog or animal is not known and the dog or animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or another's property without that property owner's permission, in violation of this Chapter, the dog or animal shall be impounded in the animal shelter.

(e) Any decision of the Animal Control Director or his designee to seize or impound any animal, other than a decision made pursuant to the provisions of Article III, may be appealed to the Animal Control Board for review and final decision upon the owner or keeper of such seized or impounded animal giving written notice of appeal within three business days of receiving notice of the Director's decision. The Animal Control Board shall afford the opportunity for a hearing to any person giving notice of appeal and shall conduct the hearing for the purpose of either affirming, reversing, or modifying the decision of the Director.

Sec. 3-81. Penalties for violations.

(a) Any violation of this Chapter shall subject the offender to a civil penalty to be recovered by the Animal Control Department in a civil action in the nature of a debt, to include the cost of abating a public nuisance. Any costs of abatement and civil penalties shall be paid within seven days of issuance of a notice of violation. Each day's continuing violation shall be a separate and distinct offense.

(b) A notice of violation shall specify the nature of the violation and the sections of this Chapter violated, and further notify the offender that the civil penalty specified therein shall be paid to the Animal Control Director at the animal shelter within seven days.

(c) Unless otherwise provided in this Chapter, the civil penalty for a violation of this Chapter, shall be \$100 for a first violation or for a violation more than 12 months after a previous violation. For subsequent violations within twelve (12) months of a previous violation, the penalty shall be \$200 for a second violation and \$300 for a third or subsequent violation within a twelve-month period of the first violation.

(d) In addition to the civil penalties prescribed in this section, any violation of this Chapter, also designated as Chapter 3 of the Cumberland County Code, shall also constitute a Class 3 misdemeanor punishable by a fine of not more than \$100 and imprisonment of not more than 20 days.

Sec. 3-82. Severability.

(a) If any section, sentence, clause or phase of this Chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter.

(b) The Board of Commissioners intends, and it hereby ordains, that the provisions of this ordinance shall become and be made part of the Code of Ordinances of Cumberland County, North Carolina, and the sections may be renumbered to accomplish such intention.

(c) This ordinance shall become effective upon final adoption as by law provided.

Ordinance adopted at the regular meeting of the Board of Commissioners held
_____, 2012.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE
REPEALING CHAPTER 6, ANIMALS AND FOWL, AND VARIOUS SECTIONS OF
CHAPTER 17, OFFENSES AND MISCELLANEOUS PROVISIONS, AND CHAPTER 18,
PARKS AND RECREATION, OF THE CODE OF ORDINANCES OF THE CITY OF
FAYETTEVILLE, NORTH CAROLINA**

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Chapter 6, animals and fowl, is repealed in its entirety.

Section 2. Section 17-15, barking dogs, is repealed in its entirety.

Section 3. Section 18-9, animals running at large, is repealed in its entirety.

Section 4. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

ADOPTED this 29th day of May, 2012.

CITY OF FAYETTEVILLE

ANTHONY G. CHAVONNE, Mayor

ATTEST:

PAMELA MEGILL, City Clerk

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P11-70F Rezoning from SF-6 Single Family Residential and CC Community Commercial District to HI Heavy Industrial Conditional District, or a more restrictive district, on property located at 1326 Sapona Road. Containing 14.8 acres more or less and being the property of Thomas Cooper, Jr**

THE QUESTION:

Does the proposed zoning to Heavy Industrial with conditions fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development

BACKGROUND:

Owner: Thomas Cooper, Jr
Applicant: Thomas Cooper, Jr
Requested Action: SF-6 & CC to HI/CZ
Property Address: 1326 Sapona Rd.
Council District: 2 (Davy)
Status of Property: occupied
Size: 14.8acres +/-
Existing Land Use: Body shop, car storage & residential
Adjoining Land Use & Zoning:
North - SF-6, LC, HI
South - SF-6 residential
East - SF-6 & MR-5 residential
West - SF-6 & HI
Letters Mailed: 179
Land Use Plan: Medium Density Residential (Industrial is recommended to the north and west)

ISSUES:

This property is subject to the City's amortization requirements for salvage yards. If the applicant is not successful in getting his property rezoned they will be forced to end their operations on this property. Salvage yards are not allowed in either the CC or SF-6 zones. The amortization process started three years ago and requires nonconforming salvage yards to cease business by January 1, 2012. If owner/applicant is granted the requested rezone, then the salvage yard will be able to continue. The applicant submitted this rezone application in November 2011, so staff has not initiated enforcement action pending the outcome of this process. Currently the owner is asking for areas A + B on the attached map be rezoned for use as a salvage yard. Originally the owner had request several more properties be included in his rezoning that has now been scaled back to just the properties he is currently using.

While the City's Land Use Plan does call for medium density residential, there is heavy industrial adjacent to this property and a limited extension of HI with adequate buffering adjacent to non-industrially zoned property, could be an appropriate amendment.

The Zoning Commission tabled this item for it to return as a conditional zoning request. The owner has now offered the following conditions to his request.

1. Limit HI uses to Auto Salvage Yard, Heavy Auto Repair, Wrecker Service and Indoor Storage. (areas shown as A + B options on the attached map)
2. Limit permanent auto storage areas to no closer than 200 feet from Sapona Road.
3. Installation of perimeter buffering as required by the development ordinance.

Zoning Commission & Staff recommend Approval of HI/CZ district based on:

1. Although the Land Use Plan calls for medium density residential, this property has been used as a salvage yard for 40+ years.
2. Mainly separated from surrounding residential uses.
3. Size of the area requested for rezoning has been reduced (now only includes A + B on the attached map).
4. Conditional Zoning will prevent other HI uses in the future.
5. Adjoins other HI zoning.

BUDGET IMPACT:

The City would be required to provide no increase in public services. The business in question has been in operation for 40 plus years and is already part of the City.

OPTIONS:

- 1) Approve HI/CZ rezoning with offered conditions for the area identified as Option A + B, as presented by staff (recommended);
- 2) Approve rezoning with additional conditions offered and accepted by the applicant;
- 3) Denial of the rezoning request

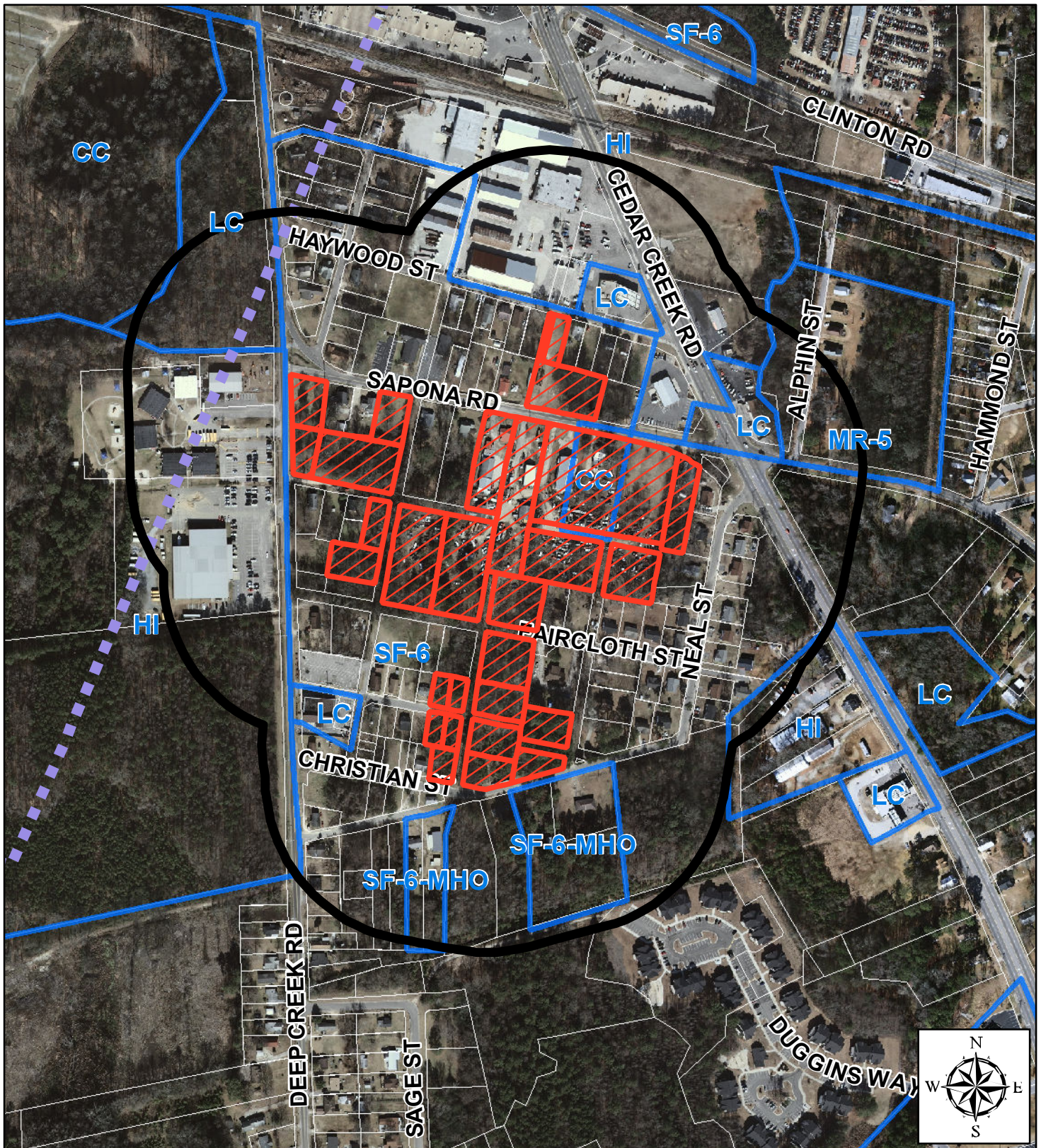
RECOMMENDED ACTION:

Zoning Commission & Staff Recommend: That the City Council move to APPROVE the rezoning of area identified as "Option A + B" to Heavy Industrial/Conditional Zoning with conditions for this property.

ATTACHMENTS:

Zoning Map
Reduced area
Current Land Use
Land Use Plan

ZONING COMMISSION
P11-70F

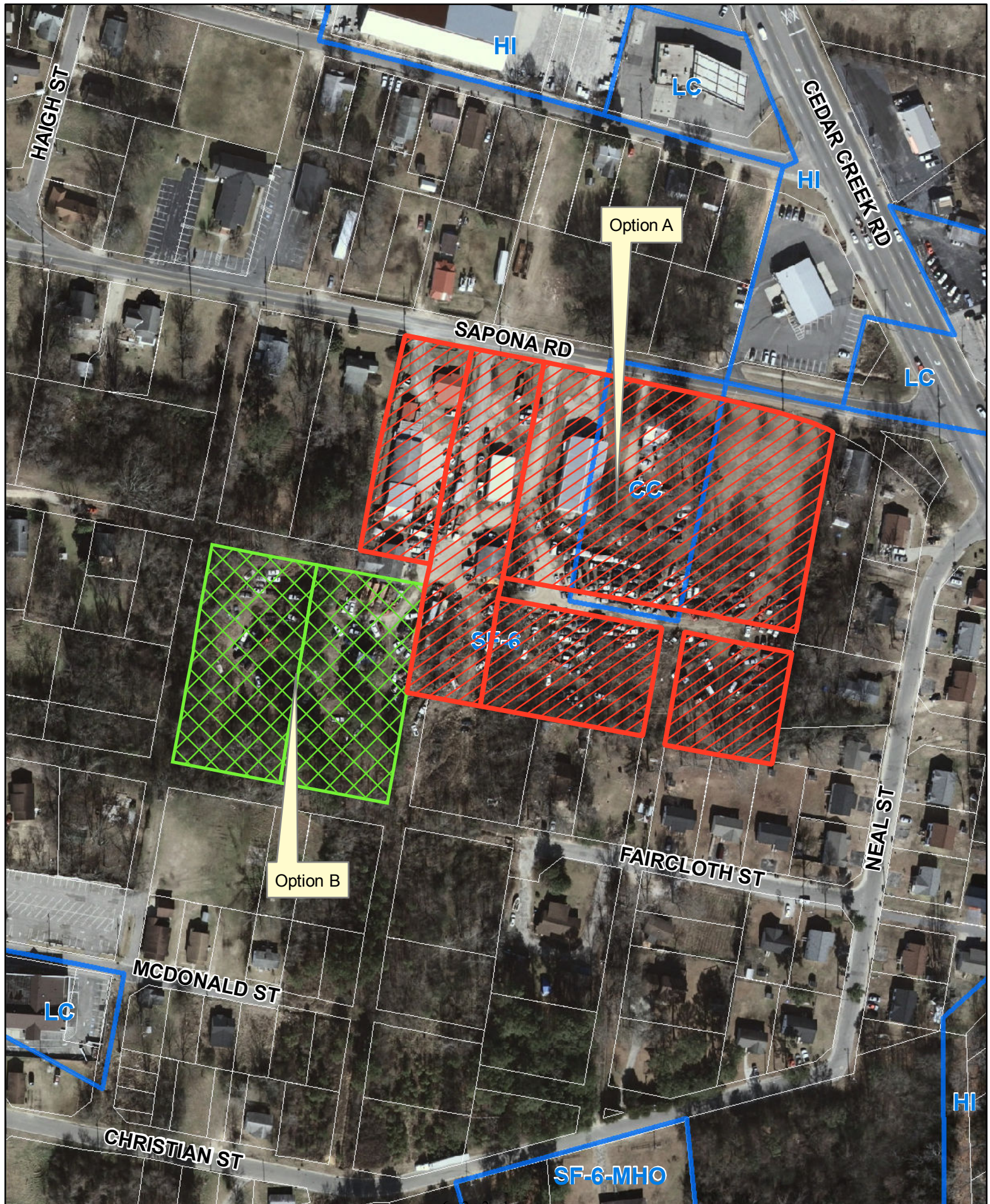


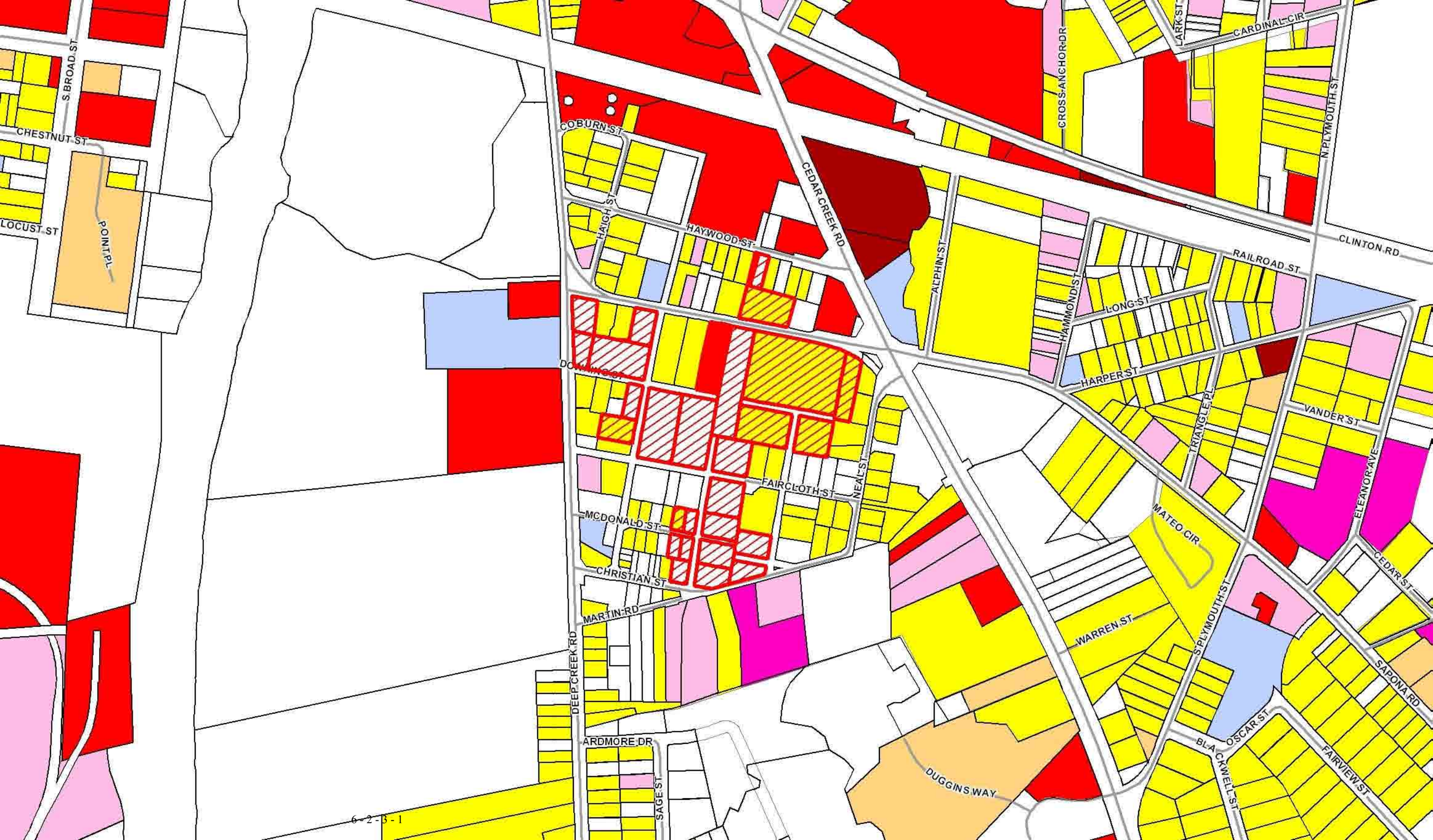
Request: SF-6 & CC to HI
Location: 1326 Sapona Rd
Acreage: +/- 14.86 acres

Zoning Commission: 12/13/2011 Recommendation: _____
City Council: _____ Final Action: _____
Pin: See attached list

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

REDUCED AREAS
P11-70F

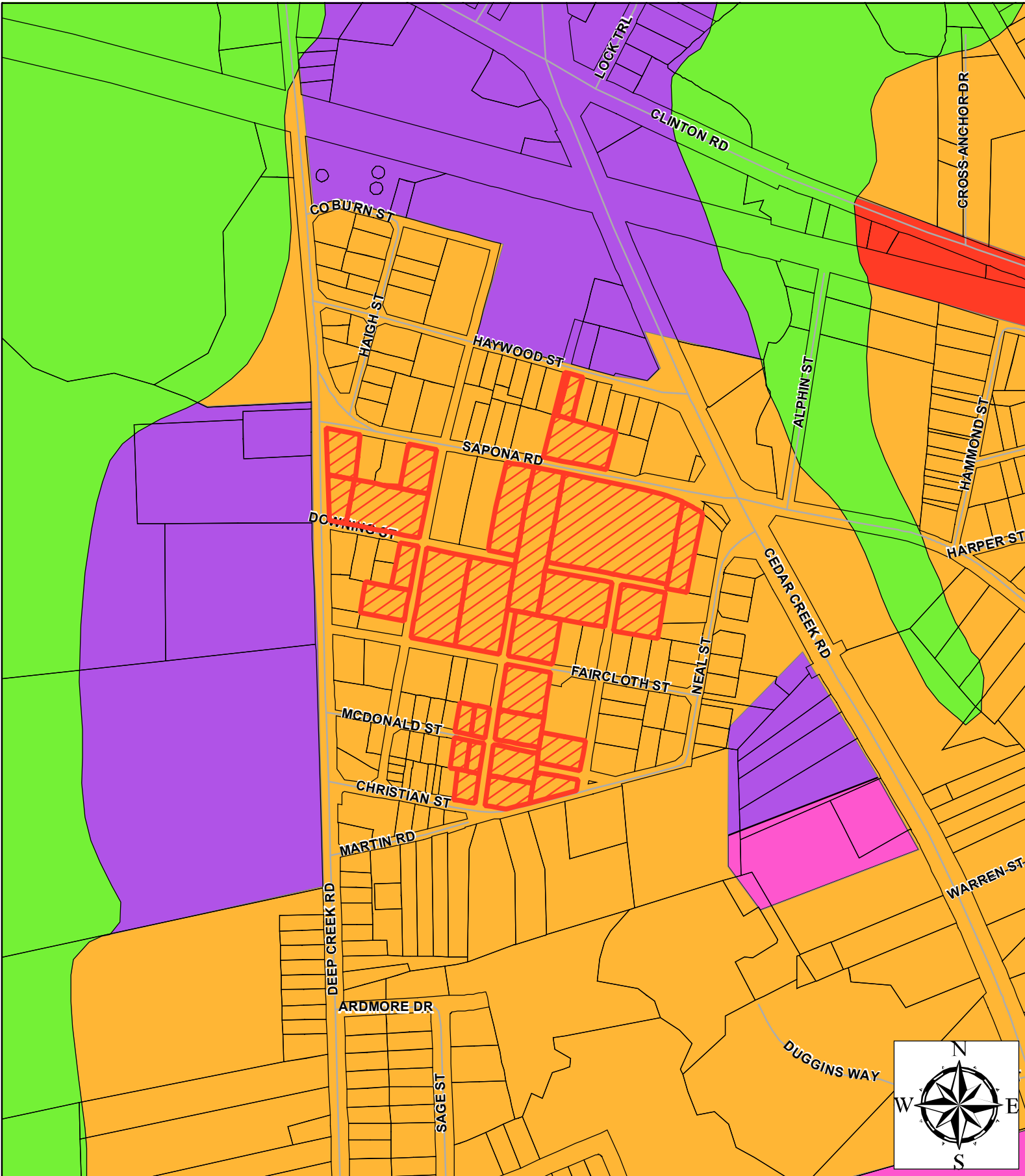




6-2-3-1

2010 Land Use Plan

Case No. P11-70F



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-12F Rezoning from SF-10 Single Family Residential District to CC/CZ Community Commercial Conditional District, or a more restrictive district, on properties located at 4950 Redwood Drive. Containing 0.24 acres more or less and being the property of Charles Singletary and Louise Singletary (Deceased)**

THE QUESTION:

Does the proposed zoning to Community Commercial with conditions fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development.

BACKGROUND:

Owner: Charles Singletary and Louise Singletary (Deceased)
Applicant: Charles Singletary
Requested Action: SF-10 to CC/CZ
Property Address: 4950 Redwood Drive.
Council District: 5
Status of Property: Vacant
Size: 0.24 acres +/-
Existing Land Use: None
Adjoining Land Use & Zoning:
North - NC & SF-10
South - OI
East - SF-10
West - CC Community Commercial
Letters Mailed: 58
Land Use Plan: Secondary Commercial
Small Area Plan: Hope Mills Road Plan

ISSUES:

The owner of this property has requested a rezoning to Community Commercial in order to expand the existing auto sales lot at the corner at the corner of Redwood and Hope Mills Road. The Hope Mills Plan and the updated Land Use Plan call for secondary commercial on this property. The Limited Commercial district also allows for auto sales and may be more appropriate for this area. A residential neighborhood is adjacent to part of this lot. The impact of light trespass should be minimized by both the UDO standards and the privacy fence being erected by the owner.

Conditions offered by the owner:

1. Limit the allowed uses in the CC to only that of auto sales
2. Install a 6 foot tall privacy fence where abutting residential zoning.
3. Install a 6 foot type D buffer on residential side of fence with plantings.

Zoning Commission & Staff recommend approval of a more restrictive LC/CZ district based on:

1. Property has Commercial Zoning on two sides.
2. Property has Office and Institutional zoning on a third side.
3. The Land Use Plan/Hope Mills Road Plan both call for commercial use.

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of rezoning to a more restrictive LC/CZ by staff (Recommended);
- 2) Approval of rezoning with additional conditions offered or accepted by the owner;
- 3) Denial of the rezoning request.

RECOMMENDED ACTION:

Zoning Commission & Staff Recommend: That the City Council move to APPROVE the rezoning of this property to Limited Commercial Conditional as presented by staff, with the conditions offered by the applicant.

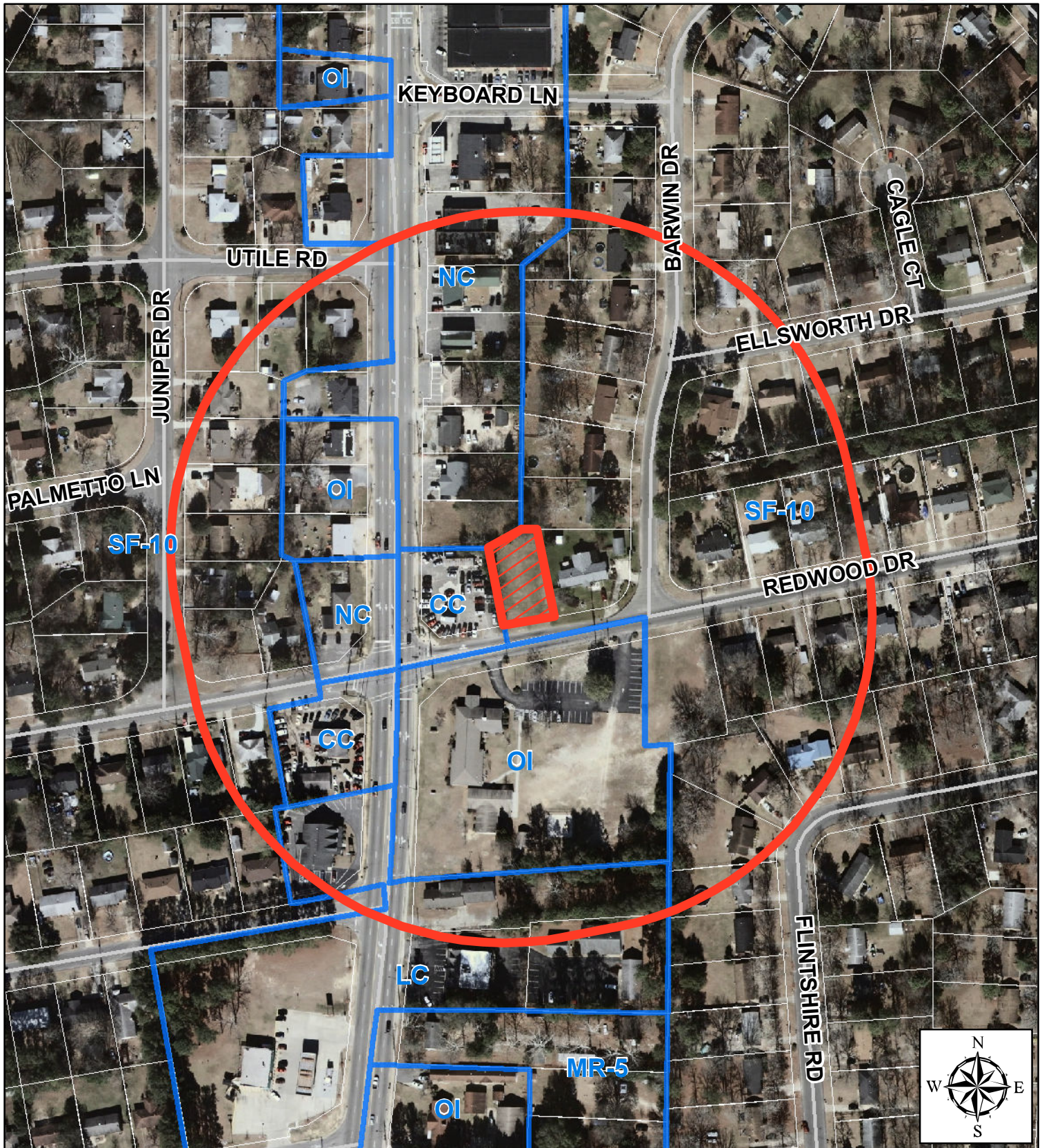
ATTACHMENTS:

Zoning Map

Current Land Use

Land Use Plan

**ZONING COMMISSION
CASE NO. P12-12F**



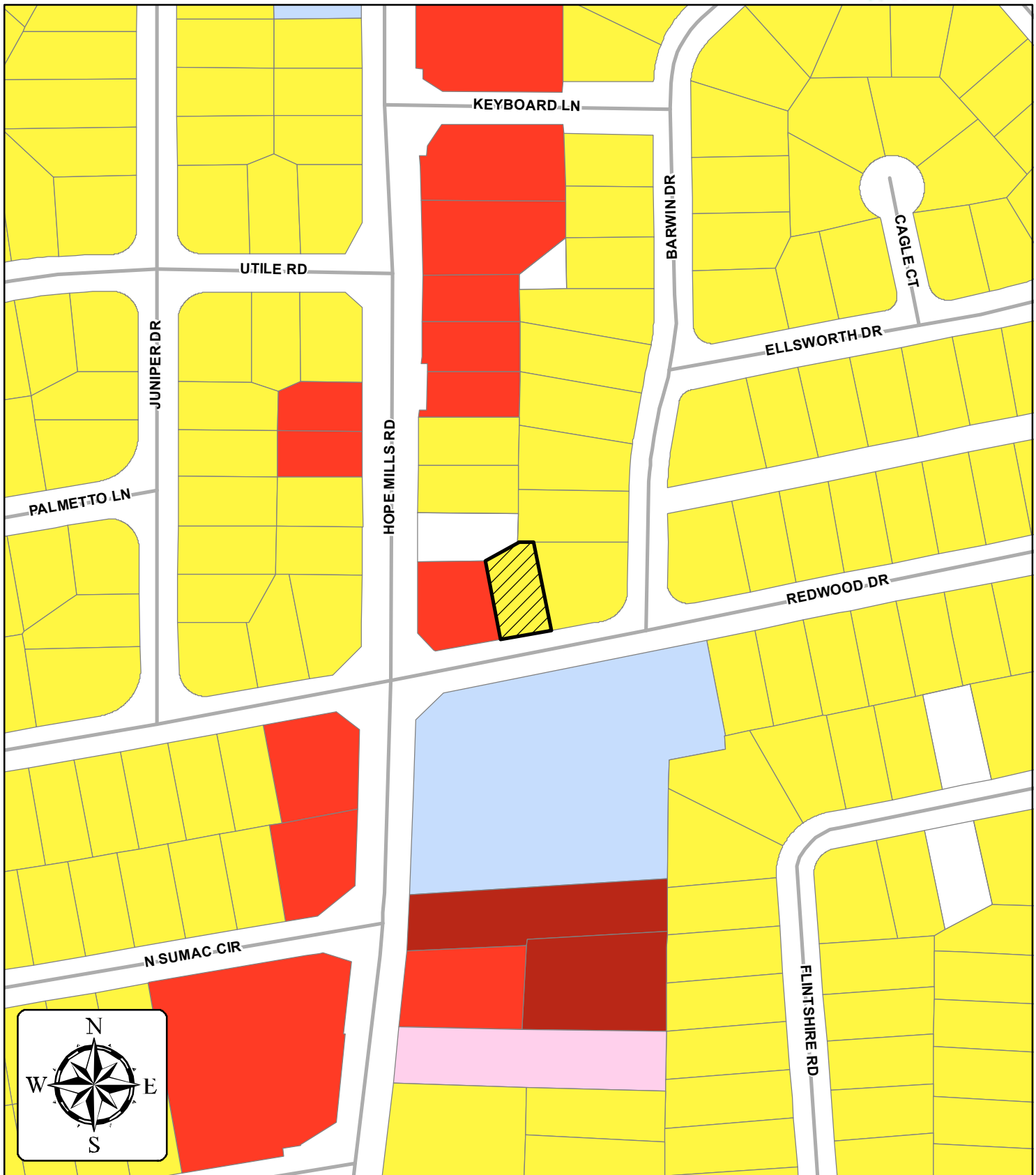
Request: SF-10 to CC
Location: 4950 Redwood Dr.
Acreage: +/- 0.24 acres

Zoning Commission: 03/13/2011 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 0416-15-8183

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

Current Land Use

P12-12F

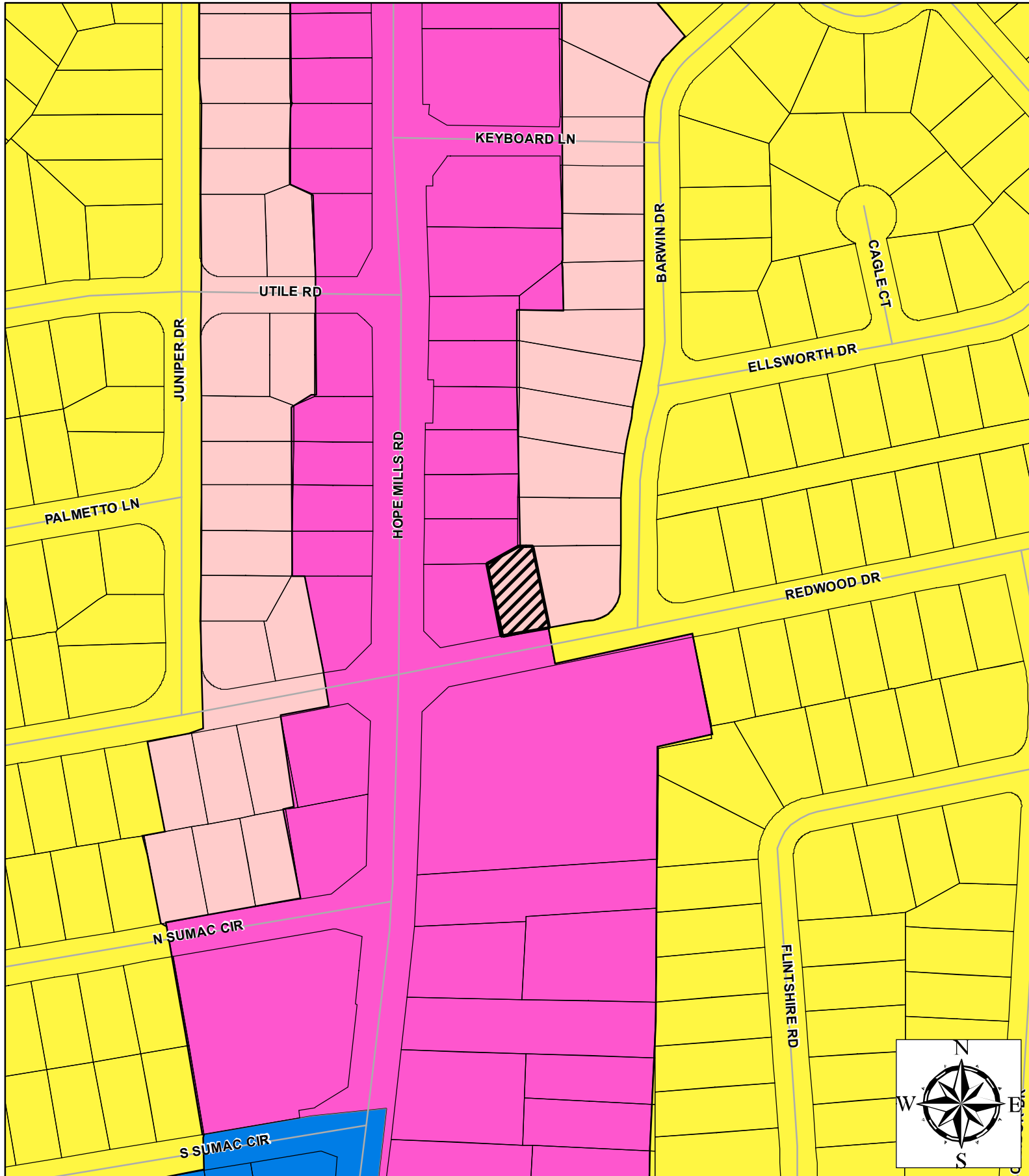


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-12F



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-19F Rezoning from SF-10 Single Family Residential to CC Community Commercial District, or a more restrictive district, on property located Lake Valley Drive and across All American Freeway. Containing 0.34 acres more or less and being the property of Suite Development of FNC, LLC**

THE QUESTION:

Does the proposed zoning to Community Commercial fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods Growth and development.

BACKGROUND:

Owner: Suite Development of FNC, LLC
Applicant: Lance King
Requested Action: SF-10 to CC
Property Address: Between Lake Valley Dr & All American Expr.
Council District: 9
Status of Property: Vacant
Size: 0.34 acres +/-
Existing Land Use: None
Adjoining Land Use & Zoning:
North - CC
South - CC
East - Right of Way All American Express Way
West - CC
Letters Mailed: 11
Land Use Plan: Heavy Commercial

ISSUES:

The property in question is a small triangle shaped lot with road frontage only on the All American Expressway. It is currently zoned SF-10 and is surrounded by Community Commercial. This oddity in zoning was created when the All American was built. The currently owners now would like to build a hotel on this and 2 other properties they own.

Zoning Commission & Staff recommend approval of the CC district based on:

1. Property has Commercial Zoning on two sides.
2. Property has a major highway on the third side.
3. The Land Use Plan calls for heavy commercial.
4. Property is a small isolated remnant from construction of the expressway.

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of rezoning as presented by staff (Recommended).
- 2) Approval of rezoning to a more restrictive zoning district.
- 3) Denial of the rezoning request.

RECOMMENDED ACTION:

Zoning Commission & Staff Recommend: That the City Council move to APPROVE the rezoning of this property to Community Commercial as presented by staff.

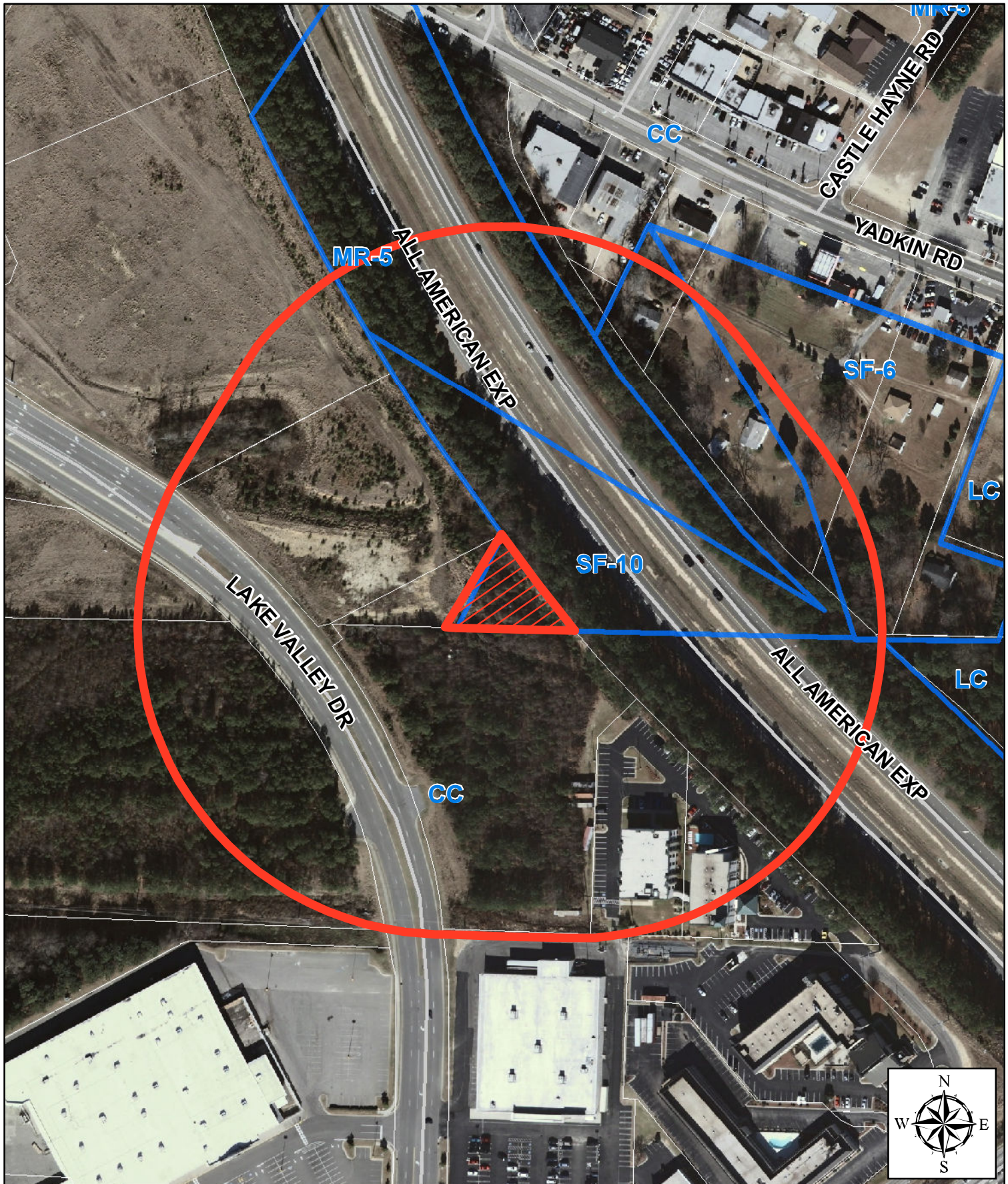
ATTACHMENTS:

Zoning Map

Current Land Use

Land Use Plan

**ZONING COMMISSION
CASE NO. P12-19F**



Request: SF-10 to CC
Location: Between Lake Valley &
All American Exp.
Acreage: +/- 0.34 acres

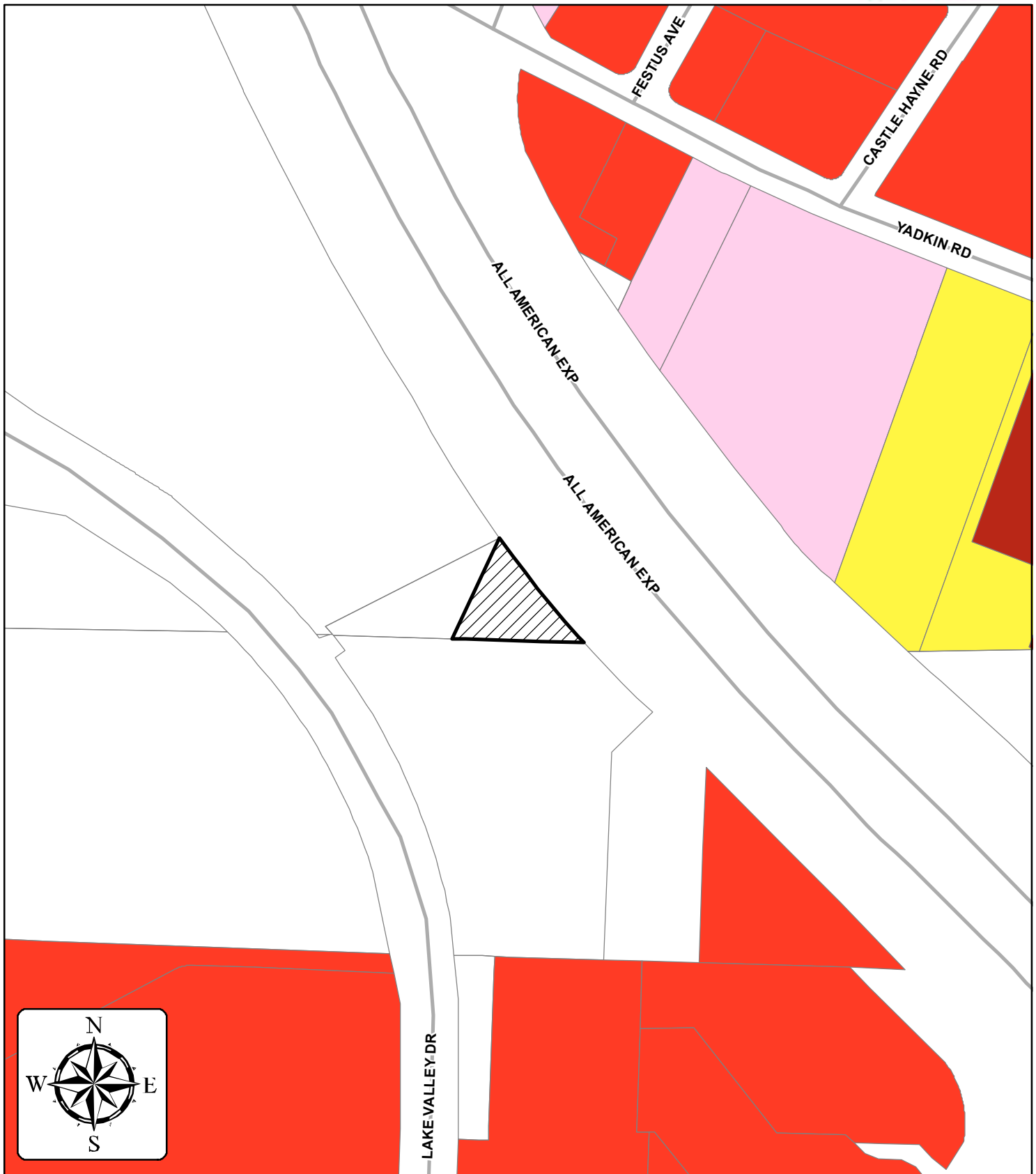
Zoning Commission: 04/10/2012 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 0418-03-9677

6-4-1-1

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

Current Land Use

P12-19F

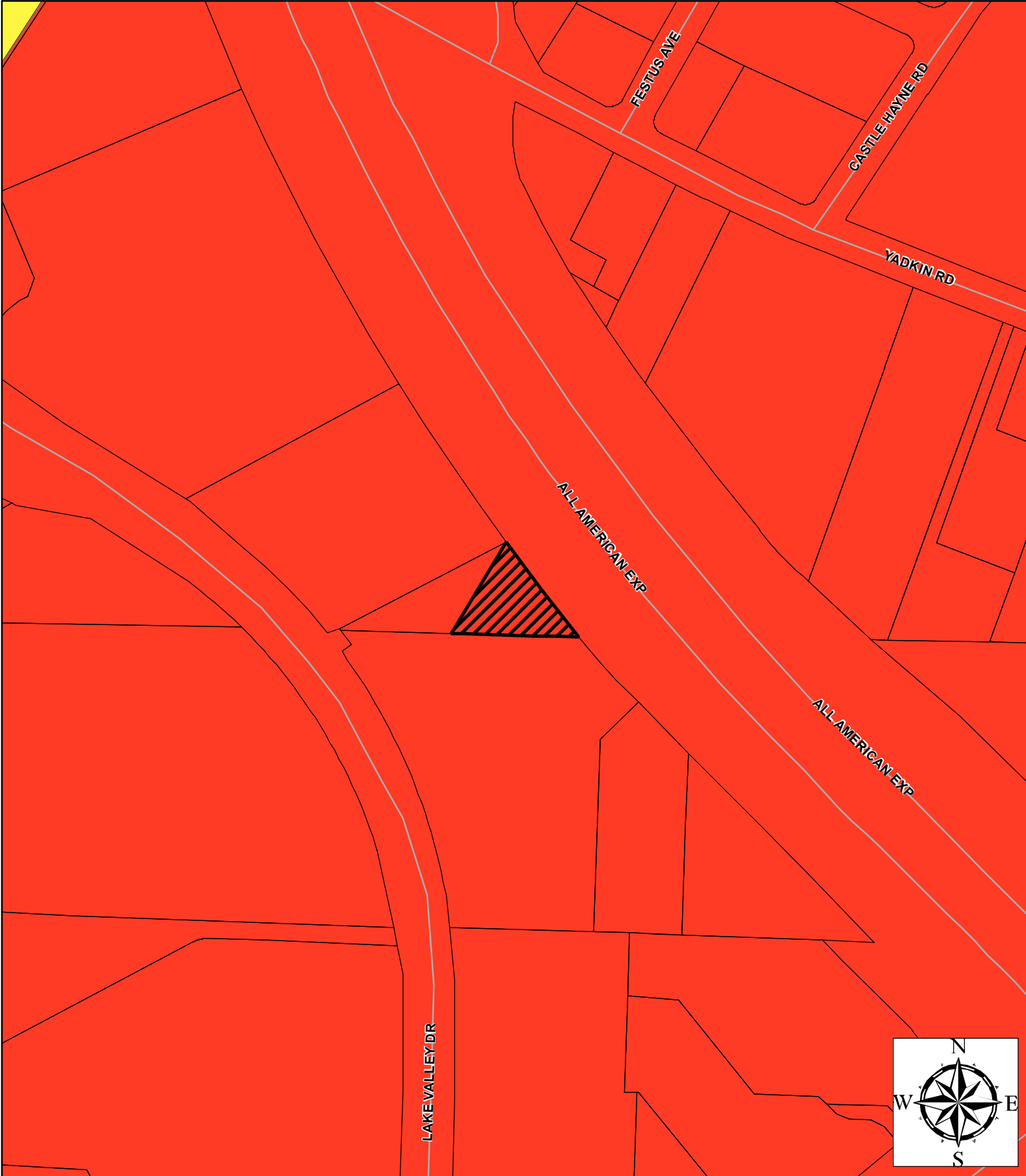


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-19F



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of Council
FROM: Steven K. Blanchard, PWC CEO/General Manager
DATE: May 29, 2012
RE: **Resolution Accepting State Revolving Loan Offer to Construct the Edgewater/Northview Sewer Main Relocation Project**

THE QUESTION:

The Public Works Commission of the City of Fayetteville requests that Council Adopt a Resolution Accepting State Revolving Loan Offer in the amount of \$656,376 to Construct the Edgewater/Northview Sewer Main Relocation Project

RELATIONSHIP TO STRATEGIC PLAN:

Lowest Responsible Rates, Most Financially Sound Utility

BACKGROUND:

The Public Works Commission, during their meeting of May 9, 2012 adopted PWC Resolution 2012.03 accepting the State Revolving Loan offer from the North Carolina Department of Environment and Natural Resources Division of Water Quality in the amount of \$656,376 to construct the Edgewater/Northview Sewer Main Relocation Project and to forward to City Council to adopt a similar resolution. The loan term is 20 years with an interest rate of 2.0% and a closing fee of 2.0%.

ISSUES:

N/A

BUDGET IMPACT:

PWC Budget

OPTIONS:

N/A

RECOMMENDED ACTION:

Adopt a Resolution accepting State Revolving Loan Offer in the amount of \$656,376.

ATTACHMENTS:

Memo
PWC Resolution
City Resolution
Exhibit A



WILSON A. LACY, COMMISSIONER
TERRI UNION, COMMISSIONER
LUIS J. OLIVERA, COMMISSIONER
MICHAEL G. LALLIER, COMMISSIONER
STEVEN K. BLANCHARD, CEO/GENERAL MANAGER

PUBLIC WORKS COMMISSION
OF THE CITY OF FAYETTEVILLE
ELECTRIC & WATER UTILITIES

955 OLD WILMINGTON RD
P.O. BOX 1089
FAYETTEVILLE, NORTH CAROLINA 28302 1089
TELEPHONE (910) 483-1401
WWW.FAYPWC.COM

May 4, 2012

MEMO TO: Steven K. Blanchard, CEO

MEMO FROM: J. Dwight Miller, CFO

A handwritten signature in black ink, appearing to read 'J. Dwight Miller'.

SUBJECT: State Loan Offer

The State of North Carolina Department of Environment and Natural Resources Division of Water Quality is offering PWC a State Loan in the amount of \$656,376 to construct the Edgewater/Northview Sewer Main Relocation project. The loan term is 20 years, an interest rate of 2.0% and a closing fee of 2.0%.

Staff request that the Commission approve Resolution PWC2012.03 which accepts the State Revolving Loan offer of \$656,376, gives specified assurances, authorizes the General Manager to complete the required documents and request that City Council adopt a similar resolution at its meeting on May 29, 2012.

BUILDING COMMUNITY CONNECTIONS SINCE 1905

AN EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

**RESOLUTION OF THE PUBLIC WORKS COMMISSION OF THE
CITY OF FAYETTEVILLE, NORTH CAROLINA TO ACCEPT A
STATE LOAN OFFER UNDER THE NORTH CAROLINA WATER
REVOLVING LOAN AND GRANT ACT OF 1987**

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, water supply systems, and water conservation projects, and

WHEREAS, the North Carolina Department of Environment and Natural Resources (NCDENR) has offered a State Revolving Loan in the amount of \$656,376 for the construction of the Edgewater/Northview Sewer Main Relocation project (Exhibit A), and

WHEREAS, the Public Works Commission of the City of Fayetteville, NC (COMMISSION) intends to construct said project in accordance with the approved plans and specifications,

NOW THEREFORE BE IT RESOLVED BY THE COMMISSION THAT:

Section 1. The COMMISSION does hereby accept the State Revolving Loan offer of \$656,376 as presented in Exhibit A.

Section 2. The COMMISSION does hereby give assurance to NCDENR that all items specified in the loan offer under Assurances will be adhered to.

Section 3. Steven K. Blanchard, General Manager of the COMMISSION, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; to execute the promissory note; and to execute such other documents as may be required in connection with the application.

Section 4. The COMMISSION has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Section 5. The COMMISSION requests the Council of the City of Fayetteville to adopt this Resolution in the form presented above.

Adopted this the 9th day of May, 2012, at Fayetteville, North Carolina.

PUBLIC WORKS COMMISSION OF THE CITY
OF FAYETTEVILLE, NORTH CAROLINA

Michael G. Lallier, Chairman

ATTEST:

Terri Union, Secretary

**RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH
CAROLINA TO ACCEPT A STATE LOAN OFFER UNDER THE
NORTH CAROLINA WATER REVOLVING LOAN AND GRANT ACT
OF 1987**

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, water supply systems, and water conservation projects, and

WHEREAS, the North Carolina Department of Environment and Natural Resources (NCDENR) has offered a State Revolving Loan in the amount of \$656,376 for the construction of the Edgewater/Northview Sewer Main Relocation project (Exhibit A), and

WHEREAS, the City of Fayetteville, North Carolina acting by and through the Public Works Commission (CITY) intends to construct said project in accordance with the approved plans and specifications,

NOW THEREFORE BE IT RESOLVED BY THE CITY THAT:

Section 1. The CITY does hereby accept the State Revolving Loan offer of \$656,376 as presented in Exhibit A.

Section 2. The CITY does hereby give assurance to NCDENR that all items specified in the loan offer under Assurances will be adhered to.

Section 3. Steven K. Blanchard, General Manager of the Public Works Commission, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; to execute the promissory note; and to execute such other documents as may be required in connection with the application.

Section 4. The CITY has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 29th day of May, 2012, at Fayetteville, North Carolina.

CITY OF FAYETTEVILLE, NORTH CAROLINA

Mayor

ATTEST:

City Clerk

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY**

State Loan or Grant Offer and Acceptance

This Offer must be accepted, if at all, within forty-five (45) days of receipt.

This Offer is made subject to the attached Standard Conditions and Assurances

Legal Name and Address of Award Recipient

Public Works Commission of the City of Fayetteville
P.O. Box 1089
Fayetteville, NC 28302

Account

Clean Water State Revolving Fund (SRF) ☒
State General Loan (SRL) ☐
State Emergency Loan (SEL) ☐
High Unit Cost Grant (SRG) ☐
Technical Assistance Grant ☐

State Project Number: E-SRF-T-11-0283

Federal Project Number: CS370434--11

CFDA Number: 66.458

Project Description:

Edgewater/Northview Sewer Main Relocation

Total Financial Assistance Offer: **\$656,376**

Interest Rate: 2.00 % Per Annum

Maximum Loan Term: 20 Years

Closing Fee (2%): \$ 13,128 (Actual invoiced closing costs will be calculated based on bids)

Consideration having been given by the Department of Environment and Natural Resources to the application submitted by the applicant pursuant to North Carolina General Statute 159G, (1) the applicant is an eligible unit of government, (2) the project meets the eligibility criteria for a State Loan or Grant, and (3) the project has been approved and certified by the Department of Environment and Natural Resources as being entitled to priority for State financial assistance,

The Department of Environment and Natural Resources, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

Dee Freeman, Secretary

North Carolina Department of Environment & Natural Resources

Signature

Date

On Behalf of:

Public Works Commission of the City of Fayetteville

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this State Loan or Grant offer and make the assurances and accept the conditions.

Signature

Date

STANDARD CONDITIONS FOR FEDERAL SRF LOANS

1. The recipient shall comply with all provisions of the following Federal laws and authorities (super cross-cutters):
 - (a) Title VI of the Civil Rights Act of 1964 – 42 U.S.C. §2000d
 - (b) CFR 35.3145(c) (Civil Rights laws) and provide completed EPA 4700-4 form
 - (c) Section 13 of the Federal Water Pollution Control Act Amendments of 1972 – 33 U.S.C. §1251
 - (d) Section 504 of the Rehabilitation Act of 1973 – 29 U.S.C. §794
2. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures.
3. Civil Rights and Labor Standard Requirements, and use of MBE (Minority Business Enterprise), WBE (Women's Business Enterprise), and Small Businesses:
 - (a) Specific MBE/WBE (DBE) requirements are included in the SRF Special Conditions that are to be included in the contract specifications. Positive efforts shall be made by recipients, their consultants and contractors to utilize small businesses and minority-owned businesses for sources of supply and services. Such efforts should allow these sources the maximum feasible opportunity to compete for subagreements and contracts to be performed, utilizing Federal SRF funds. Documentation of efforts made to utilize minority and women-owned firms must be maintained by all recipients, consulting firms, and construction contractors, and made available upon request.
 - (b) The recipient shall not award contracts to any firm that has been debarred for noncompliance from the Federal Labor Standards, Title VI of the Civil Rights Act of 1964, as amended, or any firm that appears on the EPA's list of debarred firms. The recipient shall also comply with 40 CFR 32. (Complete the Debarment Certification in the SRF Special Conditions)
 - (c) The recipient shall require all prime construction contractors, as part of their bid, to certify that subcontracts have not and will not be awarded to any firm that has been debarred for noncompliance from the Federal Labor Standards, Title VI of the Civil Rights Act of 1964, as amended, or Executive Order 11246, as amended, or any firm that appears on the EPA's list of debarred firms. (Complete the Debarment Certification in the SRF Special Conditions for each Subcontractor)
 - (d) The recipient shall require all contractors on the project to comply with the Department of Labor's Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (PL 91-946), under Section 107 of the Contract Work Hours and Safety Standards Act (PL 91-54).

4. Acquisition of Real Property:

The recipient shall comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended, in regard to acquisition of

all real property, (including easements), for the project covered by this loan, and any resulting relocation of persons, businesses, or farm operations. See Assurance 8.

5. Prompt Payment and Payment Retainage:

It is the policy of the State of North Carolina to make timely periodic loan disbursements to the recipient, and to require the recipient to make prompt periodic payment on subagreements. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the conditions of this loan and subsequent amendments;

- (a) The recipient agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
- (b) The recipient agrees to include appropriate provisions in each construction contract, and to require the prime contractor to include them in all subcontracts, to implement this prompt payment requirement.

6. **The construction contract(s) requires the contractor to adhere to Davis Bacon and Related Acts Provisions and Procedures as listed in the Code of Federal Regulations Chapter 29 Part 5 Section 5 (29 CFR 5.5). Public Law pertaining to this is also enacted in Title 40, United States Code, Subtitle II Section 3141 through Section 3148.**

ASSURANCES

- 1. The recipient acknowledges that in the event that a milestone contained in the most recent Clean Water State Revolving Fund Intended Use Plan and/or the Notice of Intent to Fund is not met, this State Loan or Grant offer will be rescinded by the Department of Environment and Natural Resources.
- 2. The final plans and specifications have or will be approved by the Division of Water Quality and the applicant so notified, prior to the project being advertised or placed on the market for bids.
- 3. Eligible project expenses are as discussed in the North Carolina Clean Water SRF Program Guidance. Projects will not receive reimbursement for sales taxes. Sales taxes are deducted from project costs at the 90% milestone in accordance with the SRF Program Guidance.
- 4. The applicant agrees to construct the project or cause it to be constructed to final completion in accordance with the application and plans and specifications approved by the Division of Water Quality.
- 5. The construction contract(s) requires the contractor to furnish performance and payment bonds, each of which is in an amount of not less than one hundred percentum (100%) of the contract price; and to maintain during the life of the contract(s) adequate fire, extended coverage, workmen's compensation, public liability, and property damage insurance.
- 6. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
- 7. Any change or changes in the approved plans and specifications or contract(s) which (has/have) made or will make any major alteration in the work required by the plans and specifications, or which increases the

cost of the project above the latest estimate approved by the Department of Environment and Natural Resources, was or will be submitted to the Division of Water Quality for approval.

8. The construction contract(s) provides that any duly authorized representative of the State will have access to the work whenever it is in preparation or progress, and that the contractor will provide proper facilities for such access and inspection. Further, any authorized representative of the State shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the applicant that are pertinent to funds received under the Act; and the applicant shall submit to the Division of Water Quality such documents and information as it may require in connection with the project.
9. The applicant will provide and maintain competent and adequate engineering supervision and inspection of the project to insure that the construction conforms with the approved plans and specifications. Proof of adequate inspection is required as part of the Project Bid Information package.
10. The applicant shall demonstrate to the satisfaction of the Department of Environment and Natural Resources that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project prior to the authorization to award construction contracts. No loan disbursements will be made until clear site certificates are submitted.
11. At least thirty (30) days, shall be allowed from the first date of publication to the date of bid opening.
12. The Project Bid Information package, including MBE and WBE (DBE) requirements, must be submitted and approved prior to the State issuing an Authorization to Award letter. If the approval of the debt instrument for this loan is necessary for the applicant to award contracts, the completed Project Bid Information and supporting documentation must be delivered to the Division of Water Quality a minimum of twenty (20) days prior to the award of contracts.
13. The recipient shall not award any contracts for construction until the Authority to Award is given by the State. Doing so, will be at the risk of the award recipient.
14. Recipient acknowledges that no loan disbursements will be made until the contract documents are submitted and approved. The recipient shall notify the State when contracts are awarded.
15. The recipient shall conduct a preconstruction conference, if applicable, for each construction contract in cooperation with the State, and, in accordance with guidelines which shall be furnished by the State. The State shall be invited to the conference.
16. The Local Government Commission will forward the debt instrument after total project costs are established in the Authority to Award Letter. The applicant must execute the debt instrument a minimum of ten (10) days prior to the request of disbursement of loan funds.
17. Recipient acknowledges that no loan disbursements will be made on the engineering planning and design or construction phase services until the contracts are submitted and approved.
18. Recipient acknowledges that no loan disbursements will be made until the recipient has enacted the User Charge System and the Sewer Use Ordinance, as approved by the State.
19. Eligible small purchases estimated to exceed ~~\$10,000~~ ^{\$10,400} require three informal bids for approval.

20. Recipient acknowledges that no more than ninety (90) percent of the loan may be disbursed before the final O&M Manual is submitted and approved.
21. Within thirty (30) days of the date of completion of the project, the applicant will make available to the Construction Grants Section staff all requested project closeout items including final costs for the purpose of making final adjustments to the Revolving Loan and debt instrument.
22. The recipient, one year after the completion of construction and initial operation of the wastewater facilities, shall certify whether or not such treatment works meet the design specifications and effluent limitations, according to the Division of Water Quality's Performance Certification Policy.
23. All principal payments will be made annually on or before May 1st. The first principal payment is due not earlier than six months after the original date of completion of the project. All interest payments will be made semiannually on or before May 1st and November 1st of each year. The first interest payment is due not earlier than six months after the original date of completion of the project.
24. In accordance with G.S. 159-26(b)(6), a capital project fund is required to account for all debt instrument proceeds used to finance capital projects. It is required that a capital project ordinance, in accordance with G.S. 159-13.2, be adopted by the governing board authorizing all appropriations necessary for the completion of the project. A copy of the approved ordinance must be submitted to this office before submitting the first reimbursement request.
25. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three (3) years following completion of the project.
26. Each Loan recipient will be required to submit an annual audit, prepared by an independent external auditor, in accordance with GS 159-34.
27. All funds loaned pursuant to North Carolina General Statute 159G shall be expended solely for carrying out the approved project and an audit shall be performed in accordance with G.S. 159-34, as amended. Please note that the State is not a party to the construction contract(s) and the loan recipient is expected to uphold its contract obligations regarding timely payment. See Standard Condition 5.
28. The applicant shall demonstrate to the satisfaction of the Department of Environment and Natural Resources its ability to pay the remaining or ineligible cost of the project.

Acknowledgement of Standard Conditions and Assurances

The Applicant hereby gives assurance to the Department of Environment and Natural Resources that the declarations, assurances, representations, and statements made by the applicant in the application; and all documents, amendments, and communications filed with the Department of Environment and Natural Resources by the applicant in support of its request for a loan will be fulfilled.

.....
Signature

.....
Date

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Hampton, Special Projects Director Rusty Thompson, Director of E&I
DATE: May 29, 2012
RE: **Approval of amendment to DOT grant for Cape Fear Rivertrail -Phase 2**

THE QUESTION:

Does Council desire to approval the amendment to the existing grant

RELATIONSHIP TO STRATEGIC PLAN:

Goal #5-More Attractive City-Clean and Beautiful; Major Project for FY 2013

BACKGROUND:

As indicated in the Special Project weekly reports this project is being divided into 3 sections in order to facilitate bidding 2 of the sections while submittals continue on the portion of the trail that crosses over CSX property and under the mainline CSX rail line. The original grant agreement applied to the entire section of phase 2 of the trail therefore approval to proceed to bid could not be given by NC DOT until we obtain the necessary right-of-way from CSX. It is estimated the approval from CSX will not be obtained until late fall 2012. This will divide the project into 3 sections to allow DOT to authorize the bid process on all sections except for the CSX section. Upon approval this amendment will then be approved by the NC DOT Board.

ISSUES:

- The last section of the trail will terminate before reaching Botanical Gardens to allow time for NC DOT to replace the Cape Fear River bridge over the next two years. Thereafter the trail will be extended into the Gardens and eventually to the next down-river location-River Park next to the Russell Street river bridge.
- This will be considered for approval by the NC DOT board in July. We expect approval and authorize to release bid documents shortly thereafter.

BUDGET IMPACT:

Engineering estimates for the three sections of the trail are within existing appropriated funds. No additional funds estimated as needed for this phase of the trail.

OPTIONS:

1. Approve the amendment
2. Do not approve the amendment and provide direction to staff

RECOMMENDED ACTION:

Staff recommends that Council move to approve the amendment to the grant agreement with NCDOT on the Cape Fear Rivertrail.

ATTACHMENTS:

Amendment to Agreement
CFRT Map of Sections ABC
CFRT schedule ABC May 2012

CONTRACT/DOCUMENT REQUIRING
CITY MANAGER'S SIGNATURE:

Date submitted: 4/26/2012

Date needed: 5/18/2012

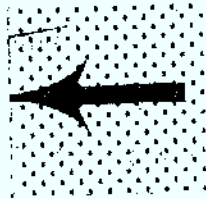
PoC & phone: Rusty Thompson, 910-433-1691

Purpose of Contract/Document:

The is a supplemental amendment to an existing contract for the Cape Fear River Trail project. It proposes to break the project into 3 sections so construction can be accomplished at a quicker pace. It does not add or subtract funding or change the length of the project.

Routing

1. **City Attorney's Office's Review:** Brian Meyer



2. **PWC Purchasing Office's Review:** N/A

3. **IT Review:** N/A

4. **City Finance Office's Review:**

- a. ☐ Collections Supervisor – Privilege License Review
- b. ☐ Lisa Smith, Chief Financial Officer – Fiscal Audit Review

5. **City Manager's Office's Review:** N/A

6. **City Clerk's Attestation:** it is required.

7. (Please change to reflect office originally generating document):

- a. ☐ Copy of document scanned into Laserfiche
- b. ☐ Fully-executed originals distributed
- c. ☐ Original returned for City Attorney's office for file maintenance

Revised on 03/30/12 by Nancy Robles, CMO

NORTH CAROLINA
CUMBERLAND COUNTY

2nd SUPPLEMENTAL AGREEMENT

DATE: 4/20/2012

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: EB-4539 B

AND

WBS ELEMENTS: PE _____

ROW _____

CITY OF FAYETTEVILLE

CON 41955.3.1

OTHER FUNDING: 41563

FEDERAL-AID #: STPEB-0620(21)

CFDA #: 20.205

TOTAL SUPPLEMENTAL FUNDS [NCDOT PARTICIPATION] \$0

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the City of Fayetteville, hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the Department and the Municipality, on 9/23/2010, entered into a certain Locally Administered Project Agreement for the original scope: of the construction of a 3.5 mile long 10-foot wide asphalt/concrete multi-use trail with 2-ft crushed stone shoulders and 3-ft turf shoulders from Clark Park to the Cape Fear Botanical Garden in the City of Fayetteville, programmed under Project EB-4539 B; and,

WHEREAS, the Department and the Municipality, on 11/5/2010, entered into a Supplemental Agreement to extend the completion date of the Project; and,

WHEREAS, the Department and the Municipality have agreed to split the Project into 3 segments and revise the funding for each segment.

NOW THEREFORE, the parties wish to supplement the aforementioned Agreement whereby the following provisions are amended:

SCOPE

The project will be divided into three segments: Segment A from I-95 Business/US-301 S to the south side of the CSX property for a distance of 1.22 miles; Segment B connects to the existing trail at Clark Park and runs south to the North side of the CSX property; and Segment C is the portion of the trail on CSX property between A & B.

FUNDING

Segment A (WBS: 41563): The Department will participate with any remaining State Contingency funds from Segment B (see below) and the Municipality will be responsible for any costs not covered by these funds. The maximum amount of State Contingency funds is \$750,000. The total estimated construction cost is \$1,269,000.

Segment B (WBS: 41955.3.1): The Department will participate in eighty percent of eligible costs with Federal Transportation Enhancement funds up to a maximum of \$250,000. The Municipality will provide a match of \$62,500. Additional costs over the total federal funding will be provided by State Contingency funds. The total estimated construction cost is \$437,000.

Segment C: The Department will have no participation on this segment.

RESPONSIBILITIES

Segment A (WBS: 41563): The Municipality shall complete Segment A by September 30, 2013. Completion for this portion of the Project is defined as completion of all construction activities, acceptance of the project, and submission of a final reimbursement package to the Department.

Segment B (WBS: 41955.3.1): The Municipality shall complete Segment B by June 30, 2013. Completion for this portion of the Project is defined as completion of all construction activities, acceptance of the project, and submission of a final reimbursement package to the Department.

Segment C: The Municipality shall certify to the Department that Segment C shall be constructed in order to provide coactivity between Segments A & B.

RETAINAGE

The Municipality shall not retain any portion of a payment due the contractor.

TITLE VI

The Municipality shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs and activities of any recipient of Federal assistance.

Except as hereinabove provided, the Agreement heretofore executed by the Department, and the Municipality on 9/23/2010 and 11/5/2010, are ratified and affirmed as therein provided.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

ATTEST:

CITY OF FAYETTEVILLE

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by _____ (Governing Board) of the City of Fayetteville as attested
to by the signature of _____, Clerk of the
_____ (Governing Board) on _____ (Date)

This instrument has been pre-audited in the manner
required by the Local Government Budget and Fiscal
Control Act.

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Fayetteville

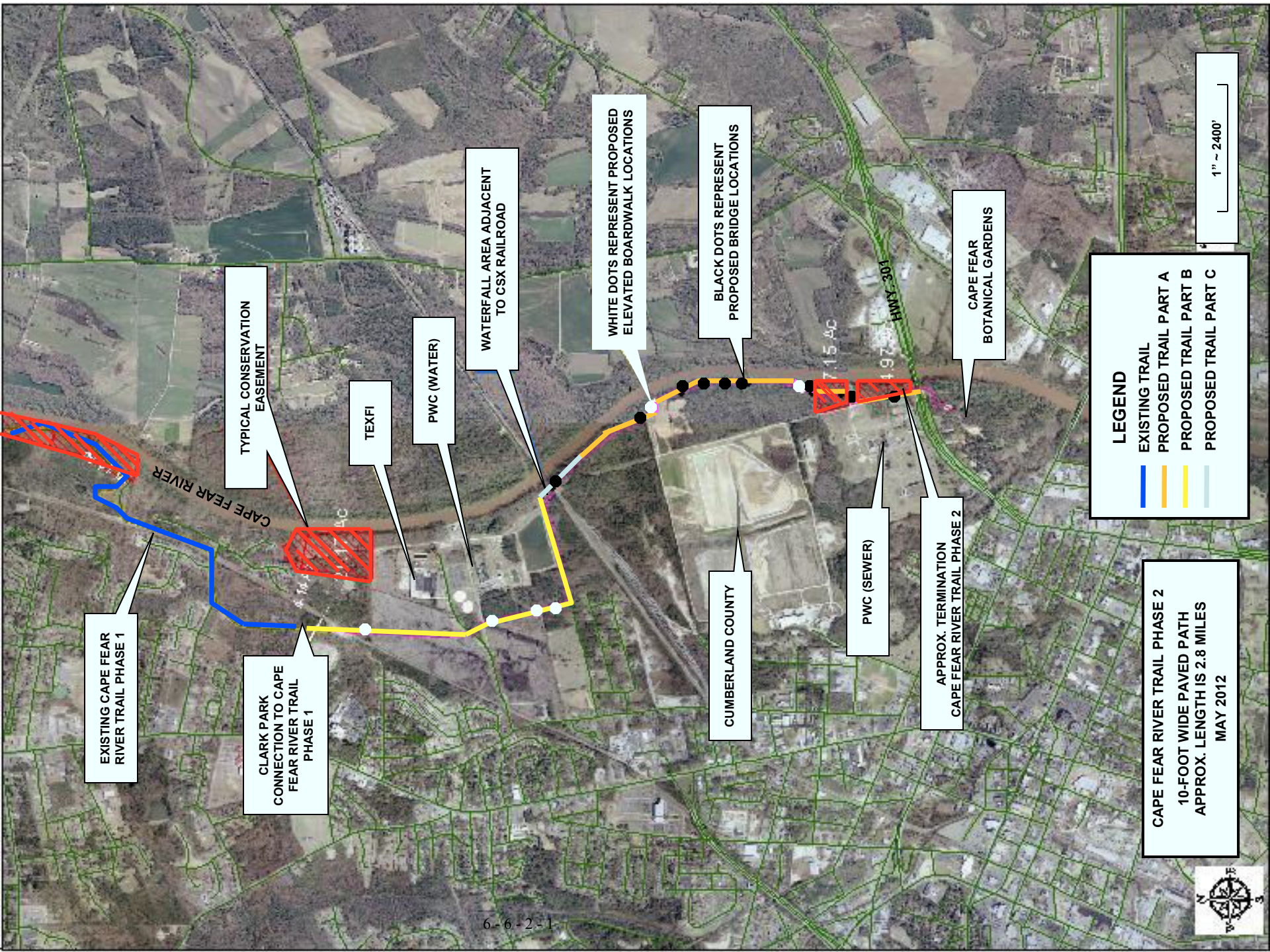
DEPARTMENT OF TRANSPORTATION

BY: _____

(STATE HIGHWAY ADMINISTRATOR)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)



EXISTING CAPE FEAR
RIVER TRAIL PHASE 1

CLARK PARK
CONNECTION TO CAPE
FEAR RIVER TRAIL
PHASE 1

TYPICAL CONSERVATION
EASEMENT

TEXFI

PWC (WATER)

WATERFALL AREA ADJACENT
TO CSX RAILROAD

WHITE DOTS REPRESENT PROPOSED
ELEVATED BOARDWALK LOCATIONS

BLACK DOTS REPRESENT
PROPOSED BRIDGE LOCATIONS

CUMBERLAND COUNTY

PWC (SEWER)

APPROX. TERMINATION
CAPE FEAR RIVER TRAIL PHASE 2

CAPE FEAR
BOTANICAL GARDENS

LEGEND

- EXISTING TRAIL
- PROPOSED TRAIL PART A
- PROPOSED TRAIL PART B
- PROPOSED TRAIL PART C

CAPE FEAR RIVER TRAIL PHASE 2
10-FOOT WIDE PAVED PATH
APPROX. LENGTH IS 2.8 MILES
MAY 2012



1" ~ 2400'

Cape Fear Rivertrail=Phase 2
Sections A, B & C
Clark Park to Botanical Gardens

ID	Task Name	Duration	Start	Finish	Qtr 4, 2011 Oct Nov Dec	Qtr 1, 2012 Jan Feb Mar	Qtr 2, 2012 Apr May Jun	Qtr 3, 2012 Jul Aug Sep	Qtr 4, 2012 Oct Nov Dec	Qtr 1, 2013 Jan Feb Mar	Qtr 2, 2013 Apr May Jun	Qtr 3, 2013 Jul Aug Sep	Qtr 4, 2013 Oct
1	Cape Fear Rivertrail-Phase 2	328 days?	Tue 5/29/12	Thu 8/29/13									
2	DOT Agreement Process	34 days	Tue 5/29/12	Mon 7/16/12									
3	Approve Amendment By COF	0 days	Tue 5/29/12	Tue 5/29/12									
4	Approve Amendment by DOT Board	0 days	Wed 7/11/12	Wed 7/11/12									
5	NTP-Bid Package	0 days	Mon 7/16/12	Mon 7/16/12									
6	Bid Package Process	171 days?	Mon 7/16/12	Mon 3/11/13									
7	Submit final design Package to DOT	0 days	Mon 7/16/12	Mon 7/16/12									
8	Approve ROW Certification	5 days	Mon 7/16/12	Fri 7/20/12									
9	Final DOT Review Period	21 days	Mon 7/23/12	Mon 8/20/12									
10	Approval to bid	1 day?	Tue 8/21/12	Tue 8/21/12									
11	Bid Process-A&B	80 days	Tue 8/21/12	Wed 12/12/12									
12	Issue Bid Notice-A&B section	0 days	Tue 8/21/12	Tue 8/21/12									
13	pre-bid conference	0 days	Thu 9/20/12	Thu 9/20/12									
14	Bid Opening	0 days	Tue 10/16/12	Tue 10/16/12									
15	Award by CC	0 days	Mon 11/12/12	Mon 11/12/12									
16	Review and Concur by DOT	0 days	Wed 12/12/12	Wed 12/12/12									
17	Bid Process-Section C-RR	60 days	Tue 12/18/12	Mon 3/11/13									
18	Same tasks for C section	60 days	Tue 12/18/12	Mon 3/11/13									
19	Construction Phase	161 days?	Wed 12/12/12	Wed 7/24/13									
20	NTP-A&B section	0 days	Wed 12/12/12	Wed 12/12/12									
21	Construction Period-A&B	160 days	Wed 12/12/12	Tue 7/23/13									
22	NTP-Section C	0 days	Mon 3/25/13	Mon 3/25/13									
23	Construction Period-C	87 days	Mon 3/25/13	Tue 7/23/13									
24	Substantial Completion	1 day?	Wed 7/24/13	Wed 7/24/13									
25	Ribbon Cutting	0 days	Fri 8/16/13	Fri 8/16/13									
26	Close out Grant	10 days?	Fri 8/16/13	Thu 8/29/13									

Project: Cape Fear Rivertrail Schedule
Date: Mon 5/14/12
Draft-not for issue or release

7



#1\$1



#1\$1



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa T. Smith, Chief Financial Officer
DATE: May 29, 2012
RE: **Special Revenue Fund Project Ordinance 2012-17 (FY11 Federal Homeland Security Grant)**

THE QUESTION:

This ordinance will establish the budget for the FY11 Federal Homeland Security Grant awarded to the Fire Department through the North Carolina Department of Crime Control and Public Safety Division of Emergency Management.

RELATIONSHIP TO STRATEGIC PLAN:

Principle B: Desirable Neighborhoods – Neighborhoods where people are safe and secure.

BACKGROUND:

- The purpose of the \$25,000 grant is to provide funding for equipment and training to be used on-scene by first responders to prepare for a threatened or actual weapon of mass destruction event, domestic terrorist attacks, major disasters and other emergencies to protect human life, property and the environment.
- This project is funded 100% through the federal grant.

ISSUES:

None.

BUDGET IMPACT:

As presented above.

OPTIONS:

1. Adopt Special Revenue Fund Project Ordinance 2012-17.
2. Do not adopt Special Revenue Fund Project Ordinance 2012-17.

RECOMMENDED ACTION:

Adopt Special Revenue Fund Project Ordinance 2012-17.

ATTACHMENTS:

FY11 Homeland Security Grant - SRO 2012-17

SPECIAL REVENUE FUND PROJECT ORDINANCE
ORD 2012-17

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue project ordinance is hereby adopted:

Section 1. The authorized project is for the funding of the FY11 Federal Homeland Security Grant awarded through the North Carolina Department of Crime Control and Public Safety Division of Emergency Management.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various grant agreements executed with the Federal and State governments and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

Federal Grant (Passed through N.C. Department of Crime Control and Public Safety)	<u>\$ 25,000</u>
---	------------------

Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 25,000</u>
----------------------	------------------

Section 5. Copies of this special revenue project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 29th day of May, 2012.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa Smith, Chief Financial Officer
DATE: May 29, 2012
RE: Tax Refunds of Greater Than \$100

THE QUESTION:

City Council approval is required to issue tax refund checks for \$100 or greater.

RELATIONSHIP TO STRATEGIC PLAN:

Core Value: Stewardship

BACKGROUND:

Approved by the Cumberland County Special Board of Equalization for the month of April and May, 2012.

ISSUES:

None.

BUDGET IMPACT:

The budget impact is \$398.63.

OPTIONS:

Approve the refunds.

RECOMMENDED ACTION:

Approval.

ATTACHMENTS:

Tax Refunds of Greater Than \$100



May 29, 2012

MEMORANDUM

TO: Lisa Smith, Chief Financial Officer *LS Smith*

FROM: Nancy Peters, Accounts Payable *NP*

RE: Tax Refunds of Greater Than \$100

The tax refunds listed below for greater than \$100 were approved by the Cumberland County Special Board of Equalization for the month of April and May, 2012.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Sodhi, Vimal K. & Wife Nccna	2570687	2010	Corrected Assessment	296.55
Cherry, Karin J.	1957974	2007-2010	Corrected Assessment	102.08
TOTAL				\$ 398.63

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Kristoff T. Bauer, Interim City Manager
DATE: May 29, 2012
RE: **Public Hearing on the Recommended Fiscal Year 2012-2013 City and Public Works Commission Budgets**

THE QUESTION:

This public hearing has been set to receive comments regarding the budgets proposed for the City and the Public Works Commission (PWC) for fiscal year 2012-2013.

RELATIONSHIP TO STRATEGIC PLAN:

Mission Principle: Financially Sound City Government

BACKGROUND:

The recommended City and PWC budgets for fiscal year 2012-2013 have been distributed to City Council and also made available for public inspection at the office of the City Clerk and on the city website.

ISSUES:

N/A

BUDGET IMPACT:

As presented in the Fiscal Year 2012-2013 Recommended Budget documents.

OPTIONS:

Public input only. No action required.

RECOMMENDED ACTION:

N/A

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Karen S. Hilton, AICP Manager, Planning and Zoning Division
DATE: May 29, 2012
RE: **Text Amendment request to amend City Code Section 30-5 Development Standards to add standards for fire-flow and fire hydrant locations in accordance with Appendices B and C of the North Carolina Fire Code as amended.**

THE QUESTION:

Is the proposed change in development standards consistent with public health, safety and welfare?

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government
Cost Effective Service Delivery

BACKGROUND:

The proposed amendments are contained in the State Fire Code Appendices B and C, which the City has not formally adopted. They address the water pressure/volume and the location of fire hydrants needed to assure adequate fire fighting resources as an area develops or is retrofitted for more intense development.

ISSUES:

While the Public Works Commission standards meet or exceed the requirements of Appendices B and C, the same standards are not necessarily being met in outlying areas in the Municipal Influence Area where service may be provided by other utilities. This amendment will ensure that the minimum fire flow and fire hydrant location standards of the NC Fire Code will be met in areas where the utility providing the service has less restrictive utility design standards.

The proposed amendment meets all criteria for evaluating amendments to the development standards. It is also consistent with goals and policies in the 2030 Growth Vision Plan, particularly those associated with the Vision #3, Infrastructure that Keeps Pace.

The Fayetteville Fire Department supports this amendment.

BUDGET IMPACT:

Improves the ability to provide public services without costly future retrofit.

OPTIONS:

1. Approve the proposed text amendment as presented by staff (recommended).
2. Modify and approve the text amendment.
3. Table action on the proposed text amendment.
4. Deny the proposed text amendment.

RECOMMENDED ACTION:

The Planning Board and Staff recommend that Council move to adopt the attached ordinance amending City Code Section 30-5 Development Standards.

ATTACHMENTS:

Fire Code Appendices B
Fire Code Appendix C

Ordinance

APPENDIX B

FIRE-FLOW REQUIREMENTS FOR BUILDINGS

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

SECTION B101 GENERAL

B101.1 Scope. The procedure for determining fire-flow requirements for buildings or portions of buildings hereafter constructed shall be in accordance with this appendix. This appendix does not apply to structures other than buildings.

SECTION B102 DEFINITIONS

B102.1 Definitions. For the purpose of this appendix, certain terms are defined as follows:

FIRE-FLOW. The flow rate of a water supply, measured at 20 pounds per square inch (psi) (138 kPa) residual pressure, that is available for fire fighting.

FIRE-FLOW CALCULATION AREA. The floor area, in square feet (m²), used to determine the required fire flow.

SECTION B103 MODIFICATIONS

B103.1 Decreases. The fire chief is authorized to reduce the fire-flow requirements for isolated buildings or a group of buildings in rural areas or small communities where the development of full fire-flow requirements is impractical.

B103.2 Increases. The fire chief is authorized to increase the fire-flow requirements where conditions indicate an unusual susceptibility to group fires or conflagrations. An increase shall not be more than twice that required for the building under consideration.

B103.3 Areas without water supply systems. For information regarding water supplies for fire-fighting purposes in rural and suburban areas in which adequate and reliable water supply systems do not exist, the fire code official is authorized to utilize NFPA 1142 or the *International Wildland-Urban Interface Code*.

SECTION B104 FIRE-FLOW CALCULATION AREA

B104.1 General. The fire-flow calculation area shall be the total floor area of all floor levels within the exterior walls, and under the horizontal projections of the roof of a building, except as modified in Section B104.3.

B104.2 Area separation. Portions of buildings which are separated by fire walls without openings, constructed in accordance with the *International Building Code*, are allowed to be considered as separate fire-flow calculation areas.

B104.3 Type IA and Type IB construction. The fire-flow calculation area of buildings constructed of Type IA and Type IB construction shall be the area of the three largest successive floors.

Exception: Fire-flow calculation area for open parking garages shall be determined by the area of the largest floor.

SECTION B105 FIRE-FLOW REQUIREMENTS FOR BUILDINGS

B105.1 One- and two-family dwellings. The minimum fire-flow requirements for one- and two-family dwellings having a fire-flow calculation area which does not exceed 3,600 square feet (344.5 m²) shall be 1,000 gallons per minute (3785.4 L/min). Fire-flow and flow duration for dwellings having a fire-flow calculation area in excess of 3,600 square feet (344.5 m²) shall not be less than that specified in Table B105.1.

Exception: A reduction in required fire flow of 50 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system.

B105.2 Buildings other than one- and two-family dwellings. The minimum fire-flow and flow duration for buildings other than one- and two-family dwellings shall be as specified in Table B105.1.

Exception: A reduction in required fire-flow of up to 75 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2. The resulting fire-flow shall not be less than 1,500 gallons per minute (5678 L/min) for the prescribed duration as specified in Table B105.1.

SECTION B106 REFERENCED STANDARDS

ICC	IBC-06	International Building Code	B104.2, Table B105.1
ICC	IWUIC-06	International Wildland-Urban Interface Code	B103.3
NFPA	1142-01	Standard on Water Supplies for Suburban and Rural Fire Fighting	B103.3

TABLE B105.1
MINIMUM REQUIRED FIRE-FLOW AND FLOW DURATION FOR BUILDINGS^a

FIRE-FLOW CALCULATION AREA (square feet)					FIRE-FLOW (gallons per minute) ^c	FLOW DURATION (hours)
Type IA and IB ^b	Type IIA and IIIA ^b	Type IV and V-A ^b	Type IIB and IIIB ^b	Type V-B ^b		
0-22,700	0-12,700	0-8,200	0-5,900	0-3,600	1,500	2
22,701-30,200	12,701-17,000	8,201-10,900	5,901-7,900	3,601-4,800	1,750	
30,201-38,700	17,001-21,800	10,901-12,900	7,901-9,800	4,801-6,200	2,000	
38,701-48,300	21,801-24,200	12,901-17,400	9,801-12,600	6,201-7,700	2,250	
48,301-59,000	24,201-33,200	17,401-21,300	12,601-15,400	7,701-9,400	2,500	
59,001-70,900	33,201-39,700	21,301-25,500	15,401-18,400	9,401-11,300	2,750	
70,901-83,700	39,701-47,100	25,501-30,100	18,401-21,800	11,301-13,400	3,000	3
83,701-97,700	47,101-54,900	30,101-35,200	21,801-25,900	13,401-15,600	3,250	
97,701-112,700	54,901-63,400	35,201-40,600	25,901-29,300	15,601-18,000	3,500	
112,701-128,700	63,401-72,400	40,601-46,400	29,301-33,500	18,001-20,600	3,750	
128,701-145,900	72,401-82,100	46,401-52,500	33,501-37,900	20,601-23,300	4,000	4
145,901-164,200	82,101-92,400	52,501-59,100	37,901-42,700	23,301-26,300	4,250	
164,201-183,400	92,401-103,100	59,101-66,000	42,701-47,700	26,301-29,300	4,500	
183,401-203,700	103,101-114,600	66,001-73,300	47,701-53,000	29,301-32,600	4,750	
203,701-225,200	114,601-126,700	73,301-81,100	53,001-58,600	32,601-36,000	5,000	
225,201-247,700	126,701-139,400	81,101-89,200	58,601-65,400	36,001-39,600	5,250	
247,701-271,200	139,401-152,600	89,201-97,700	65,401-70,600	39,601-43,400	5,500	
271,201-295,900	152,601-166,500	97,701-106,500	70,601-77,000	43,401-47,400	5,750	
295,901-Greater	166,501-Greater	106,501-115,800	77,001-83,700	47,401-51,500	6,000	
—	—	115,801-125,500	83,701-90,600	51,501-55,700	6,250	
—	—	125,501-135,500	90,601-97,900	55,701-60,200	6,500	
—	—	135,501-145,800	97,901-106,800	60,201-64,800	6,750	
—	—	145,801-156,700	106,801-113,200	64,801-69,600	7,000	
—	—	156,701-167,900	113,201-121,300	69,601-74,600	7,250	
—	—	167,901-179,400	121,301-129,600	74,601-79,800	7,500	
—	—	179,401-191,400	129,601-138,300	79,801-85,100	7,750	
—	—	191,401-Greater	138,301-Greater	85,101-Greater	8,000	

For SI: 1 square foot = 0.0929 m², 1 gallon per minute = 3.785 L/m, 1 pound per square inch = 6.895 kPa.

a. The minimum required fire flow shall be allowed to be reduced by 25 percent for Group R.

b. Types of construction are based on the *International Building Code*.

c. Measured at 20 psi.

TABLE B105.1
MINIMUM REQUIRED FIRE-FLOW AND FLOW DURATION FOR BUILDINGS^a

FIRE-FLOW CALCULATION AREA (square feet)					FIRE-FLOW (gallons per minute) ^c	FLOW DURATION (hours)
Type IA and IB ^b	Type IIA and IIIA ^b	Type IV and V-A ^b	Type IIB and IIIB ^b	Type V-B ^b		
0-22,700	0-12,700	0-8,200	0-5,900	0-3,600	1,500	2
22,701-30,200	12,701-17,000	8,201-10,900	5,901-7,900	3,601-4,800	1,750	
30,201-38,700	17,001-21,800	10,901-12,900	7,901-9,800	4,801-6,200	2,000	
38,701-48,300	21,801-24,200	12,901-17,400	9,801-12,600	6,201-7,700	2,250	
48,301-59,000	24,201-33,200	17,401-21,300	12,601-15,400	7,701-9,400	2,500	
59,001-70,900	33,201-39,700	21,301-25,500	15,401-18,400	9,401-11,300	2,750	
70,901-83,700	39,701-47,100	25,501-30,100	18,401-21,800	11,301-13,400	3,000	3
83,701-97,700	47,101-54,900	30,101-35,200	21,801-25,900	13,401-15,600	3,250	
97,701-112,700	54,901-63,400	35,201-40,600	25,901-29,300	15,601-18,000	3,500	
112,701-128,700	63,401-72,400	40,601-46,400	29,301-33,500	18,001-20,600	3,750	
128,701-145,900	72,401-82,100	46,401-52,500	33,501-37,900	20,601-23,300	4,000	4
145,901-164,200	82,101-92,400	52,501-59,100	37,901-42,700	23,301-26,300	4,250	
164,201-183,400	92,401-103,100	59,101-66,000	42,701-47,700	26,301-29,300	4,500	
183,401-203,700	103,101-114,600	66,001-73,300	47,701-53,000	29,301-32,600	4,750	
203,701-225,200	114,601-126,700	73,301-81,100	53,001-58,600	32,601-36,000	5,000	
225,201-247,700	126,701-139,400	81,101-89,200	58,601-65,400	36,001-39,600	5,250	
247,701-271,200	139,401-152,600	89,201-97,700	65,401-70,600	39,601-43,400	5,500	
271,201-295,900	152,601-166,500	97,701-106,500	70,601-77,000	43,401-47,400	5,750	
295,901-Greater	166,501-Greater	106,501-115,800	77,001-83,700	47,401-51,500	6,000	
—	—	115,801-125,500	83,701-90,600	51,501-55,700	6,250	
—	—	125,501-135,500	90,601-97,900	55,701-60,200	6,500	
—	—	135,501-145,800	97,901-106,800	60,201-64,800	6,750	
—	—	145,801-156,700	106,801-113,200	64,801-69,600	7,000	
—	—	156,701-167,900	113,201-121,300	69,601-74,600	7,250	
—	—	167,901-179,400	121,301-129,600	74,601-79,800	7,500	
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For SI: 1 square foot = 0.0929 m², 1 gallon per minute = 3.785 L/m, 1 pound per square inch = 6.895 kPa.

a. The minimum required fire flow shall be allowed to be reduced by 25 percent for Group R.

b. Types of construction are based on the *International Building Code*.

c. Measured at 20 psi.

APPENDIX C

FIRE HYDRANT LOCATIONS AND DISTRIBUTION

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

SECTION C101 GENERAL

C101.1 Scope. Fire hydrants shall be provided in accordance with this appendix for the protection of buildings, or portions of buildings, hereafter constructed.

SECTION C102 LOCATION

C102.1 Fire hydrant locations. Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets.

SECTION C103 NUMBER OF FIRE HYDRANTS

C103.1 Fire hydrants available. The minimum number of fire hydrants available to a building shall not be less than that listed in Table C105.1. The number of fire hydrants available to a complex or subdivision shall not be less than that determined by spacing requirements listed in Table C105.1 when applied to fire apparatus access roads and perimeter public streets from which fire operations could be conducted.

SECTION C104 CONSIDERATION OF EXISTING FIRE HYDRANTS

C104.1 Existing fire hydrants. Existing fire hydrants on public streets are allowed to be considered as available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads.

SECTION C105 DISTRIBUTION OF FIRE HYDRANTS

C105.1 Hydrant spacing. The average spacing between fire hydrants shall not exceed that listed in Table C105.1.

Exception: The fire chief is authorized to accept a deficiency of up to 10 percent where existing fire hydrants provide all or a portion of the required fire hydrant service.

Regardless of the average spacing, fire hydrants shall be located such that all points on streets and access roads adjacent to a building are within the distances listed in Table C105.1.

**TABLE C105.1
NUMBER AND DISTRIBUTION OF FIRE HYDRANTS**

FIRE-FLOW REQUIREMENT (gpm)	MINIMUM NUMBER OF HYDRANTS	AVERAGE SPACING BETWEEN HYDRANTS ^{a, b, c} (feet)	MAXIMUM DISTANCE FROM ANY POINT ON STREET OR ROAD FRONTAGE TO A HYDRANT ^d
1,750 or less	1	500	250
2,000-2,250	2	450	225
2,500	3	450	225
3,000	3	400	225
3,500-4,000	4	350	210
4,500-5,000	5	300	180
5,500	6	300	180
6,000	6	250	150
6,500-7,000	7	250	150
7,500 or more	8 or more ^e	200	120

For SI: 1 foot = 304.8 mm, 1 gallon per minute = 3.785 L/m.

a. Reduce by 100 feet for dead-end streets or roads.

b. Where streets are provided with median dividers which can be crossed by fire fighters pulling hose lines, or where arterial streets are provided with four or more traffic lanes and have a traffic count of more than 30,000 vehicles per day, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis up to a fire-flow requirement of 7,000 gallons per minute and 400 feet for higher fire-flow requirements.

c. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, fire hydrants shall be provided at spacing not to exceed 1,000 feet to provide for transportation hazards.

d. Reduce by 50 feet for dead-end streets or roads.

e. One hydrant for each 1,000 gallons per minute or fraction thereof.

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 30-5 OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE TO ESTABLISH A NEW SECTION 30-5.O ESTABLISHING MINIMUM FIRE-FLOW AND FIRE HYDRANT LOCATION STANDARDS.

WHEREAS, the City of Fayetteville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, development activity in the City of Fayetteville has increased significantly, causing the need to establish minimum standards for fire safety;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE THAT:

1. Article 5 of Chapter 30 of the City Code be amended by the establishment of a new Section O which reads as follows:

Sec.30-5.O. FIRE SAFETY STANDARDS

1. PURPOSE

Minimum fire-flow and fire hydrant location standards are necessary to ensure public safety and to maintain and/or enhance the City of Fayetteville Fire Department's ISO rating.

2. MINIMUM STANDARDS ESTABLISHED

All new development within the City of Fayetteville shall be served by fire-flow volumes and by fire hydrants located in compliance with Appendices B and C of the North Carolina Fire Code, respectively. These shall be the minimum design standards for fire-flow and fire hydrant location, and any amendments to these appendices shall be incorporated into this section by reference. If the service-providing utility has fire-flow and fire hydrant location design standards in excess of those provided in Appendices B and C of the North Carolina Fire Code, the higher standards shall prevail.

2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.
4. This ordinance shall become effective upon adoption.

Read, approved, and adopted this _____ day of _____, 2012.

City Clerk

Mayor

Approved as to form:

City Attorney

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of the City Council
FROM: Karen S. Hilton, AICP, Manager Planning and Zoning Division
DATE: May 29, 2012
RE: **Amend City Code Chapter 30, Articles 4 and 9, to create, classify and set special standards for transitional housing, and establish conditions to allow modification of the separation standards for certain group living facilities in business zoning districts through the special use permit process.**

THE QUESTION:

Does the proposed amendment to the development standards meet a public purpose?

RELATIONSHIP TO STRATEGIC PLAN:

Desirable neighborhoods.

BACKGROUND:

This amendment was prompted by a request to establish a halfway house on Ramsey Street in a commercial location. This location appeared appropriate for the use, but a separation standard was not met. Group homes, some therapeutic homes, and halfway houses are required to be located at least 2,640 feet (approximately one-half mile) from any other group home, therapeutic home, or halfway house.

This separation requirement was adopted in the past due to a large number of group and therapeutic homes being established to serve persons with mental illness or disability. Once the State started its policy of mainstreaming these individuals, the "market" for these facilities was greatly reduced.

Staff proposes maintaining the separation requirements in residential districts, but allowing the separation standards to be reduced or waived in business districts through the special use permit process. The special use permit process permits individualized consideration of a particular group living or institutional facility's relationship to and/or concentration of similar facilities based on a variety of factors unique to the property, such as topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics (including proximity to social services and public transportation).

Additionally, a Transitional Housing use is needed because Group Homes, Halfway Houses, Therapeutic Homes, and Assisted Living Facilities all address the housing needs of persons transitioning from confinement circumstances or suffering from various disabilities. Transitional Housing would meet the housing needs of homeless persons who may not be transitioning from confinement circumstances or suffering from various disabilities.

Procedural History

The Planning Commission considered this item on April 17, held a public hearing, and recommended approval. The Council considered the amendment at the April 23 Regular Meeting and, after holding a public hearing, tabled the item indefinitely and directed staff to schedule the item for further discussion at a Council Work Session. Council discussed the item further during the May 7 Work Session and directed staff to bring the item back to Council for consideration.

ISSUES:

Greater flexibility in the location of group living facilities in commercial districts would be provided. A new group living use, Transitional Housing, would be created to address a gap in service. City Council and the Planning Commission would have to evaluate reducing or waiving separation requirements when considering special use permits for these types of uses.

BUDGET IMPACT:

None noted.

OPTIONS:

Adopt amendment as proposed (recommended).

Adopt amendment with changes (two options are provided in the attached presentation).

Deny amendment.

RECOMMENDED ACTION:

The Planning Commission and Staff recommend the adoption of the amendment as proposed.

ATTACHMENTS:

Group-Transitional Housing Presentation

UDO Ordinanc

Zoning Code Text Amendment

Modifying Separation Distances for
Large Group Homes, Halfway Houses
and Transitional Housing in Non-
Residential Districts

Proposal

1. Maintain existing 2,640-foot separation distance for large group homes, etc. in **residential** districts.
2. Allow separation distances for large group homes, etc. in **nonresidential** districts to be determined through the special use permit process.
3. Establish transitional housing as a new group living use.

Group Homes, Etc. in Residential Zoning Districts

Proposal: No change to current 2,640 foot separation requirements in residential districts.

Group Homes, Etc. in Non-Residential Zoning Districts

- **Proposal: Change current 2,640 foot separation requirement to allow special use permit process to determine separation in non-residential districts.**

Reasons to Reduce Separation

- Topographical features
 - Rivers
 - Elevation
- Major transportation facilities
- Distance of separation from other group living facilities
- Other reasons determined by Council

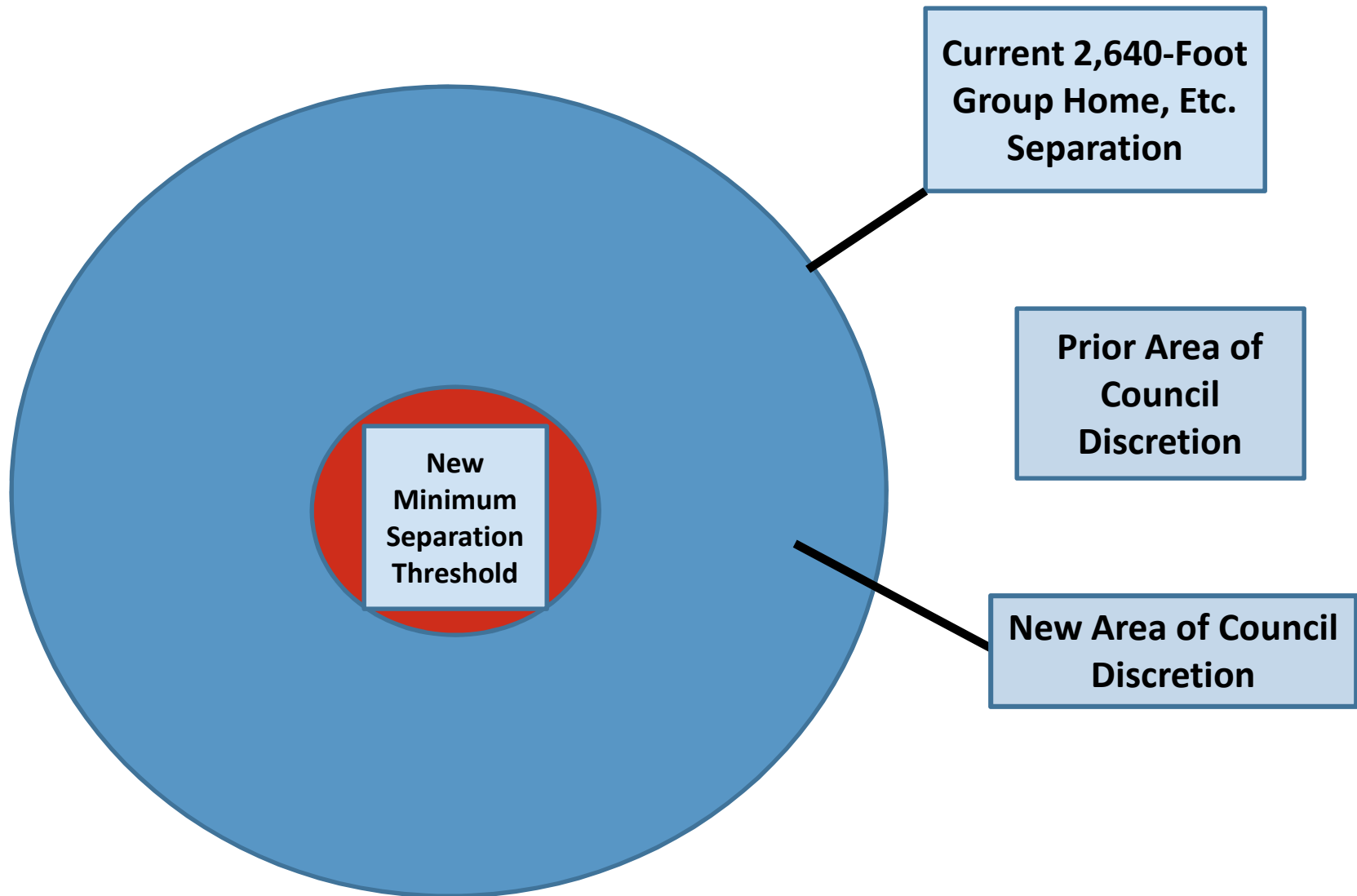
New Transitional Housing Use

- Other group living use definitions limit the population of those being housed to persons:
 - Having mental or physical disabilities (Group Homes)
 - Being released from incarceration (Halfway Houses)
- Transitional housing definition would address housing needs of persons who may or may not have disabilities.
- Allowed in the same districts as Large Group Homes.
- Special use permit required.

Options

- 1) Approve as proposed (recommended)
- 2) Deny
- 3) Establish a new absolute minimum separation threshold for group living facilities in nonresidential districts but allow such facilities that are above that threshold to be determined by special use permit
- 4) Have separate separation standards for large and small group living facilities

Option 3



Option 4

Maintain the 2,640-foot separation but distinguish between **facility scales**

- Small Group Homes and Therapeutic Homes
- Large Group Homes, Halfway Houses and Transitional Housing

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND CHAPTER 30 UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE CHANGES TO STANDARDS AFFECTING GROUP LIVING FACILITIES, INCLUDING ESTABLISHING A NEW TRANSITIONAL HOUSING USE AND ASSOCIATED DEFINITION, PLACING TRANSITIONAL HOUSING IN THE TABLE OF USES, AND ADDRESSING SEPARATION STANDARDS FOR VARIOUS GROUP LIVING FACILITIES.

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that the Unified Development Ordinance adopted December 13, 2010 as Chapter 30 of the Code of Ordinances of the City of Fayetteville and last amended _____, be amended as follows:

Section 1. Amend Section 30-4.A.2. Use Table by adding the Transitional Housing use in the Group Living Use Category, designating it as a Special Use (“S”) in the OI, NC, LC, CC, MU and DT Zoning Districts, and listing Section 30-4.C.2.(b)(6) as a citation for Additional Requirements.

Explanation: A Transitional Housing use is needed because Group Homes, Halfway Houses, Therapeutic Homes, and Assisted Living Facilities all address the housing needs of persons transitioning from confinement circumstances or suffering from various disabilities. Transitional Housing would meet the housing needs of homeless persons not transitioning from confinement circumstances or suffering from various disabilities.

Section 2. Amend Section 30-5.C.3.(b)(2)b as follows:

- b. A large group shall be located at least 2,640 feet (approximately one-half mile) from any other group home, ~~or~~ therapeutic home, halfway house, or transitional housing if located in a residential zoning district. If located in a business zoning district, the 2,640-foot standard may be reduced or waived through the special use permit process based on mitigating circumstances which may include, but are not limited to, topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics (including proximity to social services and public transportation).

Explanation: The special use permit process permits individualized consideration of a particular group living or institutional facility's relationship to and/or

concentration of similar facilities based on a variety of factors unique to the property.

Section 3. Add a new Section 30-4.C.2.(b)(6) as follows:

(6) Transitional Housing

A transitional housing facility shall be located at least 2,640 feet (approximately one-half mile) from any other group home, therapeutic home, halfway house, or transitional housing if located in a residential zoning district. If located in a business zoning district, the 2,640-foot separation standard may be reduced or waived through the special use permit process based on mitigating circumstances which may include, but are not limited to, topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics (including proximity to social services and public transportation).

Explanation: The special use permit process permits individualized consideration of a particular group living or institutional facility's relationship to and/or concentration of similar facilities based on a variety of factors unique to the property.

Section 4. Amend Section 30-4.C.3.(d)(2) to read as follows:

A halfway house shall be located at least 2,640 feet (approximately one-half mile) from any other group home, therapeutic home, halfway house, or transitional housing if located in a residential zoning district. If located in a business zoning district, the 2,640-foot separation standard may be reduced or waived through the special use permit process based on mitigating circumstances which may include, but are not limited to, topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics (including proximity to social services and public transportation).

Explanation: The special use permit process permits individualized consideration of a particular group living or institutional facility's relationship to and/or concentration of similar facilities based on a variety of factors unique to the property.

Section 5. Establish a new definition in Section 30-9.D. as follows:

TRANSITIONAL HOUSING

A principal or accessory use that provides shelter to homeless persons for an extended period of time and generally integrated with social services and counseling programs to assist in the transition of those persons to self-sufficiency through the acquisition of stable incomes and permanent housing.

Section 6. The City Clerk is hereby authorized to revise formatting, correct typographical errors, verify and correct cross references, indexes, and diagrams as necessary to codify, publish, and/or accomplish the provisions of this ordinance or future text amendments as long as doing so does not alter the material terms of the Unified Development Ordinance.

Section 7. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Fayetteville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

ADOPTED this the 29th day of May, 2012.

CITY OF FAYETTEVILLE

ANTHONY G. CHAVONNE, Mayor

ATTEST:

City Clerk

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-13F Request for a Special Use Permit for Halfway House in a Community Commercial District, on property located at 3611-B Ramsey Street. Containing a portion of 5.63 acres more or less and being the property of Cedar Creek Crossing West LLC.**

THE QUESTION:

Does the proposed Special Use Permit request for a halfway house fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development.

BACKGROUND:

Owner: Cedar Creek Crossing West LLC.
Applicant: Cedar Creek Crossing West LLC.
Requested Action: SUP with CC zoning
Property Address: 3611-B Ramsey Street.
Council District: 3
Status of Property: Partly Occupied
Size: 5.63 acres +/-
Existing Land Use: Commercial and Office
Adjoining Land Use & Zoning:
North - CC
South - LC
East - LC
West - SF-15
Letters Mailed: 97
Land Use Plan: Heavy Commercial

ISSUES:

The owners of this property have requested the approval a Special Use Permit (SUP) to open a halfway house in a commercially zoned property on Ramsey Street. Concurrent to this SUP application is a text amendment change request that would allow the consideration of a halfway house on this property. Currently this location does not meet the separation requirements between halfway houses and large or small group homes. The City's measurement standard for calculating the required distance is to measure from outside wall to outside wall. If any portion of a building housing a group home or halfway house falls within the prescribed distance away from the closest outside wall of an existing group home then the new group home cannot locate there. The text amendment would allow consideration of this request despite the 2640 foot separation. The proposed halfway house on this property would house around 30 persons.

Zoning Commission and Staff recommend approval of the Special Use Permit based on:

1. Proposal can meet all special requirements of a halfway house, if the proposed text amendment is approved by the City Council and the small reduction in separation standards is approved.
2. Property is located in a heavy commercial part of the City.
3. Adequate separation exists between this use and the residential use to the west.

A Special Use Permit shall be approved only upon a finding that all of the following standards are met:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards; **Yes...the project will comply when developed.**
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; **Yes....the proposal is located on more than 5 acres in the commercial district and is separated from other residential uses by an eight (8) foot high block wall and grass strip.**
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; **The proposed use will be located far enough away and buffered as described above from residents as to minimize all adverse effects.**
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; **The proposed use will be located far enough away from residents as to minimize all adverse effects.**
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; **The proposal avoids significant deterioration of natural resources. Site is already developed.**
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; Yes. **Site will be accessed by Ramsey Street.**
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and **The proposal should have little effect on property values and will protect the ability of surrounding properties to develop as permitted. Staff has no specific evidence to support a drop in property values.**
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations. **Yes...the project must comply with all regulations**

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of SUP as presented by staff and based on findings (Recommended);
- 2) Approval of SUP with additional conditions;
- 3) Denial of the rezoning request.

RECOMMENDED ACTION:

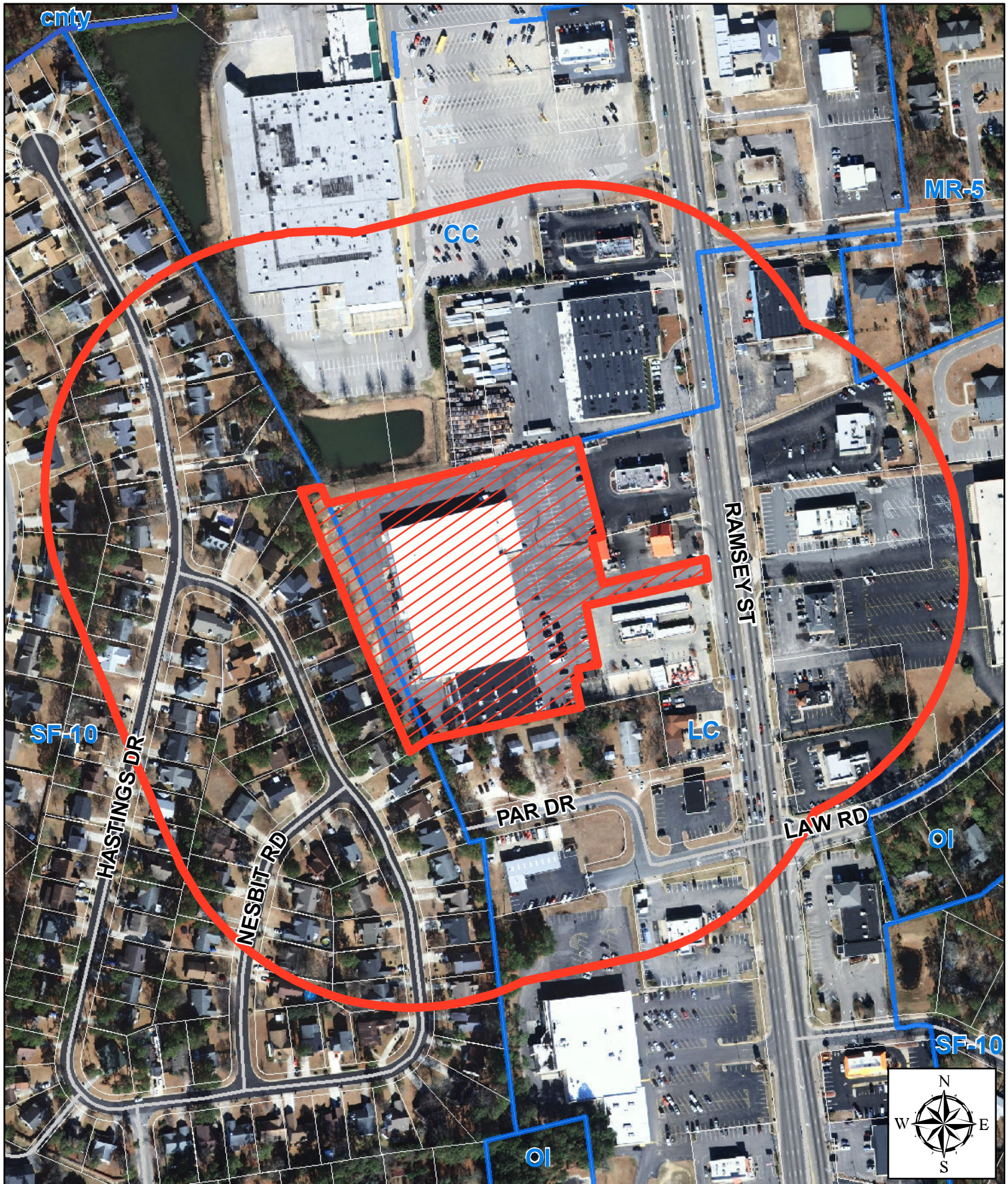
Zoning Commission and Staff Recommend: Based on information to date, the Zoning Commission and Staff Recommend that the City Council move to APPROVE the request for a Special Use Permit for a halfway house as presented by staff and upon a finding that all of the following standards are met:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; Yes.
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations.

ATTACHMENTS:

Zoning Map
Current Landuse
Land Use Plan
Site Plan

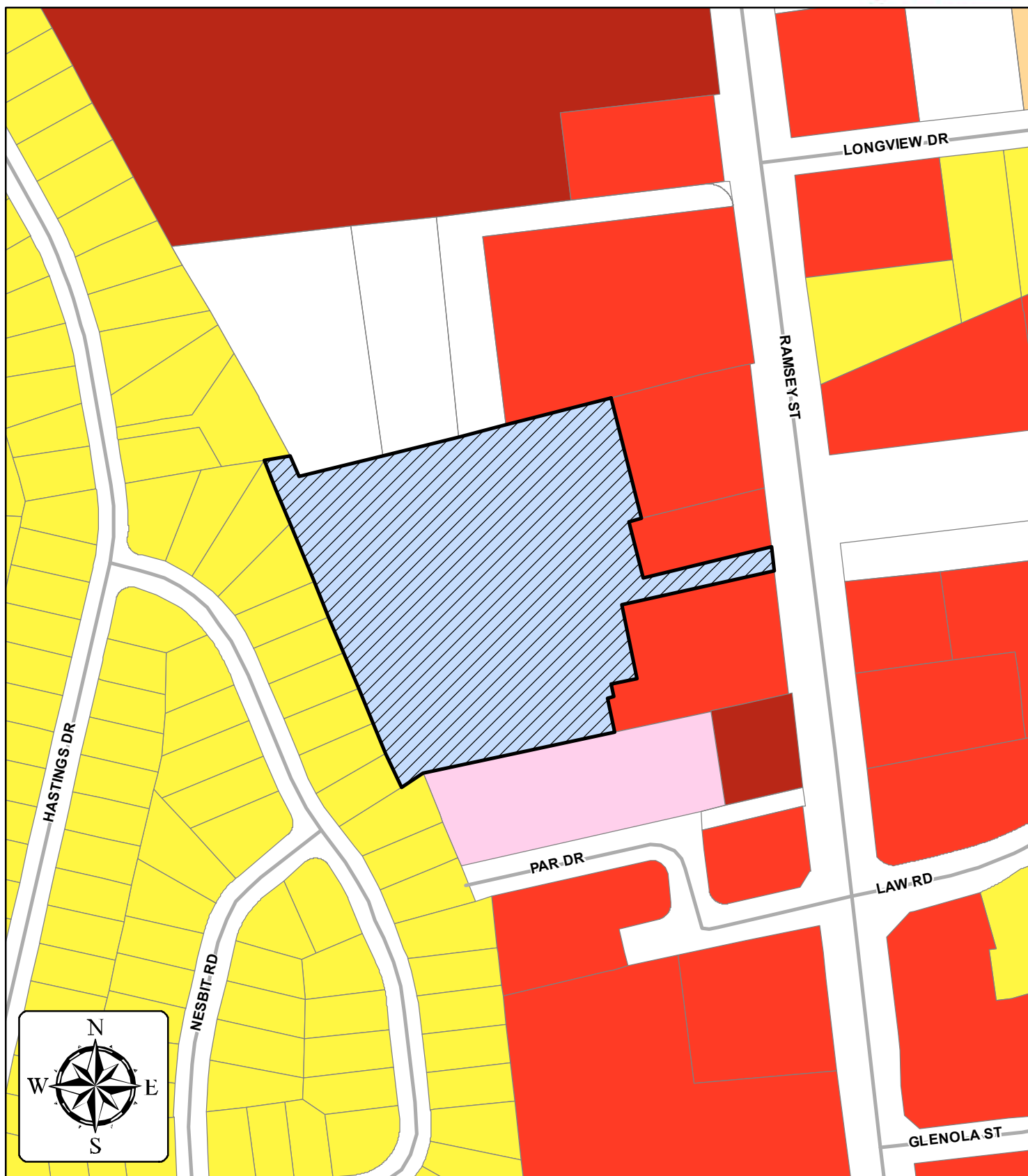
**ZONING COMMISSION
CASE NO. P12-13F**



Request: SUP
Location: 3611-B Ramsey St
Acreage: +/- 5.63 acres

Zoning Commission: 04/10/2012 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 0439-54-6695

P12-13F



Legend

Existing Landuse

 Common Area Group Quarters

 Industrial

 Multi-Family

 Open Space

■ Communications-Utilities

 Vacant Commercial

☐ Single Family Detached


 Commercial

 Golf Course

 Institut

 Mobile Home

 Parking

 Under Construction

Not Verified

 Single Family Attached

 Cemetery

 Government Office

 Lake

 Mobile Home

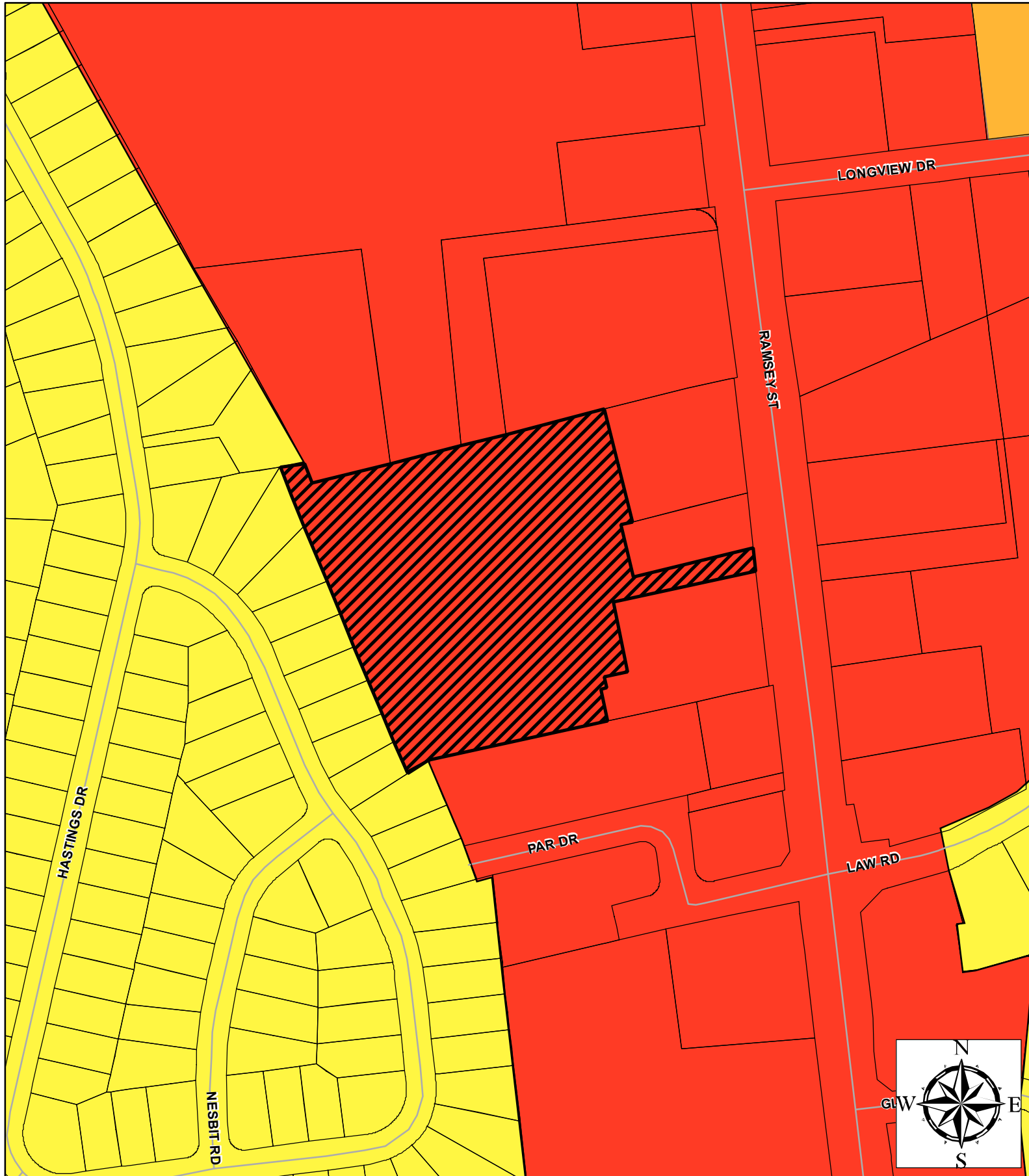
 Predominantly Vacant

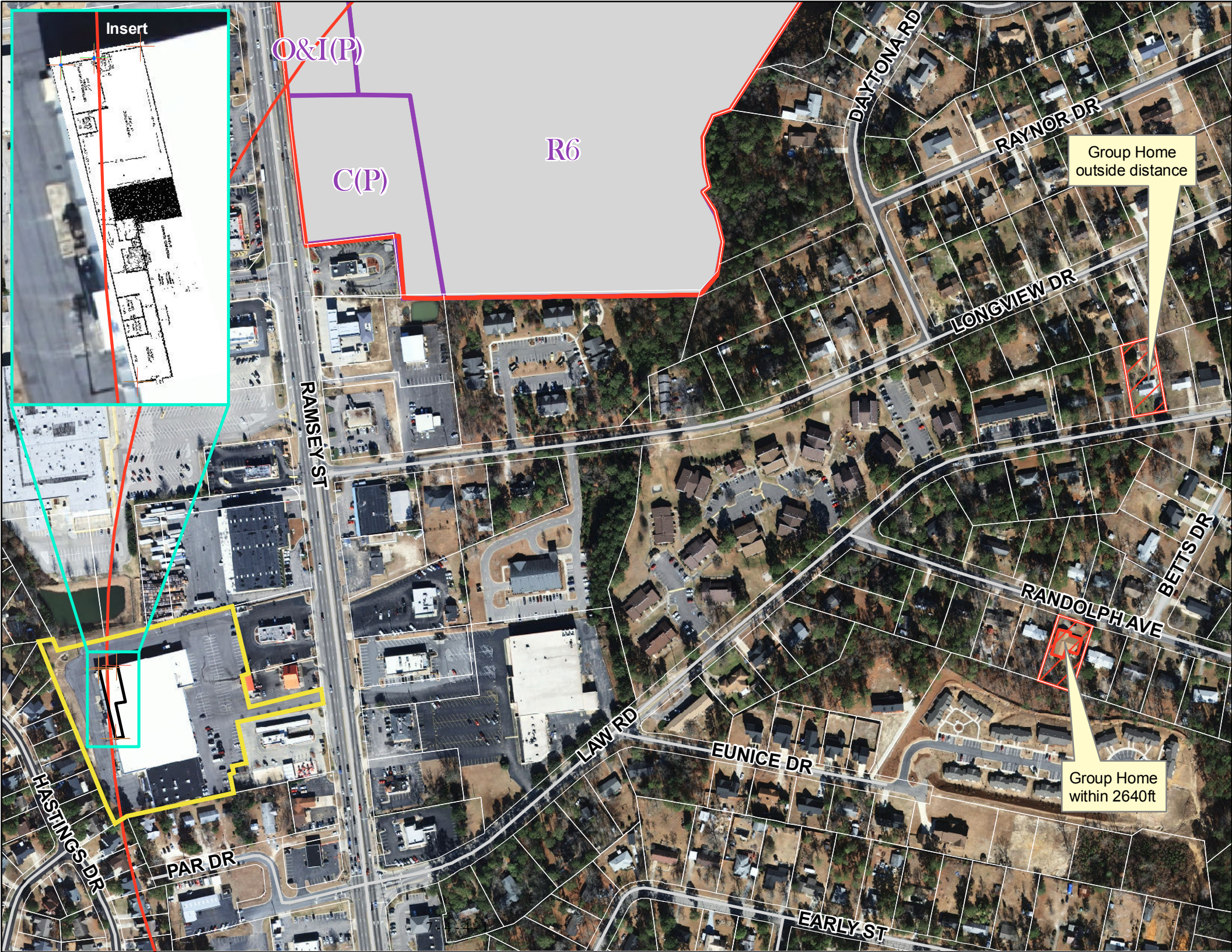
at ☐ Vacant Land

Null PIN

2010 Land Use Plan

Case No. P12-13F





Insert

O&I(P)

C(P)

R6

Group Home
outside distance

Group Home
within 2640ft

RAMSEY ST

HASTINGS DR

PAR DR

LAW RD

EUNICE DR

EARLY ST

DAYTONA RD

RAYNOR DR

LONGVIEW DR

RANDOLPH AVE

BETTS DR

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-21F Request for a Special Use Permit to allow a recycling/salvage yard in an HI district on property located at 525 S. King Street. Containing 24.47 acres more or less and being the property of Advanced Internet Technologies**

THE QUESTION:

Does the proposed Special Use Permit request for an auto salvage yard fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development.

BACKGROUND:

Owner: Advanced Internet Technologies, Inc.
Applicant: Advanced Internet Technologies, Inc.
Requested Action: SUP - Auto Recycling / Salvage Yard
Property Address: 525 S. King Street.
Council District: 2
Status of Property: Undeveloped
Size: 24.47 acres +/-
Existing Land Use: Industrial Vacant
Adjoining Land Use & Zoning:
North - MR-5 & HI
South - HI
East - Cape Fear & HI
West - HI & MR-5
Letters Mailed: 56
Land Use Plan: Heavy Industrial

ISSUES:

This property is currently vacant and zoned HI Heavy Industrial. The owners are requesting a Special Use Permit to allow for the operation of an auto recycling / salvage yard. The property in question over looks the Cape Fear River. Please review the enclosed site plan provided by the applicant. As a recycling center, each auto that is brought in is first stripped and drained of most hazardous materials. The request is to be able to provide capacity for up to 1,346 autos for recycling. The facility would also have two buildings, one for retail sales the other for the recycling of parts.

Zoning Commission & Staff recommend Approval of SUP based on:

1. Land Use Plan calls for heavy industrial
2. The use is more of a recycling center than a salvage yard.
3. The storage of hazardous materials will be limited on the site.
4. No motor vehicle, motor vehicle part, or junk shall be stacked higher than the screening required pursuant to this Code or in any event no higher than 7 feet high.
5. There shall only be one car per 162 square feet of storage area.
6. Privacy fencing and landscaping where abutting residential uses.
7. Reservation of a 30 foot trail easement along the river as part of the river trail system in a location acceptable to City staff.

8. Reservation of a temporary 50 foot construction easement beside of the river trail easement in a location acceptable to City staff (note: this easement would exist only during the construction of the river trail).
9. Create a berm with plantings to, hide building #2 and to prevent the possibility of spills from building #2 reaching the Cape Fear River

A Special Use Permit shall be approved only upon a finding that all of the following standards are met:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations.

Zoning Commission Hearing:

Opposition expressed concerns about the use's impact on existing residential uses. The Commission believes the facts support the necessary findings that Council must make. In particular, the Commission noted that, since the property is already zoned HI, this use, with conditions, is likely to have less impact on surrounding properties than many other uses permitted by right.

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of SUP with conditions as presented by staff (Recommended);
- 2) Approval of SUP with additional conditions;
- 3) Denial of the rezoning request.

RECOMMENDED ACTION:

Zoning Commission & Staff Recommend: That the City Council move to APPROVE the request for a Special Use Permit for a recycling/salvage yard as presented by staff.

ATTACHMENTS:

Zoning Map
Current Land Use
Land Use Plan
Information Packet from Owner
Site Plan P12-21F

ZONING COMMISSION
CASE NO. P12-21F



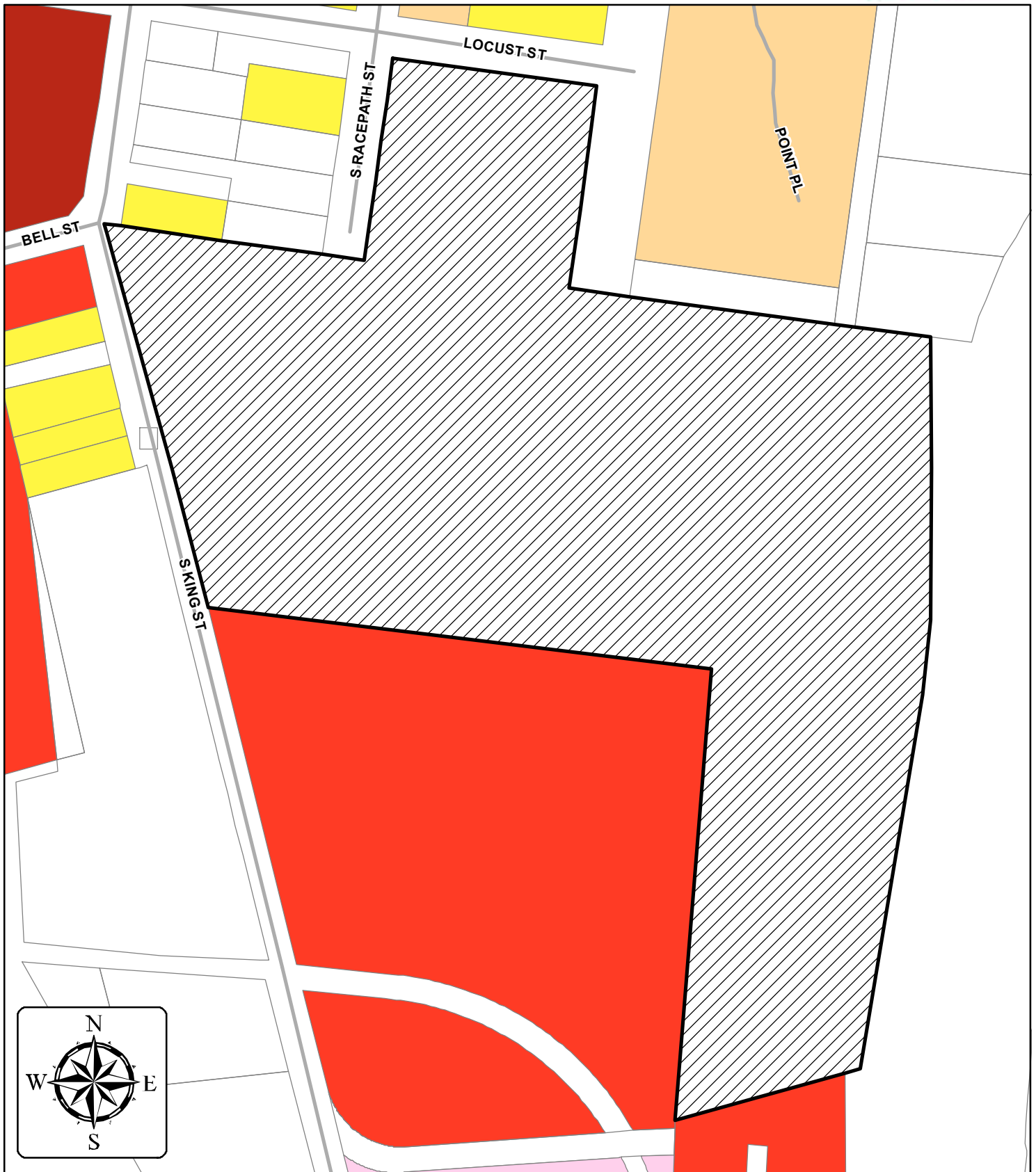
Request: SUP Junk Yard
Location: 525 S. King St.
Acreage: +/- 24.47 acres

Zoning Commission: 04/10/2012 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 0446-19-2895

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

Current Land Use

P12-21F

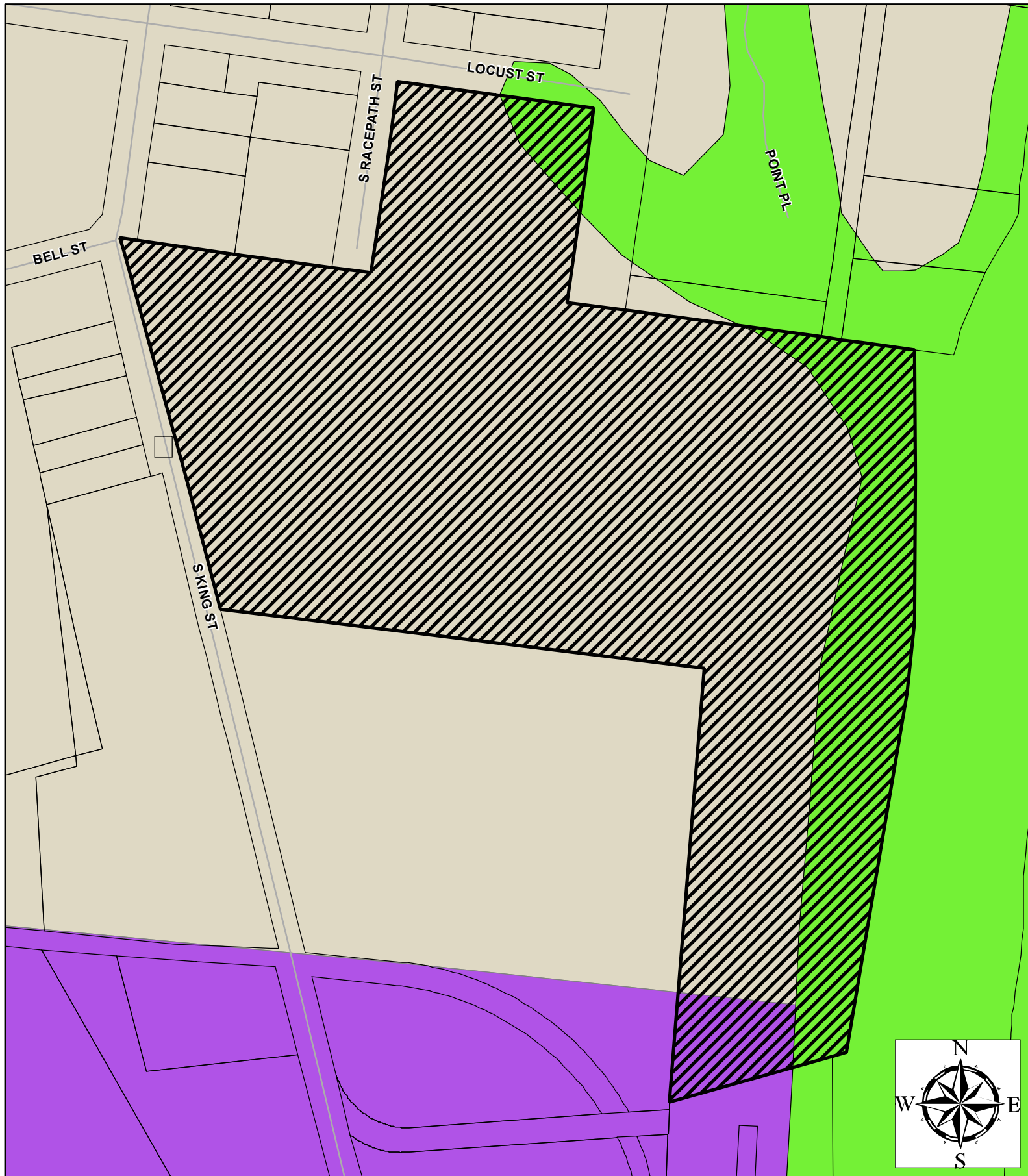


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-21F



YARBOROUGH, WINTERS & NEVILLE, P.A.

Attorneys at Law

115 E. Russell Street
Fayetteville, North Carolina 28301

P12-21F

Garris Neil Yarborough
Hugh Addison Winters, III
J. Thomas Neville
John H. Jackson
Elizabeth Prewitt Gilluly

Telephone: (910) 433-4433
Facsimile: (910) 433-2233
www.ywnlaw.com

March 5, 2012

Mr. Scott Shuford
Director of Development
City of Fayetteville
HAND DELIVERED

RE: Application for Special Use Permit

Dear Mr. Shuford,

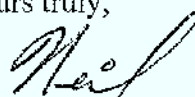
Attached you will find an Application for Special Use Permit for an automobile parts recycling establishment. This business is an environmentally friendly enterprise wherein automobiles which are damaged beyond repair are placed on racks for a certain period of time in an orderly fashion so that consumers may come into the display area and pull used parts to help maintain their vehicles. As you know, with the current economy and limited dealer parts stocking, this type of business is of great importance to our citizens who are trying to keep their cars on the road.

Prior to ever being placed at the display area, they are brought into the maintenance and dismantling shop wherein all fluids and possibly hazardous materials are safely removed, stored and eventually shipped out to other item specific recyclers. Additionally, after 30-60 days on display for retail customers, the vehicles are removed, placed back into the maintenance and dismantling shop and key recyclable parts are removed for future sale and the remaining salvage is shipped off site for shredding. This provides the highest possibilities for recycled use for automobile parts while maintaining an attractive and environmentally friendly method of recycling.

In addition to the 20 copies of the site plan, you will find photographs of the Wilmington facility for illustrative purposes. For additional information, you may also want to check out my client's Wilmington website at www.capefearpicknpull.com.

If you have any questions, please feel free to let me know.

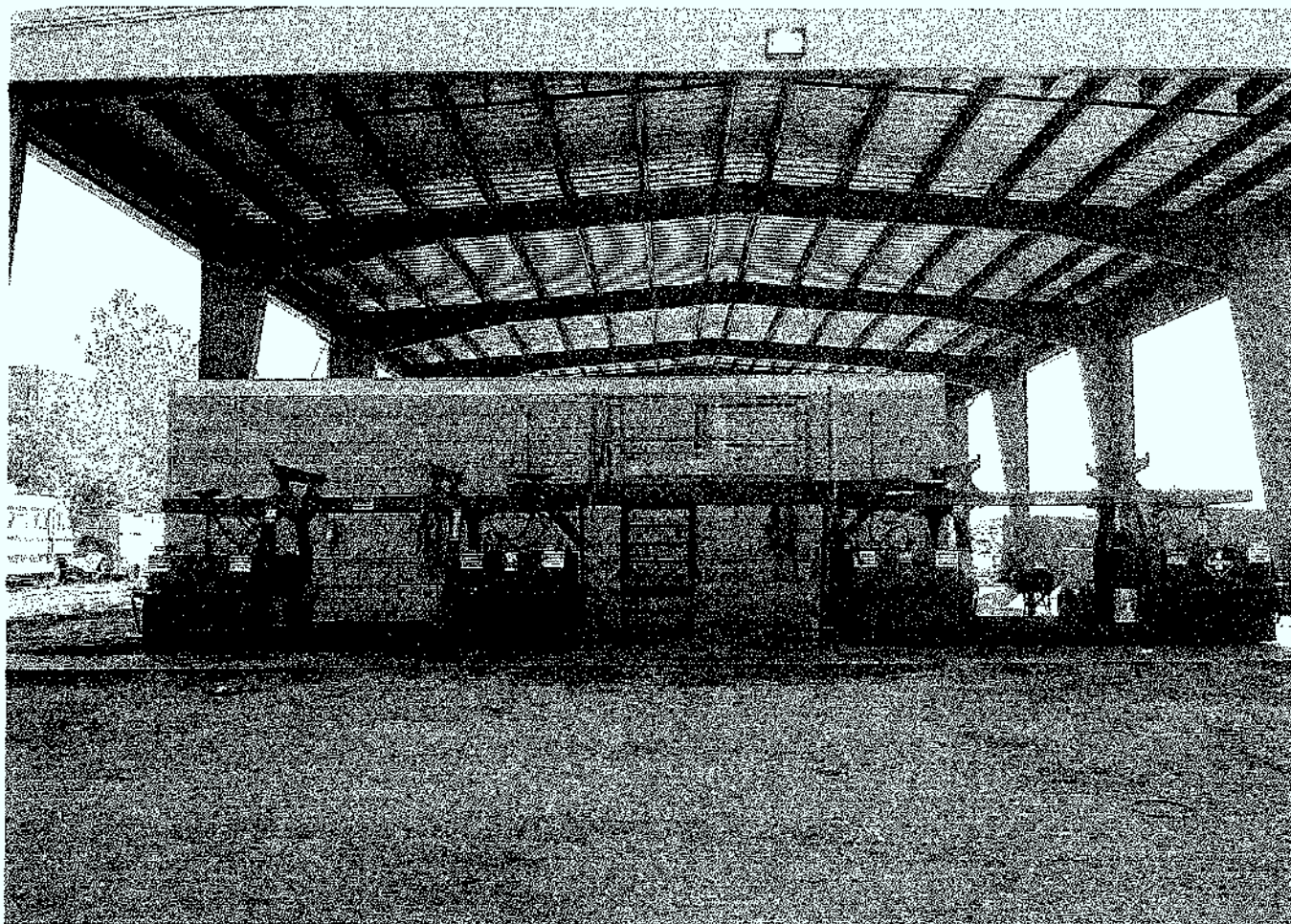
Yours truly,

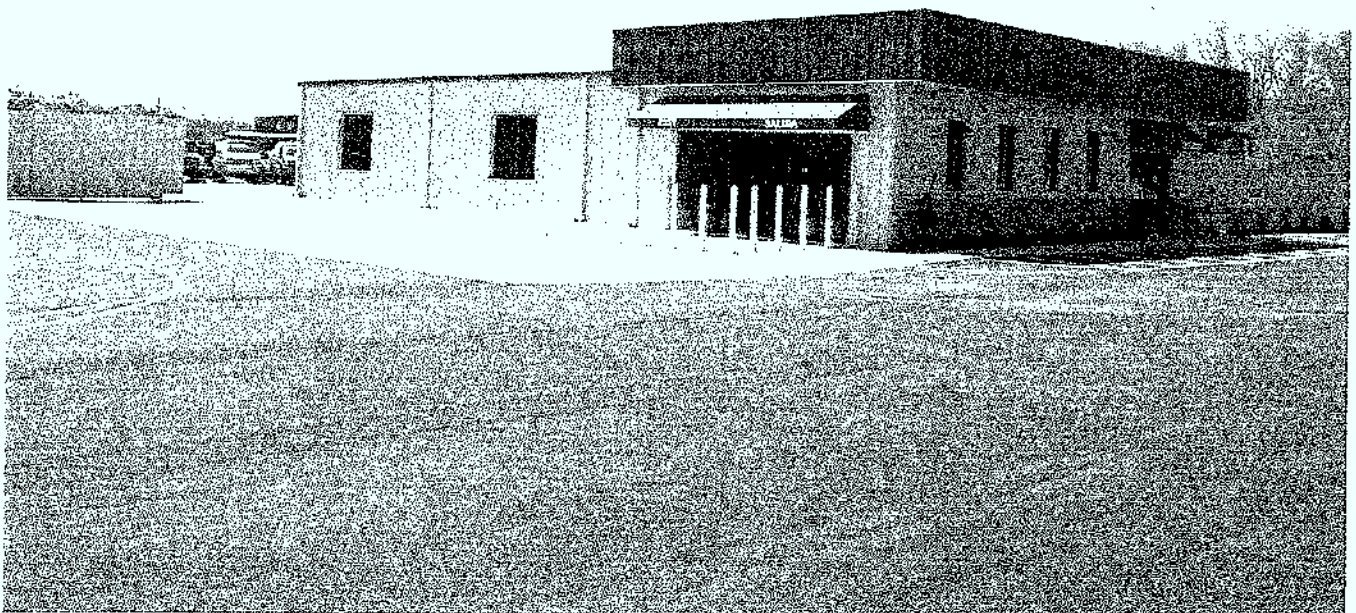


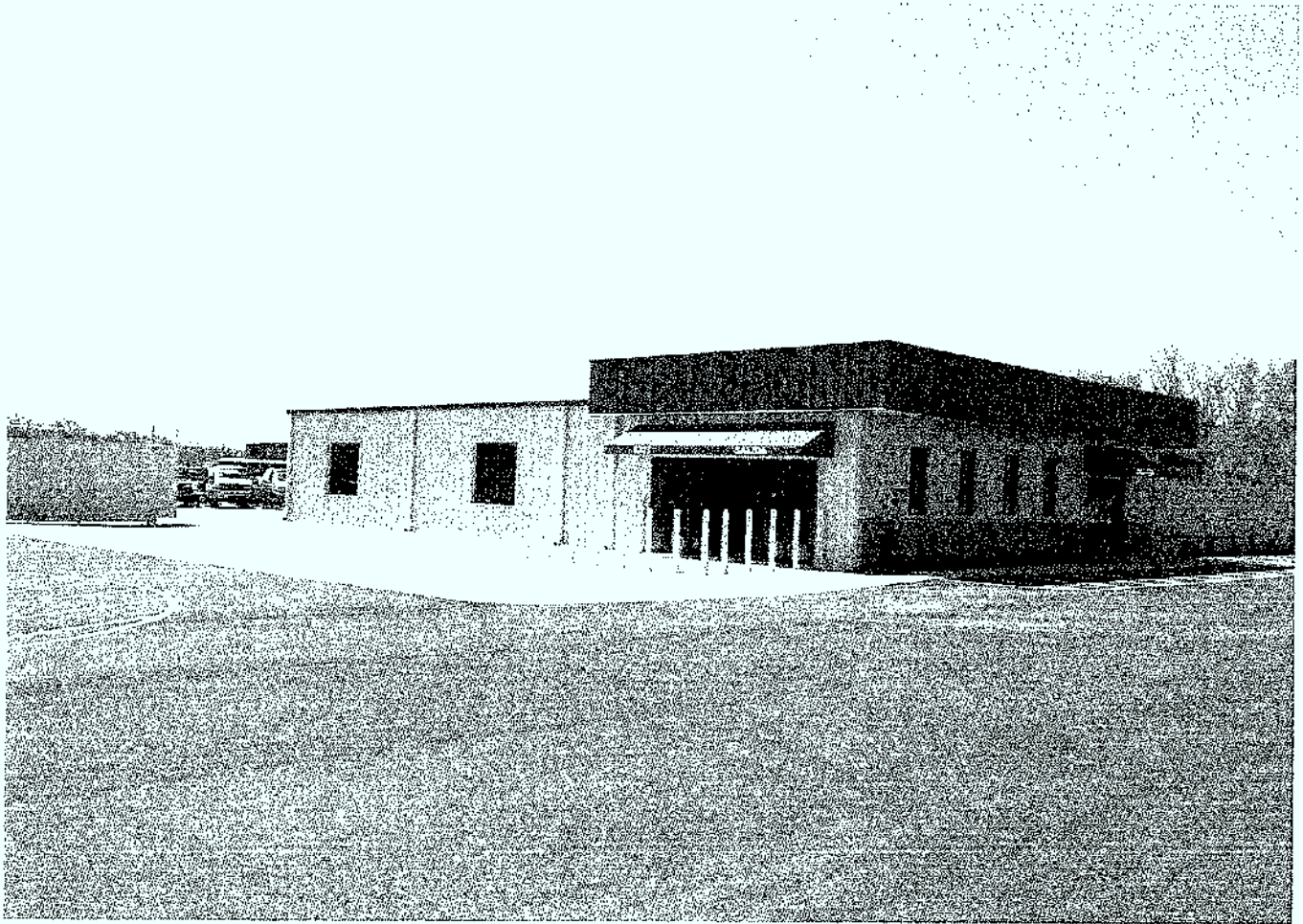
GARRIS NEIL YARBOROUGH
Attorney at Law

cc: Sandhills Pick-N-Pull, LLC

Mailing Address: Post Office Box 705, Fayetteville, North Carolina 28302

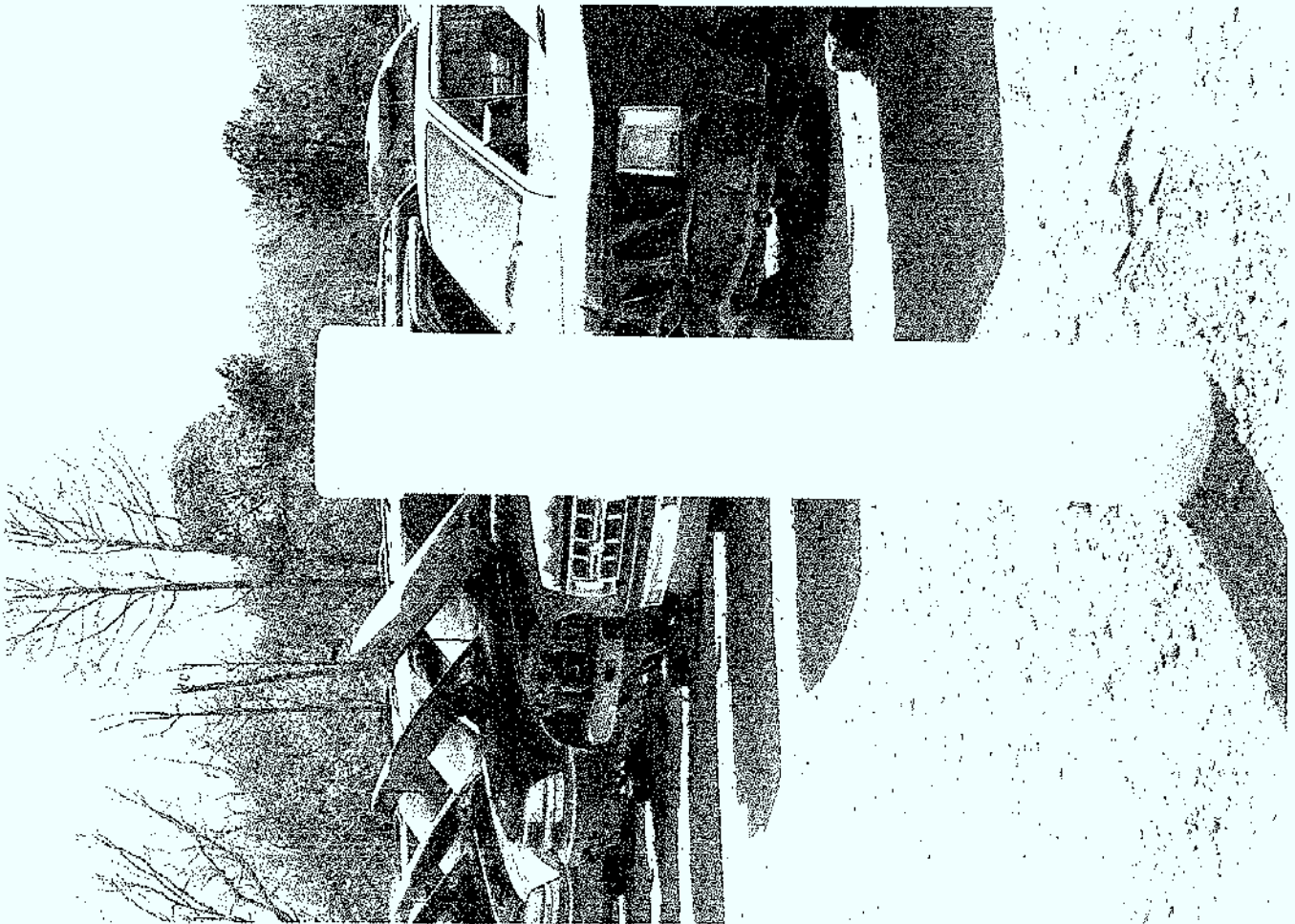












S EASTERN BLVD

BELL ST

S KING ST

S RACEPATH ST

ORLAND AVE. 218 AC.

BROAD ST

CAPE FEAR RIVER

GENERAL NOTES
 1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NORTH CAROLINA CONSTRUCTION CODES.
 2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
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 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-15F Request for a Special Use Permit for Dog Kennel, on property located at 7351 Stoney Point Road. Containing 4 acres more or less and being the property of Ronald and Joy Whitehead.**

THE QUESTION:

Does the proposed Special Use Permit request for a kennel fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development.

BACKGROUND:

Owner: Ronald and Joy Whitehead
Applicant: Ronald and Joy Whitehead
Requested Action: SUP
Property Address: 7351 Stoney Point Road.
Council District: 6
Status of Property: Single Family Residential & Power Easement
Size: 4 acres +/-
Existing Land Use: Residential
Adjoining Land Use & Zoning:
North - SF-10
South - AR & SF-6
East - AR
West - AR, SF-6 & NC
Letters Mailed: 52
Land Use Plan: Low Density Residential

ISSUES:

The owners of this property initially requested the approval a Special Use Permit (SUP) to open a dog park and kennel. The owners have since dropped the request for a dog park. The owners originally submitted a site plan with two possible locations for these facilities (listed as A & B on the attached map in the owner's information packet). The owners along with the Zoning Commission and staff have ruled out one option (A). The remaining option (B) is being recommended by the Zoning Commission for approval. Animal care uses do have to meet special requirements in order to be developed. Those requirements are listed below.

At the Zoning Commission's March meeting, this item was tabled and the Commission requested that the applicant return in April with a more detailed site plan. Please find attached a more detailed site plan plus additional information regarding this project that has been provided by the applicant. In addition, the applicant has withdrawn the request for a private dog park and they have taken the option A location for the kennel off of their request.

Animal Care Uses

Animal shelters, kennels (indoor and outdoor), and veterinary clinics shall comply with the following standards:

(1) Animal care uses providing boarding services for dogs shall provide a fenced and screened

outdoor area of at least 50 square feet per dog.

(2) The animal care use shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.

(3) Any open runs or pens used to house animals shall be located at least 75 feet from any lot line.

(4) Accessory uses to an indoor kennel may include retail sales and grooming services, as long as the accessory uses do not occupy more than 25 percent of the total gross floor area.

(5) Any incinerators included as an accessory use to an animal shelter shall be permitted only in accordance with a Special Use Permit.

Zoning Commission and Staff recommends approval of the Special Use Permit based on:

1. Proposal can meet all special requirements of a kennel.
2. Property is located in a rural part of the City.
3. Other AR zoning surrounds most of this property.
4. Location away from most residential development in that area.

A Special Use Permit shall be approved only upon a finding that all of the following standards are met:

(1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards; **Yes...the project will comply when developed.**

(2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; **Yes....the proposal is located on four acres and in an AR (Agricultural Residential) area.**

(3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; **The proposed use will be located far enough away from residents as to minimize all adverse effects.**

(4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; **The proposed use will be located far enough away from residents as to minimize all adverse effects.**

(5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; **The proposal avoids significant deterioration of natural resources.**

(6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site; Yes. **Site will be accessed by Stoney Point Road.**

(7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and **The proposal should have little effect on property values and will protect the ability of surrounding properties to develop as permitted.**

(8) The special use complies with all other relevant City, State, and Federal laws and regulations. **Yes...the project must comply with all regulations, including pending changes to the County's Animal Control Ordinance.**

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of SUP as presented by staff (Recommended);
- 2) Approval of SUP with additional conditions;
- 3) Denial of the rezoning request.

RECOMMENDED ACTION:

Zoning Commission & Staff Recommend: That the City Council move to APPROVE the request for a Special Use Permit for a dog kennel as presented by staff with findings of fact listed above.

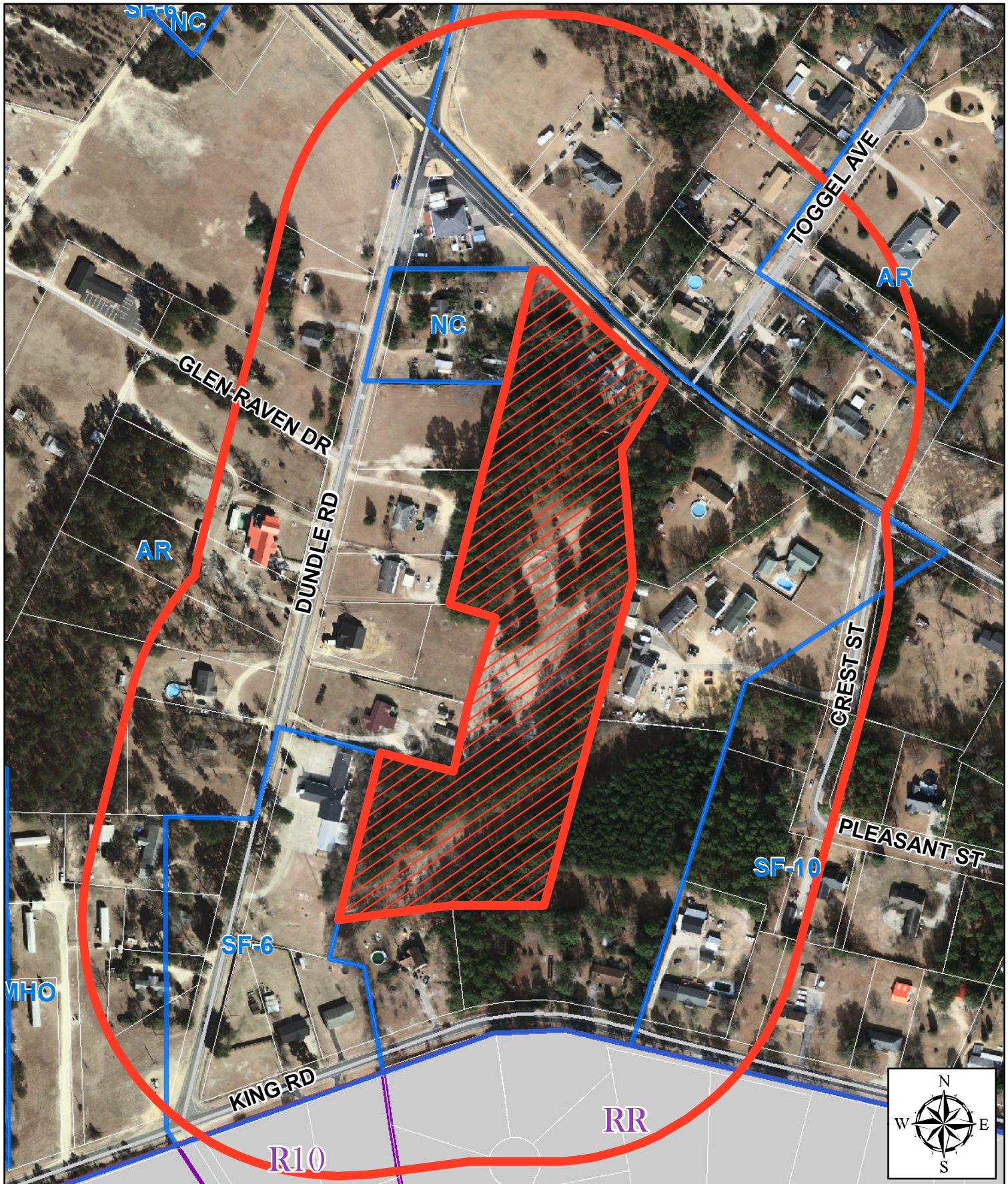
ATTACHMENTS:

Zoning Map

Current Land Use

Land Use Plan

ZONING COMMISSION
CASE NO. P12-15F



Request: SUP
Location: 7351 Stoney Point Rd.
Acreage: +/- 4 acres

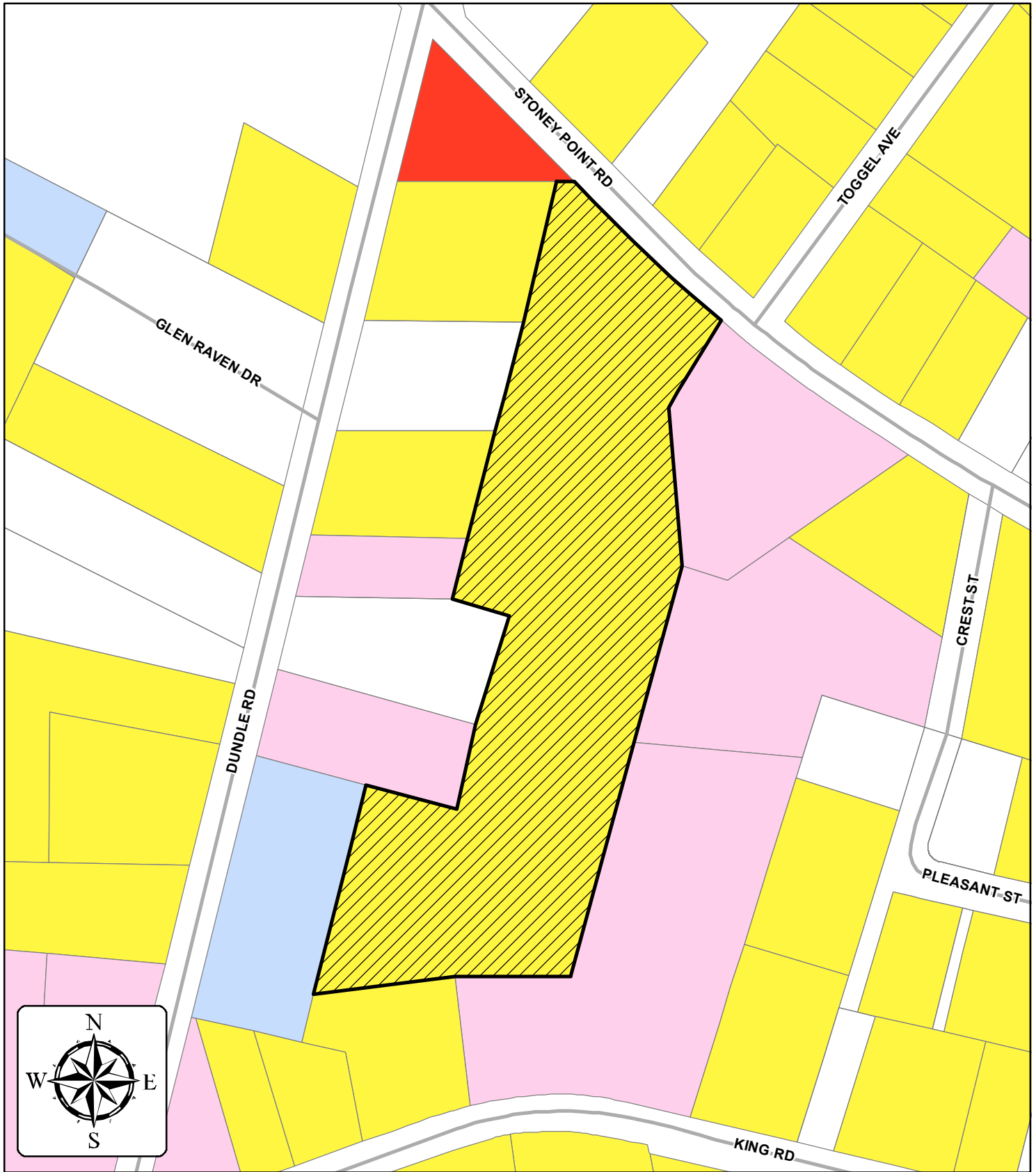
Zoning Commission: 03/13/2011
City Council: _____
Pin: 9494-19-7662-

Recommendation: _____
Final Action: _____

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

Current Land Use

P12-15F

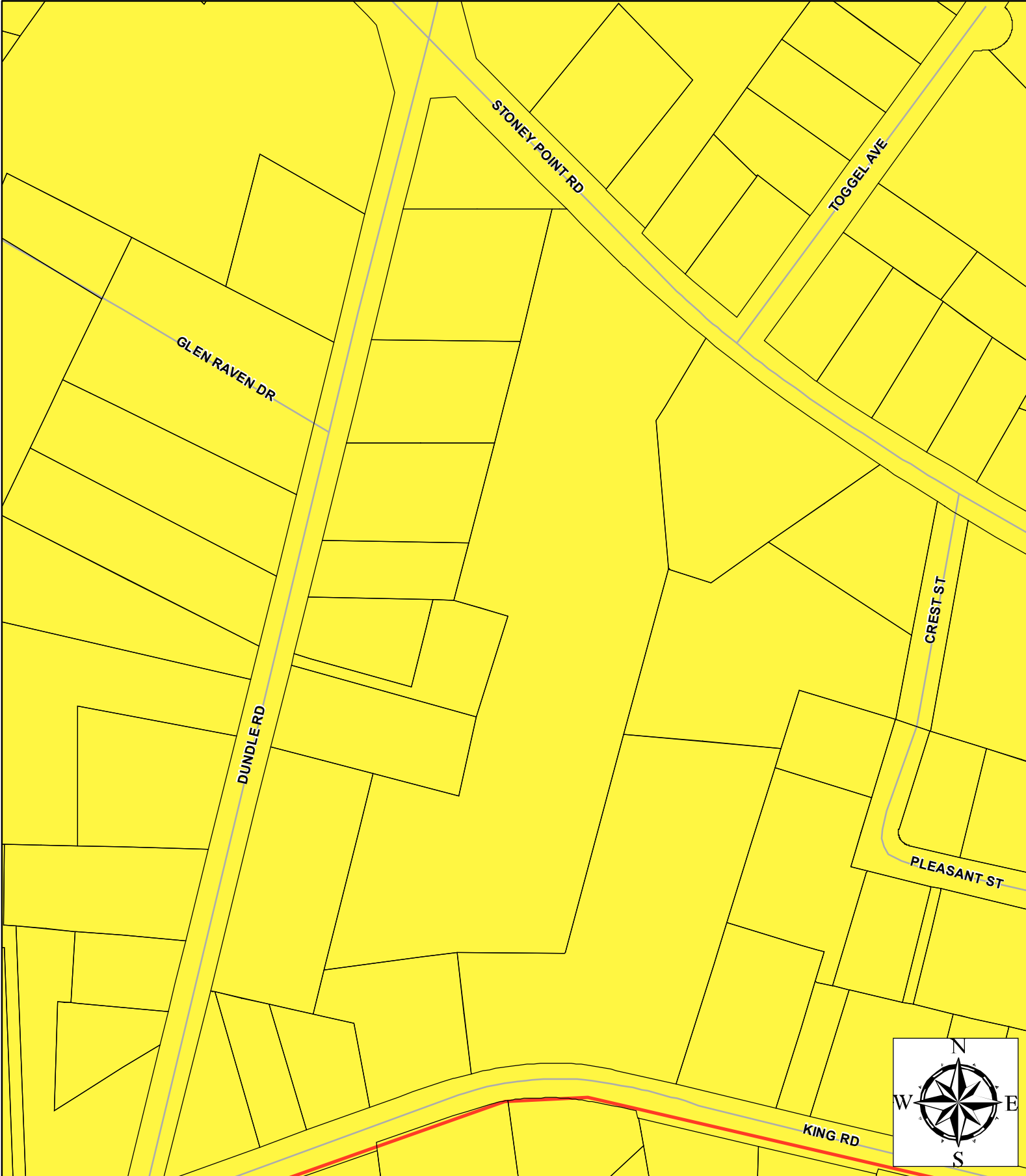


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-15F



March 20, 2012

Attention: City of Fayetteville Zoning Commission

RE: Case No: P12-15F Special Use Permit Dog Kennel & Private Park (7351 Stoney Point Rd)

The residents in the community of the above zoning petition respectfully ask that the date the above matter was tabled to April 10, 2012 be continued until the next meeting date in May. There are several residents that were in attendance at the meeting on March 13, 2012 that have scheduled vacations that week as it is spring break and want to be present. The residents are very concerned and want to be a part of this hearing and be there to hear any information that has been obtained on the proposal. We have attached a list of our concerns and questions for you to review as well as ordinances and state law we have found.

Outline Community Concerns

These are some of the areas the community has concerns about and would like to have answered by the petitioner or staff.

One of our main concerns is the removal of dog feces and kennel wastewater.

Kennel wastewater is classified as an Industrial Process Wastewater and must be disposed in an Department of Environment and Natural Resources approved wastewater system; septic systems w/ drain fields.

Spoke with Health Department Supervisor Daniel Ortiz advised that the soil would have to be tested and approved for same.

Well system in this area worry about contamination of springs

Human waste is a concern also. What type of facilities will there be for people and employees of the kennel/park? (restrooms or portable restrooms)

Odor from above if waste is not removed promptly

Flies and other pests or parasites that are drawn or contained in the waste that will be brought to area

Drainage issues are also a concern for some property owners

There are city ordinances covering kennel sanitation as well state regulations that I have attached that we hope can be explained more in depth as to their enforcement.

The second major concern is that of noise pollution within the community with the number of kennels and park members the petitioner is trying to accommodate.

Number of dogs to be held in kennels as well number in park at a time will lead to a high decibel rate of barking at a consistent rate.

Stoney Point Fire Dept located w/in 3000ft

Answers 1600 calls a year

Uses both a 200 watt siren and a Q2 high pitch siren which reaches a decibel of 150

Traffic congestion is a matter of concern as well. Stoney Point Road has a high volume of traffic anyway with the schools in the area there are two located within a mile right on Stoney Point Rd and there is another one down past Dundle Road intersection on New Century Rd. There are 4 bus stops between Stoney Point Fire Dept and the proposed location for the entrance to the kennel/dog park.

It is our contention that the kennel will bring further congestion in that the drop off times for kennels tend to be about the same times as that of school start times as well as people leaving for work.

Parking was not addressed at the meeting either and we are concerned where they intend the people attending the park to put their vehicles and what requirements there is to provide same because parking down the sides of Stoney Point will create a hazard.

What type of insurance is required for this type of business and how is it enforced? Dogs can be unpredictable sometimes in these types of surroundings. Dog fights and dog bites are apt to occur. What responsibility does the petitioner have if an animal escapes and cause harm within the community to people or other animals.

What are the licensing requirements for people who own these types of businesses?

How many employees are required to maintain such a facility what are their training requirements?

Are record checks required since children could be in the park? Especially for sex offenders?

We have found some suggestions for fencing and enclosure that would be more suitable for such a facility and hope the staff would consider these.

Fencing - Good fences make good dog parks. Fences should be five feet or higher and be absolutely escape proof; bury several inches of the fence beneath the surface to help prevent dogs from digging their way out. Self-closing double gates with a 10' transition space are a must to reduce the possibility of dogs escaping unexpectedly. Help prevent aggression and fighting by using closely spaced fence slats between adjacent dog park sections to reduce visibility and also try to avoid using 90 degree corners which can help prevent more aggressive dogs from trapping unwilling victim dogs. Don't forget to include a maintenance entrance for large equipment like mowers and

consider planning multiple entries into the park to help reduce worn areas. Typical installed costs are about \$25-\$30/linear foot for heavy duty chain link fencing, 6' high, with gates and accessories.

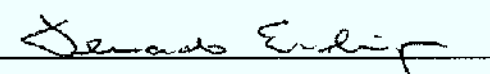
Sincerely
Tamara Wojtal

Tamara Wojtal
910-286-2894
wojtalts@earthlink.net

NAME: FERNANDO & KATE ENDRIGA

ADDRESS: 7033 PLEASANT ST
FAYETTEVILLE, NC 28306

1. I, FERNANDO ENDRIGA, homeowner and resident of address above, oppose to the Special Use Permit for Dog Kennel and Private Park for property located at 7531 Stoney Point Road.
2. Reference: **Case No. P12-15F**
3. I respectfully request a detailed mitigation plan for the following concerns should the permit be granted:
 - a. Noise – Dog barks, Dog disturbance due to Emergency Vehicle sirens due to Stoney Point Fire Department is located approximate 900ft from the property requesting Special Use Permit.
 - b. Pests – Ticks and Fleas
 - c. Odors – Dog Waste
 - d. Disease – Kennel Cough and other diseases.
 - e. Safety – Potential Lose Dog, dog attack. and additional traffic
 - f. Decrease of Property Value due to all of the above.
 - g. Additional Concerns and or Comments:

4. I hereby authorize _____, resident and homeowner in Fayetteville, NC 28306 to speak on my behalf in support of the opposition to the Special Use Permit case referenced above.
5. Signature:  Date: 18 March 2012.

NAME:

Lawrence & Mary Natale

ADDRESS:

17030 Pleasant Dr
FAYETTEVILLE, NC 28306

1. I Lawrence & Mary Natale, homeowner and resident of address above, oppose to the Special Use Permit for Dog Kennel and Private Park for property located at 7531 Stoney Point Road.
2. Reference: **Case No. P12-15F**
3. I respectfully request a detailed mitigation plan for the following concerns should the permit be granted:
 - a. Noise – Dog barks, Dog disturbance due to Emergency Vehicle sirens due to Stoney Point Fire Department is located approximate 900ft from the property requesting Special Use Permit.
 - b. Pests – Ticks and Fleas
 - c. Odors – Dog Waste
 - d. Disease – Kennel Cough and other diseases.
 - e. Safety – Potential Lose Dog, dog attack. and additional traffic
 - f. Decrease of Property Value due to all of the above.
 - g. Additional Concerns and or Comments:

4. I hereby authorize _____, resident and homeowner in Fayetteville, NC 28306 to speak on my behalf in support of the opposition to the Special Use Permit case referenced above.

5. Signature: Mary Natale Date: 18th March 2012.

NAME: Ella Rose Smith

ADDRESS: 7043 ^{Crest} PLEASANT STREET
FAYETTEVILLE, NC 28306

1. I, Ella Rose Smith, homeowner and resident of address above, oppose to the Special Use Permit for Dog Kennel and Private Park for property located at 7531 Stoney Point Road.
2. Reference: **Case No. P12-15F**
3. I respectfully request a mitigation plan for the following concerns should the permit be granted:
 - a. Noise – Dog barks
 - b. Pests – Ticks and Fleas
 - c. Odors – Dog Waste
 - d. Disease – Kennel Cough
 - e. Safety – Potential Lose Dog and additional traffic
 - f. Decrease of Property Value due to all of the above.
4. Signature: Ella Rose Smith Date: 13 March 2012.

NAME: Raymond + Deborah Hulen

ADDRESS: 7037 PLEASANT STREET
FAYETTEVILLE, NC 28306

1. I, Raymond + Deborah Hulen homeowner and resident of address above, oppose to the Special Use Permit for Dog Kennel and Private Park for property located at 7531 Stoney Point Road.
2. Reference: Case No. P12-15F
3. I respectfully request a mitigation plan for the following concerns should the permit be granted:
 - a. Noisc – Dog barks
 - b. Pests – Ticks and Fleas
 - c. Odors – Dog Waste
 - d. Discase – Kennel Cough
 - e. Safety – Potential Lose Dog and additional traffic
 - f. Decrease of Property Value due to all of the above.

4. Signature: Ray B Hul Date: 13th March 2012.
Deborah Hulen

NAME: Tamara Watal

ADDRESS: 7010 PLEASANT STREET
FAYETTEVILLE, NC 28306


1. I, Tamara Watal, homeowner and resident of address above, oppose to the Special Use Permit for Dog Kennel and Private Park for property located at 7531 Stoney Point Road.
2. Reference: **Case No. P12-15F**
3. I respectfully request a mitigation plan for the following concerns should the permit be granted:
 - a. Noise – Dog barks
 - b. Pests – Ticks and Fleas
 - c. Odors – Dog Waste
 - d. Disease – Kennel Cough
 - e. Safety – Potential Lose Dog and additional traffic
 - f. Decrease of Property Value due to all of the above.

4. Signature: Tamara Watal Date: 13th March 2012.

NAME : CARLOS A. PACHECO AND ALYSHA M. PACHECO (SPOUSE)

ADDRESS: 7040 PLEASANT STREET
FAYETTEVILLE, NC 28306

1. I, Carlos A. Pacheco, homeowner and resident of address above, oppose to the Special Use Permit for Dog Kennel and Private Park on property located at 7531 Stoney Point Road.
2. Reference: **Case No. P12-15F**
3. I respectfully request a mitigation plan for the following concerns should the permit be granted:
 - a. Noise – Dog barks
 - b. Pests – Ticks and Fleas
 - c. Odors – Dog Waste
 - d. Disease – Kennel Cough
 - e. Safety – Potential Lose Dog and additional traffic
 - f. Decrease of Property Value due to all of the above.

4. Signature:  Date: 13 March 2012.

Description:

A facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats.

Requirements:

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director of Field Forces, Veterinary Division. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year, July 1 - June 30.

Documents:

Applications require that you complete and return forms below.

Animal Welfare Application and PVC

PDF files require you to have the latest version of Adobe Reader installed on your computer. [Download Adobe Reader](#)

Fees:

The license fee shall be seventy five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year.

Contact:

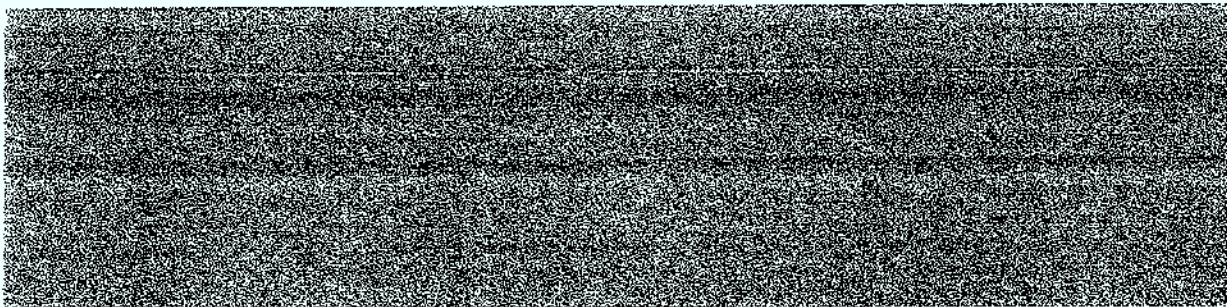
Animal Welfare Section
Office: (919) 715-7111
AGR.AWS@ncagr.gov

Kennel Wastewater Disposal

Kennel wastewater has been classified as an Industrial Process Wastewater and must be disposed to an Department of Environment and Natural Resources approved wastewater system. Typical approved wastewater systems are septic systems with drainfields, and land surface application systems.

To receive permits to install and operate a kennel using a septic system contact your local health department, Environmental Health Section. Your local health department has state-approved design criteria specifically addressing the special waste issues of kennels. A directory of local health department staff can be downloaded in pdf format at the following website: www.deh.enr.state.nc.us/ehs/images/ehsdir2000.PDF.

To receive permits to install wastewater treatment and disposal systems other than septic systems contact your regional office of the Division of Water Quality. A listing for the regional offices is available at the following website: <http://www.enr.state.nc.us/html/regionaloffices.html>.



NCD&CS
Division, Dr. D
DVM, State V
Mailing Addre
Service Center
27699-
Physical Ad
Edenton Street
2761
Phone: (919) 73
(919) 73:

NCD&CS Veterinary Division, Dr. David Marshall, DVM, State Veterinarian

Mailing Address: 1030 Mail Service Center, Raleigh, NC 27699-1030

Physical Address: 2 W. Edenton Street, Raleigh, NC 27601

Phone: (919) 733-7601; **FAX:** (919) 733-2277

Fencing - Good fences make good dog parks. Fences should be five feet or higher and be absolutely escape proof; bury several inches of the fence beneath the surface to help prevent dogs from digging their way out. Self-closing double gates with a 10' transition space are a must to reduce the possibility of dogs escaping unexpectedly. Help prevent aggression and fighting by using closely spaced fence slats between adjacent dog park sections to reduce visibility and also try to avoid using 90 degree corners which can help prevent more aggressive dogs from trapping unwilling victim dogs. Don't forget to include a maintenance entrance for large equipment like mowers and consider planning multiple entries into the park to help reduce worn areas. Typical installed costs are about \$25-\$30/linear foot for heavy duty chain link fencing, 6' high, with gates and accessories.

Water - Drinking fountains are absolutely essential in any dog park for the health of both dogs and people after exercising. Without drinking fountains, users may be forced to bring buckets of standing water which can be unsanitary; they can spread disease to other dogs or can create mosquito havens. Consider water spray features or dog wash stations, but ensure you have provided proper drainage as mud quickly becomes a huge problem in dog parks. Irrigation systems can help maintain turf grass in any climate, and reduces smells from urine especially in arid climates. Consider two adjacent drains to prevent flooding if one drain gets clogged.

Sanitation - Pickup stations and receptacles are absolutely critical for a clean facility. Make sure the bags you offer are biodegradable and are designed to break down in landfills. Receptacles can be located on the outside of the fences to make trash pickup easier for maintenance staff and using several small receptacles will make unloading easier than large ones. Consider using signage and/or color coding your receptacles for specific uses like "Trash Only" or "Dog Waste Only".

Restroom Facilities - While dogs are not too particular about where they go, their owners will expect some sort of facilities, even if it is just a portable toilet. This becomes critical at larger destination parks. Video cameras on the building (even fake ones, or just signs that say video cameras are being used) can greatly help to reduce vandalism in your park.



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Kennel noise

Dog & kennel management to decrease unwanted barking Minimize stimuli

It is normal for dogs to bark at vehicles. They do this at home to some extent (and are usually intermittently rewarded for doing so by their owners), and will continue the behavior in a kennel environment. If the driveway to a boarding kennel passes the area where animals are held, it is natural that problem barking will be higher in that kennel than at a facility where the driveway and parking area are at some remove from the facility, and do not pass within sight of the dogs.

Dogs also bark at people who enter their territory. For the duration of the stay at a boarding kennel, the kennel is the dog's territory and he may alert the staff to intruders to the best of his ability by barking. Minimizing foot traffic in the kennel areas by limiting inspections to a certain time of day is one way to minimize problem barking. The staff may also restrict access to the indoor areas of the kennel unless the dogs are outside at the time, and vice versa.

Not all dogs are "barkers", but most dogs will bark if another dog starts. It's a fun activity, and part of their social interaction. Kennel staff should be familiar with which dogs are aggressive barking instigators, and separate them physically from the "follower" dogs. Separate soundproof isolation facilities should be available to contain instigating barkers where their noise causes the least problem for other dogs, staff, visitors and neighbors. With instigator dogs isolated the general barking levels should decrease appreciably.

Feeding is another activity that generates a lot of excitement, and therefore noise. Whenever possible the actual event should take place in as short a time as possible. Kennel staff are encouraged to prepare morning meals the night before whenever possible and when it does not compromise the quality of the food to do so. Dry kibble can easily be set in the appropriate dishes the night before, and canned or fresh food added just before feeding in the morning. The objective is to get all of the dogs fed in as short a period as possible. With good planning it should not take more than 60 minutes to prepare and distribute food to 60 dogs.

Minimize frustration

Bored dogs will generally sleep, but some will bark, particularly if they are also frustrated. Lack of exercise leads to physical frustration, and one of the manifestations is barking (along with jumping, fence running, excessive urination or marking, and fence fighting). Kennelled dogs should get as much exercise as is possible and in keeping with the smooth operation of the kennel.

A large source of frustration for kennelled dogs is being in sight of dogs that are not kennelled. A sure way to set up a huge problem barking situation is to have one group of dogs contained in runs in view of exercise yards or pens where other dogs are running or playing. Kennel grounds should be set up such that exercise areas are out of sight of the dogs in kennels with a view of the outside. Dogs that are watching others play or run and are unable to join in (whether because they are on leash or in a kennel) will often bark. If they are unchecked, this barking behavior can continue for very long periods of time. Where possible exercise areas should be out of normal earshot as well. Playing dogs rarely bark, unless excited by a game or in mock frustration (such as when another dog is keeping a ball away from them). But kennelled dogs will react by barking if they heard play growls or the sound of running feet.

LINKS - Barking noise control and boarding kennels

Some information from other jurisdictions and a few suggestions of methods to prevent barking and related noise in boarding kennels.

Echo Bay Ontario, Laird Township

www.laird-township.ca/documents/bylaws/2008/bylaw_868_08.htm

5. NOISE CONTROL

The owner or operator of a "kennel" or "Boarding Kennel" shall not permit:

(a) Persistent barking or whining or other persistent noise making by a dog under his or her care.

(b) Where three charges are laid under this section against the owner/operator of a "kennel" or "boarding kennel" resulting in convictions the "kennel" licence or "boarding kennel" licence shall be permanently revoked.

Armidale Dumaresq Council

Have addressed noise issues with boarding kennels. Sections 4.3, 5.3, 6.3

See also section 4.5 for recommendations on minimum distances from dwellings. "Where noise impact on surrounding properties is of concern, an Acoustic Engineer's Report will be required" and "Animals must not generate offensive noise as defined under the Protection of the Environmental Operations Act 1997. Consideration must be given to appropriate inbuilt features to control noise. An Acoustic Engineer's Report may be required where it is considered that noise impact on adjoining properties is an issue."

<http://www.armidale.nsw.gov.au/files/17356/File/C8.pdf>

Section 4.1, section 5.0

www.greaterdandenong.com/Resources/SiteDocuments/sid1_C36%20Panel%20-%20acoustics.pdf.burton.pdf

The Noise Control Guideline No. 14 as developed by the Environment Protection Authority provides in part the following guidance for kennels:-

- Buffer distance of 500 metres.

Minimizing stress

www.boardingkennels.org/advice/index.php/how-caring-kennels-minimise-stress/

Vermont Environmental Board dealing with dog kennel noise, specific recommendations regarding decibel levels. See page 5

www.nrp.state.vt.us/lup/decisions/1987/2w0568-et-seq-fcd.pdf

Noise levels within a dog kennel can reach as high as 105 decibels (dBA) when dogs are barking and no special measures are taken to reduce the sound. This is well above the level at which a person will begin to suffer hearing loss, assuming a sustained level of sound. Most people in a rural area will complain about noise from a new source when the level reaches 60-65 dBA. Noise levels above 40 dBA in a person's sleeping quarters may interfere with that person's falling asleep, while noises above 50 dBA will cause a sleeping person to wake up. Noise levels generally abate 6 dBA as the distance from the noise source doubles. They will also be abated by structures, topographical barriers and, to a lesser extent, vegetation. In general, intermittent noise is considered more annoying than a steady noise.

Tasman – Applications for boarding kennels, noise abatement and prevention addressed

www.tdc.govt.nz/index.php?

[EnvironmentandPlanningConsentsSubcommitteeMinutes_Wednesday30March2005](#)

Noise control in boarding kennels:

www.kennels.co.uk/Boarding/KennelsandBarkingDogs.html

Acoustics by design – controlling barking. Describes a daytime limit of 55 dBA

www.acousticsbydesign.com/acoustics-blog/doggy-daycare.htm

Innovative & Inexpensive Noise Control Solutions

www.intensivesolutions.net/articles/noisecontrolsolutions.htm

Pollution Solutions – Commercial Boarding Kennels

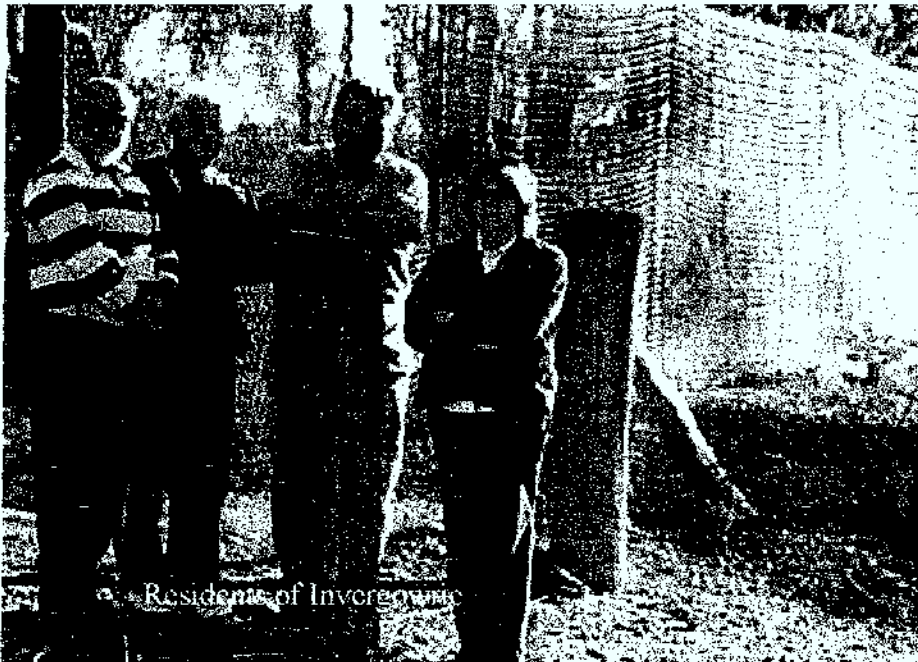
Developers, residents deadlocked over Invergowrie dog kennel proposal

By PETER BARRETT

THE PROPOSAL for a complex of 24 dog kennels at Invergowrie is deadlocked as the applicant seeks legal advice and neighbours continue their opposition.

In February, Leisa Payne and Beverley McRae lodged a development application with Uralla Shire Council for 24 kennels, 12 indoor and 12 outdoor, in Adina Rd.

Council considered the issue in March, when general manager Tom O'Connor recommended approval, subject to 34 conditions.



Residents of Invergowrie

But council deferred a decision pending the applicant providing more information, including an environmental impact statement on the effect on the environment, wildlife and amenity of the area, and a professional assessment of the change in restricting noise to five decibels at the boundary.

Mr O'Connor said that information is still to be presented to council.

Ms Payne told *The Express* that 'we've put it in the hands of

solicitors'.

Meanwhile, a group of Invergowrie people calling themselves the 'Residents for Rural Character', are calling on council to make a decision on the issue.

Spokesperson Adam Blakester said the proposed dog kennels were 'completely out of character with the rural residential area and inconsistent with the zoning'.

"From every angle, dog kennels would have significant negative impacts on surrounding residents, the social amenity of the community and environmental qualities of Invergowrie," he said.

Mr Blakester said the most significant challenges dog kennel businesses must address are noise from dog barking and waste & odour management.

"The proposed dog kennels would be located a mere 70 metres from neighbouring residences and home based businesses," he said.

"The social and economic impacts of these issues alone are clearly going to be negative and big."

Mr Blakester said that environmental issues also needed to be considered.

Mr O'Connor said the issue would not be on the agenda for council's meeting today (Monday), but would most likely be discussed at the June meeting.

Noise in the Animal Shelter Environment: Building Design and the Effects of Daily Noise Exposure

Crista L. Coppola
Animal Behavior Center
ASPCA
Urbana, Illinois

R. Mark Enns and Temple Grandin Animal Sciences Department
Colorado State University

JOURNAL OF APPLIED ANIMAL WELFARE SCIENCE, 9(1), 1-7

Sound levels in animal shelters regularly exceed 100 dB. Noise is a physical stressor on animals that can lead to behavioral, physiological, and anatomical responses. There are currently no policies regulating noise levels in dog kennels. The objective of this study was to evaluate the noise levels dogs are exposed to in an animal shelter on a continuous basis and to determine the need, if any, for noise regulations. Noise levels at a newly constructed animal shelter were measured using a noise dosimeter in all indoor dog-holding areas. These holding areas included large dog adoptable, large dog stray, small dog adoptable, small dog stray, and front intake. The noise level was highest in the large adoptable area. Sound from the large adoptable area affected some of the noise measurements for the other rooms. Peak noise levels regularly exceeded the measuring capability of the dosimeter (118.9 dBA). Often, in new facility design, there is little attention paid to noise abatement, despite the evidence that noise causes physical and psychological stress on dogs. To meet their behavioral and physical needs, kennel design should also address optimal sound range.

Noise in an animal shelter has previously been discussed (Key, 2000; Milligan, Sales, & Khirnykh, 1993; Sales, Hubrecht, Peyvandi, Milligan, & Shield, 1997). Sales et al. reported that sound levels regularly exceeded 100 dB. Sound is measured in decibels (dB) and the scale is logarithmic, meaning that 90 dB is 10 times the intensity of 80 dB and is 100 times the intensity of 70 dB. A noise level over 70 dB(A) is considered "loud" (Baker, 1998). To put this into context, 95 dB(A) is comparable to a subway train, 110 dB(A) is a jackhammer, and 120 dB(A) is a propeller aircraft; any sound in the 90 to 120 dB(A) range is considered to be in the critical zone and can be felt as well as heard (Key, 2000). No single method or process exists for measuring occupational noise. A noise dosimeter is preferred for measuring noise levels when the noise levels are varying or intermittent and when they contain impulsive components such as barking. One consideration when using a noise dosimeter is that the microphone is within the hearing zone of individuals being monitored.

It has long been documented that audible sound has profound physiological and psychological effects on nonhuman animals and disturbs the healthy equilibrium of the body (Wei, 1969). Noise has been found to be a physical stressor on animals that can lead to behavioral, physiological, and anatomical responses. Noise-induced cortisol increases can cause immunosuppression, insulin resistance, cardiovascular diseases, catabolism (molecular decomposition), and intestinal problems (Spreng, 2000). The hearing of animals differs from that of humans; dogs (*Canis familiaris*) have much better hearing and can hear sounds up to four times quieter than can the human ear. Recent research shows that noise in dog kennels may be a welfare concern for the animals (Sales et al., 1997), but currently no policies regulate noise levels in dog kennels.

The objective of this observational case study was to evaluate the levels of noise to which dogs are exposed on a continuous basis and to determine the need for noise regulations. Regulations may emphasize the necessity to control levels through building design and materials instead of trying to reduce the noise produced by the animals. The facility where this study was conducted was designed and built in the last 7 years. However, as is often typical, there were no obvious preventative measures in the design to reduce noise and, in fact, design may have had the opposite effect due to animal arrangement, the use of concrete block, and exposed metal roofing.

Materials and Method

Noise levels were measured at an animal shelter constructed in 1999. The facility has five main indoor areas for holding dogs and two main areas for holding cats. Measurements were taken in all indoor dog-holding areas and included large adoptable, large stray, small adoptable, small stray, and front intake (Figure 1). Measurements were recorded using a noise dosimeter (Q-200, Quest Technologies, Oconomowoc, WI) continuously for 84 hr over 2 weekdays and both weekend days. Noise dosimeters were placed in each room and mounted to a wall. The walls were nonporous, producing reverberations experienced by the animals and measured by the dosimeters. Proximity of the nearest and furthest dog to the dosimeter varied between rooms but was well within the hearing zone of all animals within each holding area. The overall ambient sound measured by the dosimeter was that being experienced by all animals in the area. Noise measurements reported here were the max levels with slow response and "A" weighting. This type of dosimeter and weighting are commonly used to measure sound levels in work environments and to enforce Occupational Safety and Health Administration regulations.

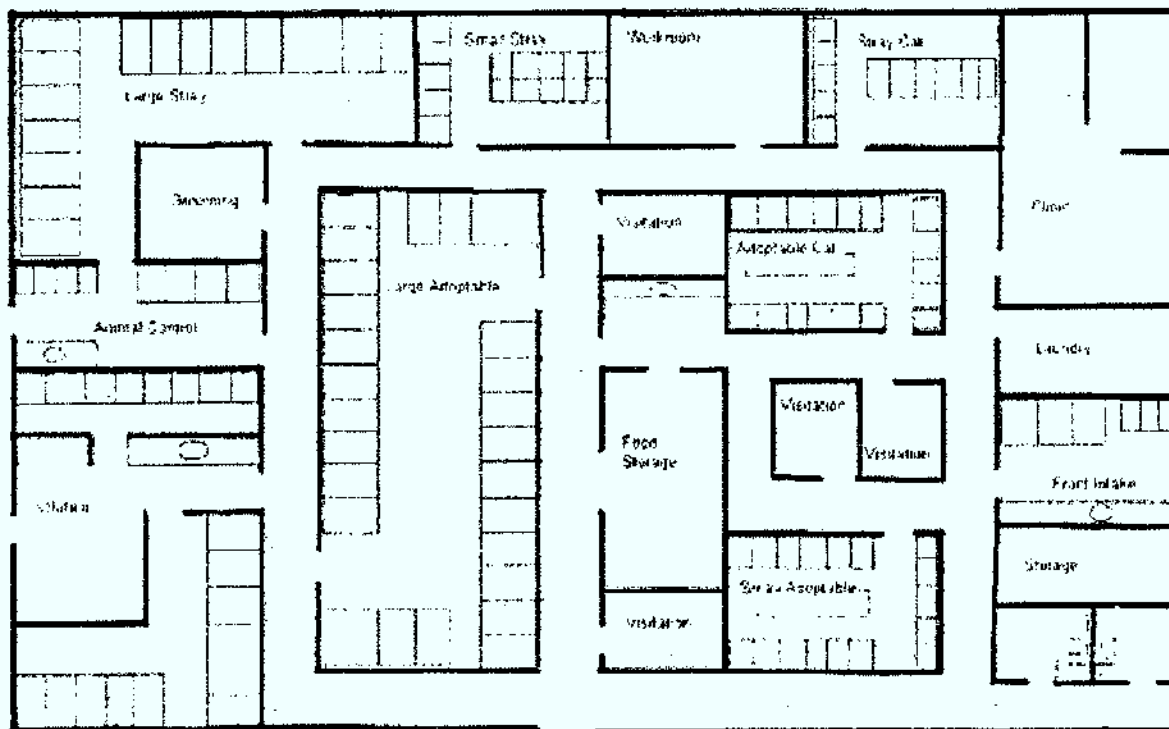


FIGURE 1: Diagram of the humane society (66 ft x 120 ft)

The large adoptable and large stray areas are constructed of epoxy-painted cinder block walls and

seamless floors on a concrete slab. The dog runs in the large adoptable and the large stray areas are separated by cement partitions (82 in.) and have chain link doors. Both of these areas have an exposed steel ceiling (> 20 ft). Noise dosimeters were mounted on the wall in these rooms at a height of 12 ft.

The large adoptable area is a smaller area within a larger area enclosed by a cement perimeter wall (82 in.). The larger room is connected by two hallways, eight doors to other areas (including large stray and small adoptable), and one exterior door. This area contains 26 runs with Plexiglas view windows on one end. The dog kennels line all four perimeter walls. There is an employee work area (food preparation, washing dishes) in the middle of the room. The large stray area is a separate room adjacent to the large adoptable area. This area has two doors and contains 15 kennels. The dog kennels line the south and east walls.

The small adoptable, small stray, and front intake areas are all separate rooms with a suspended nonacoustical tile ceiling (8 ft) and plasterboard walls. Noise dosimeters were mounted on the wall in these rooms at a height of approximately 7 ft.

The small adoptable and small stray areas each have one door, a concrete slab floor, and contain metal cages. The cages in the small adoptable area face the interior of the room and the exterior has Plexiglas windows; there is an employee work area in the middle of the room. The cages in the small stray area line the east wall and are also placed down the middle of the room. The front intake area contains cages and runs separated by sheet metal (60") and a linoleum floor. All kennels and cages are on the south wall. The room also has a refrigerator and a counter in each area with a sink and cabinets. The number of kennels and average number of animals during the study period are summarized in Table 1.

Statistical Analyses

The noise data were analyzed using a frequency procedure (SAS Institute Inc., 2002) to determine the frequency of noise above and below each threshold level (70, 80, 90, and 100 dBA) in each dog-holding area. The data were also analyzed using the Genmod procedure (SAS Institute Inc., 2002) to determine if there were any significant differences between the five dog-holding areas at each threshold level (70, 80, 90, and 100 dBA). Each area was treated as a fixed effect, class variable, and repeated subject. The analysis was appropriate for outcomes with a binary distribution and an auto-regressive covariance structure to account for the relation between measures in the same room.

Results

The amount of time spent above each threshold level during the 84-hr study period is shown in Figure 2. The large adoptable area was by far the loudest and some of the readings for other rooms were, in part, a result of sound reflection from the large adoptable area. Peak levels regularly exceeded the measuring capability of the dosimeter (118.9 dBA) in the large adoptable area. When the dogs were not vocalizing and the rooms "seemed" quiet, the noise readings were still above 50 to 60 dBA. Although there were numerical differences between rooms, there were no statistical differences at any threshold level ($p > .05$).

TABLE 1: Summary of Animal Holding Areas and Kennel Numbers

Holding Area	Average No. of Animals	No. of Kennels	Area ^a
Large adoptable	34.25 dogs	26 runs	880
Large stray	15 dogs	15 runs	485

Small adoptable	9.8 dogs	28 cages	285
Small stray	9 dogs	17 cages	258
Front intake	4 dogs, 9.75 cats	4 runs, 4 cages	240

^a Given in square feet.

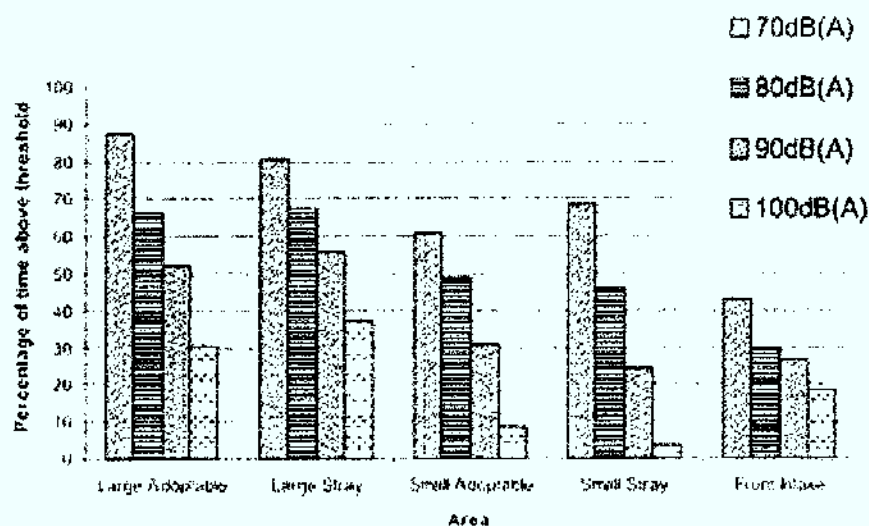


FIGURE 2: Percentage of time during the study period above each threshold level (70, 80, 90, and 100 dBA) for large adoptable, large stray, small adoptable, small stray, and front intake areas.

Discussion

Unfortunately, elimination of noise stressors is often disregarded, despite the evidence that noise places physical and psychological stress on dogs. In our study, the large adoptable area that holds the greatest number of animals was the loudest, which was not unexpected. This area receives a large amount of human traffic from those adopting dogs. Although not testable, given the nature of a functioning shelter, we suspect noise from this area overflows into all other areas. There are hallways leading from the large adoptable area that serve as noise conduits to the other areas -- one stopping at cat adoptable and cat stray and the other ending at the small adoptable room (Figure 1). In addition, noise produced by an individual dog barking can reach levels well over 100 dBA (Sales, Hubrecht, Peyvandi, Milligan, & Shield, 1996) and this exceeds OSHA regulation for workers (90 dBA). However, the animals live in this environment without the hearing protection that is available to people. The noise effect is three-fold:

1. The animals housed in the shelter.
2. The employees working at the shelter.
3. The public at the shelter looking for an animal to adopt.

The animals' mental and physical states are compromised; the employees may develop hearing damage and poor states of mind in caring for the animals. Our observations indicate that visitors sometimes are so bothered by the noise that visiting time is reduced during their search for an animal to adopt.

The large adoptable area is designed so that every dog can see every other dog if the dogs are at their

kennel doors. The work area for this room also is located in the center of the rectangle, making it an additional source of stimulation. We observed that this layout allows for constant stimulation and may increase barking, as any activity within the large adoptable area stimulates every dog in the area. The result is virtually constant barking.

The design and building materials used do not allow for noise absorption, with the exception of rooms with suspended ceilings (small stray, small adoptable, and front intake). These do allow for absorption and somewhat reduced noise levels, although this difference was not statistically significant. The current public viewing design also contributes to the amount of stimulation for the dogs. The viewing windows start half-way up the perimeter wall. The placement of the viewing windows and the use of partitions between every kennel results in dogs that are constantly being surprised by people walking by and abruptly coming into view.

In the shelter environment, cortisol levels have been documented to be above normal, in some cases three times that of household pets (Hennessey, Davis, Williams, Mellott, & Douglas, 1997). We also found that in this instance (Coppola, Grandin, & Enns, 2006). Not all stress-induced elevations in cortisol are due to noise levels, but they are a contributing factor.

An increasingly popular way to design dog housing is to have self-contained rooms instead of the traditional kennels or runs. These rooms are typically enclosed within a larger area either with or without a community play area attached. Noise is absorbed and contained within the smaller room. These designs may also permit social housing of dogs, which research has shown to decrease noise caused by animal vocalization and increase the time animals spend sleeping (Hetts, Clark, Calpin, Arnold, & Mateo, 1992; Mertens & Unshelm, 1996). The incorporation of areas for play groups can contribute to noise abatement, as a mentally and physically exercised dog usually is a quiet one (personal communication, November 17, 2005; San Francisco Society for the Prevention of Cruelty to Animals, American Society for the Prevention of Cruelty to Animals, Humane Society at Lollypop Farm, Denver Dumb Friends League, North Shore Animal League). The American Society for the Prevention of Cruelty to Animals in New York has recently renovated both its holding and adoption areas to embrace these concepts and the San Francisco Society for the Prevention of Cruelty to Animals has been housing their adoptable dogs in "apartment-style" quarters since 1998.

Animal Welfare Implications

As previous scientists noted, kennels should be designed to meet the behavioral and physical needs of dogs, including attention to optimal ranges for sound (Key, 2000; Sales et al., 1997; Sales, Milligan, & Khirnykh, 1993). Unfortunately, even in new kennel construction, noise abatement designs are often ignored because of cost restrictions, making noise a hazard to the animals, employees, and potential adopters. Because of its unpredictable and uncontrollable nature, the shelter is a stressful environment for a dog, and any stress-inducing stimuli that can be reduced or eliminated should be addressed if possible. If one were to follow the standards for human dwellings, a mean sound level of 45 dBA would be the norm for animal houses. Without regulations regarding noise levels in animal shelters, noise may continue to be an overlooked variable and contribute to reduced overall welfare.

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 [Click here to return to the Homepage for more information on animal behavior, welfare, and care.](#)

Sec. 6-218. - Kennel.

Any facility or establishment where four or more dogs or cats which are more than six months of age are kept commercially or for breeding, excluding pet grooming shops, veterinary clinics, and veterinary hospitals, is considered a kennel and must be registered with animal control.

(Ord. No. S2006-006, § 2, 4-10-2006)

Sec. 6-219. - Kennels; sanitary conditions.

- (a) No person shall own, maintain, or operate a kennel unless such kennel meets the standards provided in this section.
- (b) Any person maintaining a kennel, whether for profit or not, shall maintain such kennel in sanitary condition and shall be subject to the provisions of this chapter.

(Ord. No. S2006-006, § 2, 4-10-2006)

Sec. 6-220. - Facility standards, space requirements, exceptions.

- (a) All kennels shall meet the following minimum standards:
 - (1) The kennel floor shall be solid and durable with a washable foundation of a suitable material, with a smooth surface which shall have one-quarter inch of slope per foot of fall for drainage. The drainage shall slope to a cleanout gutter, and all drains shall be connected to the sanitary sewage line.
 - (2) Each cage shall have sleeping quarters, a lounging area, and access to an exercise area with a minimum size as follows: for animals 50 pounds but less than 75 pounds, 75 square feet; for animals over 75 pounds up to 125 pounds, 100 square feet; and for animals over 125 pounds, 150 square feet. Sleeping quarters for the animals shall be protected from the weather, and each lounging area shall be individually enclosed by chain link material of at least 10-14 gauge, and shall have the following minimum dimensions for the number of animals to be accommodated:

Length	Height
12 ft.	6 ft.
6 ft.	3 ft.

However, cat cages shall be completely enclosed.

- (3) At least one cage must be completely enclosed to house female dogs in heat.
- (b) The provisions of this section shall not apply to kennels operated and maintained by licensed veterinarians, to commercial pet stores where all animals are kept within the establishment, to animal shelters, or to foster homes who provide temporary domicile to dogs and cats for not more than 60 days.
- (c) *Right of entry for inspection:* Any animal control officer or law enforcement officer shall be permitted to inspect the outdoor premises of a kennel and the animals therein to the fullest extent permitted by law.

(Ord. No. S2006-006, § 2, 4-10-2006)

Fayetteville, North Carolina, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 6 - ANIMALS AND FOWL >> ARTICLE II. - CUMBERLAND COUNTY ANIMAL CONTROL REGULATION >> DIVISION 3. - GENERAL PROVISIONS >>

DIVISION 3. - GENERAL PROVISIONS

Sec. 6-66 - Definitions.

Sec. 6-67. - Applicability of state laws to custody of animals.

Sec. 6-68. - Injuring, poisoning or trapping animals prohibited.

Sec. 6-69. - Deceased, injured or sick animals.

Sec. 6-70. - Property owner may impound animal.

Sec. 6-71. - Nuisance animals; complaint procedure for animals which disturb or are a nuisance.

Sec. 6-72. - Animal fighting and animal fighting paraphernalia prohibited.

Sec. 6-73. - Keeping of wild or exotic animals.

Sec. 6-74. - Vaccination required.

Sec. 6-75. - Certificate of vaccination; tag.

Sec. 6-76. - Control of animals required; at large; estrays; confinement in season.

Sec. 6-77. - Running at large; owners cited.

Sec. 6-78. - Dogs prohibited from park trails.

Sec. 6-79. - Impoundment; records; disposition of animals; adoption; licensing of dogs and cats.

Sec. 6-80. - Redemption of impounded animals; licensing of dogs and cats.

Sec. 6-81. - Spaying or neutering as condition for release of dogs and cats; extension of time; spaying or neutering required; sterilization agreement.

Sec. 6-82. - Keeping of animals; mistreatment; abandonment prohibited; care; restraining of dogs; exercise area for dogs.

Sec. 6-83. - Dead animal pickup; adoption or disposal of animals dropped at shelter by owners.

Sec. 6-84. - Apprehension of wild dogs running loose.

Sec. 6-85. - Selling live animals in public rights-of-way and other public property prohibited.

Secs. 6-86 - 6-96. - Reserved.

Sec. 6-66. - Definitions.

(a) As used in this article, the following terms shall have the meanings respectively ascribed to them in this section:

Abandon means to cease providing for the care, control or maintenance of an animal without the transfer of ownership of such animal.

Aggressive dog means any dog that attacks a domestic animal or livestock, whether on or off the owner or keeper's property, causing death, debilitating and permanent injury, or injuries requiring hospitalization, above and beyond minor injuries treatable by first aid.

Altered means any cat or dog which has been neutered or spayed.

Animal control department means the Cumberland County Animal Control Department.

Animal control department director means the director from time to time of the animal control department, or his designee.

Animal control officer means the person or persons employed by the animal control department as its enforcement officer in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this article.

Animal shelter means the premises operated by the animal control department for the purposes of impounding, sheltering or caring for animals or any other premises operated by another entity with which the county contracts for such purposes.

At large and running at large mean any animal which is not confined on the property of its owner, the leased premises of the animal's owner, or under the actual physical control of a competent person, other than a licensed, currently paid privilege taxed, hunting dog under supervision while engaged in a lawful actual or simulated hunt.

Confinement means to secure an animal in a locked house, run, enclosure or fenced yard within the boundaries of the owner's, leaseholder's, or keeper's property (i.e., house, fenced yard).

County manager shall mean the duly appointed county manager of the county or his designee.

Cruelty means to endanger by any act of omission or commission the life, health, or safety of an animal.

Exposed to rabies means any animal that has been bitten by, or exposed in a manner proven to be able to transmit rabies to, any other animal known to have been infected with rabies or any other animal reasonably suspected of being infected with rabies that is not available for laboratory diagnosis.

Fee schedule means any schedule of fees related to the administration of this chapter, which may be adopted from time to time by the board of commissioners.

Fowl means chickens, guineas, geese, ducks, pigeons and other avian animals.

Harboring means regularly feeding, sheltering, or caring for an animal.

Impoundment means placing an animal in the animal control vehicle or unit or holding an animal in custody at the animal control shelter.

Keeper means any person, acting in the capacity of the owner, or at the owner's request, who is responsible for the care, welfare, and maintenance of the animal.

Kenel means any place where any combination of eight or more dogs or cats more than six months of age are sheltered, fed and watered.

Livestock includes, but is not limited to, equine animals, bovine animals, sheep, goats, llamas and swine.

Neuter means to render a male dog or cat unable to reproduce.

Nuisance means the conduct or behavior resulting from any act of omission or commission by the owner or keeper of any small or large animal, cat or dog which molests passersby or passing vehicles; attacks other animals; damages private or public property; barks, whines, howls, crows or makes other noises in an habitual or continuous fashion which annoys the comfort, repose, health or safety of the people in the community; unconfined in season; habitually defecates on the property of someone other than the owner; habitually eats or otherwise destroys the plants, shrubs, or similar landscaping on the property of someone other than the owner; or a vicious animal not confined as required by this article.

Owner means anyone taking care or having custody of an animal, such as by providing food, water, shelter or medical care, but shall not include taking care or having custody of the animal for compensation.

Permit means a permit issued by the animal control department or similar agency of any applicable governmental unit having jurisdiction.

Provoke and provocation mean, with respect to an attack by an animal, that the animal was hit, kicked or agitated by teasing, or struck by a person with an object or part of a person's body or that any part of the animal's body is pulled, pinched or squeezed by a person.

Public hazard dog means a dog that, off its owner's property (or a stray or abandoned dog) and not restrained, approaches a person so as to put such person in reasonable fear of the threat of an imminent attack, when such dog has the apparent ability to carry out such an attack and inflict injury on such person, whether or not it is demonstrated that such dog had an actual intent to attack such person.

Rat-proof means that state of being constructed so as to effectively prevent entry of rats.

Restraint means that an animal is actually physically controlled by leash or tether held by a competent person or within any vehicle, trailer, or other conveyance being driven, pulled or parked on the street, or confined within the property limits of its owner or keeper.

Run means an area used to confine a dog or dogs of a size that complies with section 6-142.

Sanitary means any condition of good odor and cleanliness, which precludes the probability of disease transmission and insect breeding, and which preserves the health of the public.

Spay means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce.

Stray means any animal reasonably presumed to have an owner including, but not limited to, an animal running at large or not under restraint.

Tethered or tethering means attaching an animal to a stationary object by means of a chain, cable, rope or similar device.

Transfer means to convey or change ownership from one person to another with or without the exchange of money or other consideration.

Unaltered means any cat or dog which has not been neutered or spayed.

Vaccination means an injection of United States Department of Agriculture approved rabies vaccine administered by a licensed veterinarian or certified rabies vaccinator as defined in G.S. 130A-186.

Vicious dog, potentially dangerous dog, and dangerous dog shall have the meanings set forth in section 6-96.

- (b) All other words or phrases used in this article shall be defined and interpreted according to their common usage.
(Ord. No. S2001-021, § 1(7-8), 11-19-2001; Ord. No. S2007-032, § 1, 8-27-2007; Ord. No. S2009-009, § 1, 11-9-2009)

Cross Reference: DEFINITIONS SECTION § 1.2

Sec. 6-67. - Applicability of state laws to custody of animals.

No person owning or having in his custody any animal shall violate any laws, rules or regulations of the state applicable thereto. The provisions of this article shall govern where the provisions of the rules and regulations of the state are less restrictive than the provisions of this article.

(Ord. No. S2001-021, § 1(7-6), 11-19-2001)

Sec. 6-68. - Injuring, poisoning or trapping animals prohibited.

- (a) A person who accidentally or otherwise strikes an animal with an automobile and injures it shall promptly notify the animal control department or any law enforcement agency having jurisdiction.
- (b) No person shall knowingly expose or give to any animal any poisonous substance, whether mixed with food or not. This provision, however, does not apply to the eradication or population control of certain species of rodents.
- (c) No person shall set or expose an open jaw-type trap, leg hold trap, snare trap or any type trap which would likely cause physical harm or injury to any animal. This provision shall not apply to persons who are licensed by the state to trap animals, to animal control officers, or to persons using humane live capture traps.

(Ord. No. S2001-021 § 1(7-7) 11-19-2001)

Sec. 6-69. - Diseased, injured or sick animals.

- (a) Every person owning or having any animal under his charge which he knows or suspects to be sick or injured shall isolate the animal from other animals and shall obtain or provide appropriate treatment for such animal within two business days or may have the animal humanely euthanized.
- (b) Any animal which comes into possession of the animal shelter which is terminally injured, sick, or exhibiting symptoms of contagious disease may be humanely euthanized by the animal shelter personnel without waiting for the expiration of the period in which such animal may be reclaimed by its owner, or before the end of the period in which the animal may be placed for adoption. Provided, however, that before such sick or injured animal is euthanized, the animal shelter personnel shall contact the owner, if known, of such animal to determine the disposition of such animal. If the owner indicates that the animal will be reclaimed but fails to reclaim the animal within two business days of such notification, or if the owner of such animal is not known, the sick or injured animal shall be euthanized by the animal shelter personnel. The animal shelter supervisor shall keep a record of such animal, to include breed and sex of the animal, when the animal shelter came into possession of the animal, the type of injury, disease or sickness of such animal, the date the animal was destroyed, and any other information relevant to the health, condition and description of such animal.

(Ord. No. S2001-021, § 1(7-8), 11-19-2001; Ord. No. S2007-032, § 2, 8-27-2007)

Sec. 6-70. - Property owner may impound animal.

- (a) Any person who finds an animal on his property to his injury or annoyance may:
- (1) Take such animal to the animal shelter except that stray animals shall be handled as provided by law; or
 - (2) Retain possession of such animal or fowl and, within one business day, notify the animal control department of this custody, giving a description of the animal and the owner's name, if known. The animal shall be removed from such property in such a manner so as not to cause injury to the animal.
- (b) It shall be an offense for any person to knowingly and intentionally harbor, feed or keep in possession by confinement or otherwise any stray animal which does not belong to him, unless he shall have within one business day from the time such animal came into his possession notified the animal control department of his intention either to:
- (1) Surrender the animal to the animal shelter; or
 - (2) Advise for five consecutive days such stray animal in the local newspaper with the greatest average daily circulation in the community.

If the person possessing such stray animal elects to so advertise and the owner thereof shall not have responded by the tenth day after the date of first publication, the person so advertising shall be presumed the legal owner of such animal. If the advertisement shall not have been first published within 72 hours after so notifying the animal control department, that department shall require that such animal be surrendered to it, and it shall be unlawful in such circumstance for any person to refuse to so surrender any such animal.

(Ord. No. S2001-021, § 1(7-9), 11-19-2001)

Sec. 6-71. - Nuisance animals; complaint procedure for animals which disturb or are a nuisance.

No person shall keep any animal which causes a nuisance as defined in section 6-68. Any violation of this section is declared to be a nuisance and as such may be abated by any animal control officer after written notice to the owner and the owner's failure to remedy such nuisance within three business days. This remedy of abatement shall be in addition to any other remedy set forth in this article. Any animal determined to be a nuisance animal will be required to be microchipped by the animal control department at the owner's expense. The owner will be required to transport the animal to the animal control department within 48 hours of the nuisance declaration.

17-27. - Same—Declaration of nuisance.

Each violation of sections 17-23 through 17-25 constitutes a public nuisance. Each item of sexually explicit material publicly displayed in violation of these sections shall constitute a public nuisance.

(Code 1961, § 21-70.4)

Sec. 17-15. - Barking dogs.

(a)

It shall be unlawful for anyone to permit a dog, under his exercise or control, to bark, bay, cry, howl or make any other noise continuously and/or excessively for a period of ten minutes or more, or who barks, bays, cries, howls or makes any other noise intermittently for one-half hour or more to the disturbance of any person at any time.

(b)

It shall not be a violation of this section if at the time the dog is barking, baying, crying, howling or making any other noise a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any legitimate cause which teased or provoked the dog.

(c)

Any resident, owner, occupant, or tenant of property upon which the dog is situated shall be deemed a person in charge or otherwise exercising control over such dog.

(Code 1961, § 21-30.6)

Cross reference—Animals and food, ch. 6

State law reference— Regulation of domestic animals, G.S. 160A-186

Sec. 17-10. - Maximum permissible sound levels by use occupancy.

(a)

No person shall operate or cause to be operated any source of sound from any occupancy in such a manner as to create a sound level which exceeds the limits set forth for the use occupancy category in Table 1 or Table 2 of this section more than five minutes, or ten percent of the sound level measurements taken at five-second intervals during a measurement period of at least ten minutes, to be measured at or beyond the property boundary of the land use from which the sound emanates.

Table 1

Sound Levels by Use Occupancy Category

Use Occupancy Category	Time	Sound Level Limit dB(A)
Residential or Public Space	6 a.m.—10 p.m.	60
	10 p.m.—6 a.m.	55
Commercial or Business	6 a.m.—10 p.m.	65
	10 p.m.—6 a.m.	60
Manufacturing, Industrial or Agricultural	At all times	75

Table 2

Maximum Permissible Octave Band Sound Levels by Use Occupancy Category and Frequency Band and Time of Day

Frequency (Hz)	Residential or Public Space		Commercial or Business	
	6 a.m.—10 p.m.	10 p.m.—6 a.m.	6 a.m.—10 p.m.	10 p.m.—6 a.m.
31	88	72	90	88
63	79	71	85	79
125	69	65	73	69
250	62	57	67	62
500	58	51	61	58
1000	54	45	55	54
2000	50	43	51	51
4000	46	42	49	49
8000	43	41	47	47

(b)

Any source of sound which is the subject of a specific exemption or special permit in sections 17-7 through 17-16 shall not be permitted to exceed by more than 15 dB(A) or dB in octave band measurement for all categories those sound levels permitted in Table 1 or Table 2 of this section.

(Code 1961, § 21-30 3).



Deadline Date to Return Feb. 7, 2012
Zoning Commission Meeting March
Today's Date Feb. 7, 2012
Amount Rec'd \$ 200 Rcv'd by OMA Case # P12-15F

APPLICATION FOR SPECIAL USE PERMIT CITY OF FAYETTEVILLE

Upon receipt of this application, the Planning Department will place a legal ad in the paper to advertise this case as a public hearing before the Zoning Commission.

At the public hearing the Zoning Commission will make a recommendation to the City Council concerning the request. The City Council will hear the case and make the final decision. Any Special Use Permit will not be effective until after the City Council's decision.

A notice of the meeting will be mailed to all individuals who own property within 500 feet of the proposed Special Use Permit and a public notification sign will be posed on the site.

THE FOLLOWING ITEMS ARE TO BE SUBMITTED WITH THE COMPLETED APPLICATION:

1. A copy of the recorded deed.
2. A check made payable to the City of Fayetteville in the amount of \$700.00 plus a site plan review fee which is \$500 plus \$20/1000 square feet of the building footprint or \$20/unit or lot if the proposed project is residential.
3. 20 copies of a site plan showing all existing and proposed structures, setbacks, driveways, parking, screenings, etc. (email a pdf. of large site plans to: charmon@ci.fay.nc.us)

NOTE:

1. The application fee is nonrefundable.
2. The Planning Staff is available for advice on completing this application.
3. The Planning Staff shall review the site plan and application for sufficiency. (If you have any questions, please call (910) 433-1612.
4. It is strongly advised that the applicant or someone representing the applicant attend the Zoning Commission and City Council meetings.

APPLICATION FOR SPECIAL USE PERMIT
CITY OF FAYETTEVILLE

To the Zoning Commission and the City Council of the City of Fayetteville, North Carolina

I (We), the undersigned, do hereby respectfully make application and petition to the City Council to grant a Special Use Permit as required in the Zoning Ordinance. In support of this application, the following facts are shown:

Location/Address of the Property: 7351 Stoney Pt Rd, Fayetteville 28306
Owner of the Property: Ronald & Joy Whitehead
Address of the Owner: 7351 Stoney Point Rd Fayetteville Zip: 28306
Owner's Home Phone: 910-321-0001 Owner's Work Phone: 910-916-3653

A. Section and provision of the Zoning Ordinance from which a Special Use Permit is requested:

AR 30-4.C.4.b

B. The property sought for a Special Use Permit is owned by Ronald Whitehead as evidenced by deed, recorded in Deed Book 3672, Page 0309, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in the Registry.)

C. Tax Property Identification Number (PIN#) of the property: 9494-19-7631

D. Acreage requested for a Special Use Permit: 4 Acres

E. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail to include hours and days of operation, number of employees, number of clients, etc.)

PRIVATE PARK, AND DOG BOARDING. OPEN 8am-6pm 7days
FOUR EMPLOYEES, 20-30 PETS PER DAY,
RECREATIONAL PARK FOR ACTIVITIES AND EXERCISE

F. To the best of your knowledge, has an application for a special use permit or rezoning been filed for this property within the previous 5 years? (If yes, please indicate month and year.)

No

PREFERENCE SCENARIO 'A'
PENDING EASEMENT RELEASE
RELEASE OF EASEMENT DENIED
BY PROGRESS ENERGY
SCENARIO 'B'

Joy Whitehead
Signature of Applicant

7351 Stoney Point Rd.
Address of Applicant

Fayetteville NC 28306
City State Zip Code

Home Phone: 910-321-0001

Work Phone: 910-916-3653

(for additional application forms: www.cityoffayetteville.org then visit the Planning Dept. page)

Rev. #70.00 BK3672 PG0309
037804
PREPARED BY: MCCOY, WEAVER, WIGGINS, CLEVELAND & RAPER
NORTH CAROLINA 15310
CUMBERLAND COUNTY

RECEIVED
JUN 13 AM 8:05
GEORGE E. TATUM
REG. ST. OF DEEDS
CUMBERLAND COUNTY
WARRANTY DEED

THIS DEED, made this 30th day of MAY, 1991, by
DAVID C. POPE and wife ANNINA G. POPE
herein called Grantor, to
RONALD W. WHITEHEAD, JR.
herein called Grantee, Rt. 25, Box 34600 FAYETTEVILLE NC 28306

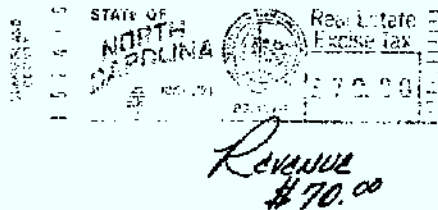
all of said State and County;

WITNESSETH THAT Grantor, for ten dollars and other valuable considerations hereby acknowledged as paid and received, has bargained and sold, and by these presents does grant, bargain, sell and convey to Grantee, his heirs and assigns, certain land described as follows:

TAX PARCEL NO. 9494-19-7631

NORTH CAROLINA, CUMBERLAND COUNTY, TOWNSHIP OF

FOR LEGAL DESCRIPTION, SEE EXHIBIT A ATTACHED HERETO
AND MADE A PART HEREOF.



TO HAVE AND TO HOLD, said land and all privileges and appurtenances thereto belonging, to Grantee, his heirs and assigns forever. And Grantor covenants with Grantee that he is seized of said premises in fee and has the right to convey in fee simple; that the same are free and clear of all encumbrances (except as may be hereinabove stated), and that he does hereby forever warrant and will forever defend the title to the same against the lawful claims of all persons whomsoever.

Wherever used herein, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders as the context may require.

IN TESTIMONY WHEREOF, Grantor has signed and sealed this deed.

David C. Pope (SEAL)
DAVID C. POPE
Annina G. Pope (SEAL)
ANNINA G. POPE
(SEAL)
(SEAL)

NORTH CAROLINA — CUMBERLAND COUNTY

I, Connie McGiffert
hereby certify that DAVID C. POPE and wife ANNINA G. POPE
personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this 31st day of MAY

My Commission Expires
CONNIE MCGIFFERT
NOTARY PUBLIC
CUMBERLAND COUNTY, N. C.
My Commission Expires 9-20-93

Connie McGiffert 19 91
Notary Public

The foregoing Certificate(s) of Connie McGiffert

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By George E. Tatum 6-30 REGISTER OF DEEDS FOR CUMBERLAND COUNTY,
Deputy/Assistant - Register of Deeds

BK3672PG0310

EXHIBIT "A"

TO BE ATTACHED TO AND MADE A PART OF WARRANTY DEED DATED MAY 30, 1991
FROM DAVID C. POPE and wife, ANNINA G. POPE TO RONALD W. WHITEHEAD, JR.

BEGINNING at an iron pipe on the southern margin of S. R. 1100 said iron pipe being located South 87 degrees 24 minutes 50 seconds East 24.7 feet from the northeast corner of a lot recorded in Deed Book 2712, Page 248 Cumberland County Registry and running; thence with the southern margin of said S. R. 1110 with a curve to the left having a chord bearing of South 44 degrees 48 minutes 29 seconds East 310.90 feet to an iron pipe thence; South 33 degrees 04 minutes 58 seconds West 156.01 feet to an iron pipe; thence South 02 degrees 14 minutes 02 seconds East 252.75 feet to an iron pipe; thence South 17 degrees 23 minutes 22 seconds West 289.75 feet to an iron pipe; thence South 17 degrees 18 minutes 22 seconds West 382.22 feet to an iron pipe in the northern property line of a tract recorded in Deed Book 1031, Page 209 Cumberland County Registry; thence with said line South 89 degrees 57 minutes 11 seconds West 182.29 feet to an iron pipe, the northeast corner of a tract recorded in Deed Book 2720, Page 651 Cumberland County Registry; thence with the northern line of said lot South 87 degrees 09 minutes 06 seconds West 212.0 feet to an iron pipe; thence North 15 degrees 46 minutes 47 seconds East 183.83 feet to an iron pipe; thence North 15 degrees 46 minutes 47 seconds East 156.07 feet to an iron pipe; thence South 75 degrees 31 minutes 58 seconds East 144.58 feet to an iron pipe; thence North 16 degrees 03 minutes 01 seconds East 178.05 feet to an iron pipe; thence North 74 degrees 43 minutes 15 seconds West 81.17 feet to an iron pipe; thence North 16 degrees 02 minutes 35 seconds East 442.09 feet to an iron pipe; thence North 16 degrees 00 minutes East 228.07 feet to an iron pipe; thence South 87 degrees 24 minutes 50 seconds East 24.7 feet to the point of beginning and Containing 8.24 ACRES acres as surveyed by George L. Lott Registered Land Surveyor dated May 31, 1991 and being the property shown on a deed recorded in Book 2948, Page 661 Cumberland County, North Carolina, Registry.

CORNER STORE

2 →

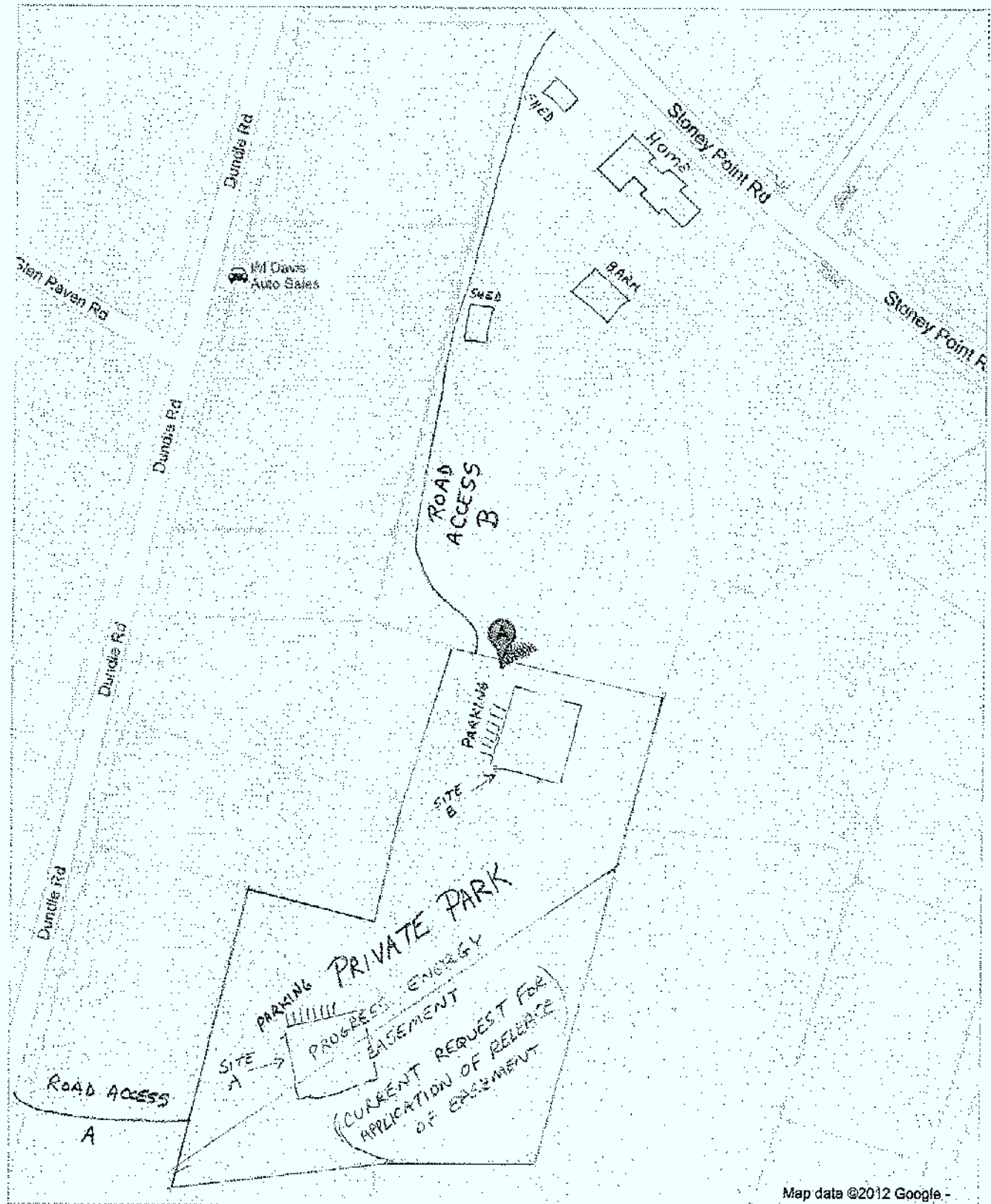
3 ↓

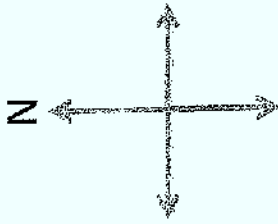
BPE'S

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.

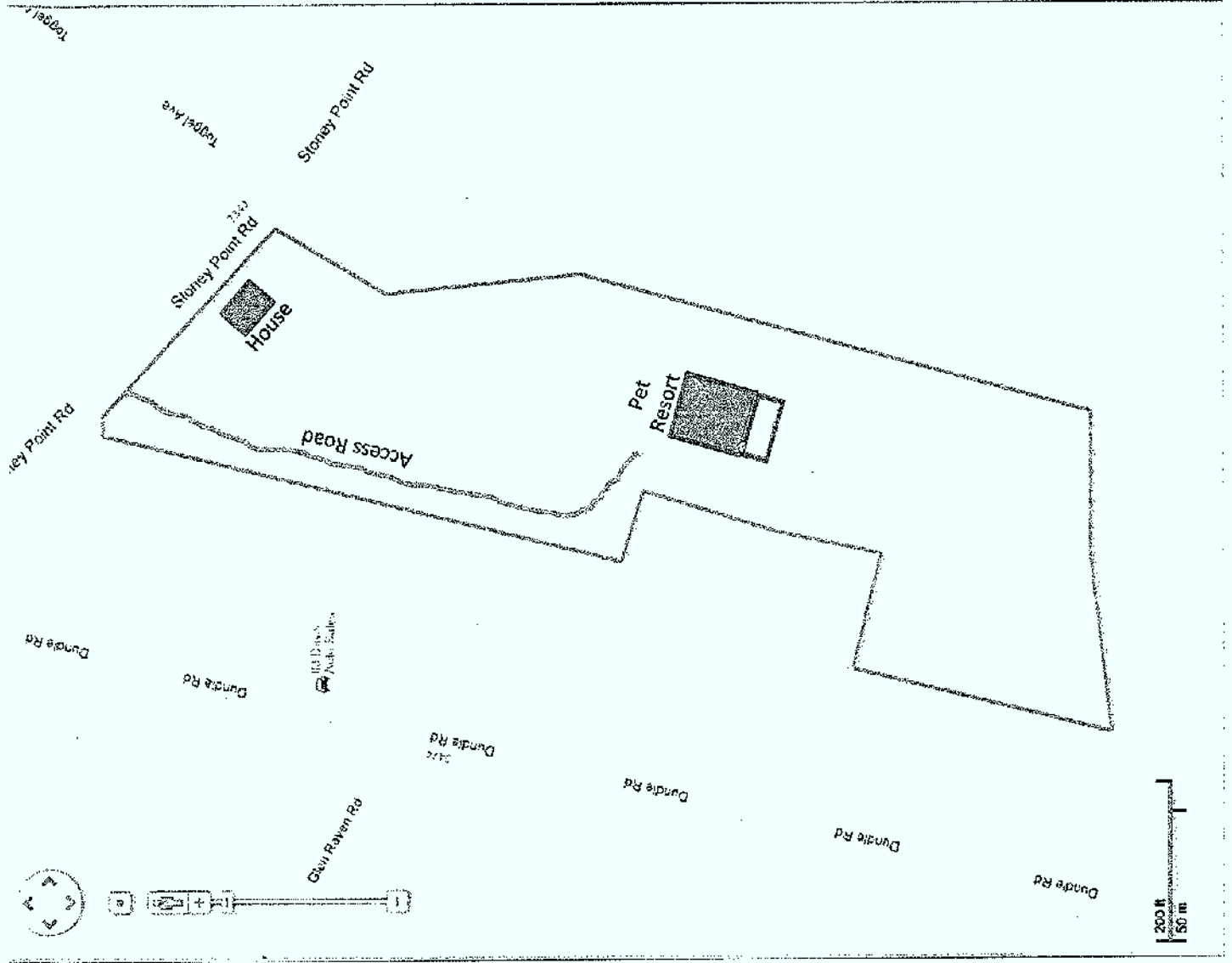
SITE PLANS 'A' AND 'B'





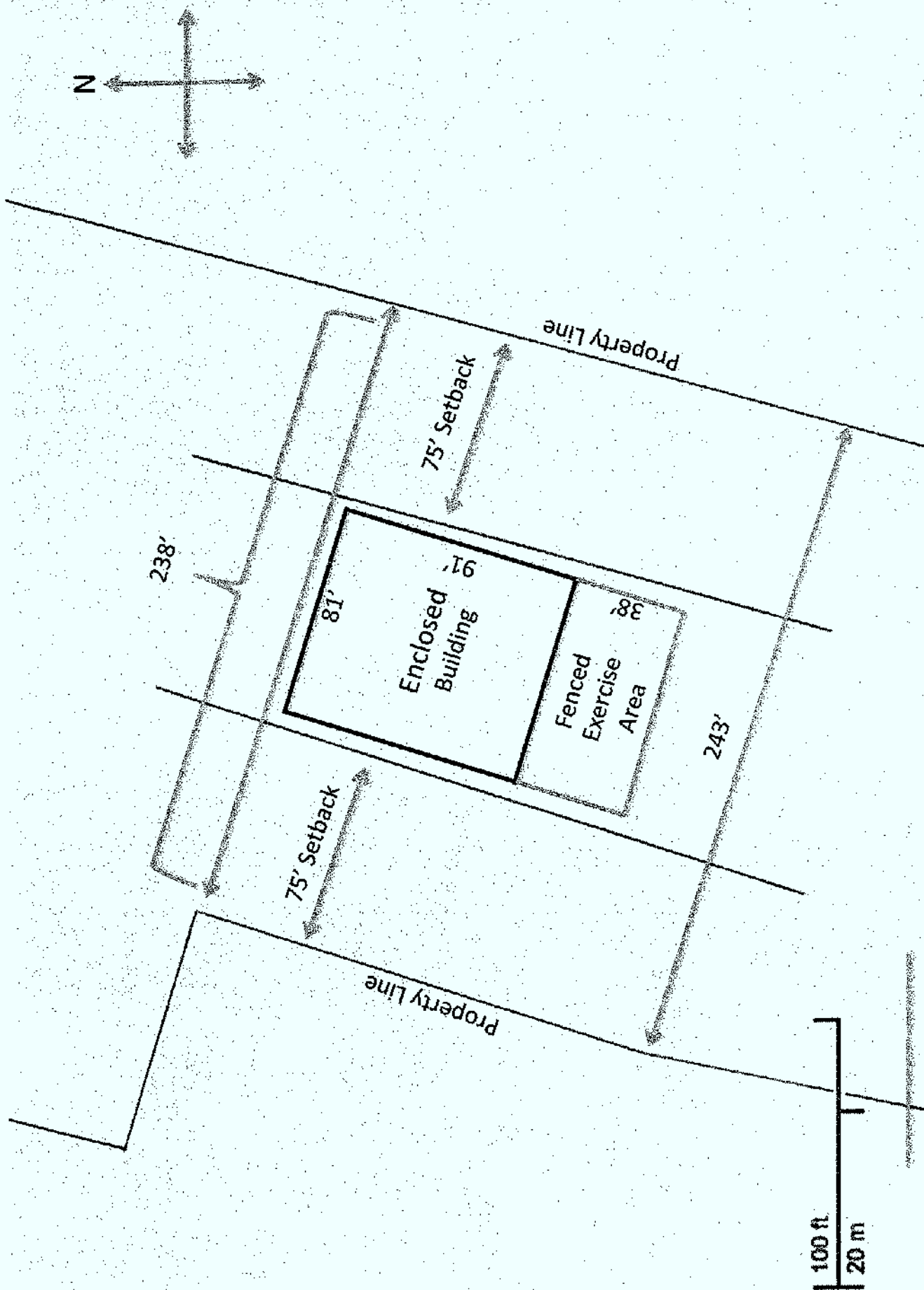
CASE
PERMIT #
P12-15F

WHITEHEAD
7351 STONEY PT RD



CASE #
PI2-15F

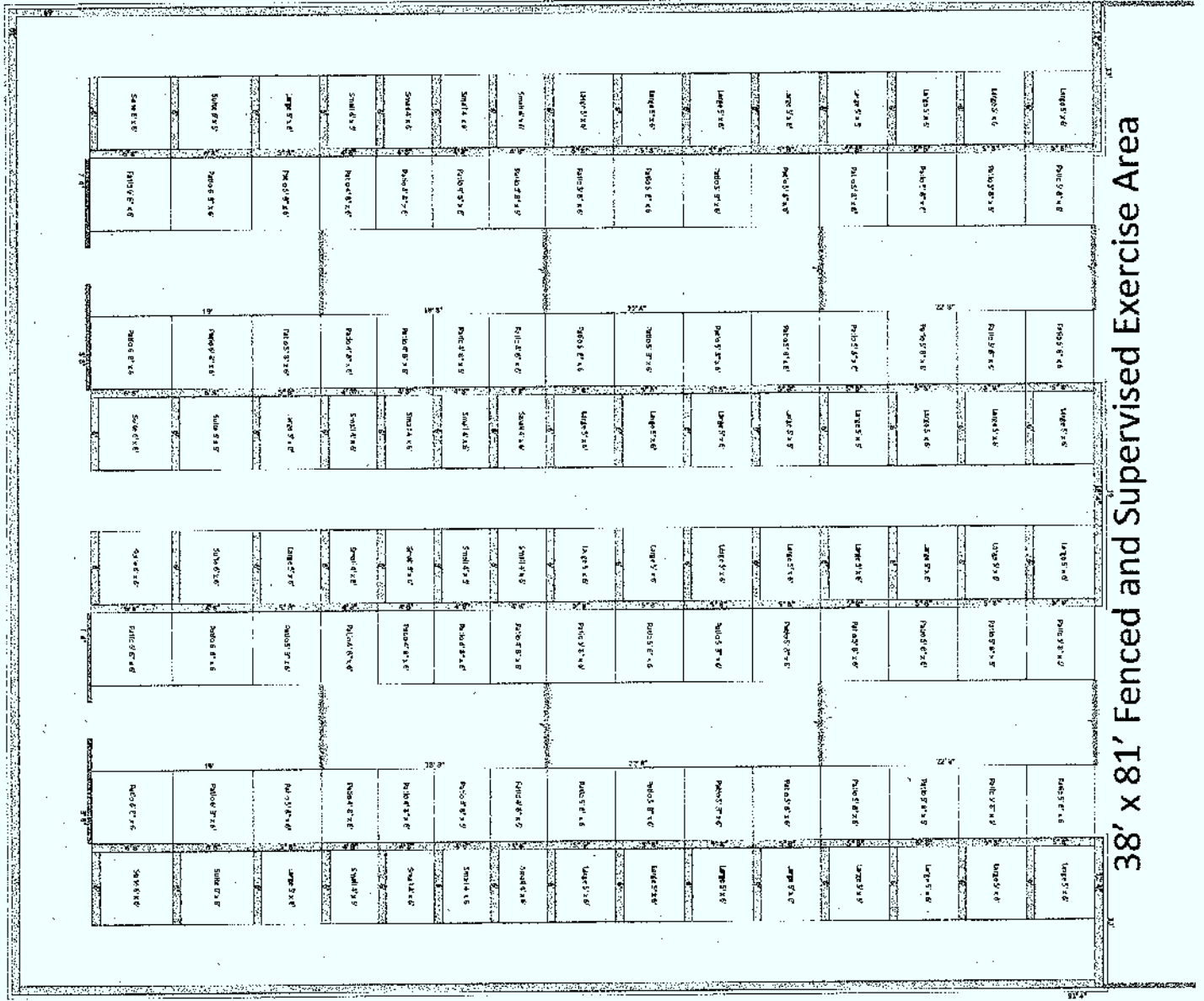
2



PEACH AREAS:
ALL ENCLOSED WITH
HEAT AND A/C

WHITE AREAS:
OUT DOOR PATIO'S
CLOSED IN BY CHAIN-
LINK FENCE

GREEN AREAS:
OUTDOOR, CONTROLLED
AREAS FOR POTTIE
RUNS



CASE #
P12-15F

Concerns?

- Barking?
 - The building is completely enclosed with sound dampening foam insulation in 8" thick cinderblock walls.
 - All animal exercise time will be between 9 am and 5 pm (supervised groups of 4 to 6 at a time)
 - If any dogs are outdoors on their supervised exercise time and if a fire truck happens to pass, they will be over 800' from Stoney Pt Rd
- Drainage?
 - We will comply with the North Carolina Department of Environment, Health and Natural Resources IAW "15A NCAC 18A.1938"
 - Utilization of a septic tank with removable filter traps that will be cleaned three times per week
 - All solids deposited will be prevented from entering the sub surface system
- Smell / Animal Waste?
 - We will comply with State Code "02 NCAC 52J .0207 a-b" Enclosures and exercise areas for dogs and cats must be properly cleaned a **minimum** of **TWO** times per day. Enclosures and accessories shall be sanitized a minimum of once every seven days. Non compliance will result in license being revoked.
- Traffic?
 - We estimate an average of 20 vehicles per day visiting our facility over a 24 hour period
 - This will have nominal impact considering the new Harris Teeter, Food Lion and CVS businesses that have opened ¾ of a mile away
- Fence Height?
 - We will comply with State Code "02 NCAC 52J .0201 h" which requires a 5' perimeter fence around any exercise area. Non compliance will result in license being revoked.
- Property Value?
 - Given the above specific redresses property values should not be impacted
 - We have just as much vested interest in the retention of property values as our neighbors and because of this fact we will go above and beyond all city and state regulations.

P12-15F
CASE #

NC Animal Welfare Administrative Code

SUBCHAPTER 52J - ANIMAL WELFARE SECTION

SECTION .0100 - RECORD KEEPING AND LICENSING

SECTION .0200 - FACILITIES AND OPERATING STANDARDS

02 NCAC 52J .0201 GENERAL

- (a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.
- (b) All light fixtures and electrical outlets in animal areas shall be in compliance with the State Building Code.
- (c) Facilities shall have reliable and safe electric power as necessary to comply with the Animal Welfare Act.
- (d) Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin and insects. All open bags of food shall be stored in airtight containers with lids. Refrigeration shall be provided for supplies of perishable food.
- (e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.
- (f) Hot and cold running, potable water must be available. Facilities such as washroom, basin or sink shall be provided to maintain cleanliness among animal caretakers, animals, and animal food and water receptacles.
- (g) Each facility shall have the ability to confirm ambient temperature.
- (h) A separate five-foot perimeter fence is required if any animals have access to an outdoor enclosure, including unsupervised exercise areas.
- (i) An adequate drainage system must be provided for the housing facility.
- (j) All areas of a facility are subject to review or inspection by North Carolina Department of Agriculture and Consumer Services employees during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).
- (k) All animals in a facility are subject to the requirements of the Animal Welfare Act, regardless of ownership.
- (l) A licensee or registrant shall comply with all federal, state and local laws, rules and ordinances relating to or affecting the welfare of dogs and cats in its facility.
- (m) No dog or cat shall be in a window display except during business hours and then only in compliance with standards set forth in this Section.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005.

NC Animal Welfare Administrative Code

02 NCAC 52J .0202 INDOOR FACILITIES

- (a) Indoor housing facilities for dogs and cats shall be adequately heated and cooled when necessary to protect the dogs and cats from cold and excessive heat and provide for their health and comfort. The ambient temperature shall not be allowed to fall below 50 degrees F. or exceed 85 degrees F.
- (b) Indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. The facilities shall be provided with fresh air either by means of windows, doors, vents or air conditioning and shall be ventilated so as to minimize drafts. Air flow shall be adequate to minimize odors and moisture condensation.
- (c) Indoor housing facilities for dogs and cats shall have adequate illumination to permit routine inspections, maintenance, cleaning and housekeeping of the facility and observation of the animals. Illumination shall provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities.
- (d) Interior building surfaces of indoor facilities with which animals come in contact shall be constructed and maintained so that they are impervious to moisture, and can be readily sanitized.
- (e) A suitable method of drainage shall be provided to rapidly eliminate excess water from an indoor housing facility. If closed drain systems are used, they shall be equipped with traps and installed to prevent odors and backup of sewage. The drainage system shall be constructed to prevent cross-contamination among animals.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005.*

02 NCAC 52J .0204 PRIMARY ENCLOSURES

- (a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.
- (b) Primary enclosures for dogs and cats shall be structurally sound and maintained in good repair and in a manner to prevent injury to animals and keep other animals out. Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, turn about freely, and to easily stand, sit, or lie in a natural position. The height of a primary enclosure other than a cage shall be no less than five feet. All enclosures shall be constructed to prevent the escape of animals.
- (c) Each primary enclosure shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time.

CASE #

P12-15F

NC Animal Welfare Administrative Code

All resting surfaces must be of a non-porous or easily sanitized material, such as a towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

(d) In addition to Paragraph (b) of this Rule, each dog shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, then divide the product by 144. The calculation is: $(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6) = \text{required floor space in square inches}$. Required floor space in square inches $\div 144 = \text{required floor space in square feet}$. The calculation shall be expressed in square feet. Not more than four adult dogs shall be housed in the same primary enclosure without supervision.

(e) If more than four dogs are housed in a common area or enclosure, then there must be at least one person supervising each 10 dogs housed within each enclosure or common area.

(f) In addition to Paragraph (b) of this Rule, each feline older than six months housed in any primary enclosure shall be provided a minimum of four square feet of floor space which may include elevated resting surfaces. Each feline younger than six months shall be provided 1.5 square feet. Not more than 12 cats shall be housed in the same primary enclosure.

(g) In all cat enclosures, a receptacle containing clean litter shall be provided for waste. A minimum of one receptacle per three cats is required.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.*

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitation shall be as follows:

- (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.
- (2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in

NC Animal Welfare Administrative Code

- Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.
- (3) Cages, rooms and hard-surfaced pens or runs shall be sanitized by:
 - (A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or
 - (B) washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant; or
 - (C) cleaning all soiled surfaces with live steam.
 - (4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.
 - (5) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.
 - (6) Any area accessible to multiple animals shall be kept clean and sanitary.
- (c) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Rule. Premises shall remain free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and to improve pest control, and to protect the health and well-being of the animals.
- (d) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-26F Request for a Special Use Permit for a drive-thru in a commercial transition area on property located at 6915 Clifffdale Road. Containing 0.34 acres more or less and being the property of SVP Construction and Quality Oil Company.**

THE QUESTION:

Does the SUP for a drive-through in a transition area fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development

BACKGROUND:

Owner: SVP Construction and Quality Oil Company
Applicant: SVP Construction and Quality Oil Company
Requested Action: SUP Transition area drive-thru
Property Address: 6915 Clifffdale Road
Council District: 7
Status of Property: Developed
Size: .34 acres +/-
Existing Land Use: Vacant
Adjoining Land Use & Zoning:
North - CC
South - CC & SF-10
East - SF-10 & LC
West - CC
Letters Mailed: 51

Land Use Plan: Heavy Commercial

ISSUES:

The commercial property in question is located adjacent to a SF-10 single family detached housing development. Because of that proximity to residential the development has to be approved for a Special Use Permit (SUP) to allow a drive-through. The residential development only abuts this property in the southeast corner of the property. When fully developed, this property will have a gas station and drive-car wash. The car wash, located on a separate property, must be approved through the SUP process. The car wash complies with all other requirements of the City's development code.

Zoning Commission & Staff recommend that this SUP be approved based on the information available at this time and that all findings are in the affirmative below:

1. Facility would create minimal disturbance to the adjacent single family development.
2. The property is zoned for heavy commercial.
3. The land use plan call for heavy commercial.
4. No direct driving access between this property and the residential properties.

A Special Use Permit shall be approved only upon a finding that all of the following standards are

met:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of SUP as presented by staff (recommended)
- 2) Approval of SUP with conditions;
- 3) Denial of the SUP request.

RECOMMENDED ACTION:

Zoning Commission & Staff Recommend: That the City Council APPROVE the SUP as presented by staff upon a finding that all of the following standards are met:

- (1) The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations .

ATTACHMENTS:

Zoning Map
Current Land Use
Land Use Plan
Site Plan

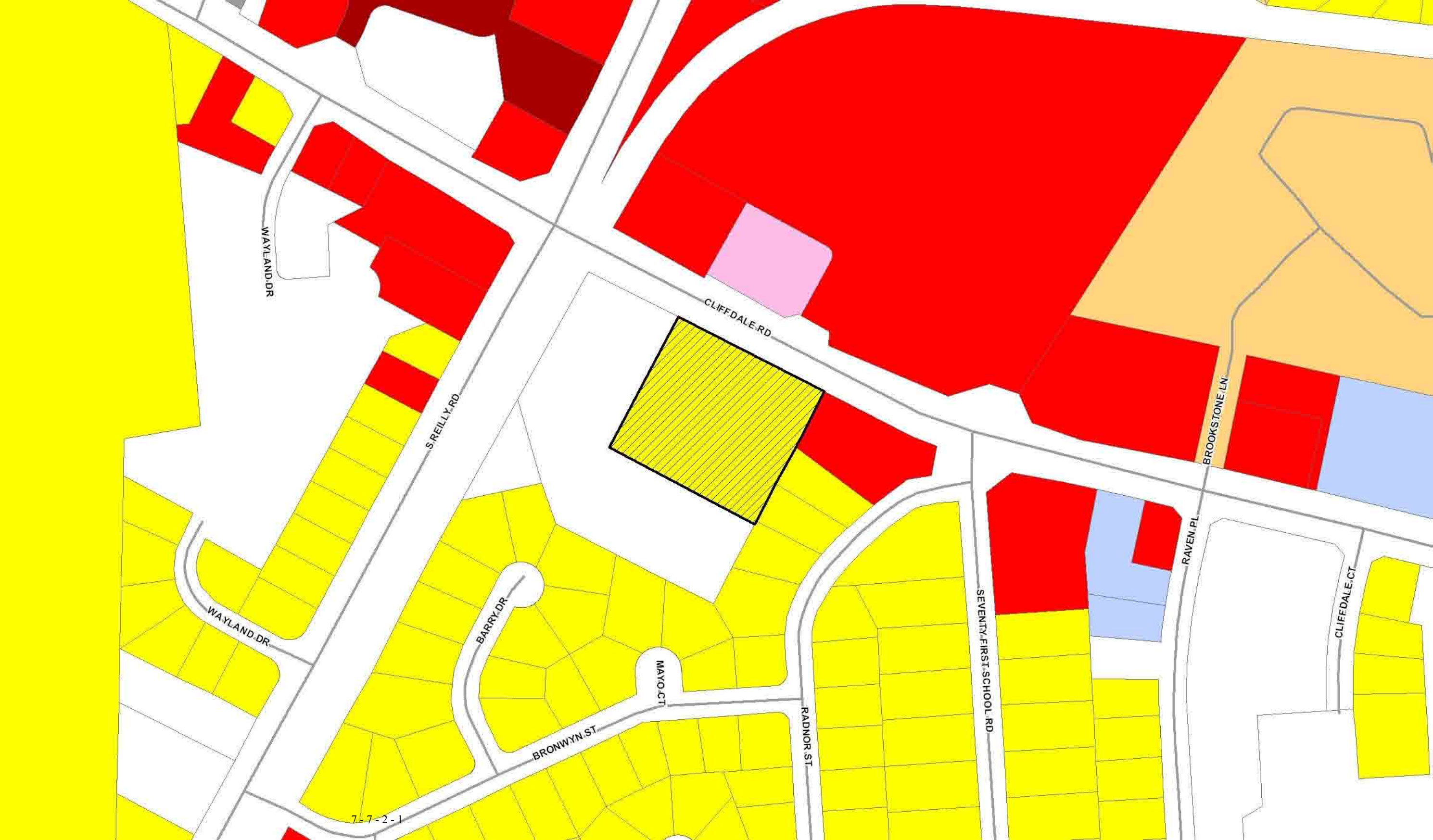
ZONING COMMISSION
CASE NO. P12-26F



Request: SUP
Location: 6915 cliffdale Rd
Acreage: 0.34 +/-

Zoning Commission: 05/08/2012 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 9497-56-7872

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.



CLIFFDALE RD

S REILLY RD

BROOKSTONE LN

RAVEN PL

CLIFFDALE CT

SEVENTY-FIRST SCHOOL RD

RADNOR ST

MAYO CT

BRONWYN ST

BARRY DR

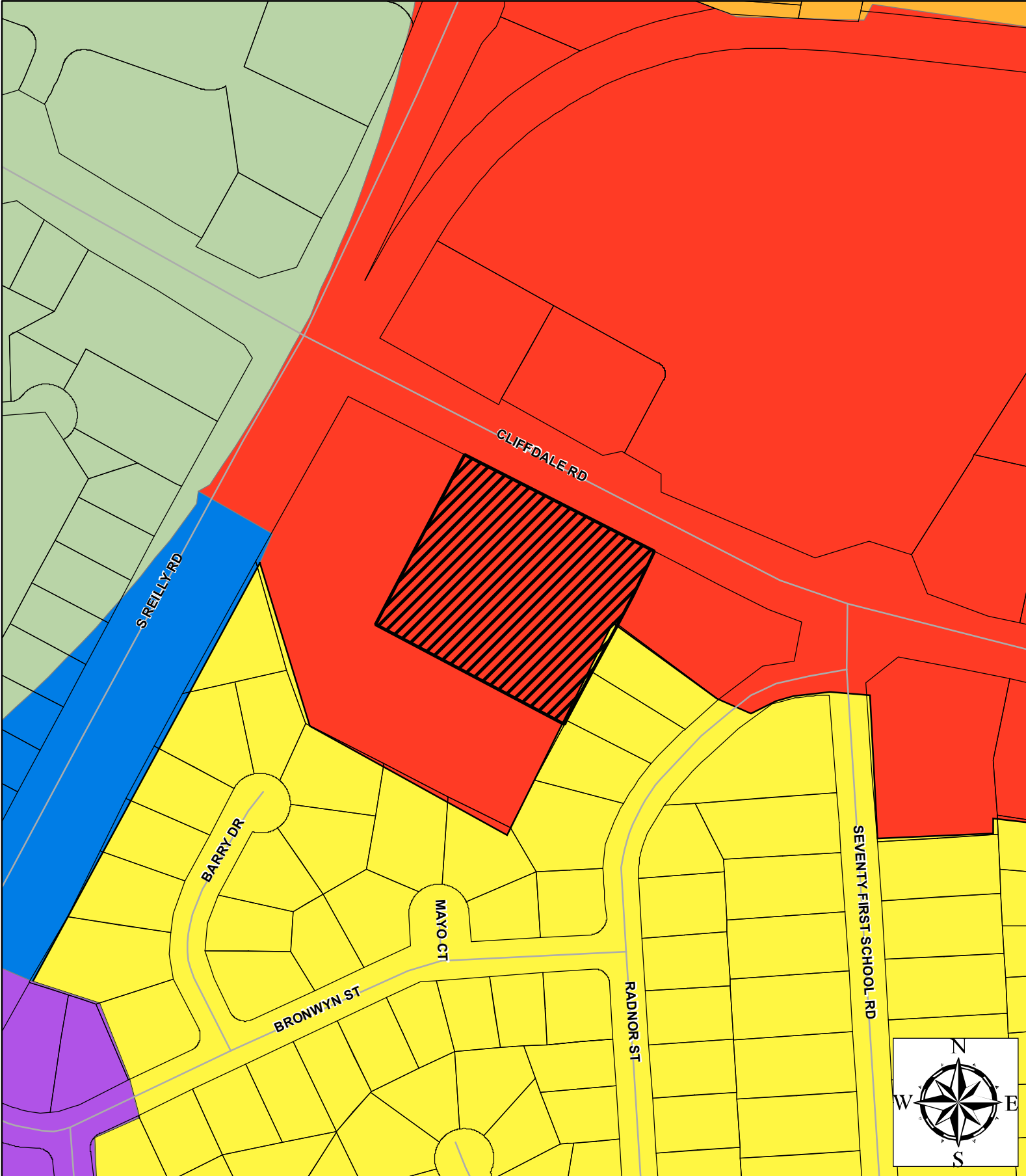
WAYLAND DR

WAYLAND DR

7-7-2-1

2010 Land Use Plan

Case No. P12-26F



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-28F Initial zoning from CD – Conservation District, R5A - Residential, R10 - Residential, RR – Rural Residential (County) to CD – Conservation District, MR-5 Mixed Residential, SF-10 Single Family District, and AR – Agricultural Residential or a more restrictive district, on property located between Dundle and Stoney Point Roads in the area known as Gates Four and the surrounding newly annexed areas. Containing 780 acres more or less**

THE QUESTION:

Does the initial zoning to CD – Conservation District, MR-5 Mixed Residential, SF-10 Single Family District, and AR – Agricultural Residential fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development

BACKGROUND:

Applicant: City of Fayetteville
Requested Action: CD, MR-5, SF-10, and AR
Property Address: between Dundle and Stoney Point Roads in the area known as Gates Four and the surrounding newly annexed areas
Council District: 6
Status of Property: Developed
Size: 780 acres +/-
Existing Land Use: Single Family, multi family, golf course and agricultural
Adjoining Land Use & Zoning:
North - SF-10, SF-15, AR & CD
South - MXD, RR, R5A, SF-10
East - CD, SF-10 & AR
West - AR, SF-10, SF-6
Letters Mailed: 939

Land Use Plan: Low Density Residential

ISSUES:

These properties were recently annexed into the City and must be considered for City zoning. They were part of a City initiated annexation that became effective in March of 2012. The properties include the Gates Four community and some surrounding farmland and conservation areas. Most zoning districts are very close to a City zoning district except that the current County R10 zoning allows for multifamily development, the City's SF-10 does not. The City's SF-10 district however more closely fits the existing development in the R10 areas which is single family in nature.

Zoning Commission & Staff recommend that if this property is annexed it should become a CD – Conservation District, MR-5 Mixed Residential, SF-10 Single Family District, and AR – Agricultural Residential district, as shown on the attached map, based on:

1. These districts fit with the current uses on these properties.
2. These districts closely match the existing zoning for the area.

The annexation statute establishes a specific time frame for establishing the zoning after annexation. Failing to zone the property could result in it becoming un-zoned.

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of rezoning as presented by staff (recommended if annexed)
- 2) Approval of rezoning with additional conditions;
- 3) Denial of the rezoning request. (property becomes unzoned)

RECOMMENDED ACTION:

Zoning Commission & Staff Recommend: That the City Council move to APPROVE the initial zoning of this property to CD – Conservation District, MR-5 Mixed Residential, SF-10 Single Family District, and AR – Agricultural Residential as presented by staff if the property is annexed.

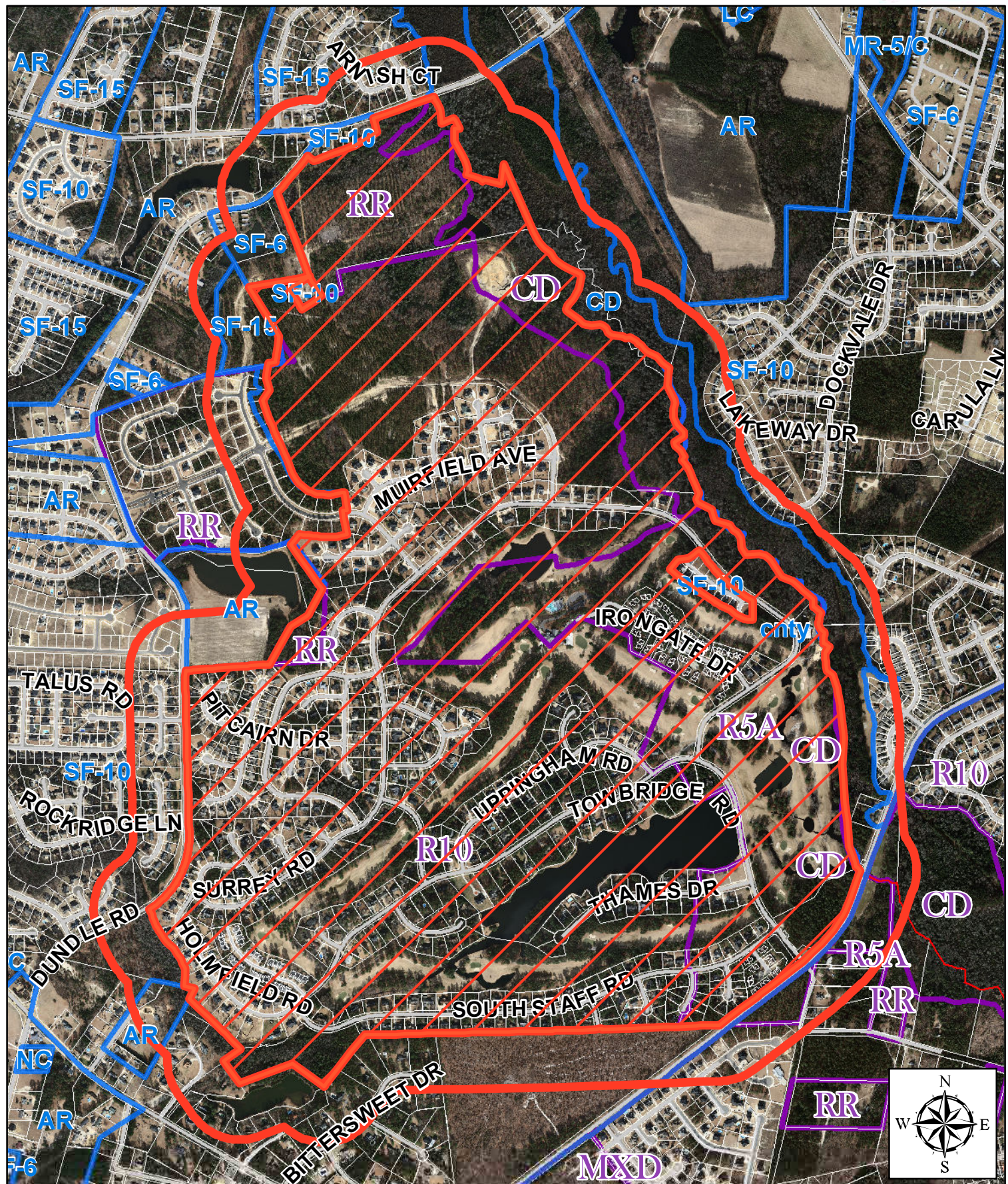
ATTACHMENTS:

Zoning Map

Current Land Use

Land Use Plan

ZONING COMMISSION
CASE NO. P12-28F



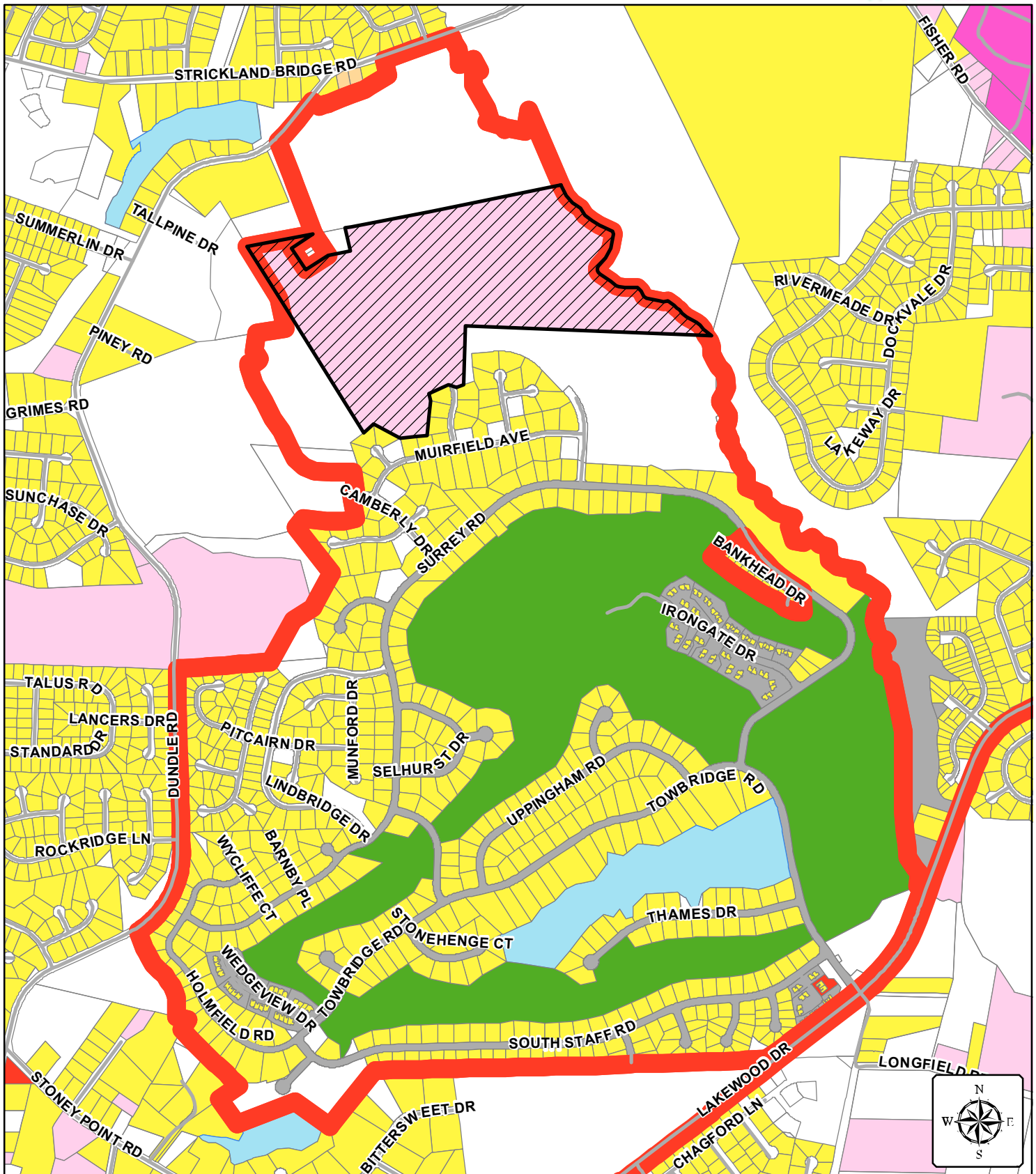
Request: Initial Zoning
Location: Gates Four Area
Acreage: 780 +/-

Zoning Commission: 05/08/2012 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: _____

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

Current Land Use

P12-28F

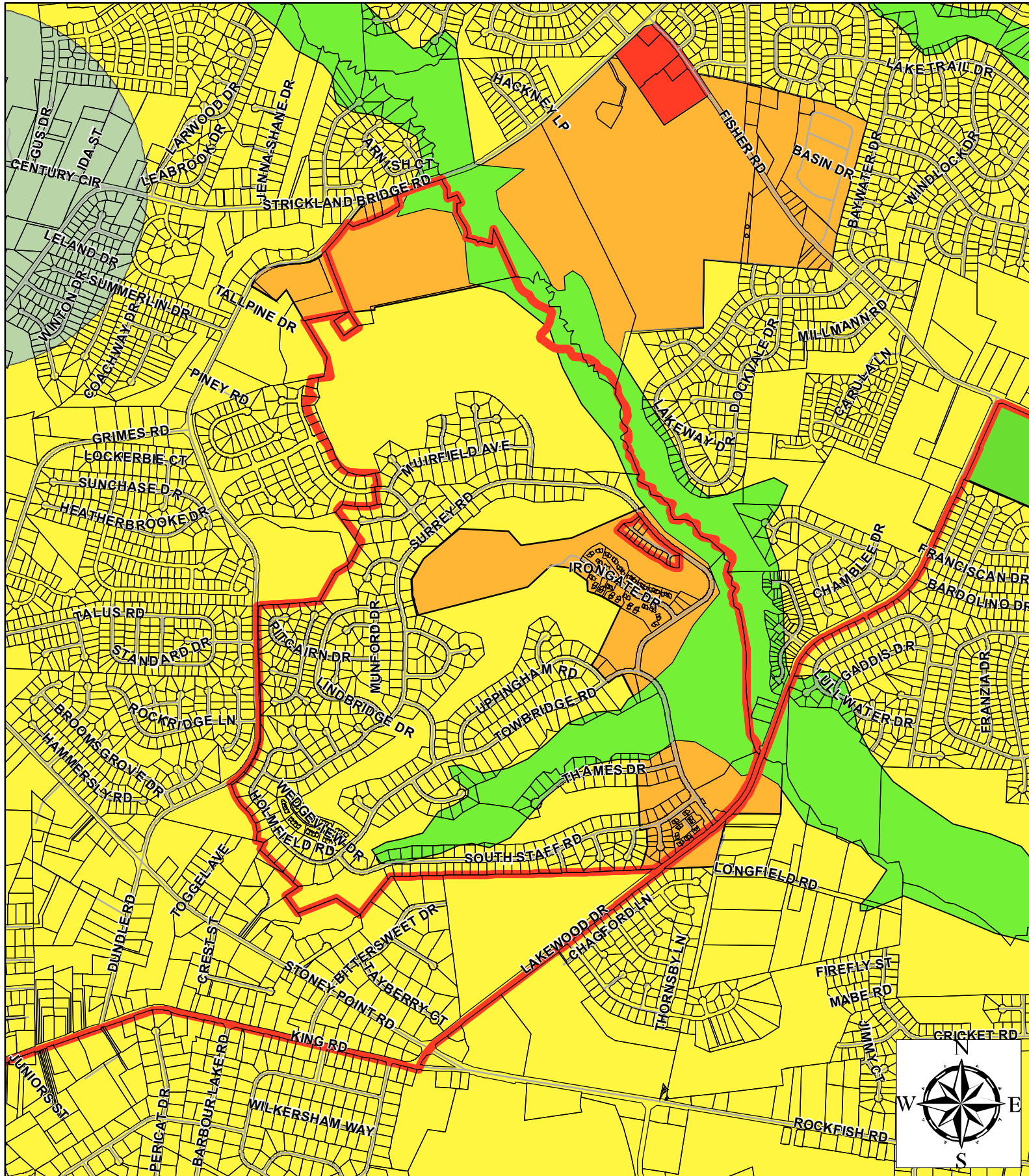


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-28F



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P11-23F Initial zoning from R40 Residential (County) to SF-15/CZ Single Family Conditional District, or a more restrictive district, on property located on Underwood Road. Containing 116.77 acres more or less and being the property of John Koenig Estate Builders LLC**

THE QUESTION:

Does the initial zoning to Single Family 15 Conditional fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development

BACKGROUND:

Owner: John Koenig Estate Builders LLC
Applicant: John Koenig
Requested Action: R40 (cnty) to SF-15/CZ
Property Address: Underwood Road
Council District: 2
Status of Property: Undeveloped
Size: 116.77 acres +/-
Existing Land Use: Residential
Adjoining Land Use & Zoning:
North - A1 County
South - R40 & RR County
East - R40 County
West - A1 County
Letters Mailed: 35

Land Use Plan: Rural Residential

ISSUES:

This property has petitioned for annexation into the City and must be considered for City zoning if that takes place. This property is located partially inside of the City's MIA (Municipal Influence Area). The owner wishes to annex 116 acres of property to develop as single family residential. This property is currently zoned R40 in the county, which would allow for 111 lots. Under the Council's old policy for annexed areas, this property would have come into the City with AR zoning. The City's new policy allows the applicant to request the zoning district that they'd like to have in the City. If the initial City zoning were AR, the owner would be allowed to develop up to 250 lots on this property. The owner would like to come into the City under a SF-15 Residential Conditional district which without any limiting conditions would allow up to 345 units or 368 units with zero lot line. The owner's only condition is to limit the number of allowed lots to 260, 10 more than would be allowed in an AR district.

Conditions offered by the applicant.

1. Limit the number of lots allowed to 260

Zoning Commission & Staff recommend that if this property is annexed it should become a SF-15

Conditional district based on:

1. SF-15 Conditional only would have 10 more lots than what would be allowed in the AR District.
2. SF-15 is one of the City's Low Density zoning districts.
3. SF-15 allows a flexibility in lot sizes and set backs under zero lot line that AR does not.

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of rezoning to SF-15/CZ as presented by staff (recommended if annexed)
- 2) Approval of rezoning with additional conditions or a more restrictive district;
- 3) Denial of the rezoning request. (property becomes unzoned if annexation is approved)

RECOMMENDED ACTION:

Zoning Commission & Staff Recommend: That the City Council move to APPROVE the initial zoning of this property to SF-15/CZ as presented by staff if the property is annexed.

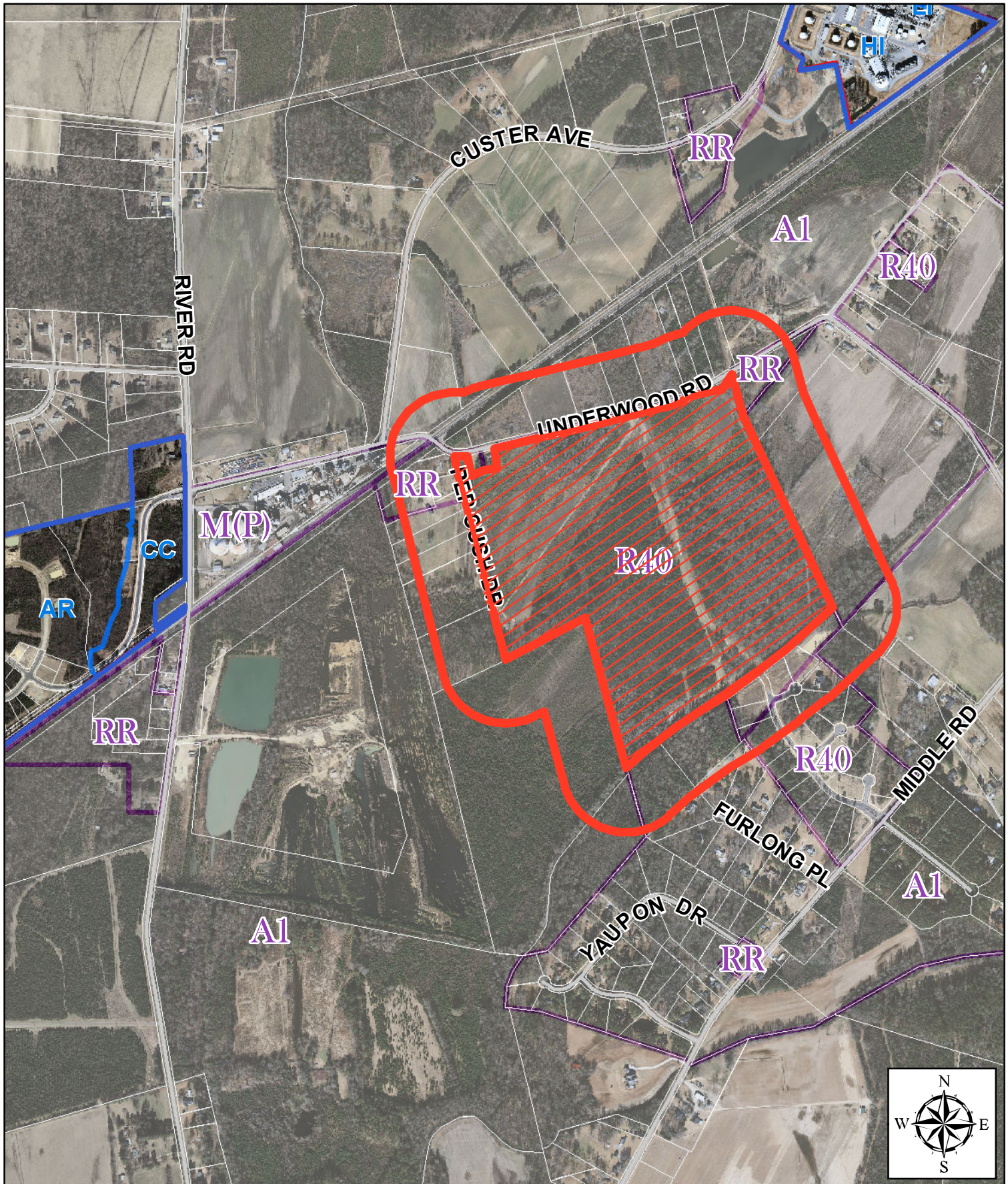
ATTACHMENTS:

Zoning Map

Current Land Use

Land Use Plan

ZONING COMMISSION
CASE NO. P12-23F



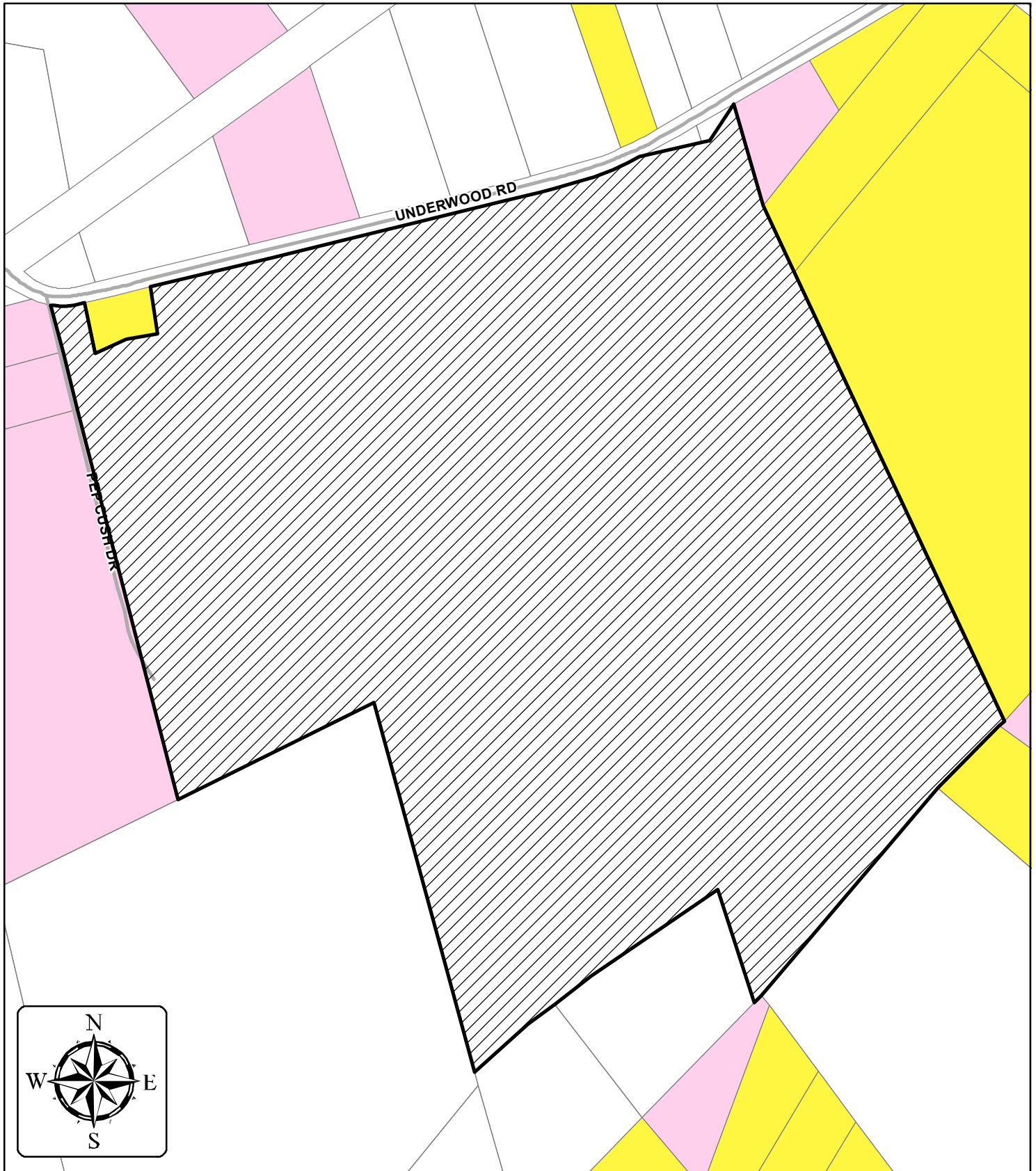
Request: Initial Zoning
Location: Underwood Rd
Acreage: +/- 116.77 acres

Zoning Commission: 04/10/2012 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 0448-96-1424-

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

Current Land Use

P12-23F



Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-23F



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: David Nash, AICP, Planner II
DATE: May 29, 2012
RE: **Public Hearing to Consider a Petition Requesting Annexation for a Non-Contiguous Area Known as Lexington Woods Subdivision**

THE QUESTION:

Should a non-contiguous area be annexed into the City?

RELATIONSHIP TO STRATEGIC PLAN:

Strong local economy

BACKGROUND:

This petition requests annexation of an area to be developed as a new residential subdivision to be known as Lexington Woods. The petition was submitted on March 12, 2012 by Estate Builders, LLC. John Koenig and Margarete Koenig signed the petition as members of Estate Builders.

The area is located east of the City, on the southern side of Underwood Road, about 2,500 feet east of River Road. Although the area is not contiguous to the City of Fayetteville, two other parts of the City are nearby. One is the Butler-Warner electrical generation plant, located on Custer Avenue. The other is the River Glen subdivision, located between the Cape Fear River and River Road.

According to City calculations, the area contains 114.92 acres. The land in the area is currently vacant, but the owner proposes to develop the land into a single-family detached residential subdivision with a maximum of 260 lots.

Part of the area is located in the Fayetteville MIA. All of the area is in the Eastover Sanitary District. The owner originally attempted to get the property rezoned in the County to allow more units, but was turned down by the County Commission.

In response to this situation, the owner decided to petition for annexation into the City of Fayetteville. Based on the City's revised annexation/initial zoning policy, the owner has requested that if the area is annexed, that it be initially zoned in the City as SF-15, with the condition that the area will contain no more than 260 units.

Even though the owner has conditioned that the area will contain no more than 260 units, with the SF-15 zoning, the area could contain as many as 345 units (assuming that zero lot line regulations are not used). If zero lot line regulations are used, the area could contain as many as 368 units.

The City staff has scheduled public hearings for this petition based on the City's annexation petition policy/initial zoning policy (as revised by City Council on February 13, 2012). The Zoning Commission held its initial zoning public hearing on May 8, 2012. The City Council will hold its initial zoning public hearing on May 29, immediately before the annexation public hearing.

ISSUES:

Sufficiency: The City's Real Estate staff has verified that Estate Builders, LLC is the current owner of the property requested for annexation.

Services: The City's Planning staff asked City operating departments to review the area requested for annexation. The Planning staff provided the departments with maps and an information sheet about the area. The information sheet pointed out that the area is currently vacant, but when the area is completely built-out, it will have 260 housing units and an estimated population of 573

people.

The **Police Department** reports that it would be able to serve the area at the present time. However, once the area is developed, the potential for overtime costs might occur, depending on increased case loads. Overtime costs might occur in lieu of adding additional staff to mitigate continuing satellite annexations. The City staff will need to monitor population and land increases, and the City needs to think about adding additional police officers and crime prevention specialists.

The **Fire Department** reports that the area is 4.3 miles from the closest City fire station, and it might take a unit over 10 minutes to arrive on the scene. The department's goal is 5.5 minutes for the first arriving unit. The department does not plan to contract with the Eastover Fire Department, because the Eastover station is 4.1 miles away, and Eastover does not provide 24 hour response service. As growth occurs in the petition area, the City will need to consider a future fire station and other resources. The department noted that when the nearby River Glen subdivision was annexed in 2006 (in response to a petition), the owner agreed to donate a site for a City fire station; the department suggests that this agreement be revisited.

The **Environmental Services Department** reports that it would serve the area with existing equipment and personnel until the area is 50 percent built-out; at that point, it should be reevaluated during the annual budget cycle. The distance to the area means that an existing route will need to be revised.

The **Engineering and Infrastructure Department** reports that it will maintain the streets, signs, and drainage infrastructure in the area.

Zoning Issues: The property is currently zoned R40 in the County. Under the County R40 district, after deducting for street right-of-way, 111 lots/units would be allowed. The owner applied for a rezoning in the County to R20. Under the County R20 district, after deducting for street right-of-way, 223 lots/units would have been allowed. On February 21, 2012, the County Joint Planning Board denied this rezoning request.

The owner then withdrew the County case, and he submitted an annexation petition to the City on March 12, 2012. In submitting the annexation petition, the owner was able to request the City zoning district to which the property would be initially zoned if annexed. The owner requested the City's SF-15 district. The "gross residential density, max" allowed in the SF-15 would be 345 units (if zero lot line regulations are not used) and 368 units (if zero lot line regulations are used). However, the owner agreed to conditionally limit the number of units to 260.

On May 8, 2012, after holding a public hearing, the Fayetteville Zoning Commission followed the staff's recommendation and approved the initial zoning of the property to SF-15 conditional district (with the limit of 260 units). On May 29, the City Council will need to decide how the property should be initially zoned. The initial zoning public hearing will precede the annexation public hearing.

Issue of Which Entity Will Provide Utilities to the Area: The area is within the boundary of the Eastover Sanitary District.

Compliance With Satellite Annexation Standards: There are five standards that a satellite annexation must meet in order to be annexed. This area meets the five standards, as shown in the attached ordinance.

Effective Date: Recent changes in the state annexation law regarding effective dates did not apply to satellite areas. The law remains the same: a satellite annexation may be made effective immediately, or on any specified date within six months from the date of passage.

BUDGET IMPACT:

Fiscal impact analysis involves a comparison of projected revenues with projected costs. This property is currently undeveloped. It is being proposed for single family residential development. There will be no immediate service needs; service needs will develop over time as houses are constructed and occupied. Consequently, all service costs and issues will be addressed

incrementally as the property develops.

Projected Revenues: Since this is a residential area, it will generate revenues from both ad valorem property taxes and from population-based revenues (such as the sales tax, the beer and wine tax, and the population component of the Power Bill). Based on information from the owner, it is assumed that construction will start on the 260 housing units in November 2012, and construction will be completed within three years. It is assumed that it will take three months to complete each house. This means that 8 housing units would be started each month. Based on this growth scenario, it has been projected that total revenues for FY 11-12 through FY 16-17 would be \$1,058,221. (This includes one-time revenue from building permits of \$269,100.) Annual revenues are projected to reach their full potential in FY 16-17 (at \$342,166 per fiscal year) and they should stay at that level for the following fiscal years.

Projected Costs-The **Police Department** did not submit any costs. The **Fire Department** did not submit any costs. The **Environmental Services Department** projects one-time costs for roll-out carts at \$12,805 (260 carts at \$49.25 each). The department also projects one-time costs for recycling carts at \$8,944 (260 carts at \$34.40 each). Based on information previously submitted by the Environmental Services Department for a previous annexation, it can be projected that annual costs will be \$138 per year per house for garbage/yard waste, and \$36 per year per house for recycling. Once the area is completely built-out with 260 houses, these costs would be \$35,880 for garbage/yard waste and \$9,360 for recycling. The **Engineering and Infrastructure Department** costs for street maintenance have been projected as \$14,486 per year. (This is based on 2.95 miles of streets at build-out times a cost per mile figure of \$4,910.) The annual revenue projected from Powell Bill at build-out, \$15,807, should cover the projected cost of street maintenance.

Fiscal Impact-Based on the costs that were submitted by City operating departments and/or projected by staff from previous annexations, it appears that the revenues will exceed costs for this area.

OPTIONS:

1. Adopt the Annexation Ordinance with an effective date of May 29, 2012. (The motion to adopt the ordinance should include the final initial zoning action that the City Council wishes to apply to the property.)
2. Adopt the Annexation Ordinance with an effective date within six months of the date of passage of the ordinance. (The motion to adopt the ordinance should include the final zoning action that the City Council wishes to apply to the property.)
3. Do not adopt the Annexation Ordinance. This option means the property would remain outside the City and the initial zoning would not occur.

RECOMMENDED ACTION:

Staff recommends that the City Council adopt the proposed ordinance annexing the property, effective May 29, 2012, and establish the initial zoning as SF-15 conditional (with the condition that no more than 260 units be built on the property).

ATTACHMENTS:

Vicinity Map

Vicinity Map-Showing Nearby Parts of City & Possible Fire Station Site

Map Showing Town of Eastover, Areas Not To Be Annexed by Town of Eastover, & Eastover Sanitary District

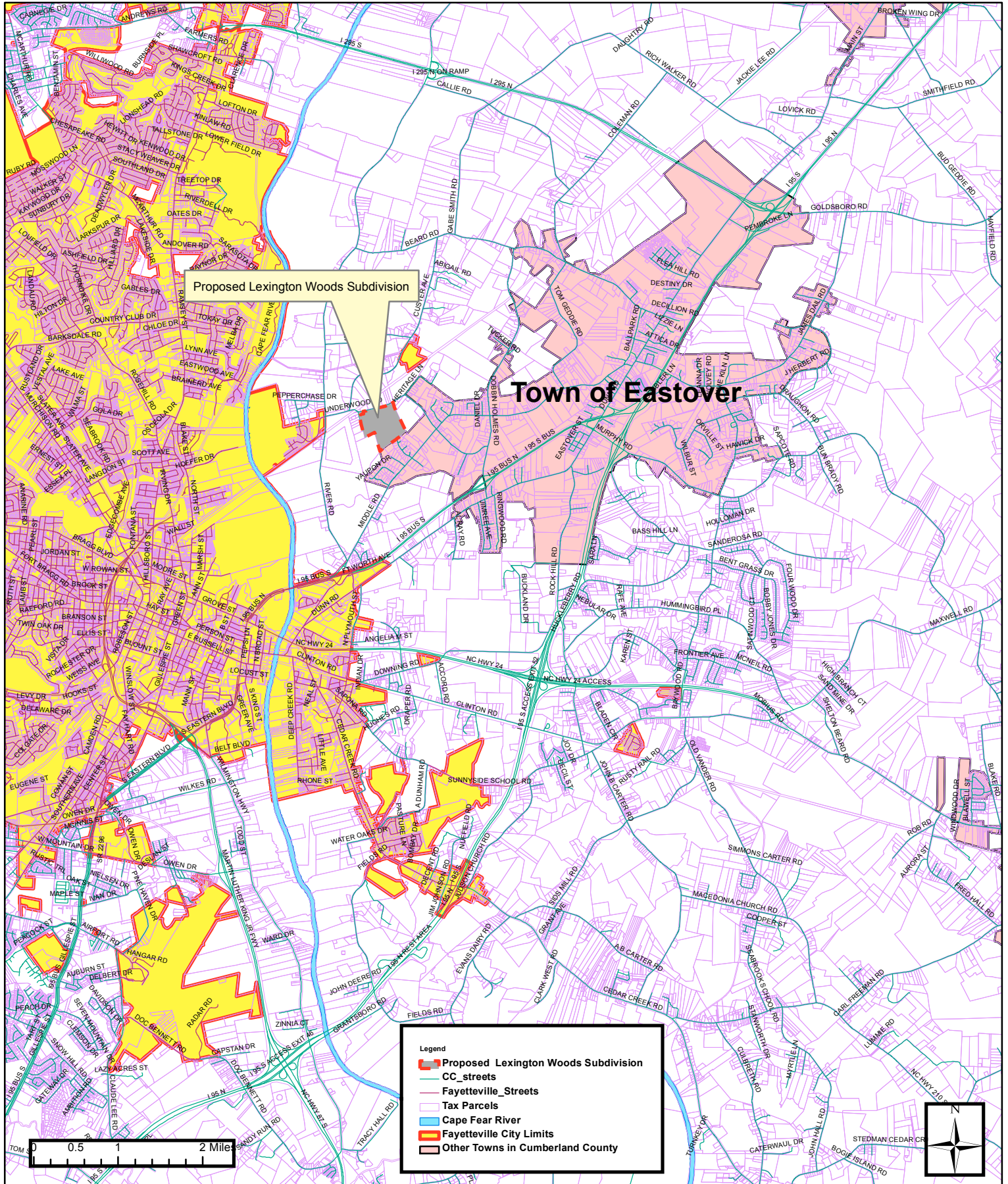
Legal Description Map

Basic Information About the Area

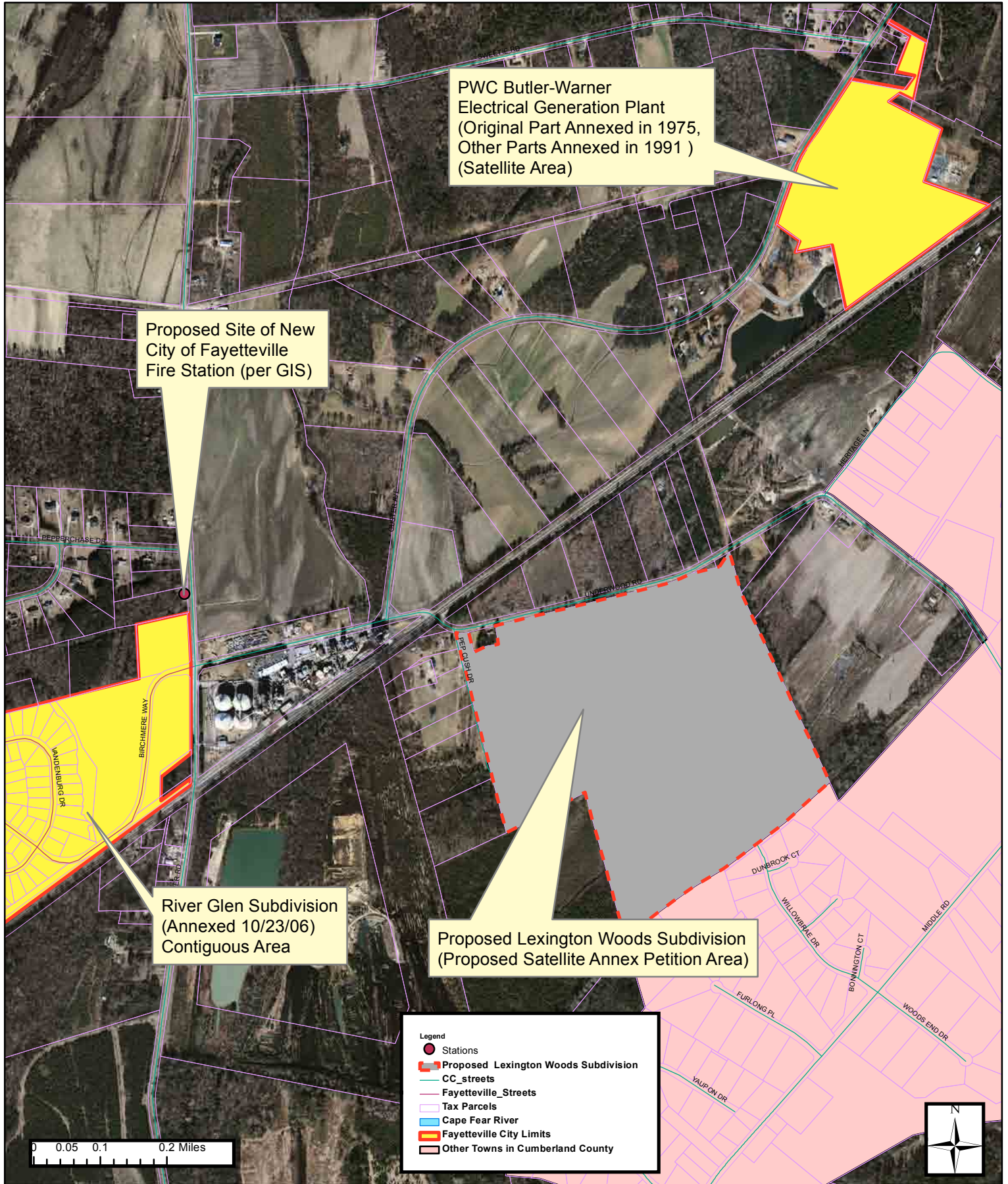
Sufficiency Memo

Proposed Ordinance

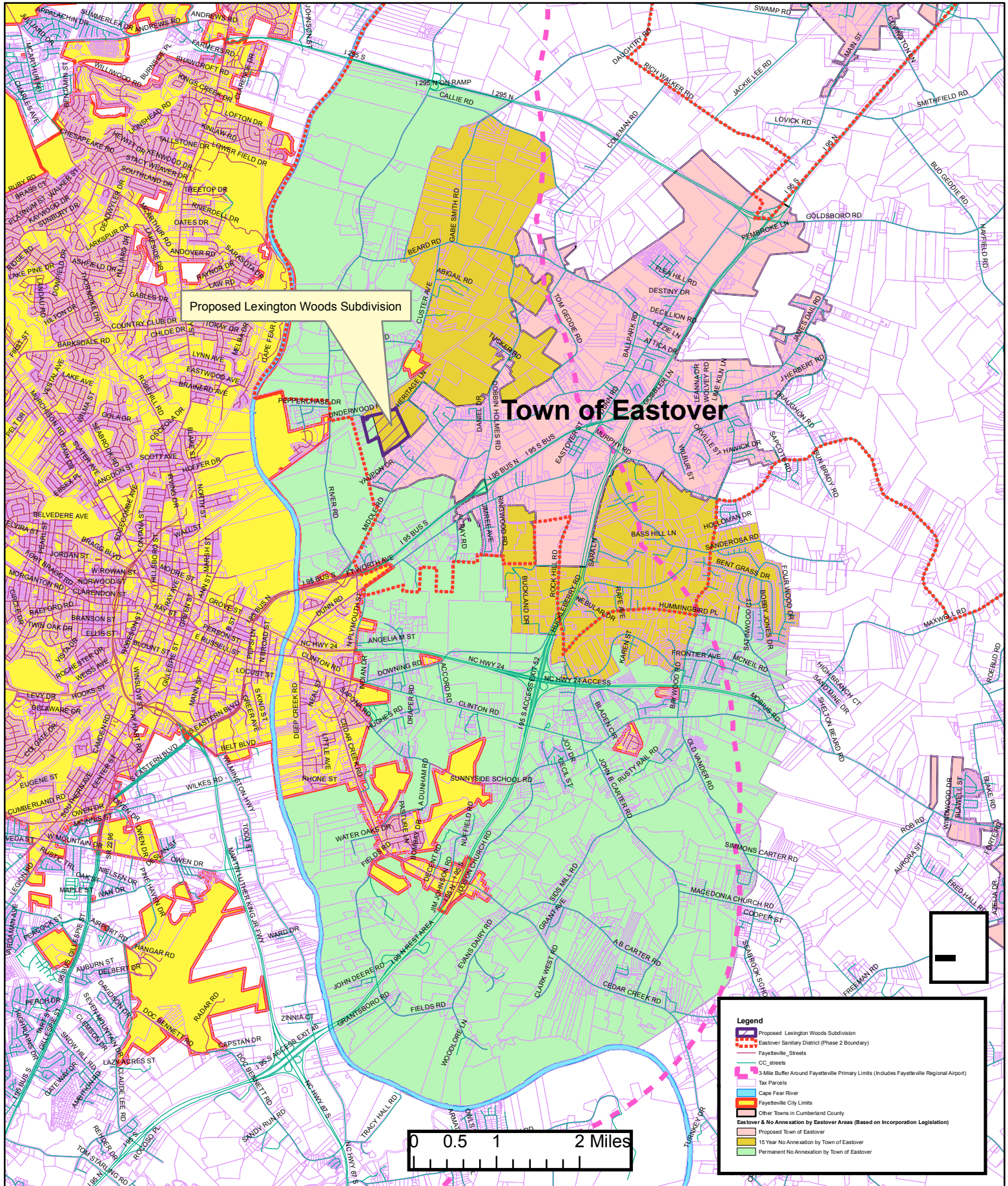
Vicinity Map
 Proposed Lexington Woods Subdivision
 (A Petition Requesting Annexation of This Property
 As a Non-Contiguous Area Has Been Submitted
 to the City of Fayetteville)

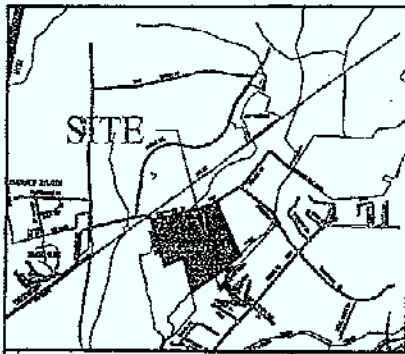


Vicinity Map
 Proposed Lexington Woods Subdivision
 (A Petition Requesting Annexation of This Property
 As a Non-Contiguous Area Has Been Submitted
 to the City of Fayetteville)
 Also Shown: Other Nearby Parts of the
 City of Fayetteville, and a Proposed Site for
 A New City Fire Station on River Road



**Proposed Lexington Woods Subdivision,
Town of Eastover
and
Areas Not To Be Annexed by Town of Eastover
(As Defined in the Eastover Incorporation Legislation)**

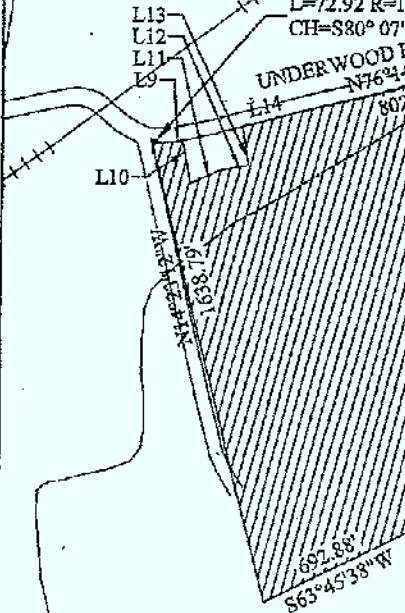




THIS MAP IS NOT A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A
LOCAL GOVERNMENT AGENCY FOR
COMPLIANCE WITH ANY APPLICABLE
LAND DEVELOPMENT REGULATIONS.

ANNEXATION AREA

VICINTY MAP (N.T.S.)



Parcel Line Table		
Line #	Length	Direction
L19	348.55	S16° 07' 26" E
L1	480.44	S47° 42' 27" W
L2	260.57	S52° 07' 00" W
L3	50.00	S50° 46' 45" W
L4	293.72	S53° 34' 53" W
L5	261.14	S55° 55' 29" W
L6	225.75	S55° 23' 23" W
L7	254.10	S52° 34' 47" W
L8	226.92	S47° 56' 58" W
L9	39.84	N79° 29' 15" E
L10	150.71	S11° 43' 23" E
L11	109.43	N65° 29' 35" E
L12	99.50	N79° 59' 30" E
L13	136.79	N8° 53' 25" W
L14	337.15	N75° 46' 45" E

Parcel Line Table		
Line #	Length	Direction
L15	147.11	N76° 14' 13" E
L16	195.88	N76° 39' 09" E
L17	121.45	N33° 48' 09" E
L18	14.59	N57° 19' 05" E

EXHIBIT B

Fayetteville ENGINEERING & INFRASTRUCTURE DEPT.
CIVIL ENGINEERING DIVISION
433 HAY ST. 28301
(910) 433-1658

PROPOSED ANNEXATION
LEXINGTON WOODS SUBDIVISION
ESTATE BUILDERS, LLC
± 114.92 ACRES

ANNEXATION DATE:
EFFECTIVE DATE:

DATE 4/9/2012 DRAWN BY CSA
SCALE 1" = 500' CK'D BY CSA

SHEET 1 OF 1

BASIC INFORMATION ABOUT THE AREA
Information Updated as of: May 18, 2012
Date Petition Received: March 12, 2012
Annexation Date: Effective Date:
Annexation Number:

1. Name of Area:	Lexington Woods Subdivision
2. Names of Petitioners:	Estate Builders LLC (John Koenig-Member and Margarete Koenig-Member)
3. Location/Address/Directions to Property:	General location is on the eastern side of Fayetteville. Directions: Go north on US 301. Cross Cape Fear River. Turn north on Middle Rd. Turn west on River Rd. Go past Cargill plant. Turn east on Underwood Rd. Property is on southern side of Underwood Rd, about 2500 feet east of River Rd.
4. Tax Identification Number (PIN):	0448-96-1424
5. Fire Department Affected by Annexation:	Eastover (0161)
6. Is the Area Contiguous?	No
7. Is the Area in the Fayetteville MIA (Municipal Influence Area)?	The western part of the area is in the Fayetteville MIA.
8. Type of Annexation:	Petition-initiated non-contiguous area
9. Background:	The owner's property is in the Eastover Sanitary District. When the owner sought a rezoning in the County (from R-40 to R-20), the Eastover Sanitary District opposed the rezoning. The owner withdrew the County rezoning case, contacted PWC on whether PWC could provide utilities, and submitted an annexation petition to the City of Fayetteville.
10. Reason the Annexation was Proposed:	The owner's primary reason for petitioning for annexation was probably that the Eastover Sanitary District opposed his request for a County rezoning. If the owner uses PWC utilities, he is required to submit an annexation petition, since part of the area is in the Fayetteville MIA.
11. Number of Acres in Area:	114.92 acres (based on latest legal description map prepared by City.) (Petition showed 116.77 acres. Original legal description turned in with petition showed 116.8 acres).
12. Type of Development in Area:	Land requested for annexation is currently undeveloped.
13. Present Conditions:	<ul style="list-style-type: none"> a. <u>Present Land Use:</u> Vacant b. <u>Present Number of Housing Units:</u> 0 c. <u>Present Demographics:</u> Total Pop=0 d. <u>Present Streets:</u> None e. <u>Water and Sewer Service:</u> Available from PWC f. <u>Electrical:</u> Available from South River EMC
14. Factors Likely to Affect Future of Area:	<ul style="list-style-type: none"> a. <u>Plans of Owner:</u> To build a single-family residential subdivision with no more than 260 lots. b. <u>Development Controls</u> <ul style="list-style-type: none"> 1. <u>Land Use Plan (Updated w/ Eastover Area Plan)</u> <ul style="list-style-type: none"> a. <u>2010 Plan:</u> One acre resid lots and open space 2. <u>Zoning</u> <ul style="list-style-type: none"> a. <u>Current Zoning in County:</u> R40 b. <u>Likely Zoning After Annexation:</u> SF-15 Developer has requested a conditional zoning for the area with a maximum of 260 lots. 3. <u>In Airport Impact Zone?</u>-No 4. <u>In Airport Overlay District?</u>-No 5. <u>Plans Already Approved by County?</u> No
15. Expected Future Conditions:	<ul style="list-style-type: none"> a. <u>Future Land Use</u> -Residential subdivision b. <u>Future Number of Housing Units:</u> Total=260 max. (260 HU x 90% occupancy rate*=234 occupied HU) * Based on 2010 Census for Fayetteville c. <u>Future Demographics:</u> Total Pop=573 (234 occupied HU x 2.45 avg household size*=573) *Based on 2010 Census for Fayetteville d. <u>Future Streets:</u> New streets will be built (15,600 LF=2.95 mi) e. <u>Water and Sewer Service:</u> Eastover Sanitary District or PWC f. <u>Electric Service:</u> South River EMC
16. Tax Value of Land and Buildings:	Total= \$258,235. (All land value. No building value. This is based on 114.63 acres, per County tax records. Land is not in the farm program.)

MEMO

To: David Nash, Planning Department

From: Kccia N. Parker, Real Estate Manager

CC: To the file

Date: March 22, 2012

Re: Sufficiency of Annexation Petition

SIGNERS OF THE PETITION: John Koenig and Margarete Koenig, Members
Estate Builders, LLC

Estate Builders, LLC per recorded deed 7113-723 is the record owner for the 114.63 acre tract.

1: 0448-96-1424- approximately 114.63 acres Smith and Abbie Talbot land

My search ended 03/15/12. No out conveyances were recorded for this property.

Acreage per petition includes the road and the acreage per the tax office excludes the road. Map cannot be prepared at this time however the road is the only issue and doesn't make the petition insufficient from my aspect.

Petition is sufficient!

Annexation Ordinance No: _____

**Lexington Woods Subdivision
(Southern Side of Underwood Road,
About 2,500 Feet East of River Road)
(PIN 0448-96-1424-)**

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF FAYETTEVILLE, NORTH CAROLINA**

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

WHEREAS, the City of Fayetteville has investigated the sufficiency of the petition; and

WHEREAS, the City of Fayetteville has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall Council Chambers at 7:00 p.m. on May 29, 2012, after due notice by publication on May 18, 2012; and

WHEREAS, the legislation incorporating the Town of Eastover adopted by the North Carolina General Assembly in 2007 (H1191) specified three areas within which the Town of Eastover would not extend its boundaries by annexation or otherwise; and

WHEREAS, in one of these three areas, the Town of Eastover is permanently banned from annexing, and in the other two other areas, the Town of Eastover is not allowed to annex for a 15-year period); and

WHEREAS, the area described below is located in one of the two areas (Area 2) within which the Town of Eastover is not allowed to annex during a 15-year period; and

WHEREAS, in the context of the Eastover incorporation legislation, the City Council further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the primary corporate limits of the City of Fayetteville;
- b. No point on the proposed satellite corporate limits is closer to the primary corporate limits of another municipality than to the primary corporate limits of the City of Fayetteville;

- c. The area described is so situated that the City of Fayetteville will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;
- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the City of Fayetteville;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fayetteville of North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described non-contiguous property owned by Estate Builders, LLC (John Koenig-Member, and Margarete Koenig-Member) is hereby annexed and made part of the City of Fayetteville, North Carolina as of May 29, 2012:

BEGINNING at the northeast corner of the common area lot of the Lexington Subdivision as recorded in Plat Book 121, Page 130 of the Cumberland County Registry and running thence along the northern line of the 25 foot canal easement South 47 degrees 42 minutes 27 seconds West 480.44 feet to a point, thence along said northern line South 52 degrees 07 minutes 00 seconds West 260.57 feet to a point, thence along said northern line South 50 degrees 46 minutes 45 seconds West 50 feet to a point, thence along said northern line South 53 degrees 34 minutes 53 seconds West 293.72 feet to a point, thence South 55 degrees 55 minutes 29 seconds West 261.14 feet, thence South 55 degrees 23 minutes 23 seconds West 225.75 feet to a point, thence South 52 degrees 34 minutes 47 seconds West 254.10 feet to a point, thence South 47 degrees 56 minutes 58 seconds West 226.92 feet , thence North 15 degrees 19 minutes 15 seconds West 1215.91 feet, thence South 63 degrees 45 minutes 38 seconds West 692.88 feet to a point, thence North 14 degrees 23 minutes 12 seconds West 1638.79 feet to the southern right of way margin of Underwood Road, thence continuing along said southern margin with a curve to the left having a radius of 102.90 feet with a chord bearing and distance of South 80 degrees 07 minutes 00 seconds East 71.40 feet, thence North 79 degrees 29 minutes 15 seconds East 39.84 feet to a point, thence South 11 degrees 43 minutes 23 seconds East 150.71 feet, thence North 65 degrees 29 minutes 35 seconds East 109.45 feet, thence North 79 degrees 59 minutes 30 seconds East 99.50 feet, thence North 08 degrees 53 minutes 25 seconds West 136.79 feet, thence North 75 degrees 46 minutes 45 seconds East 337.15 feet, thence North 76 degrees 14 minutes 13 seconds East 949.34 feet, thence with a curve to the left having a radius of 1795.18 with a chord bearing and distance of North 69 degrees 30 minutes 18 seconds East 355.80 feet to a point, thence North 76 degrees 39 minutes 09 seconds East 195.88 feet, thence North 33 degrees 48 minutes 09 seconds East 121.45 feet, thence North 57 degrees 19 minutes 05 seconds East 14.59 feet, thence South 16 degrees 07 minutes 26 seconds East 348.55 feet, thence South 25 degrees 03 minutes 02 seconds East 1636.22 feet to the BEGINNING, and containing 114.92 acres more or less.

Section 2. Upon and after May 29, 2012, the above-described area and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Fayetteville of North Carolina and shall be entitled to the same privileges and benefits as other parts of the City of Fayetteville of North Carolina. Said area shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Fayetteville shall cause to be recorded in the office of the Register of Deeds of Cumberland County, and in the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed area, described in Section 1, together with a certified copy of this ordinance. Such a map shall also be delivered to the Cumberland County Board of Elections as required by G.S. 163-288.1.

Adopted this ____ day of _____, 2012.

Anthony G. Chavonne, Mayor

ATTEST: _____
Pamela Megill, City Clerk

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P11-24F Initial zoning from C3 Commercial (County) to CC Community Commercial District, or a more restrictive district, on property located at 3836 Cumberland Road. Containing 0.65 acres more or less and being the property of Mary and Jay Rivers.**

THE QUESTION:

Does the initial zoning to Community Commercial fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development

BACKGROUND:

Owner: Mary and Jay Rivers
Applicant: Mary and Jay Rivers
Requested Action: C3 (county) to CC
Property Address: 3836 Cumberland Road
Council District:
Status of Property: Commercial
Size: 1.62 acres +/-
Existing Land Use: Wrecker Service
Adjoining Land Use & Zoning:
North - R6A County
South - C1P & R10 County
East - C1P County
West - C1P County
Letters Mailed: 58

Land Use Plan: Heavy Commercial

ISSUES:

This property has petitioned for annexation into the City and must be considered for City zoning if that takes place. HOWEVER, SUBSEQUENT STAFF REVIEW HAS REVEALED A LEGAL FLAW IN THIS REQUEST - THE PROPERTY IS PART OF A SUBDIVISION AND STATE LAW DOES NOT ALLOW PARTIAL ANNEXATION OF SUBDIVISIONS IN NONCONTIGUOUS SITUATIONS. THE ANNEXATION REQUEST AND INITIAL ZONING REQUEST CANNOT GO FORWARD. This property is located inside of the City's MIA (Municipal Influence Area). The reason for the requested annexation and zoning is so that the owner may remain on the City's rotation for wrecker services. The owner currently has a towing business located on this property. Owner has chosen not to ask that all of their adjoining property be annexed. A separate lot where cars are stored is not part of this annexation or initial zoning request. City policy now requires that all business on the wrecker rotation list be located within the City limits of Fayetteville.

Zoning Commission recommends that if this property is annexed it should become a CC district based on:

1. The UDO requirement that such services be located in the CC or higher district.

2. Adjacent to commercial zoning
3. Consistant with Land Use Plan

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Denial of the rezoning request as the property cannot be annexed.

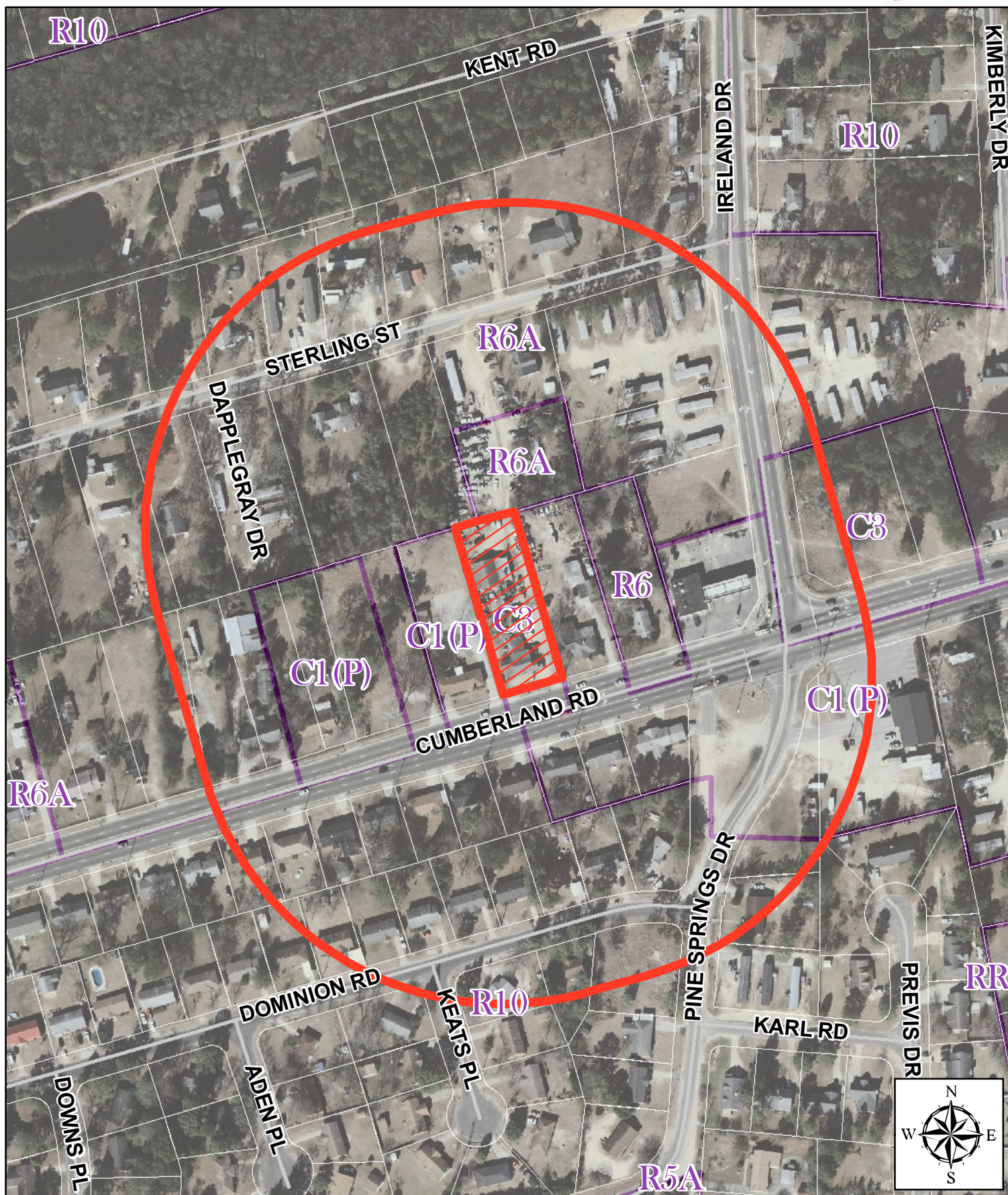
RECOMMENDED ACTION:

Deny the initial zoning of this property to CC as the property cannot be annexed.

ATTACHMENTS:

Zoning Map
Current Land Use
Land Use Plan

ZONING COMMISSION
CASE NO. P12-24F

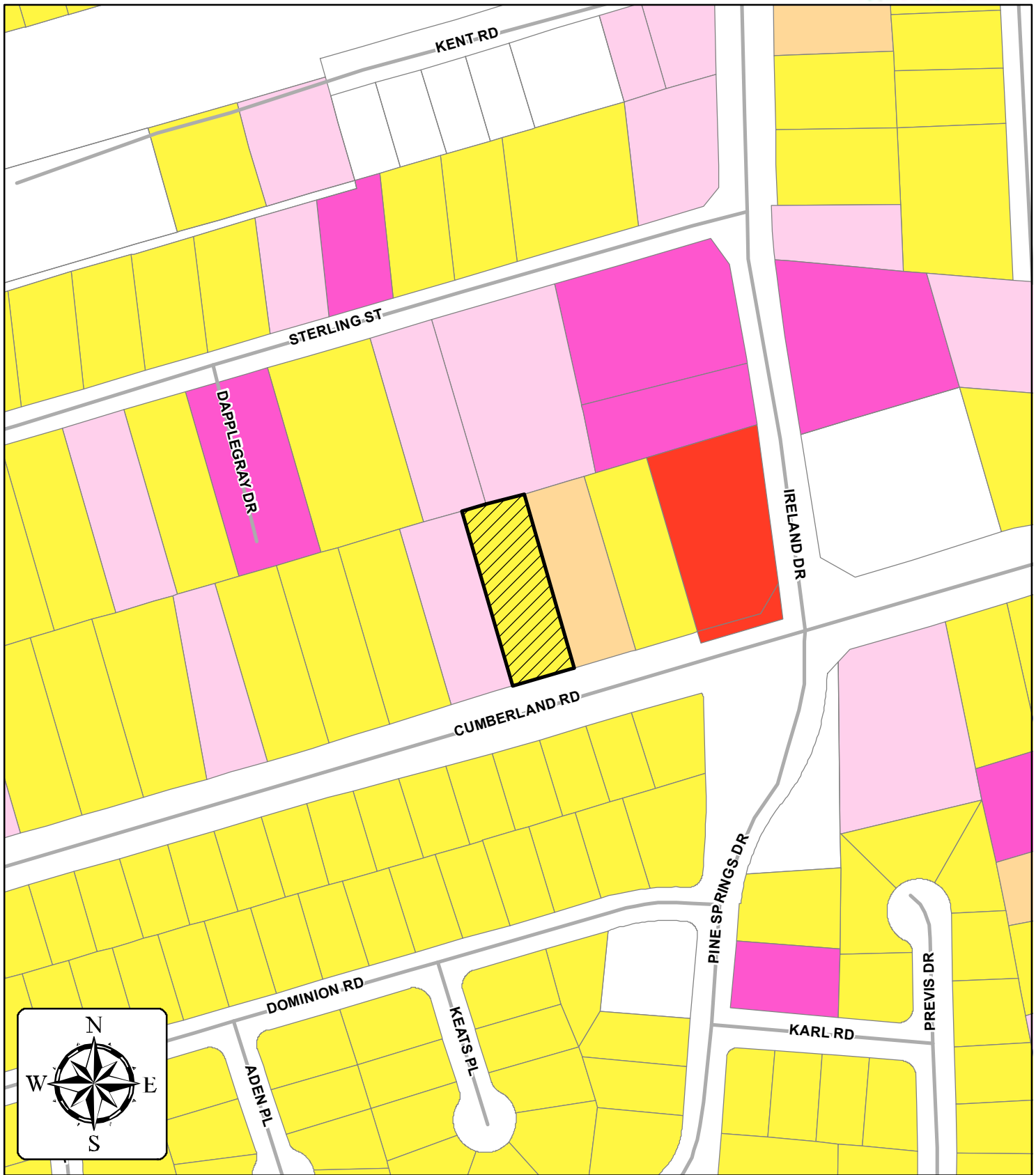


Request: Initial Zoning
Location: 3836 Cumberland Road
Acreage: +/- 0.65 acres

Zoning Commission: 04/10/2012 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 0415-79-5787

Current Land Use

P12-24F

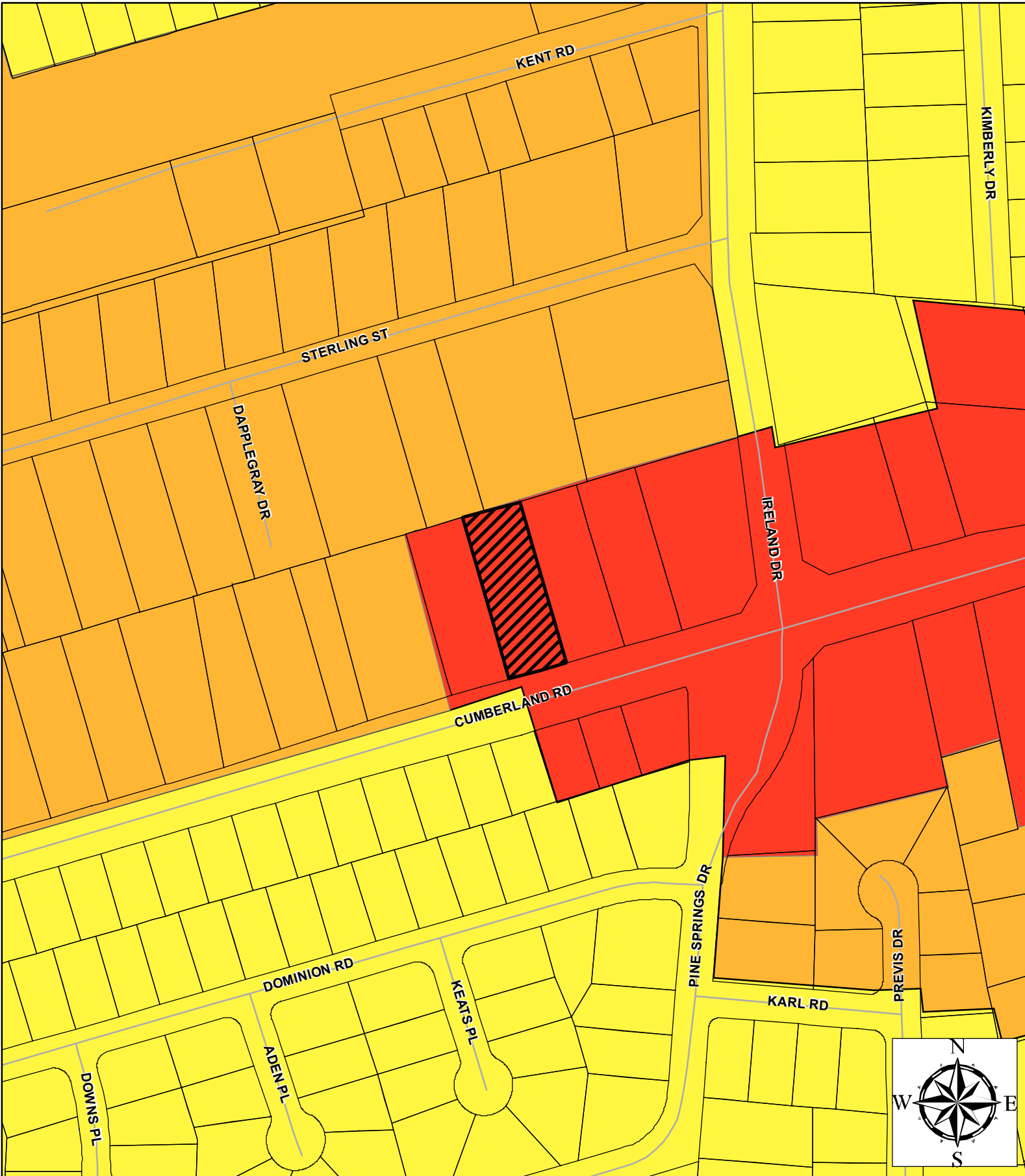


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-24F



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: David Nash, AICP, Planner II
DATE: May 29, 2012
RE: **Public Hearing to Consider a Petition Requesting Annexation for a Non-Contiguous Area Known as the Rivers Property**

THE QUESTION:

Should a non-contiguous property be annexed into the City?

RELATIONSHIP TO STRATEGIC PLAN:

Strong local economy

BACKGROUND:

This petition requests annexation of a non-contiguous property located at 3836 Cumberland Road. The petition was submitted on March 6, 2012, by Mary W. Rivers and Jay H. Rivers.

The petitioners operate a wrecker service from this property. It is named Diamond's Body Shop and Wrecker Service. This business used to be on the City's wrecker service rotation list. However, the City now requires that in order to be on the rotation list, the business must be in the City. Therefore, this business has been suspended from the City's wrecker service rotation list. The petitioners have requested annexation so that their business can get back on the City's wrecker service rotation list.

ISSUES:

Sufficiency: The City's Real Estate staff has verified that Mr. and Mrs. Rivers are the current owners of the property requested for annexation. HOWEVER, SUBSEQUENT STAFF REVIEW HAS REVEALED A LEGAL FLAW IN THIS REQUEST - THE PROPERTY IS PART OF A SUBDIVISION AND STATE LAW DOES NOT ALLOW PARTIAL ANNEXATION OF SUBDIVISIONS IN NONCONTIGUOUS SITUATIONS. THE ANNEXATION REQUEST AND INITIAL ZONING REQUEST CANNOT PROCEED. "If the area proposed for annexation, or any part thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included."

Zoning Issues: The Zoning Commission held a public hearing on the initial zoning of this property on April 10, 2012. One person spoke in favor, and one spoke against. The Zoning Commission approved the initial zoning from C3 (County) to Community Commercial in the City.

Compliance With Satellite Annexation Standards: There are five standards that a satellite annexation must meet in order to be annexed. ONE OF THOSE STANDARDS CANNOT BE MET SO THIS REQUEST CANNOT BE LEGALLY PURSUED.

BUDGET IMPACT:

OPTIONS:

DENY the Annexation Ordinance. This option means the property would remain outside the City, and the initial zoning would not occur.

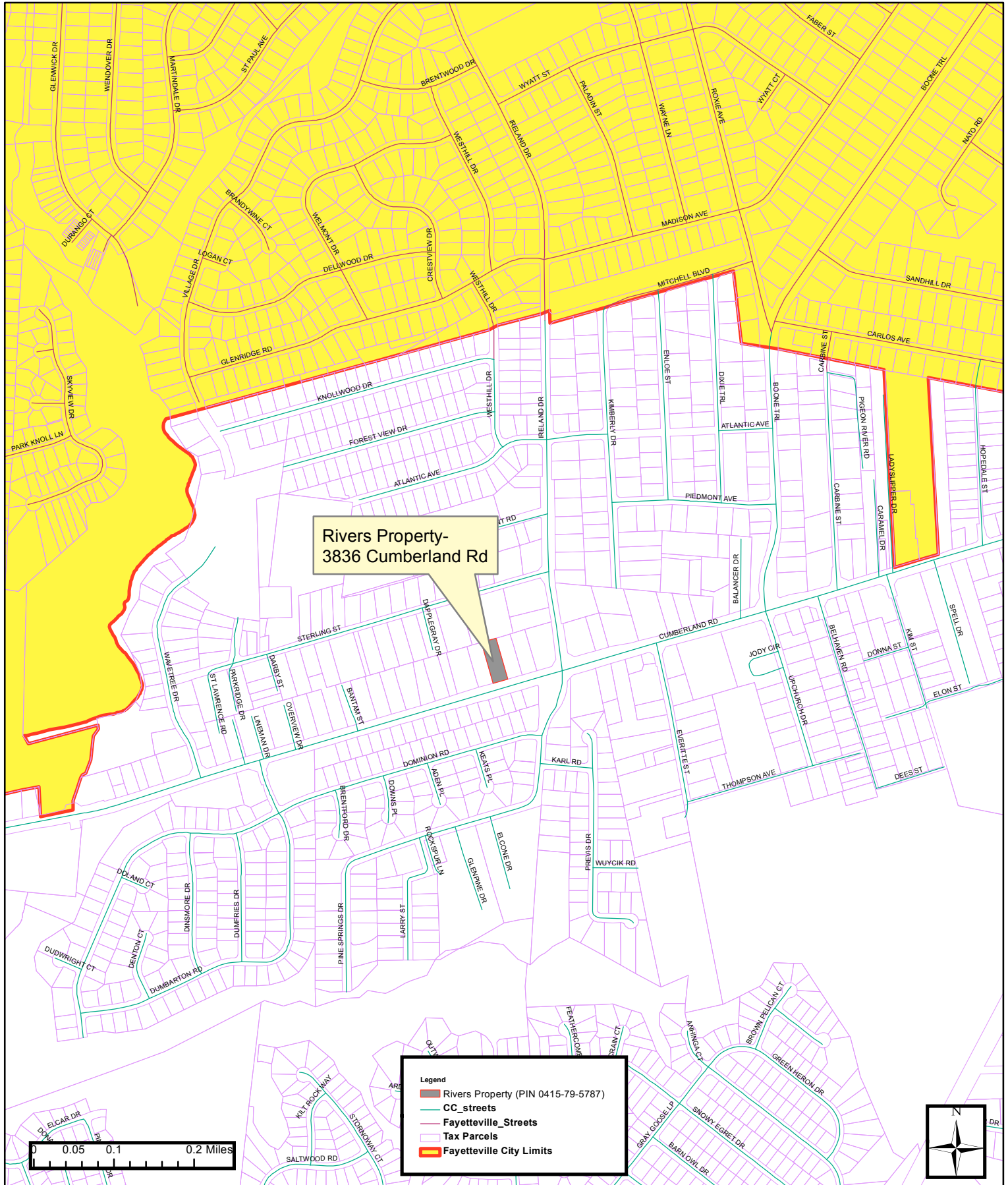
RECOMMENDED ACTION:

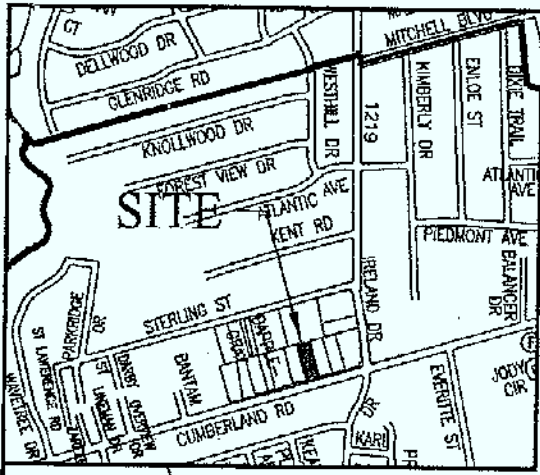
Staff recommends that the City Council DENY the proposed ordinance annexing the property.

ATTACHMENTS:

Vicinity Map
Legal Description Map
Basic Information About the Area

**Vicinity Map
Rivers Property-3836 Cumberland Road
(A Petition Requesting Annexation of This Property
As a Non-Contiguous Area Has Been Submitted
to the City of Fayetteville)**





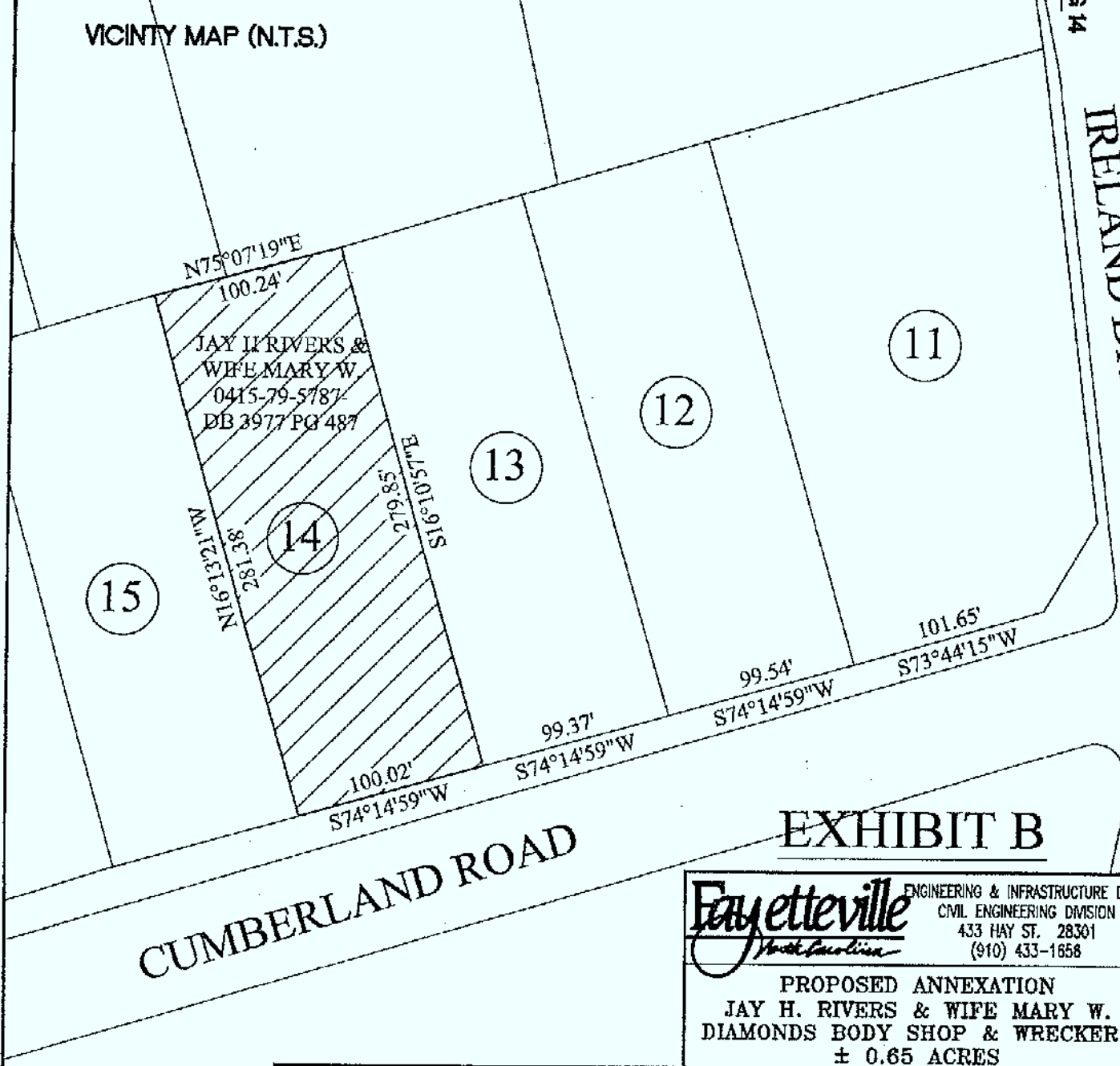
VICINTY MAP (N.T.S.)

THIS MAP IS NOT A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A
LOCAL GOVERNMENT AGENCY FOR
COMPLIANCE WITH ANY APPLICABLE
LAND DEVELOPMENT REGULATIONS.

ANNEXATION AREA

FB 10 PG 14

IRELAND DR



CUMBERLAND ROAD

EXHIBIT B

Fayetteville ENGINEERING & INFRASTRUCTURE DEPT.
CIVIL ENGINEERING DIVISION
433 HAY ST. 28301
(910) 433-1658

PROPOSED ANNEXATION
JAY H. RIVERS & WIFE MARY W.
DIAMONDS BODY SHOP & WRECKER
± 0.65 ACRES

ANNEXATION DATE:
EFFECTIVE DATE:

DATE 3/21/2012 DRAWN BY CSA
SCALE 1" = 80' CK'D BY CSA

BASIC INFORMATION ABOUT THE AREA**Information Updated as of: May 1, 2012****Date Petition Received: March 6, 2012****Annexation Date: Effective Date:****Annexation Number:**

1. Name of Area:	Rivers Property-3836 Cumberland Road
2. Names of Petitioners:	Mary W. Rivers and Jay H. Rivers
3. Location/Address/Directions to Property:	General location is on the southern side of Fayetteville. Address is 3836 Cumberland Road. Property is on the northern side of Cumberland Road, about 340 feet west of Ireland Dr.
4. Tax Identification Number (PIN):	0415-79-5787
5. Fire Department Affected by Annexation:	Cumberland Road (0021)
6. Is the Area Contiguous?	No
7. Is the Area in the Fayetteville MIA (Municipal Influence Area)?	Yes
8. Type of Annexation:	Petition-initiated non-contiguous area
9. Background:	The owners (Mr. and Mrs. Rivers) operate a wrecker service from this property. It is named Diamond's Body Shop and Wrecker Service. This business used to be on the City's wrecker service rotation list. However, the City now requires that in order to be on the rotation list, the business must be in the City. Therefore, Diamond's was suspended from the City's wrecker service rotation list.
10. Reason the Annexation was Proposed:	The owners have requested annexation so that their business can get back on the City's wrecker service rotation list.
11. Number of Acres in Area:	.65 acres
12. Type of Development in Area:	Heavy commercial-Body Shop & Wrecker Service
13. Present Conditions:	<ul style="list-style-type: none"> a. <u>Present Land Use</u>: Heavy commercial b. <u>Present Number of Housing Units</u>: 0 c. <u>Present Demographics</u>: Total Pop=0 d. <u>Present Streets</u>: None e. <u>Water and Sewer Service</u>: Property is already connected to PWC water. Property is currently served by a septic tank. f. <u>Electrical</u>: PWC
14. Factors Likely to Affect Future of Area:	<ul style="list-style-type: none"> a. <u>Plans of Owner</u>: No change is planned b. <u>Development Controls</u> <ul style="list-style-type: none"> 1. <u>Land Use Plan</u> <ul style="list-style-type: none"> a. <u>2010 Plan</u>: Heavy Commercial 2. <u>Zoning</u> <ul style="list-style-type: none"> a. <u>Current Zoning in County</u>: C3 b. <u>Likely Zoning After Annexation</u>: CC-Community Commercial 3. <u>In Airport Impact Zone?</u>-No 4. <u>In Airport Overlay District?</u>-No 5. <u>Plans Already Approved by County?</u> NA
15. Expected Future Conditions:	<ul style="list-style-type: none"> a. <u>Future Land Use</u> -Continuation of heavy commercial b. <u>Future Number of Housing Units</u>: Total=0 (0 HU x 90% occupancy rate*=0 occupied HU) * Based on 2010 Census for Fayetteville c. <u>Future Demographics</u>: Total Pop=0 (0 occupied HU x 2.45 avg household size*=0) *Based on 2010 Census for Fayetteville d. <u>Future Streets</u>: None expected e. <u>Water and Sewer Service</u>: No change is expected. f. <u>Electric Service</u>-No change is expected.
16. Tax Value of Land and Buildings:	Total=\$180,281(Land=\$56,869.Building=\$121,460.XF=\$1,952.) (Land is not in the farm program.)

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-20F Rezoning from SF-6 Single Family Residential to LC Limited Commercial District, or a more restrictive district, on property located at 535 & 541 Bunce Road. Containing 2.21 acres more or less and being the property of Horizon's Property Management, LLC [NC Recommended]**

THE QUESTION:

Does the proposed zoning to Limited Commercial fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development.

BACKGROUND:

Owner: Horizon's Property Management, LLC
Applicant: Horizon's Property Management, LLC
Requested Action: SF-6 to LC
Property Address: 535 & 541 Bunce Road
Council District: 7
Status of Property: Developed
Size: 2.21 acres +/-
Existing Land Use: Office and Daycare Center
Adjoining Land Use & Zoning:
North - SF-10 and LC
South - SF-6
East - SF-10 & SF-6
West - MR-5
Letters Mailed: 19
Land Use Plan: Low Density Residential

ISSUES:

The properties in question are located near the intersection of Bunce Road and Cliffdale Road. Currently there is a daycare center on one property and an office on the other. The owner has indicated that they would like to put a mower dealership with retail sales and service on this property. However, this is a straight rezoning and if approved any of the permitted uses in this district could go on these properties.

Staff recommends denial of the LC district based on:

1. Property has residential zoning on three sides.
2. Land Use Plan calls for low density residential.
3. Rezoning this property to commercial would expand that type of use beyond the properties fronting Cliffdale Road to properties solely fronting Bunce (ie. encroachment into residential).

Zoning Commission recommends approval of the NC, a more restrictive district, based on:

1. Property across Bunce Road is unbuilt flood plain and wetlands.
2. Properties in question are adjacent to commercial zoning on one side.
3. The properties have been used commercially in the past as a daycare and as other businesses.

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of rezoning as requested by applicant;
- 2) Approval of rezoning to a more restrictive zoning district (NC; Recommended by Zoning Commission);
- 3) Denial of the rezoning request (Recommended by staff).

RECOMMENDED ACTION:

Zoning Commission Recommends: That the City Council move to APPROVE the rezoning of this property to Neighborhood Commercial.

Staff Recommends: That the City Council move to DENY the rezoning of this property to Limited Commercial.

ATTACHMENTS:

Zoning Map

Current Land Use

Land Use Plan

**ZONING COMMISSION
CASE NO. P12-20F**



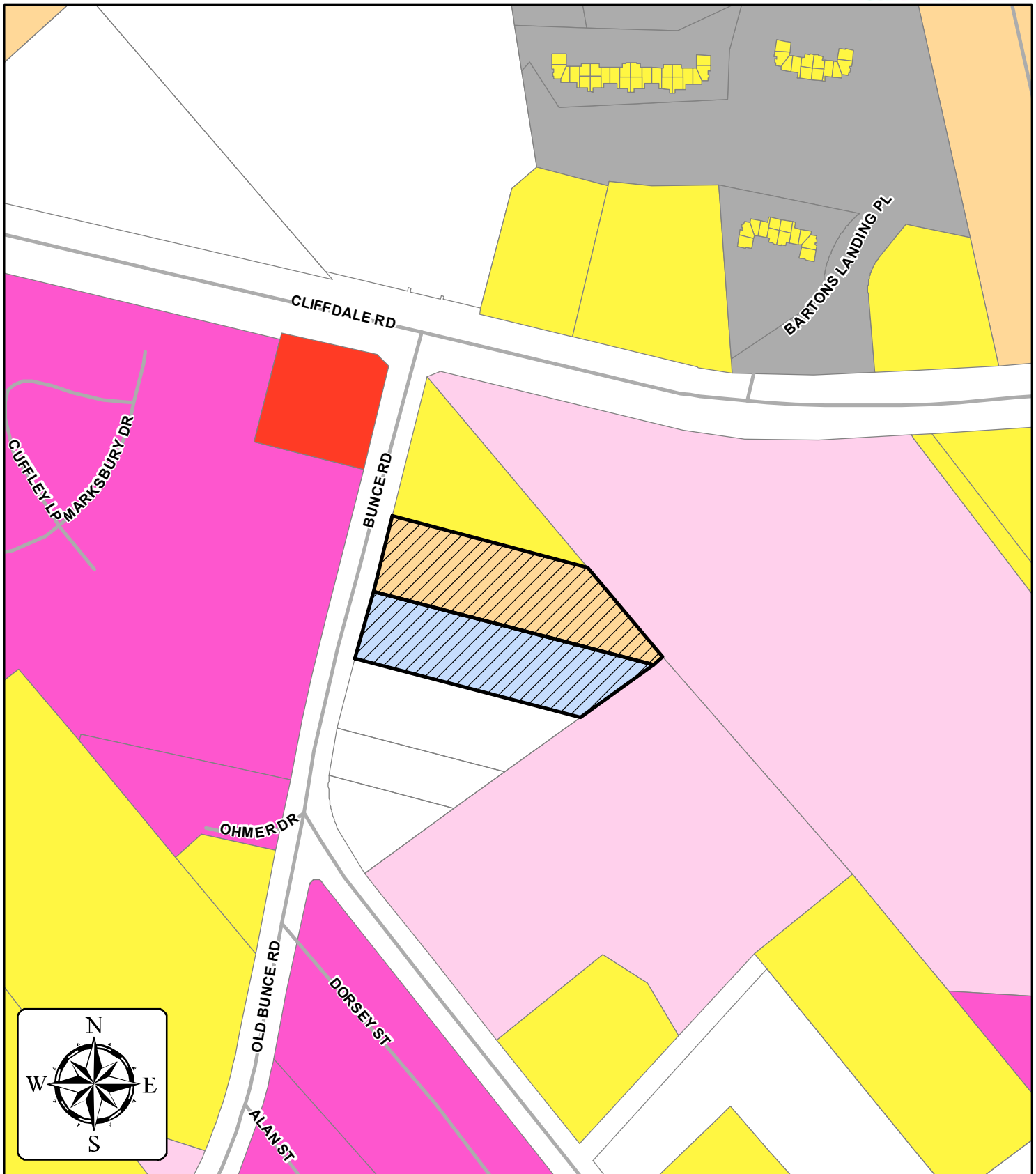
Request: SF-6 to LC
Location: 535 & 541 Bunce Rd.
Acreage: +/- 2.21 acres

Zoning Commission: 04/10/2012 **Recommendation: _____**
City Council: _____ **Final Action: _____**
Pin: 9497-95-3760 & 9497-95-3549

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

Current Land Use

P12-20F

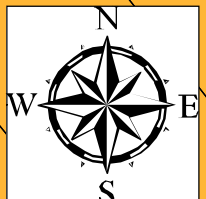
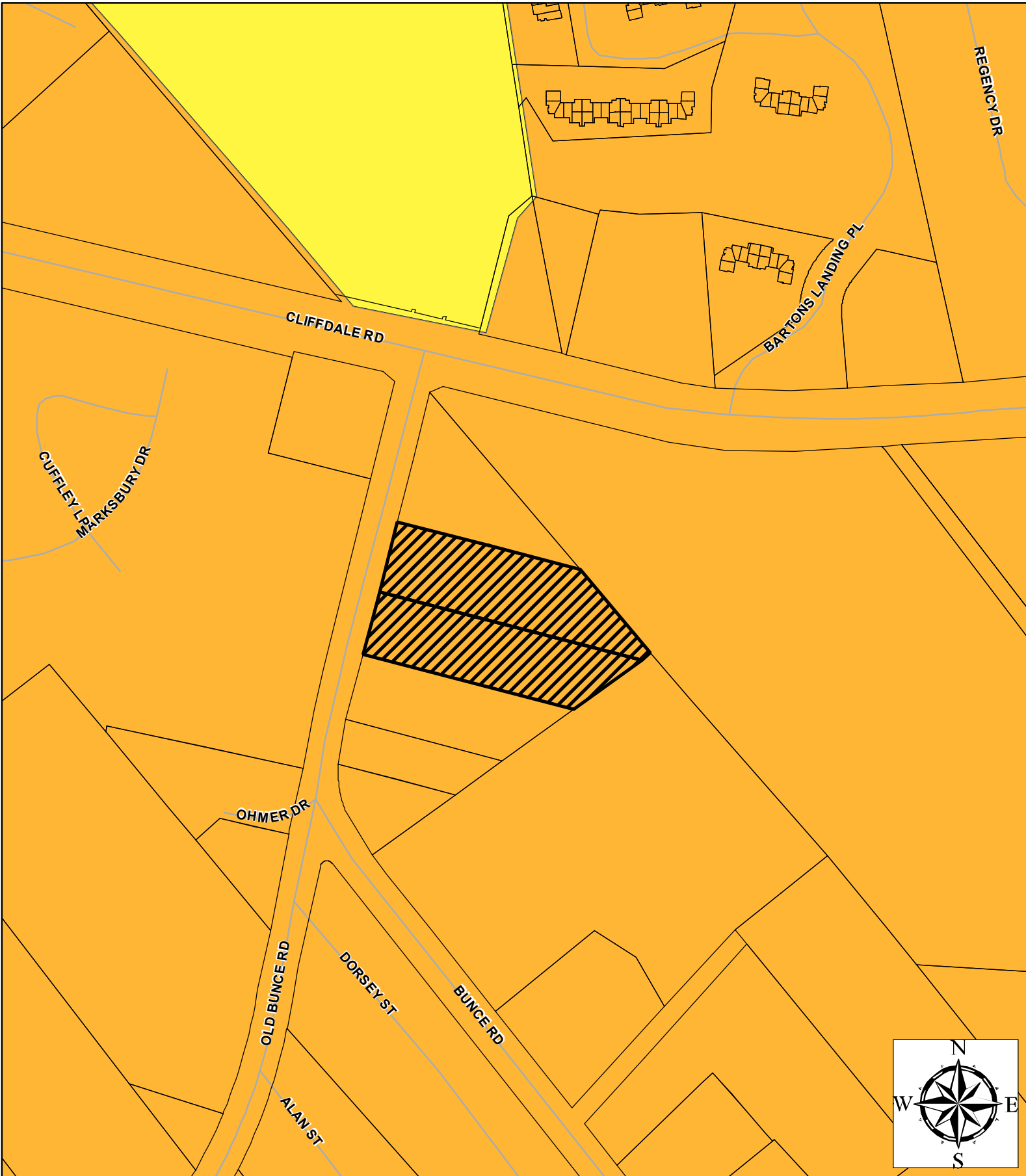


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-20F



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, AICP, CZO - Planner II
DATE: May 29, 2012
RE: **P12-22F Rezoning from SF-6 Single Family Residential to CC/CZ Community Commercial Conditional District, or a more restrictive district, on property located at 408 Waddell Drive. Containing 1.34 acres more or less and being the property of John and Pearlie Hodges**

THE QUESTION:

Does the proposed zoning to Community Commercial Conditional fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Livable Neighborhoods
Growth and development

BACKGROUND:

Owner: John and Pearlie Hodges
Applicant: John and Pearlie Hodges
Requested Action: SF-6 to CC/CZ
Property Address: 408 Waddell Drive.
Council District: 3
Status of Property: Single Family Home
Size: 1.34 acres +/-
Existing Land Use: Residential
Adjoining Land Use & Zoning:
North - SF-6
South - SF-6
East - SF-6
West - SF-6
Letters Mailed: 16
Land Use Plan: Medium Density Residential

ISSUES:

The owner of this property has requested a rezoning to Community Commercial Conditional in order open a Counseling Center for behavioral health and youth/adolescent sexual health problems. This property is located at the end of Waddell Drive in an area that is currently exclusively residential. If the Commission is inclined to rezone this property, staff recommends that they go no higher than an OI Office & Institutional district.

Conditions offered by the owner:

1. Limit the allowed uses in the CC to only that of Counseling Services as described in the applicant's packet.

Staff recommends denial of the CC/CZ district based on:

1. Property is completely surrounded by residential development.
2. A strong case could be made that this is an illegal spot zoning.
3. The Land Use Plan calls for residential development.

Zoning Commission recommends approval of a more restrictive OI district based on:

1. Community need.

2. Facility to be located in a mostly undeveloped area of Waddell Drive.

BUDGET IMPACT:

The City would be required to provide an increase in public services that should be offset by the increase this development would bring to the City's tax base.

OPTIONS:

- 1) Approval of CC/C rezoning as requested by the applicant;
- 2) Approval of rezoning with additional conditions offered by the owner;
- 3) Rezone to a more restrictive district (OI/C) (recommended by Zoning Commission);
- 3) Denial of the rezoning request (recommended by staff).

RECOMMENDED ACTION:

Zoning Commission Recommends: That the City Council move to APPROVE the rezoning of this property to Office and Institutional Conditional (a more restrictive district) with conditions offered by the applicant.

Staff Recommends: That the City Council move to DENY the rezoning of this property to Community Commercial Conditional as presented by staff.

ATTACHMENTS:

Spot Zoning Memo

Zoning Map

Current Land Use

Land Use Plan

Information Packet from Owner

Spot Zoning:

Spot Zoning occurs when one parcel is treated differently with regard to zoning from the surrounding property. It has been defined by the North Carolina Supreme Court as:

Spot zoning is defined, in pertinent part, as a zoning ordinance or amendment that “singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, as to...relieve the small tract from restrictions to which the rest of the area is subjected.” (Musi v. Town of Shallotte, 684 S.E. 2d 892, 895 (2009), citing Good Neighbors of S. Davidson v. Town of Denton, 355 N.C. 254, 257, (2002), quoting Blades v. City of Raleigh, 280 N.C. 531, 549 (1972).

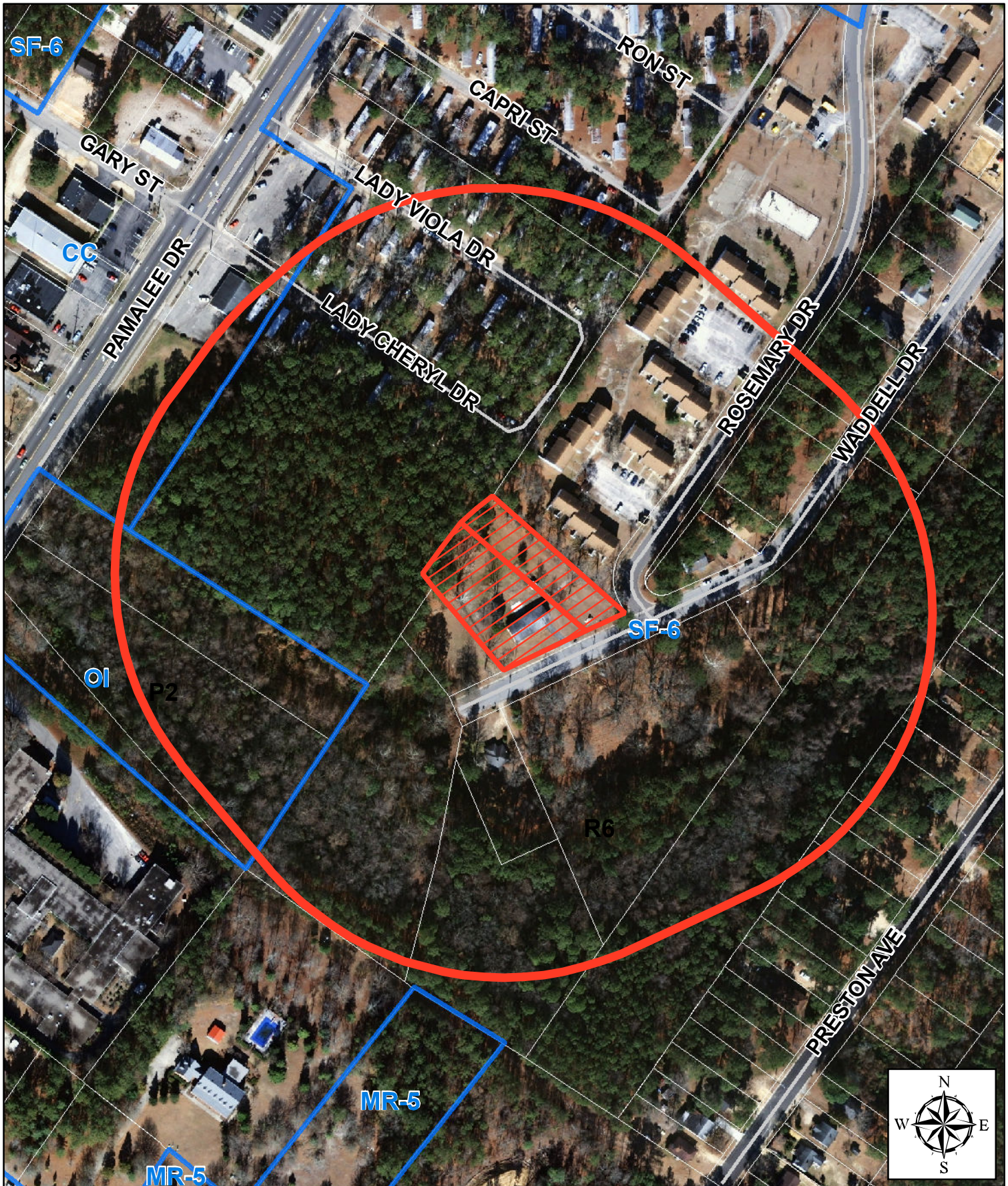
Spot zoning is not illegal in North Carolina, but, if permitted, must have a reasonable basis for the zoning. Factors which a court considers when determining whether an impermissible “spot zoning” has occurred are:

1. The size and nature of the parcel
 - a. an individual lot which is given special zoning treatment is suspect
 - b. the lot characteristics may be considered such as topography or utility availability, or access to transportation.
2. Compatibility with existing plans for that area, that lot, or ones with similar characteristics
 - a. for example, the 2010 or 2030 plans
3. Will the individual landowner benefit from the rezoning to the detriment of the surrounding properties, or will the other landowners benefit?
4. The difference in the proposed uses and the current uses of the property’s zoning district.
 - a. Are they similar?
 - b. What is the relationship between the uses?

David Owens of the School of Government cites the “key question” of a court’s review as “...whether the zoning power is being exercised in the public interest rather than for the benefit of a few owners at the expense of the community.” (Introduction to Zoning, Third Edition, 2007, p.47)

When faced with a rezoning, the decision making board must consider all the uses allowed in the zoning district even though an applicant may say that he plans to do a specific business or use. The truth is, when a rezoning is approved, the board has approved the land for ANY of the uses in that zoning classification and has, therefore, stated that ANY of the uses is proper.

ZONING COMMISSION
CASE NO. P12-22F



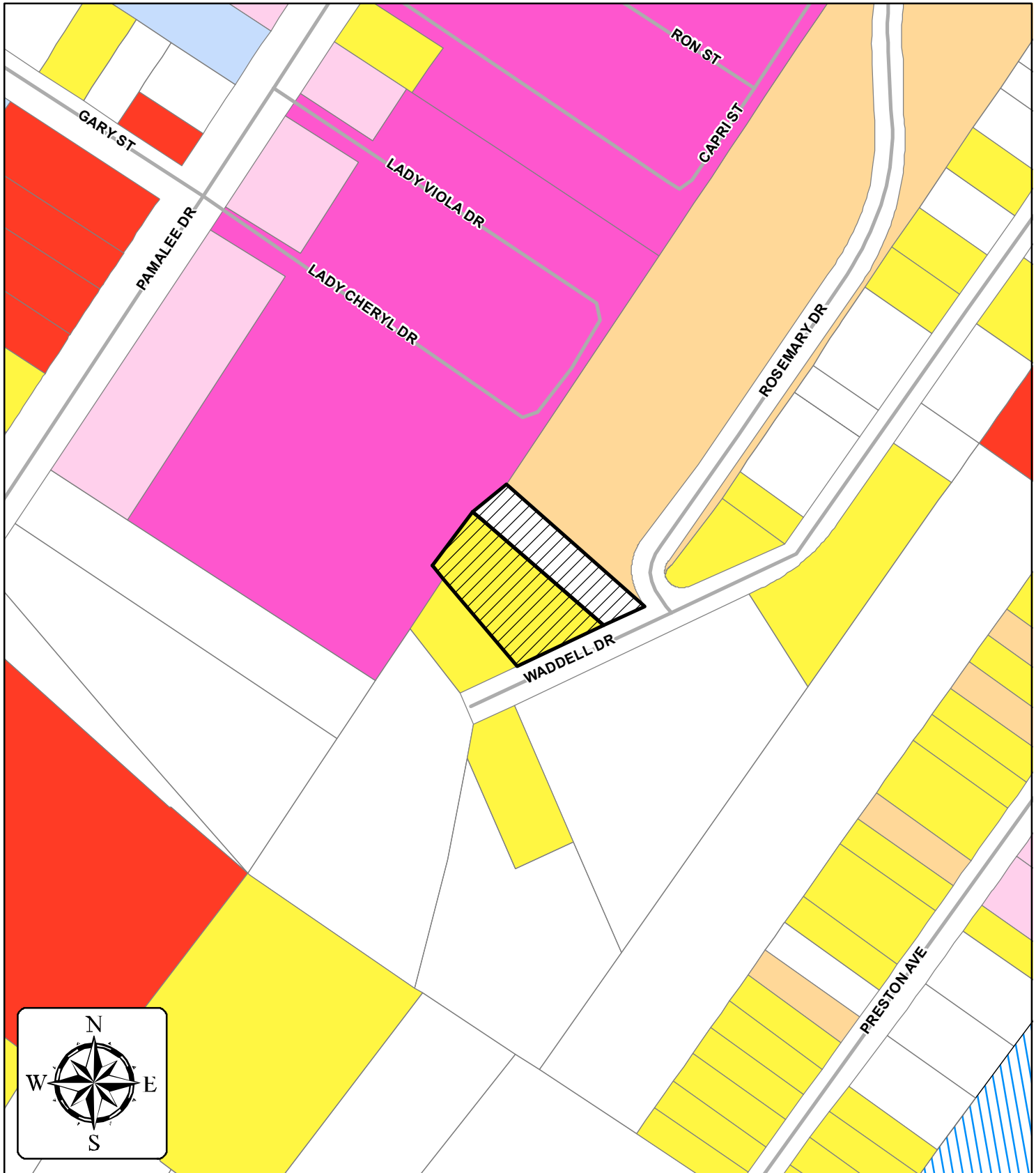
Request: CC Conditional
Location: 408 Waddell Dr.
Acreage: +/- 1.347 acres

Zoning Commission: 04/10/2012 **Recommendation:** _____
City Council: _____ **Final Action:** _____
Pin: 0428-47-5987 and 0428-48-6053

Letters are being sent to all property owners within the circle, the subject property is shown in the hatched pattern.

Current Land Use

P12-22F

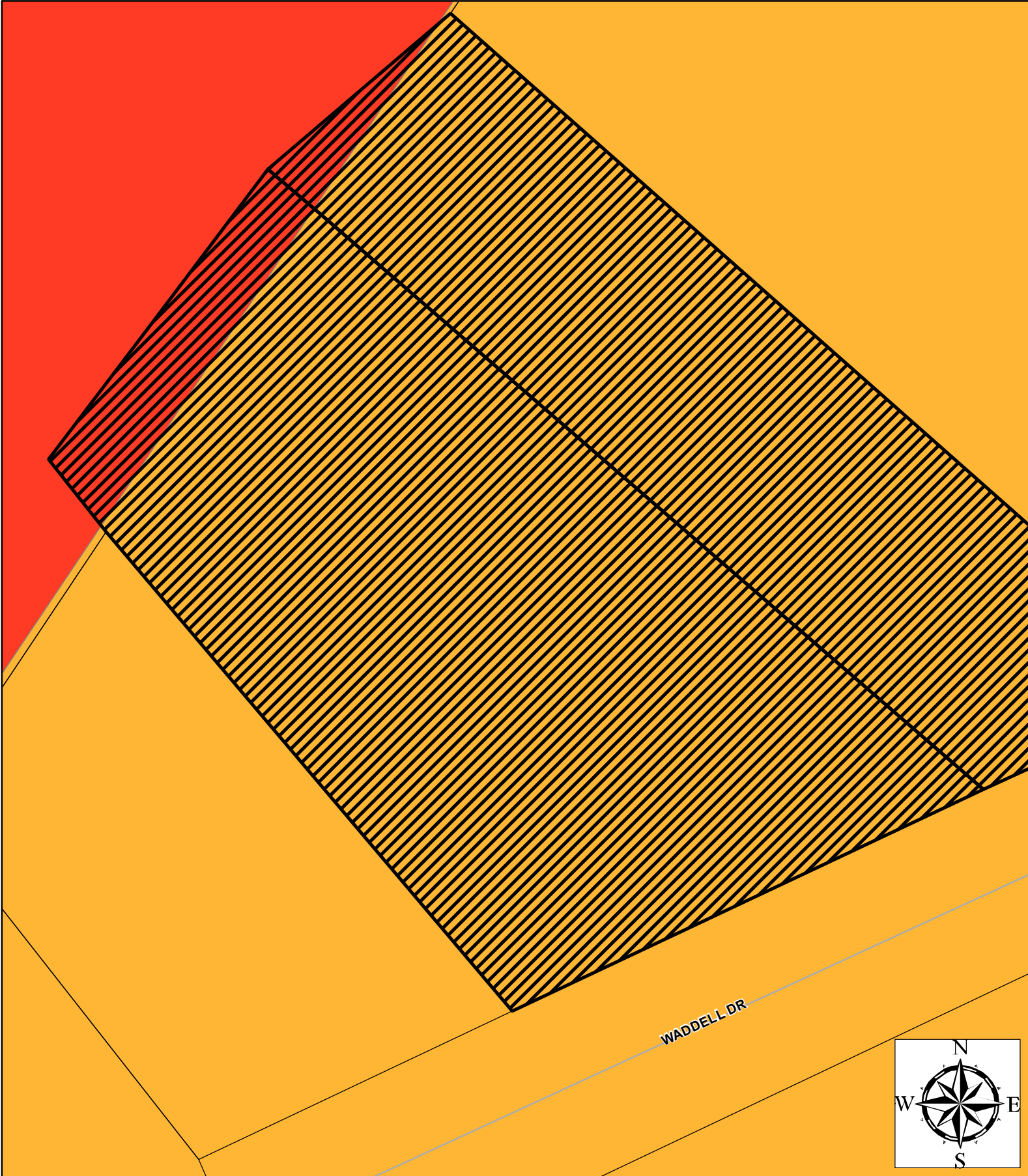


Legend

Existing Landuse	Common Area	Group Quarters	Industrial	Multi-Family	Open Space	Communications-Utilities	Vacant Commercial
Single Family Detached	Commercial	Golf Course	Institutional	Mobile Home	Parking	Under Construction	Not Verified
Single Family Attached	Cemetery	Government Office	Lake	Mobile Home Park	Predominantly Vacant	Vacant Land	Null PIN

2010 Land Use Plan

Case No. P12-22F



Life Matters---Centers for Hope, Health and Healing

408 Waddell Dr.
Fayetteville, NC 28301

The proposed use for the property located at 408 Waddell Drive, Fayetteville, NC 28301 is to operate a nonprofit organization that provides two core services to those in need thereof regardless of age, sex, race or religion and; to co-ordinate and work cooperatively with other individuals and agencies who are involved in providing like services to specific targeted populations. The two core services are: Behavioral Health Counseling and Youth and Adolescent Sexual Health Programs. The ultimate goal of all services is to improve individual, family and community well-being and functioning.

Implementation of services will be accomplished in two phases. Phase one services include Behavioral Health Counseling (individual and group), Psycho-educational workshops/seminars and consultative services. These services will be offered immediately following City Council's approval of the rezoning request. Phase 2 services will be implemented within one year to 18 months after launching Phase 1 services.

Phase 1: Provide Behavioral Health Counseling, Education, Consultation, and Enrichment Activities

- (a) Clinical counseling: Diagnose and treat mental disorders; learning disabilities; and cognitive, behavioral, and emotional problems, using individual, child, family, and group therapies. At least 65% of these services will be targeted towards military personnel and their families.
- (b) Education: Psycho-educational Interventions include assessing systems, teaching information about identified problems, and linking information to the individual's or family's life experience. Anger and stress management, women's issues, decision making, spiritual concerns are among the many subjects that will be addressed.
- (c) Consultation: Provide consultative services to hospitals, hospice organizations, first responders and other helping organizations on issues of crisis management, grief and loss, Secondary Trauma.
- (d) Enrichment activities enhance adult's and adolescent's creativity through a wide variety of arts and crafts, games, singing, drama, and outdoor activities that help build skills in critical thinking, active listening, decision making, team building and problem solving.

Phase 2: Youth and Adolescent Sexual Health Programs

- (a) To establish *Waiting Works*, a comprehensive abstinence and science-based sexual health program which addresses youth sexual health, teen domestic violence, wellness and decision making. The overall goal is to reduce the risk taking behaviors in adolescents and teens that lead to early sexual activity, the spread of sexually transmitted infections, and teen pregnancy.
- (b) Center staff members will partner with parents, Cumberland County School Districts, public health experts, physicians and youths themselves to develop innovative strategies that help teens: 1) understand human anatomy and reproductive physiology 2) identify the risks and benefits of different activities and relationships 3) differentiate between a healthy and unhealthy relationship 4) assertively advocate for needs, wants, goals, and values 5) know how to avoid getting pregnant or causing a pregnancy 6) understand the influence of peers and the media 7) become an educated consumer of health information 8) talk about sexual health with medical professionals, partners, and family.

The Facility: Currently a 1500 – 1600 square foot, brick single family home exists on tract 2, known as 408 Waddell Drive. This structure will be used as the primary business location for *Life Matters: Centers for Hope Health and Healing*. The structure is accessible from Murchison Road to Waddell or Murchison Road to Rosemary.

A chain linked or privacy fence will be erected at the north end of tracts 1, 2, and 3 that abuts Ethel's Mobile Home Park. Tall Fir Pine Trees will be planted along the east side of tract 1 to provide additional privacy from the apartments owned by the Fayetteville Metropolitan Housing Authority.

Staff:

Hours of Operation: The Center will operate Monday through Friday from 0900 – 7:00. During the summer months after phase 2 implementation, hours may be extended to Saturdays from 10:00 – 5:00. All services will be out-patient and non-residential.

Parking: Tract 1, known as 404 Waddell Drive, located adjacent to 408 Waddell will be used as the center's designated parking lot. City zoning requirements will determine the number of spaces created. Anyone conducting business at the Center will be allowed to park in the designated parking lot.

Expansion: A five-year strategic plan includes increasing the square footage of the structure at 408 Waddell Drive to at least 2500 Sf. The Board will also actively seek to acquire other properties on Waddell Drive to accommodate the addition of an on-site psychiatrist and Obstetrics and Gynecological physician. Additional properties on Waddell will allow staff to provide counseling, education, and enhancement interventions in naturalized outdoor learning environments.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Craig Harmon, Planner II
DATE: May 29, 2012
RE: **P11-38F Rezone SF-6 Single Family Residential to MR-5/CZ Mixed Residential Conditional District for property at 2377 Dundle Rd. owned by March Riddle.**

THE QUESTION:

Should the subject property be rezoned as requested by the owner?

RELATIONSHIP TO STRATEGIC PLAN:

Growth and Development

BACKGROUND:

Owner: March Riddle

Applicant: City of Fayetteville

Requested Action: Rezone the subject property from SF-10 to MR-5.

Property Address: 2377 Dundle Road

Land Use Plan Recommendation: The Land Use Plan recommends this property to be developed as Medium Density Residential. This request is not consistent with the Land Use Plan.

Purpose: This case involves property identified by City Council for City-initiated rezoning consideration during the UDO remapping process. This process allows consideration of the requested rezoning in a standard fashion, with specific notice to adjoining property owners and an opportunity for full analysis by staff.

ISSUES:

This rezoning request is to rezone property that was formerly able to have by-right multifamily development into a zoning district that allows multifamily development by right. The property adjoins a two-lane neighborhood street and is located in an area having a single family development pattern. The property is not subject to any small area or corridor plans. The property owner is seeking a conditional zoning approval to allow him to develop in the same manner as he could prior to the UDO taking affect.

Conditions offered by owner:

1. No more than the former R-6 density (45 units or 54 units zero lotline)

Zoning Commission & Staff recommends approval based on:

1. Principles of the UDO remapping project.

BUDGET IMPACT:

None noted.

OPTIONS:

- 1) Denial of rezoning;
- 2) Approval of rezoning with conditions accepted by the owner (recommended).
- 3) Approval of the rezoning with changes to the conditions.

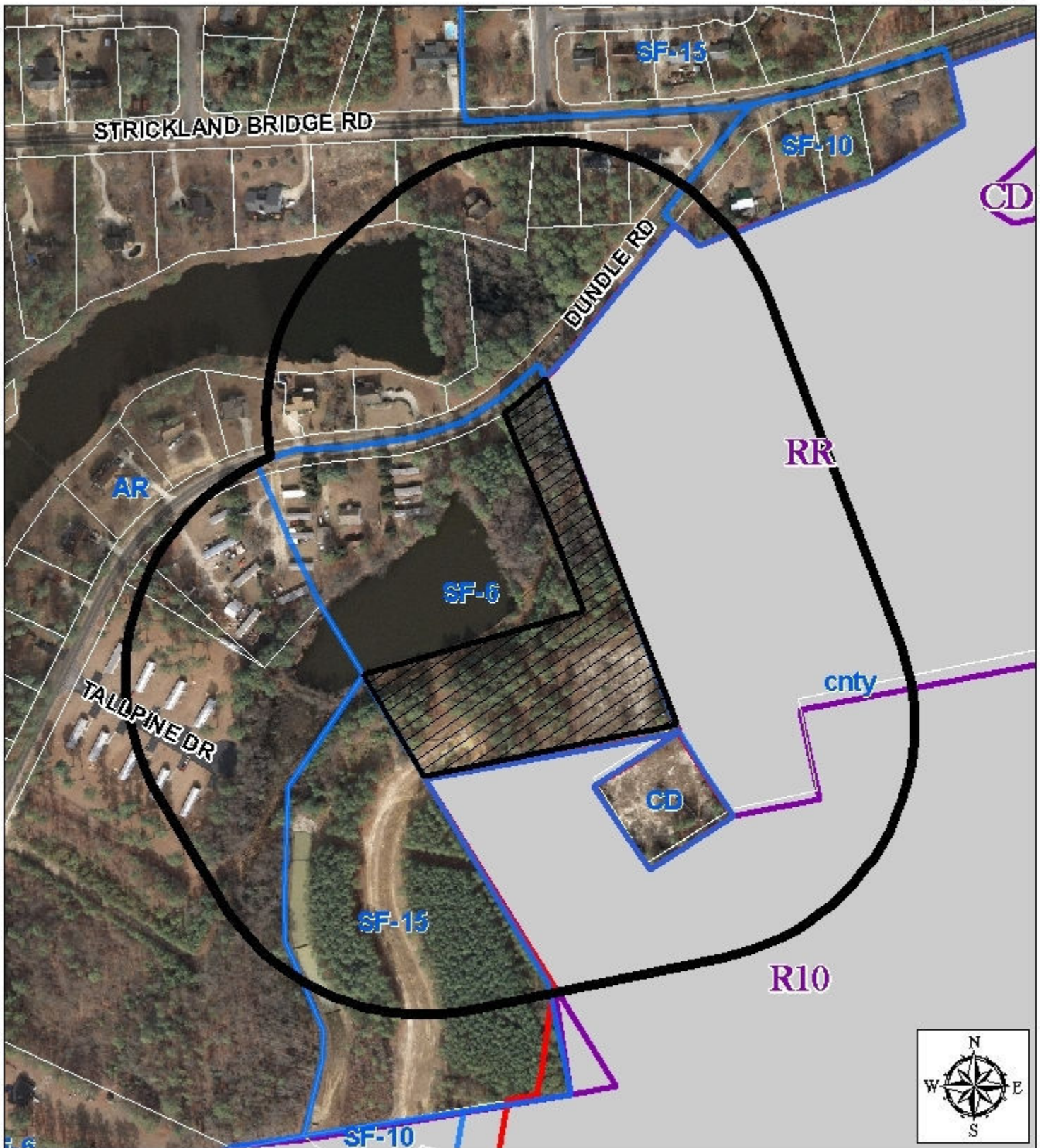
RECOMMENDED ACTION:

Zoning Commission and Staff Recommend: that the City Council move to APPROVE of the rezoning of 2377 Dundle Road from SF-6 to MR-5/CZ as presented by staff.

ATTACHMENTS:

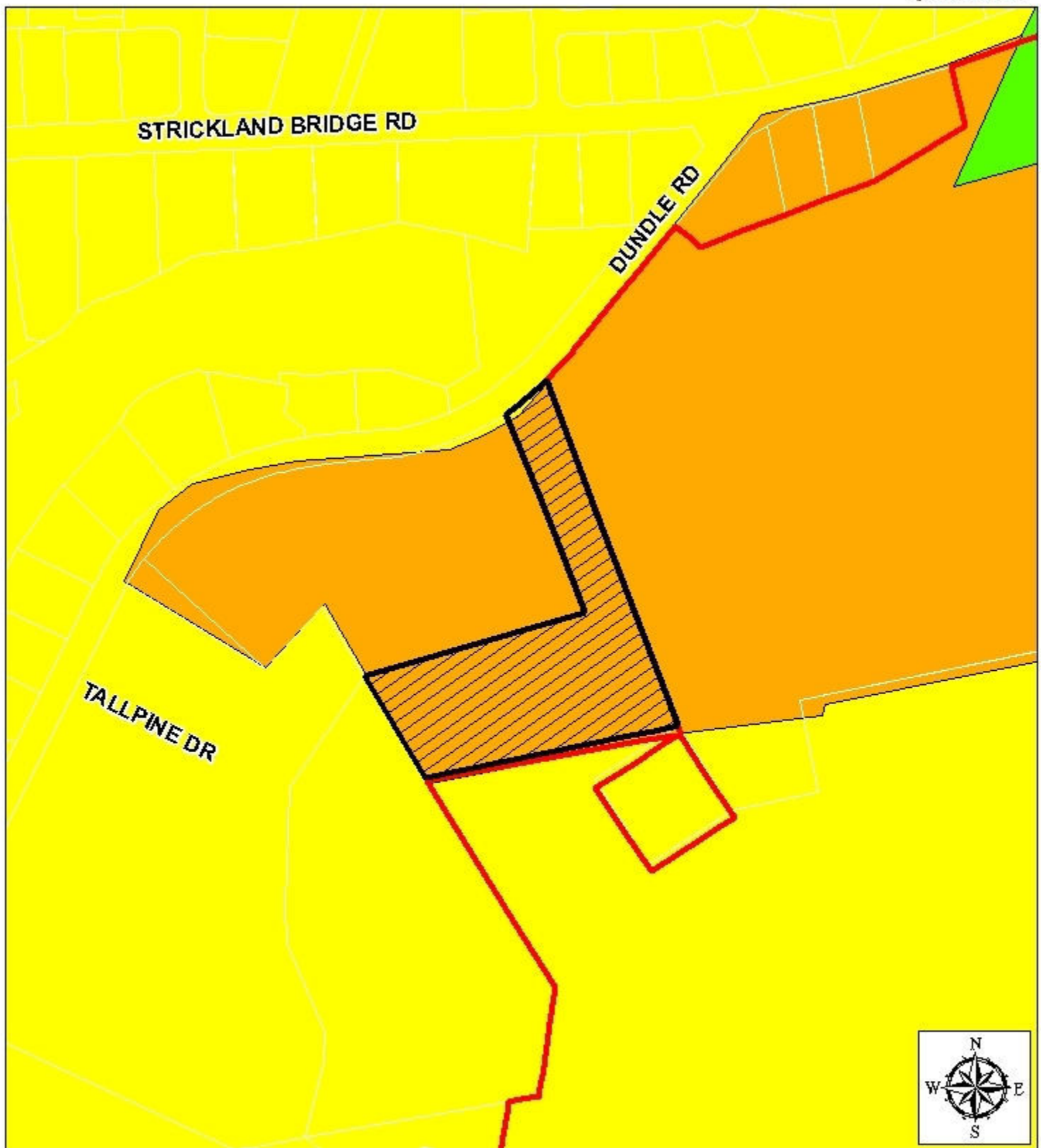
Zoning Map

Land Use



Request: Rezoning
Location: South side of Dundle Road
Acreage: +/- 5.0 acres

Zoning Commission: 08/18/2011 Recommendation: _____
City Council: _____ Final Action: _____
Pin: 9495-37-7365



Legend

updated 2010 plan (dnash)

<all other rules>

CLASSDN

Academic Training-Fort Bragg

Activity Node

Altimid Open atbas-Fort Bragg

Community Activity Node

Downtown

Farm land

Governmental

Heavy Commercial

Heavy Industrial

High Density Residential

Historical District-Fort Bragg

Light Commercial

Light Industrial

Low Density Residential

Medium Density Residential

Neighborhood Activity Node

Office & Institutional

One Acre Residential Lots

Open Space

Policy Directed Heavy Commercial

Policy Directed Light Commercial

Policy Directed Office & Institutional

Range & Training-Fort Bragg

Redevelop/Holding-Fort Bragg

Suburban Density Residential

CITY COUNCIL ACTION MEMO

TO: Mayor and City Council
FROM: Bart Swanson, Housing and Code Enforcement Division Manager
DATE: May 29, 2012
RE: **Uninhabitable Structures Demolition Recommendations**

- **4606 Blanton Road**
- **211 Deep Creek Road**
- **1156 Fay Hart Road**

THE QUESTION:

Would the demolition of these structures help to enhance the quality of life in the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Goal 2; More Attractive City- Clean and Beautiful; Goal 3; Growing City, Livable Neighborhoods- A Great Place To Live

BACKGROUND:

4606 Blanton Road

The City Inspector is required to correct conditions found to be in violation of the Dwellings and Buildings Minimum Standards. The structure was a residential home that was the subject of a fire on June 27, 2011. As a result of the fire the structure was inspected and condemned as a dangerous structure on December 15, 2011. A hearing on the condition of the property was conducted on February 15, 2012, in which the owner did not attend. A notice of the hearing was also published in the Fayetteville Observer newspaper. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the property owner on February 15, 2012. To date there have been no repairs to the structure. The utilities to the structure have been disconnected since June, 2011. In the past 24 months there have been 42 calls for 911 service at the property. There has been 1 code violation case with no pending assessments. The low bid for demolition is \$1,589.00.

211 Deep Creek Road

The City Inspector is required to correct conditions that are found to be in violation of the Dwellings and Buildings Minimum Standards. The structure is a vacant residential home that was inspected and condemned as a blighted structure on August 15, 2011. A hearing on the condition of the structure was conducted on August 30, 2011, in which the owner did not attend. A subsequent Hearing Order to repair or demolish the house within 60 days was issued and mailed to the owner on August 31, 2011. To date there have been no repairs to the structure. The utilities to the structure have been disconnected since August 2010. In the past 24 months there have been 16 calls for 911 service to the property. There have been 6 code violation cases with no pending assessments. The low bid for demolition is \$1,789.00.

1156 Fay Hart Road

The City Inspector is required to correct conditions that are found to be in violation of the Dwellings and Buildings Minimum Standards. The structure is a vacant residential home that was inspected and condemned as a blighted structure on September 7, 2011. A hearing on the condition of the structure was conducted on September 21, 2011, in which the owner did not attend. A subsequent Hearing Order to repair or demolish the house within 60 days was issued and mailed to the owner on September 22, 2011. To date there have been no repairs to the structure. The utilities to the structure have been disconnected since May 2009. In the past 24 months there have been 37 calls for 911 service to the property. There have been 7 code violation cases with pending assessments of \$565.41 for lot cleaning. The low bid for demolition is \$1,395.00.

ISSUES:

All properties are sub-standard and detrimental to the surrounding neighborhood and promote nuisances and blight, contrary to the City's Strategic Plan.

BUDGET IMPACT:

The demolition of these structures will be \$4,773.00; there will be additional costs for asbestos testing and abatement if needed.

OPTIONS:

- Adopt the ordinances and demolish the structures.
- Abstain from any action and allow the structures to remain.
- Defer any action to a later date.

RECOMMENDED ACTION:

Staff recommends that Council move to adopt the ordinances authorizing demolition of the structures.

ATTACHMENTS:

Aerial Map-- 4606 Blanton Road

Docket-- 4606 Blanton Road

Ordinance-- 4606 Blanton Road

Photo 1-- 4606 Blanton Road

Photo 2-- 4606 Blanton Road

Photo 3-- 4606 Blanton Road

Photo 4-- 4606 Blanton Road

Photo 5-- 4606 Blanton Road

Aerial Map-- 211 Deep Creek Road

Docket-- 211 Deep Creek Road

Ordinance-- 211 Deep Creek Road

Photo 1-- 211 Deep Creek Road

Photo 2-- 211 Deep Creek Road

Photo 3-- 211 Deep Creek Road

Photo 4-- 211 Deep Creek Road

Photo 5-- 211 Deep Creek Road

Aerial Map-- 1156 Fay Hart Road

Docket-- 1156 Fay Hart Road

Ordinance-- 1156 Fay Hart Road

Photo 1-- 1156 Fay Hart Road

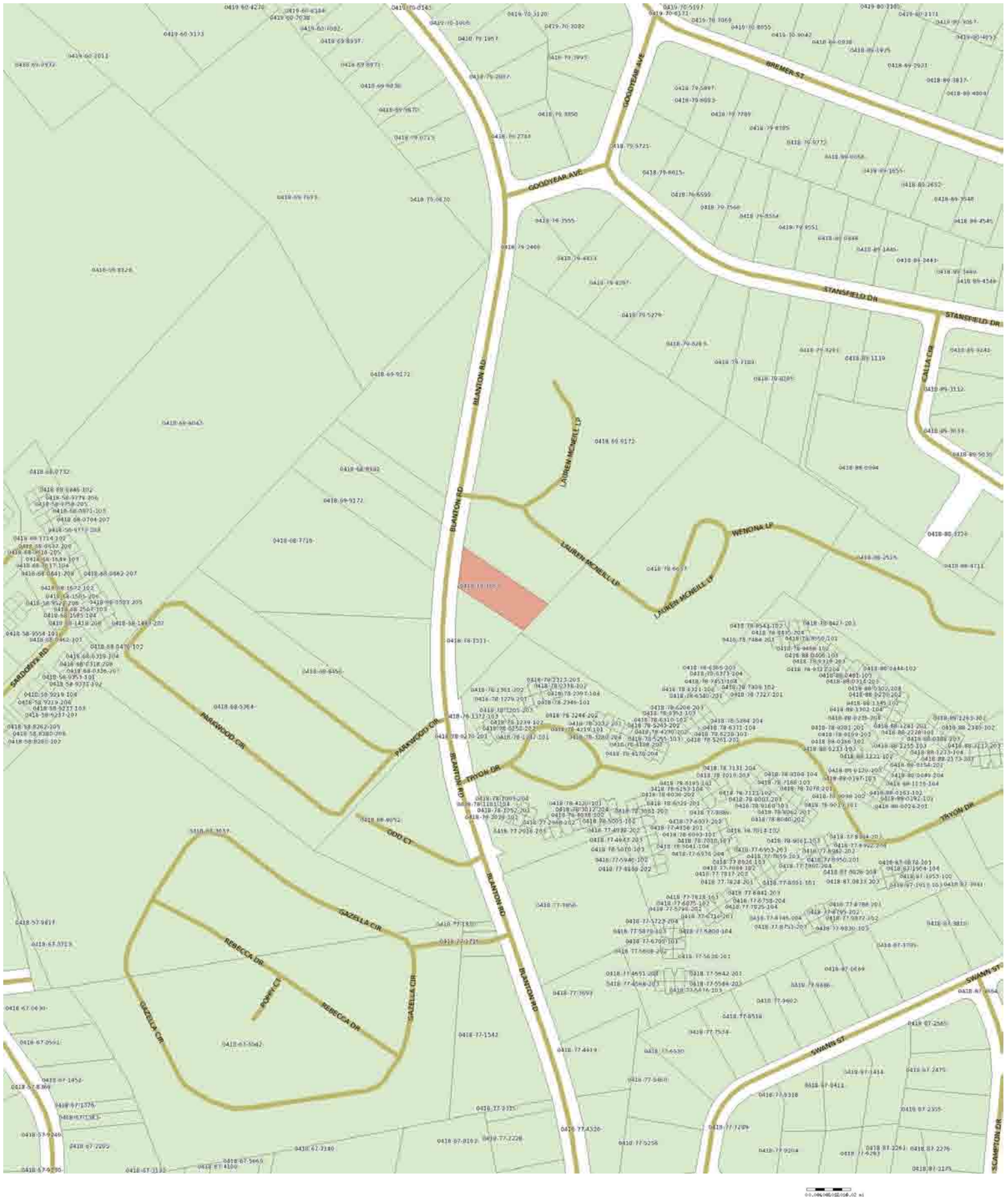
Photo 2-- 1156 Fay Hart Road

Photo 3-- 1156 Fay Hart Road

Photo 4-- 1156 Fay Hart Road

Current Parcel: 0418-78-1663-

Address: 4606 Blanton Rd Fayetteville, NC (0418-78-1663-)



TO: Mayor
City Council Members
City Manager
City Attorney

Under provisions of Chapter 14, titled Housing, Dwellings and Buildings of the Code of the City of Fayetteville, North Carolina, the Inspection Department is requesting the docket of the owner who has failed to comply with this Code, be presented to the City Council for action. All proceedings that are required by the Code, Section 14-61, have been complied with. We request the Council take action under the provisions of Chapter 14 of the Code and applicable NC General Statutes.

Location	4606 Blanton Road
Property Owner(s)	Vonda H Morris Fayetteville, NC
Date of Inspection	December 15, 2011
Date of Hearing	February 15, 2012
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed February 16, 2012
Owner's Response	None
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since June 2011.
	Hearing was advertised in the Fayetteville Observer February 2012.
Police Calls for Service (past 2 yrs)	42

The Housing Inspector dispatched a letter to the owner(s) with information that the docket would be presented to the City Council for necessary action.

This is the 29th day of May, 2012.

Frank Lewis, Jr.
Sr. Code Enforcement Administrator (Housing)

**AN ORDINANCE OF THE CITY COUNCIL
OF
FAYETTEVILLE, NORTH CAROLINA**

**Requiring the City Building Inspector
to correct conditions with respect to,
or to demolish and remove a structure
pursuant to the
Dwellings and Buildings Minimum Standards
Code of the City**

The City Council of Fayetteville, North Carolina, does ordain:

The City Council finds the following facts:

- (1) With respect to Chapter 14 of the Dwellings and Buildings Minimum Standards Code of the City, concerning certain real property described as follows:

4606 Blanton Road
PIN 0418-78-1663

BEGINNING at a stake in the southwestern corner of Lot No. 6 of Vance and Lattie C. Blanton land, as per plat recorded in Book 13, Page 29, Cumberland County Registry and proceeding thence for a first call North 51 degrees 00 minutes West 235.0 feet to a stake in the center of Blanton Road; thence North 11 degrees 50 minutes East 100.0 feet to a stake; thence South 51 degrees 00 minutes East 292.2 feet to a stake; thence South 47 degrees 00 minutes West 87.0 feet to the point of beginning

The owner(s) of and parties in interest in said property are:

Vonda H. Morris
787 Newport Road
Fayetteville, NC 28314-0706

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before April 15, 2012.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:

None.

- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$ shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

The Building Inspector is ordered forthwith to accomplish, with respect to said property, precisely and fully what was ordered by said Inspections Director as set forth fully above, except as modified in the following particulars:

This property is to be demolished and all debris removed from the premises, and the cost of said removal shall be a lien against the real property as described herein.

SECTION 2

The lien as ordered herein and permitted by NC General Statute 160A-443(6) shall be effective from and after the date the work is completed, and a record of the same shall be available in the office of the City of Fayetteville Finance Department, Collections Division, 2nd Floor - City, 433 Hay Street, Fayetteville, NC 28301.

SECTION 3

This ordinance shall be in full force and effect from and after its adoption.

Adopted this 29th day of May, 2012.

CITY OF FAYETTEVILLE

BY: Anthony Chavonne, Mayor

ATTEST:

Pamela Megill, City Clerk



8-1-4-1

4606

DANGER

FIRE LINE DO NOT CROSS

FIRE LINE DO NOT CROSS

FIRE LINE



8-1-6-1



8-1-7-1



8-1-8-1

Current Parcel: 0447-30-6837-

Address: 211 Deep Creek Rd Fayetteville, NC (0447-30-6837-)



TO: Mayor
City Council Members
City Manager
City Attorney

Under provisions of Chapter 14, titled Housing, Dwellings and Buildings of the Code of the City of Fayetteville, North Carolina, the Inspection Department is requesting the docket of the owner who has failed to comply with this Code, be presented to the City Council for action. All proceedings that are required by the Code, Section 14-61, have been complied with. We request the Council take action under the provisions of Chapter 14 of the Code and applicable NC General Statutes.

Location	211 Deep Creek Road
Property Owner(s)	Anthony O. Lee & Catherine Lee Slidell, La.
Date of Inspection	August 15, 2011
Date of Hearing	August 30, 2011
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed August 30, 2011
Owner's Response	None
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since August 2010.
Police Calls for Service (past 2 yrs)	16

The Housing Inspector dispatched a letter to the owner(s) with information that the docket would be presented to the City Council for necessary action.

This is the 29th day of May, 2012.

Frank Lewis, Jr.

Sr. Code Enforcement Administrator (Housing)

**AN ORDINANCE OF THE CITY COUNCIL
OF
FAYETTEVILLE, NORTH CAROLINA**

**Requiring the City Building Inspector
to correct conditions with respect to,
or to demolish and remove a structure
pursuant to the
Dwellings and Buildings Minimum Standards
Code of the City**

The City Council of Fayetteville, North Carolina, does ordain:

The City Council finds the following facts:

- (1) With respect to Chapter 14 of the Dwellings and Buildings Minimum Standards Code of the City, concerning certain real property described as follows:

211 Deep Creek Road
PIN 0437-30-6837

BEGINNING at a stake in the southern side line of Lot 11 at the southwest corner of lot sold by James W. Jones and Rosie K. Jones, deed recorded in Book 586, page 51, Cumberland County, North Carolina Registry, and runs thence with the west line of said Barwick lot, North 17 degrees 40 minutes East 50 feet to a stake in the northern side line of Lot 11, Barwick's corner; thence with the dividing lines between Lot 10 and 11 and Lot 4 and 5, North 72 degrees 20 minutes West 113.65 feet to the eastern margin of National Highway, South 2 degrees 22 minutes East 53.2 feet to the southwest corner of Lot 5; thence with the dividing line between Lots 5 & 6 and lots 11 and 12, South 72 degrees 20 minutes East 95.45 feet to the Beginning, and being Lot 5 and the western part of Lot 11, East Bend Addition, per plat recorded in Plat Book 5-7, page 106, Cumberland County, North Carolina Registry.

The owner(s) of and parties in interest in said property are:

Anthony O. Lee and wife Catherine A. Lee
2221 Cypress Lakes Drive
Slidell, La. 70458

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before October 30, 2011.
- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.

- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:

None.

- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$ shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

The Building Inspector is ordered forthwith to accomplish, with respect to said property, precisely and fully what was ordered by said Inspections Director as set forth fully above, except as modified in the following particulars:

This property is to be demolished and all debris removed from the premises, and the cost of said removal shall be a lien against the real property as described herein.

SECTION 2

The lien as ordered herein and permitted by NC General Statute 160A-443(6) shall be effective from and after the date the work is completed, and a record of the same shall be available in the office of the City of Fayetteville Finance Department, Collections Division, 2nd Floor - City, 433 Hay Street, Fayetteville, NC 28301.

SECTION 3

This ordinance shall be in full force and effect from and after its adoption.

Adopted this __29th__ day of __May__, 2012.

CITY OF FAYETTEVILLE

BY: _____
Anthony Chavonne, Mayor

ATTEST:

Pamela Megill, City Clerk





8-1-13-1







8-1-16-1



TO: Mayor
City Council Members
City Manager
City Attorney

Under provisions of Chapter 14, titled Housing, Dwellings and Buildings of the Code of the City of Fayetteville, North Carolina, the Inspection Department is requesting the docket of the owner who has failed to comply with this Code, be presented to the City Council for action. All proceedings that are required by the Code, Section 14-61, have been complied with. We request the Council take action under the provisions of Chapter 14 of the Code and applicable NC General Statutes.

Location	1156 Fay Hart Road
Property Owner(s)	Christine J. Smith Fayetteville, NC
Date of Inspection	September 7, 2011
Date of Hearing	September 21, 2011
Finding/Facts of Scheduled Hearing	Notice to repair/demolish the structure within 60 days mailed September 22, 2011
Owner's Response	None
Appeal Taken (Board of Appeals)	No
Other	Utilities disconnected since May 2009.
Police Calls for Service (past 2 yrs)	37

The Housing Inspector dispatched a letter to the owner(s) with information that the docket would be presented to the City Council for necessary action.

This is the 29th day of May, 2012.

Frank Lewis, Jr.

Sr. Code Enforcement Administrator (Housing)

**AN ORDINANCE OF THE CITY COUNCIL
OF
FAYETTEVILLE, NORTH CAROLINA**

**Requiring the City Building Inspector
to correct conditions with respect to,
or to demolish and remove a structure
pursuant to the
Dwellings and Buildings Minimum Standards
Code of the City**

The City Council of Fayetteville, North Carolina, does ordain:

The City Council finds the following facts:

- (1) With respect to Chapter 14 of the Dwellings and Buildings Minimum Standards Code of the City, concerning certain real property described as follows:

1156 Fay Hart Road
PIN 0436-27-6244

Beginning at an iron pipe in the western margin of the Tolar and Hart Road at the southeast corner of Lot 52 of Puritan Weaving Company property as shown by plat in Book 8, Page 89, said lot having been sold to Roy Champion, runs thence with the western margin of the road South 5 degrees East 196 feet and 8 inches to a stake; thence North 87 degrees West 66.2 feet to the center of the railroad track to a stake; thence with the center of the railroad North 10 degrees West 156 feet and 8 inches to a stake; thence North 66 degrees 27 minutes West 78 feet to an iron pipe, the southeast corner of Lot 53 purchased by H.C. Childrey and runs thence with his line North 32 degrees 38 minutes East 87 feet to an iron corner in the Champion line; thence South 10 degrees East 50 feet to a stake; thence North 87 degrees East 60 feet to an iron corner; thence South 58 degrees 22 minutes East 17 feet to the beginning and being Lots 1, 2, 3 and 4 as shown on plat and being embraced in deeds in Book 433, page 435, and Book 374, page 173, Cumberland County Registry.

The owner(s) of and parties in interest in said property are:

Christine J. Smith
3350 Davidson Drive
Fayetteville, NC 28306

- (2) All due process and all provisions of the Dwellings and Buildings Minimum Standards Code of the City having been followed, the Inspections Director duly issued and served an order requiring the owners of said property to: repair or demolish the structure on or before November 22, 2011.

- (3) And said owners without lawful cause, failed or refused to comply with said order; and the Building Inspector is authorized by said Code, and NC General Statute 160A-443(5), when ordered by Ordinance of the City Council, to do with respect to said property what said owners were so ordered to do, but did not.
- (4) The City Council has fully reviewed the entire record of said Inspections Director thereon, and finds, that all findings of fact and all orders therein of said Inspections Director are true and authorized except:
- None.
- (5) That pursuant to NC General Statute 160A-443(6), the cost of \$ shall be a lien against the real property upon which the cost was incurred.

Whereupon, it is ordained that:

SECTION 1

The Building Inspector is ordered forthwith to accomplish, with respect to said property, precisely and fully what was ordered by said Inspections Director as set forth fully above, except as modified in the following particulars:

This property is to be demolished and all debris removed from the premises, and the cost of said removal shall be a lien against the real property as described herein.

SECTION 2

The lien as ordered herein and permitted by NC General Statute 160A-443(6) shall be effective from and after the date the work is completed, and a record of the same shall be available in the office of the City of Fayetteville Finance Department, Collections Division, 2nd Floor - City, 433 Hay Street, Fayetteville, NC 28301.

SECTION 3

This ordinance shall be in full force and effect from and after its adoption.

Adopted this _29th_____ day of __May_____, 2012.

CITY OF FAYETTEVILLE

BY: _____
Anthony Chavonne, Mayor

ATTEST:

Pamela Megill, City Clerk



DANGER





8-1-22-1



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa Smith, Chief Financial Officer
DATE: May 29, 2012
RE: **Tax Refunds of Less Than \$100**

THE QUESTION:

The attached memorandum identifies tax refunds of \$100 or less.

RELATIONSHIP TO STRATEGIC PLAN:

Not applicable.

BACKGROUND:

Approved by the Cumberland County Special Board of Equalization for the month of May, 2012.

ISSUES:

None.

BUDGET IMPACT:

The budget impact is \$6.62.

OPTIONS:

Approve the refund.

RECOMMENDED ACTION:

Approval.

ATTACHMENTS:

Finance - Tax Refunds of Less Than \$100



May 29, 2012

TO: Lisa Smith, Chief Financial Officer *LSmith*

FROM: Nancy Peters, Accounts Payable *NP*

RE: Tax Refunds of Less Than \$100

The tax refunds listed below for less than \$100 were approved by the Cumberland County Special Board of Equalization for the month of May, 2012.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
McKnight, Dennis James	6305413	2010	Corrected Assessment	6.62
TOTAL				\$6.62