



**Asheboro Planning Board**  
Monday, October 6, 2014  
**7:00 PM**  
**AGENDA**

- I. Call to Order
- II. Approval of Minutes (September 8, 2014)
- III. Review of Cases
- IV. Old Business: Planning Board Functioning as Board of Adjustment: Case No. BOA-14-01 H.R. Gallimore (237 North Fayetteville St.): Variance from Table 200-1 (Minimum Side Yard Setback) - Continued from September 8, 2014 meeting
- V. RZ-14-10: Stephen D. Wright: 509 E. Salisbury Street (Rezone from R7.5 Medium-Density Residential and CUOA6 Conditional Use Office-Apartment to Mercantile (M))
- VI. RZ-14-11: H.R. Gallimore: 379 Patton Avenue (Rezone from R10 Medium-Density Residential to OA6 Office-Apartment)
- VII. RZ-14-12: City of Asheboro: Text Amendments to the Zoning Ordinance related to watershed regulations, accessory apartments, correctional facilities, and professional residential facilities)
- VIII. SUB-12-01: Final Plat for Olde Towne Village (Including public right-of-way on Olde Towne Pkwy. to allow recordation of Lot 52 of development)
- IX. Report on proposed process to update 2020 Land Development Plan maps
- X. Items Not on the Agenda
- XI. Adjournment

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**MEETING OF THE ASHEBORO PLANNING BOARD  
COUNCIL CHAMBERS, 146 N. Church St.  
MONDAY, SEPTEMBER 8, 2014  
7:00 p.m.**

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This being the time and place for meeting of the Planning Board, a meeting was held with the following officials and members present:

Dave Whitaker ) - Acting Chair  
  
Lynette Garner )  
David Henderson ) - Members Present  
Thomas Rush )  
Ritchie Buffkin )  
  
Van Rich ) - Member Absent  
James Lindsey )

John Evans, Assistant Community Development Division Director  
Justin Luck, Zoning Administrator/Planner  
Bradley Morton, Planning Technician/Deputy City Clerk  
Jeff Sugg, City Attorney

Three (3) citizens were present at this meeting.

Mr. Buffkin made a motion to elect Mr. Whitaker as acting Planning Board Chair. Mr. Rush Seconded the motion and the motion carried unanimously.

**I. CALL TO ORDER**

Mr. Dave Whitaker, Acting Chair, called the Asheboro Planning Board to order.

**II. APPROVAL OF MINUTES (July 7, 2014)**

Mr. Whitaker inquired to the Board if the August 4, 2014 minutes were correct and if so he would entertain a motion. Mr. Henderson made a motion to approve the minutes of the last regular meeting. Mr. Buffkin seconded the motion and the motion carried unanimously.

**III. REVIEW OF CASES**

Mr. Justin Luck informed the board of the zoning related cases that went before the City Council in August.

**IV. RZ-14-08: Richard H. Lyda: 217 NC Hwy. 49 South (Rezone from B2 General Commercial to I1 Light Industrial)**

Mr. John Evans presented the rezoning case before the board. He listed the Parcel Identification Number as 7750048965 with the property totaling 0.75 acres +/- . He stated that the rezoning request was to go from B2 General Commercial to I1 Light Industrial. He showed maps of the property as well as photos from all directions, and listed the surrounding land uses. He then gave an analysis of the property, mentioning that it was inside the corporate city limits and that all city services are available. He then stated that the I1 district is intended to produce areas for manufacturing, processing and assembly uses, commercial uses, distribution and servicing enterprises, controlled by performance standards to limit the effect of such uses on uses within the district and on adjacent districts. He also stated that the area includes a mix of uses including commercial, residential (single and multi-family), with some industrial uses and zoning scattered along NC Hwy. 49 South and US Hwy. 64 West/West Dixie Drive. He stated that Mack Road would have future improvements as well that would impact the property. He gave a brief history of the property, stating that it has been used for a gas station, motor vehicles and a vehicle towing operation/storage yard. He stated that there were amendments made to the ordinance in 2008 that only allowed vehicle towing storage yards in I1 and I2 districts, but such a use was previously permitted in the B2 district. He stated that the I1 district would

permit towing storage yards by right. He gave the Land Development Plan recommendations being Primary Growth on the Growth Strategy Map and a Commercial designation on the Proposed Land Use Map. He listed five (5) goals and policies that supported and mentioned one (1) that did not support the request. He then gave staff's recommendation to approve the request due to the area including the mix of commercial and industrial uses and the zoning pattern along NC Hwy. 49 accommodates some industrial uses, particularly those with an industrial history. He then gave a consistency statement based on the above factors.

Mr. Buffkin asked when the NCDOT would make improvements to Mack Road. Mr. Evans stated that it may be around the Fall of 2015. Ms. Garner asked what types of uses would be permitted in the I1 district. Mr. Evans gave a brief list including, but not limited to, retail, warehousing, manufacturing, electrical repair, exterminator. He stated that heavier industrial uses were not permitted like a junkyard or heavy manufacturing. Mr. Don Lanier and Mr. Richard Lyda were present to speak on the case. Mr. Lanier thanked the staff and asked if there were any questions. There were no questions.

Ms. Garner made a motion to approve the zoning request. Mr. Henderson seconded the motion and the motion carried unanimously.

**V. Planning Board Functioning as Board of Adjustment: Case No. BOA-14-01 H.R. Gallimore (237 North Fayetteville St): Variance from Table 200-1 (Minimum Side Yard Setback)**

Mr. Whitaker opened a public comment period. At that time Mr. Luck and Mr. Gallimore were sworn in for their testimony. Mr. Luck stated that due to a delay in publication of the required newspaper legal notice, staff is requesting the case to be continued and left open until the October 6, 2014 Planning Board Meeting.

Mr. Henderson made a motion to continue until the October 6, 2014 Planning Board Meeting. Ms. Garner seconded the motion and the motion carried unanimously.

**VI. ITEMS NOT ON THE AGENDA**

There were no items to discuss.

**VII. ADJOURNMENT**

At this time, Mr. Whitaker inquired if there was any more business to hear and if not, the meeting would be adjourned. There being no more business, he declared the meeting adjourned.

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Bradley W. Morton, Secretary, Planning Board

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Van Rich, Planning Board Chairman



**BOA 14-01:**  
**Variance request from side yard setback required by Table 200-1 of Zoning Ordinance**

(237 North Fayetteville St.: H.R. Gallimore)

**Staff Report**

**Continued from September 8, 2014 meeting**

## **Board of Adjustment Staff Report**

**Case:** BOA 14-01

**Date:** September 8, 2014 & October 6th, 2014

**Requested Action:** Variance from Table 200-1 of the Asheboro Zoning Ordinance, which regulates a minimum side setback of 0 or 5 feet in the B3 Commercial Zoning District.

### **GENERAL INFORMATION:**

**Applicant:** H.R. Gallimore

**Address:** 231 S. Fayetteville St.

**Phone:** (336) 626-5560

**Location of Affected Property:** 237 N. Fayetteville St.

**Size:** 1.56 Acres      **Existing Zone:** B3

**Existing Land Use:** Commercial Development with Multiple Uses and/or Structures

#### **Surrounding Land Use:**

**North:** Commercial

**East:** Commercial/Church

**South:** Commercial

**West:** Cemetery

**Land Development Plan:** Primary Growth/City Activity Center

### **ANALYSIS**

The building was converted from single retail use to multiple units in 2001/2002. Multiple medical uses currently occupy the building. Mr. Gallimore wishes to add a preconstructed medical unit next to the existing building. Upon review of the submitted site plan, it was determined that the proposed location of the building encroached into the required setback. At the closest corner, the building will come within 1.9 feet of the property line. The B3 Commercial district requires that all structures be located either a minimum of 5 feet off side property lines, or located on side property lines.

Maps



Case: BOA-14-01

Date: October 6th, 2014

The concurring vote of four-fifths of the Board shall be necessary to grant a variance. (904.2)

When unnecessary hardships would result from carrying out the strict letter of the zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self created hardship.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. All of these findings of fact shall be made in the indicated order by the Board of Adjustment, which is not empowered to grant a variance without an affirmative finding of fact on all four categories above. Each finding of fact shall be supported by substantial evidence in the record of proceedings before the Board.

The Board may impose appropriate conditions upon the granting of any variance provided that the conditions are reasonably related to the variance. Violation of such conditions shall be a violation of this Ordinance. (905)

**I have found all the findings of fact as listed above in favor of the applicant.**

Member's Vote: Yes \_\_\_\_\_ No \_\_\_\_\_

Signature \_\_\_\_\_



**RZ-14-10 Rezone from CUOA6 (Conditional Use Office-Apartment) and  
R7.5 (Medium-Density Residential) to M (Mercantile)**

(Stephen David Wright: 509 East Salisbury Street)

## Rezoning Staff Report

RZ Case # **RZ-14-10**

Date 10/6/2014 Planning Bd.  
11/6/2014 City Council

### General Information

**Applicant** Stephen David Wright  
**Address** 3706 Buffalo Ford Road  
**City** Asheboro NC 27203  
**Phone** 336-963-3528  
**Location** 509 East Salisbury Street  
**Requested Action** Rezone from CU-OA6 (Conditional Use Office-Apartment) and R7.5 (Medium-Density Residential) to M (Mercantile)

**Existing Zone** R7.5/CUOA6      **Existing Land Use** Contractor's Office  
**Size** 24,000 square feet (+/-)      **Pin #** 7761132130 (portion)

### Applicant's Reasons as stated on application

See application

### Surrounding Land Use

**North** Multi family residential      **East** Single-family residential  
**South** Single-family residential      **West** Single-family residential

**Zoning History** RZ/CUP-01-05: Conditional Use Permit for Professional Office and/or residential use  
RZ-01-11: Modification of Conditional Use Permit granted by RZ/CUP-01-05

### Legal Description

The property of Stephen David and Rebecka Wright, located at 519 East Salisbury Street, totaling approximately 24,000 square feet (+/-), more specifically identified by Lots 5 and 6 in Plat Book 3, Page 21, which includes a portion of Randolph County Parcel Identification Number 77761132130.

### Analysis

1. East Salisbury Street is a major thoroughfare. All city services are available.
2. The property is currently zoned CUOA6 with a conditional use permit allowing a "professional office and/or residential use." The property is currently being used for a professional contractor's office. The applicant also owns the adjoining undeveloped property to the east, which is zoned CUOA6 and will require a Conditional Use Permit prior to development activity. No changes are proposed to the zoning of this portion of the applicant's property.
3. The request is to rezone the property to Mercantile (M). The zoning ordinance Statement of Intent defines the Mercantile (M) district as follows: *The Mercantile (M) District is intended to provide for a greater number of potential business activities than the B1 Zoning District. The Mercantile District is distinguished from the B2 General Commercial District by excluding certain uses permitted in the B2 District that are likely to create the greatest external impact (traffic, noise, lighting, etc.) and by its additional standards that address compatibility with adjoining residential neighborhoods. These districts should be located in nodes along major or minor thoroughfares.*
4. Examples of standards in the Mercantile District include limits on building sizes (i.e. 6,000 sq. ft. total, 1,500 for eating establishments), prohibition of drive through service and open storage.
5. The area includes a mix of uses, with single and multi-family uses immediately surrounding the property but commercial uses scattered along East Salisbury Street in the vicinity of the property.

# Rezoning Staff Report

RZ Case # RZ-14-10

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## Consistency with the 2020 LDP Growth Strategy designations

*In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.*

<b>Growth Strategy Map Designation</b>	Primary Growth
<b>Proposed Land Use Map Designation</b>	Commercial
<b>Small Area Plan</b>	Central

## LDP Goals/Policies Which Support Request

**Checklist Item 1.** Rezoning is compliant with the Proposed Land Use Map.

**Checklist Item 3.** The property on which the rezoning district is proposed fits the description of the Zoning Ordinance. *(Article 200, Section 210, Schedule of Statements of Intent)*

**Checklist Item 5.** The proposed rezoning is compliant with the objectives of the Growth Strategy Map.

**Checklist Items #12, #13, #14, and #15:** 12.) Property is located outside of watershed 13.) The property is located outside of Special Hazard Flood Area. 15.) Rezoning is not located on poor soils

# Rezoning Staff Report

RZ Case # RZ-14-10

Page 3

## LDP Goals/Policies Which Do Not Support Request

### Recommendation

Approve

### Reason for Recommendation

The Mercantile District designation was designed to be applied to properties where commercial development is suitable but the potential uses and larger scale of development allowed by the B2 is less appropriate for the area. The Central Small Area Plan discusses the accommodation of some future development along corridors such as East Salisbury Street but seeks to keep commercial development strategically located and at a smaller scale. Similar to the Land Development Plan's intent to accommodate limited local-scale office uses, the Mercantile request is consistent with the property's commercial designation but requires development at an appropriate scale with the heaviest commercial uses excluded.

### Evaluation of Consistency with Adopted Comprehensive Plans/Reasonableness and Public Interest

Considering the above factors detailed in the recommendation above, staff believes the M designation is in the public interest by allowing a reasonable use of the property and ensuring consistency with the LDP.

Application for Zoning Ordinance Amendment

APPLICANT INFORMATION

Applicant Stephen David Wright
Applicant's Phone # 336-963-3528 736-8621 office
Applicant's Address 3706 Buffalo Ford Rd
Ashboro NC 27205

PROPERTY INFORMATION FOR MAP AMENDMENTS

Property Owner's Name Stephen E. Rebecca Wright
Location of Property 509 East Salisbury St. Ashboro
Property Size (ac. or s.f.) 24,000
Randolph County Property Identification Number (PIN#) 776113 2130 part
Current Zoning District CU-OA6 B7.5
Requested Zoning District M
Date Property Title Acquired 8-2013
Deed Book Page
Subdivision Section Lot # 5 1/6
Plat Book 3 Page 21

ORDINANCE AMENDMENT INFORMATION

Section 1011.2 of the Asheboro Zoning Ordinance requires the applicant to answer the following questions. The application may not be accepted unless all questions are completed.

1. Are there alleged errors in this Ordinance that would be corrected by the proposed amendment? If so, give a detailed explanation of such error and detailed reasons how the proposed amendment will correct the errors.

NA

2. What are the changed or changing conditions, if any, in the jurisdiction of the City of Asheboro generally, which would make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare?

We have just purchased the building this year. Our design studio is in the building at the time & we are not allowed any outside displays (banners, temporary signs etc) at this time now. We would like to be able to build small displays & display different products at different times of year. i.e. spas in fall, pool wall samples in spring

3. In what manner will the proposed amendment carry out the intent of the Land Development Plan?

At this time no more development will be done on property. If in the future we vacate property in need of finding tenant we would have more prospects if zoning were different.

4. Are there any other circumstances, factors, or reasons that the applicant offers in support of the proposed amendment?

The zoning department of Asheboro made suggestions that the City of Asheboro was in favor of this zoning for the future economic development of Asheboro

**APPLICANT AND AGENT SIGNATURES**

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proving the need for the proposed amendment rests with the applicant.

The applicant for rezoning to any district other than a conditional use district shall be prohibited from offering any testimony or evidence concerning the specific manner in which he or she intends to use or develop the property.

Name of Agent (if any)

\_\_\_\_\_

Agent's Address

\_\_\_\_\_

\_\_\_\_\_

Telephone Number

\_\_\_\_\_

Agent Signature

\_\_\_\_\_

Name of Applicant or Owner

Stephen David Wright

Applicant or Owner's Address

3706 Buffalo Ford Rd  
Ash. NC 27205

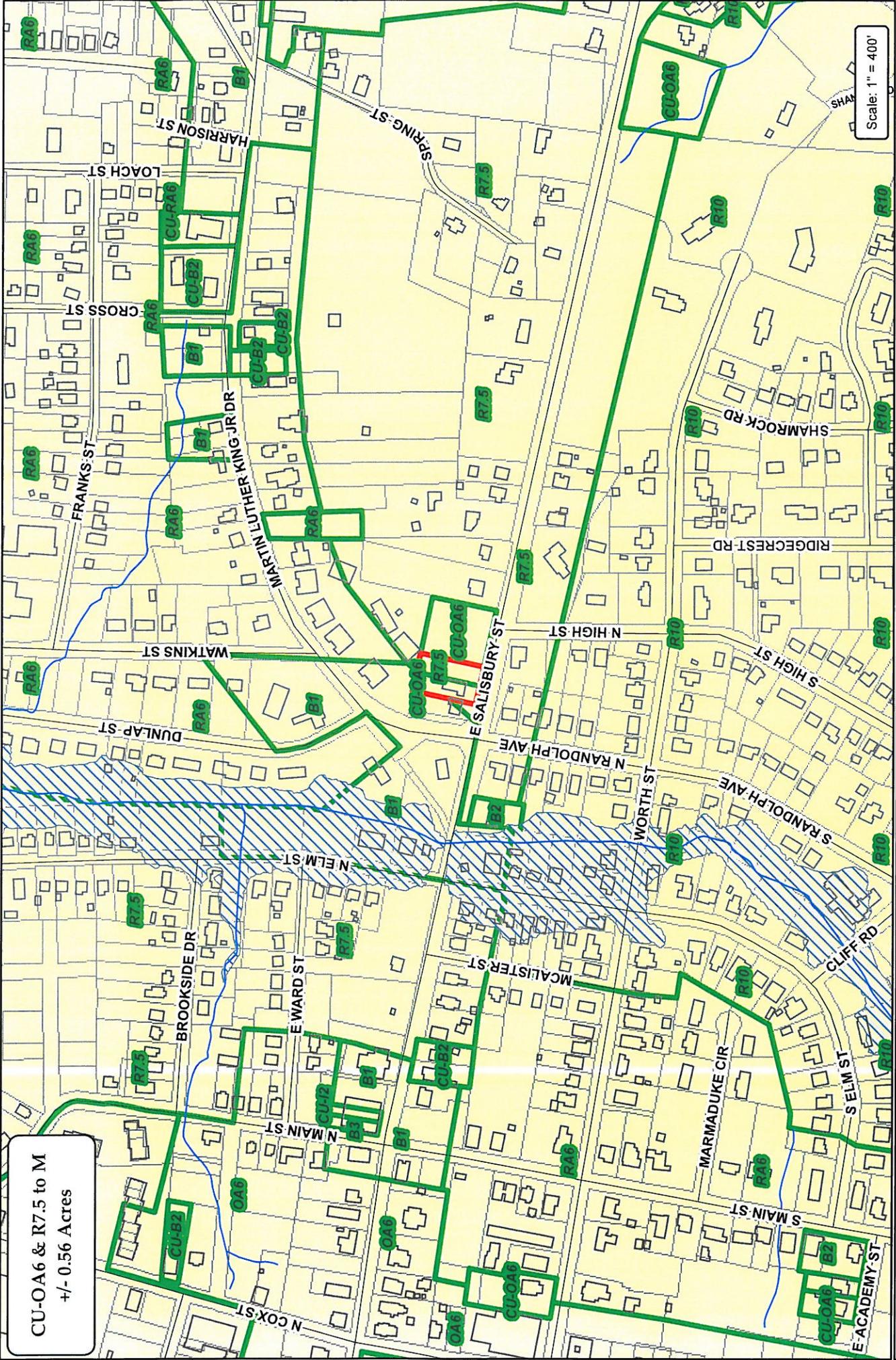
Telephone Number

336-963-3528

Applicant or Owner Signature

[Handwritten Signature]

8-26-14 PAID JE  
STAFF USE  
Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Case Number: R21410

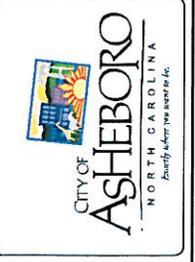


CU-OA6 & R7.5 to M  
 +/- 0.56 Acres



Subject Property  
 Zoning  
 City Limits  
 ETJ

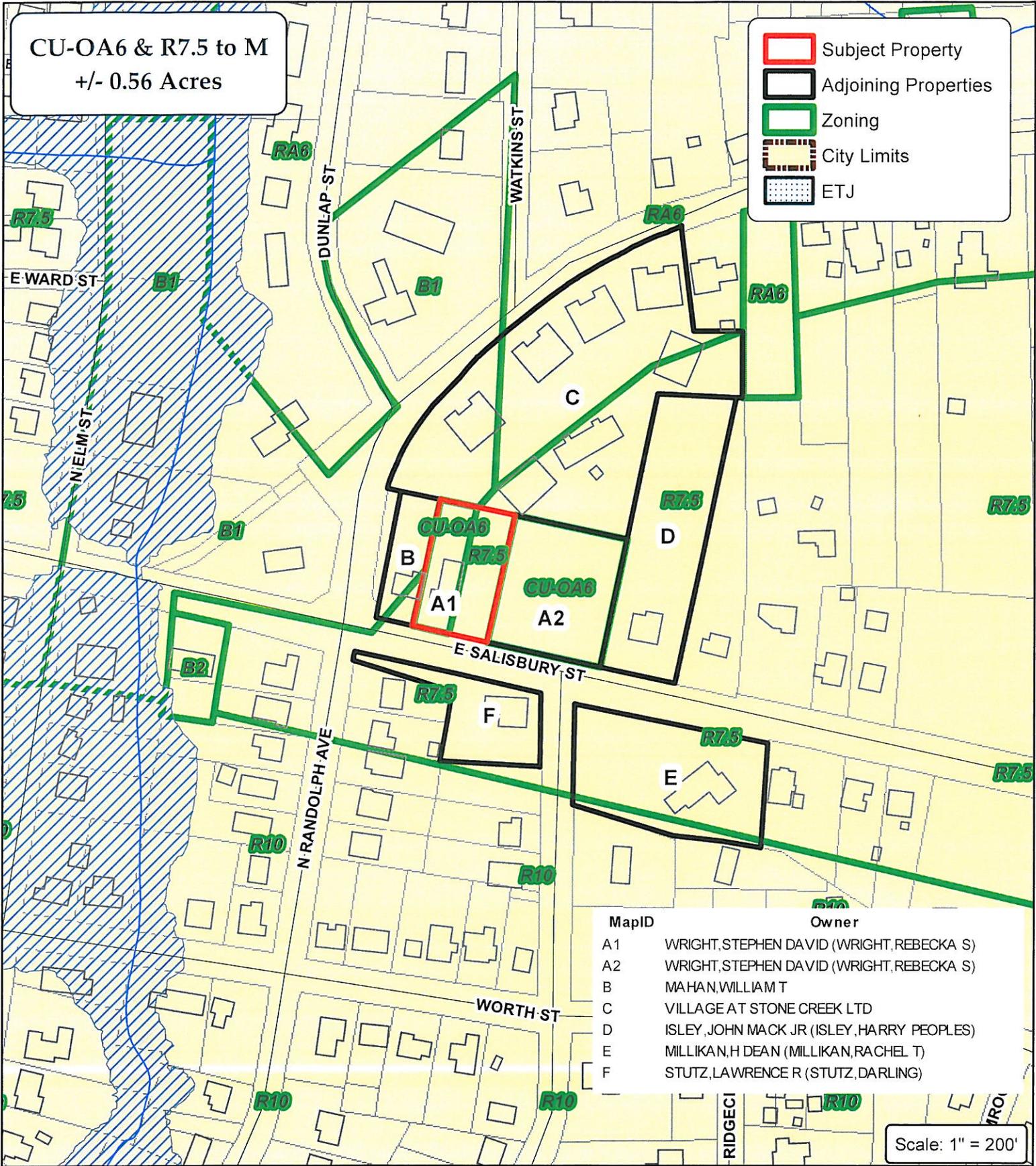
City of Asheboro  
 Planning & Zoning Department  
 Rezoning Case: RZ-14-10  
 Parcels: 7761132130 (pt.)



CU-OA6 & R7.5 to M  
 +/- 0.56 Acres

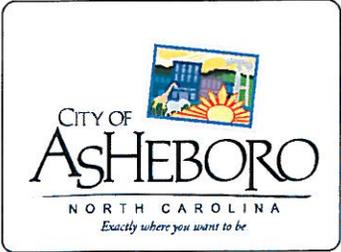
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- Subject Property
- Adjoining Properties
- Zoning
- City Limits
- ETJ

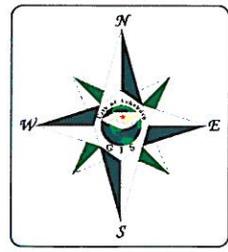


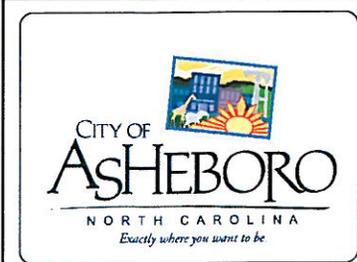
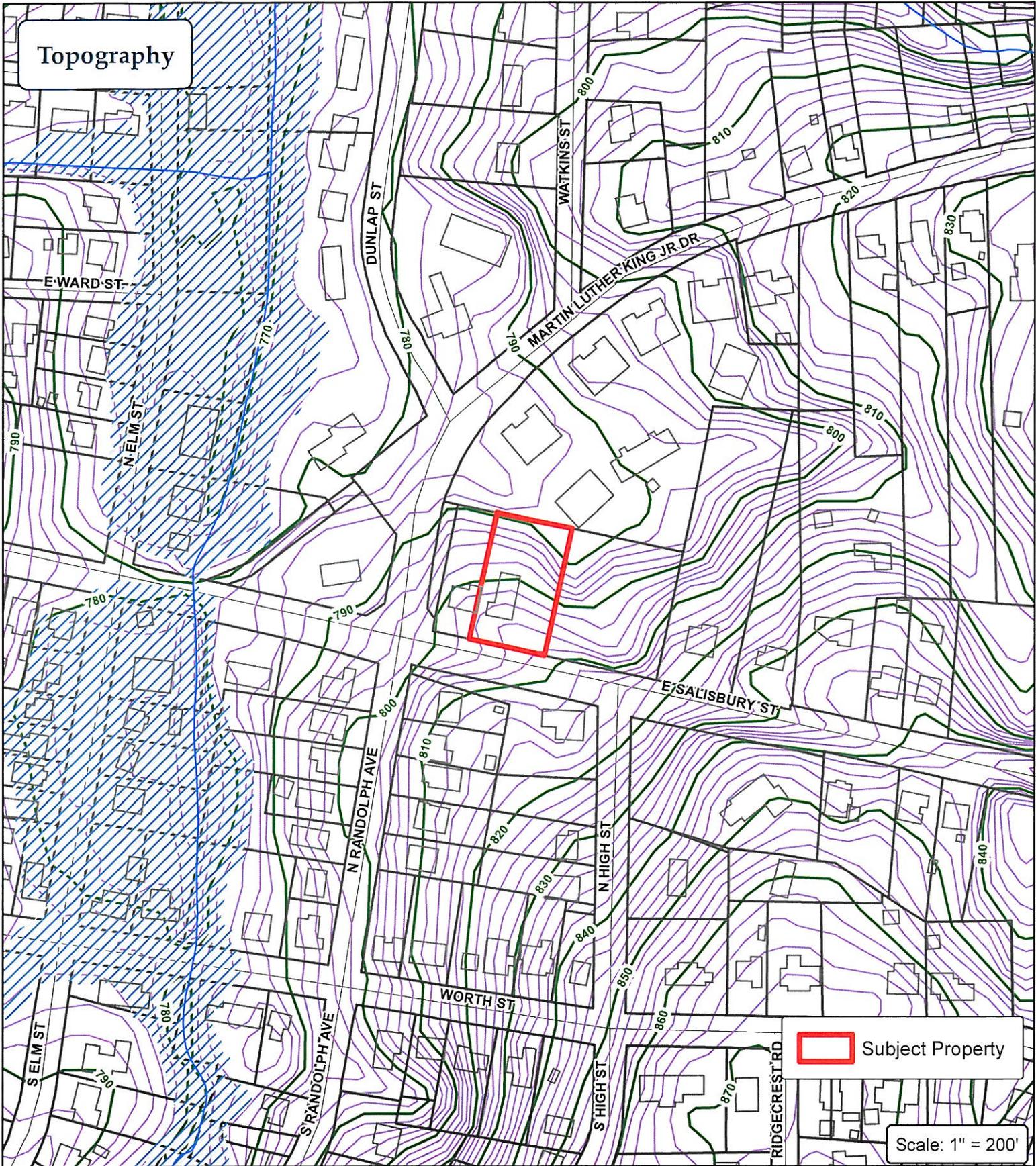
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A2	WRIGHT, STEPHEN DAVID (WRIGHT, REBECCA S)
B	MAHAN, WILLIAM T
C	VILLAGE AT STONE CREEK LTD
D	ISLEY, JOHN MACK JR (ISLEY, HARRY PEOPLES)
E	MILLIKAN, H DEAN (MILLIKAN, RACHEL T)
F	STUTZ, LAWRENCE R (STUTZ, DARLING)

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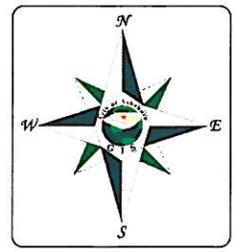


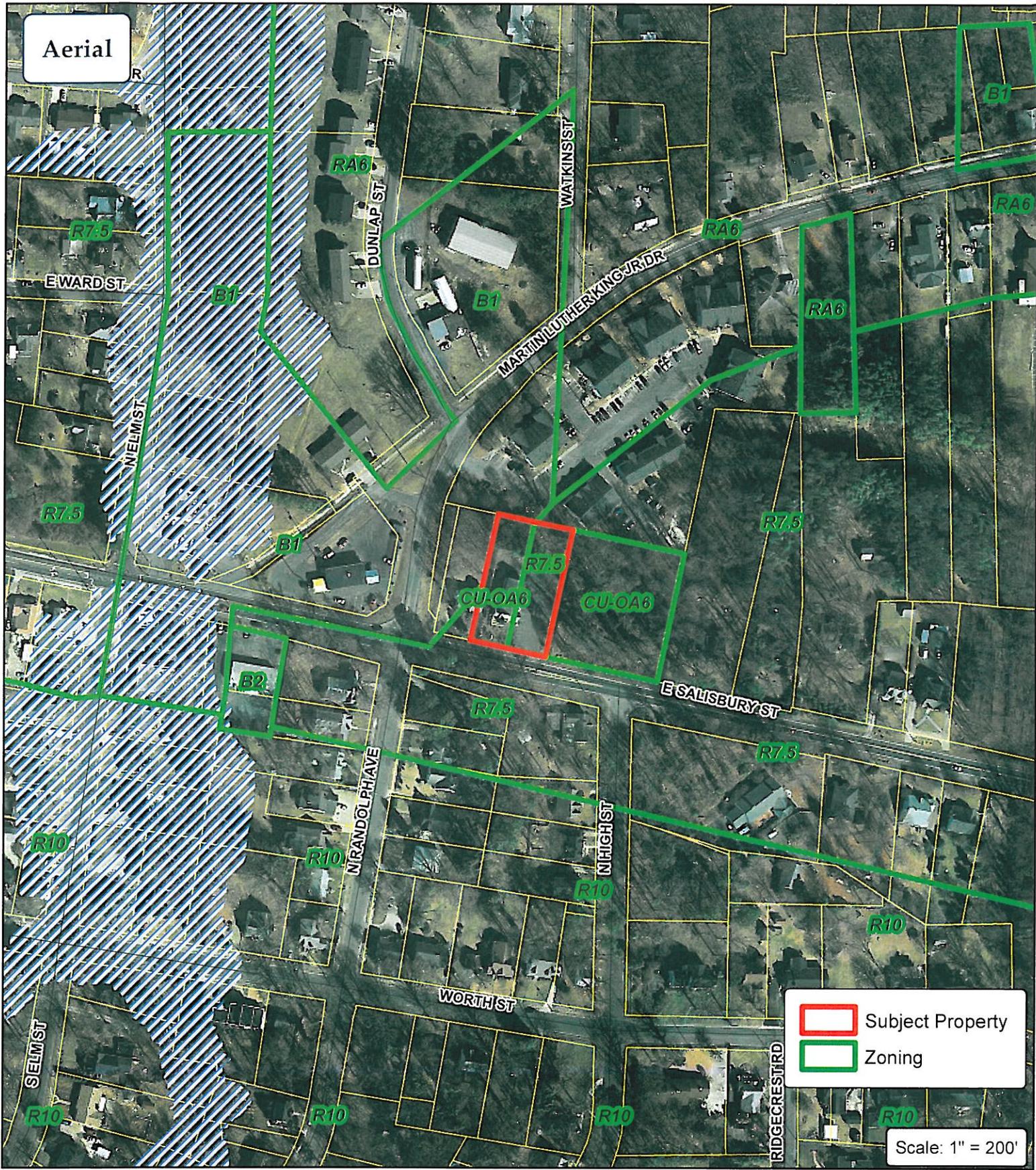
City of Asheboro  
 Planning & Zoning Department  
 Rezoning Case: RZ-14-10  
 Parcels: 7761132130 (pt.)



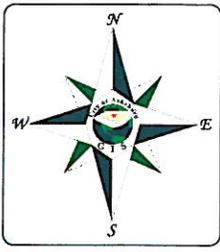


**City of Asheboro**  
**Planning & Zoning Department**  
**Rezoning Case: RZ-14-10**  
**Parcels: 7761132130 (pt.)**





**City of Asheboro**  
**Planning & Zoning Department**  
**Rezoning Case: RZ-14-10**  
**Parcels: 7761132130 (pt.)**





**RZ-14-11: Rezone from R10 (Medium-Density Residential) to OA6 (Office Apartment)**

(379 Patton Avenue: HR Gallimore)

**Staff Report**

# Rezoning Staff Report

RZ Case # RZ-14-11

Date 10/6/2014 Planning Bd.  
11/6/2014 City Council

## General Information

**Applicant** HR Gallimore

**Address** 231 South Fayetteville Street

**City** Asheboro NC 27203

**Phone** 336-626-5560

**Location** 379 Patton Avenue

**Requested Action** Rezone from R10 (Medium-Density Residential) to OA6 (Office-Apartment)

**Existing Zone** R10

**Existing Land Use** Single-family residence

**Size** 3.68 acres

**Pin #** 7761510840

## Applicant's Reasons as stated on application

Neighborhood in transition. Near mall. Will allow urban residential and office-institutional. Area has changed dramatically over the last few years making residential only unlikely.

## Surrounding Land Use

**North** Office/Institutional

**East** Single-family residential

**South** Single-family residential

**West** Office/Single-family residential

**Zoning History** N/A

## Legal Description

The property of Neale A. Kearns and John W. Kearns, located at 379 Patton Avenue, totaling approximately 3.68 acres (+/-) and more specifically identified by Randolph County Parcel Identification Number 7761510840.

## Analysis

1. East Salisbury Street is a state-maintained minor thoroughfare at this location. Patton Avenue is a state-maintained road.
2. The area includes a mix of residential, office/institutional, commercial and industrial uses.
3. A portion of the property is outside of the city limits. New development proposed to connect to city services will require the entire tax parcel to be annexed.
4. The proposed land use map designates the northern portion of the property inside the city limits for office and institutional use. The southern portion of the property outside of the city limits is designated for urban residential use.
5. According to the Zoning Ordinance (Art. 200, Sec. 210): "The OA6 District is intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designed [sic] OA6 shall normally be located with access to a major or minor thoroughfare with access to local residential streets discouraged."
6. The pavement width of Patton Avenue is approximately 15 to 16 feet in front of the property. Depending on the specific development proposal and subject to North Carolina Department of Transportation (NCDOT) approval, the addition of a driveway(s) on Patton Avenue may require the developer to widen Patton Avenue from the proposed driveway(s) to East Salisbury Street.

# Rezoning Staff Report

RZ Case # RZ-14-11

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## Consistency with the 2020 LDP Growth Strategy designations

*In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.*

<b>Growth Strategy Map Designation</b>	Adjacent Developed
<b>Proposed Land Use Map Designation</b>	Office & Institutional/Urban Residential
<b>Small Area Plan</b>	Central

## LDP Goals/Policies Which Support Request

Checklist Item #1: Rezoning is compliant with the Proposed Land Use Map.

Checklist Item #7: The proposed rezoning is compatible with the applicable Small Area Plan.

**Checklist Items #12, #13, #14, and #15:** 12.) Property is located outside of watershed 13.) The property is located outside of Special Hazard Flood Area. 14.) Rezoning is not located on steep slopes of greater than 20%. 15.) Rezoning is not located on poor soils

# Rezoning Staff Report

RZ Case # RZ-14-11

Page 3

## LDP Goals/Policies Which Do Not Support Request

Checklist Item 6: Existing infrastructure is not adequate to support the desired zone. (*water, sewer, roads, schools, etc.*). Staff Note: Depending on the type/size of the development proposed, improvements to Patton Avenue may be required to ensure access deficiencies are addressed.

## Recommendation

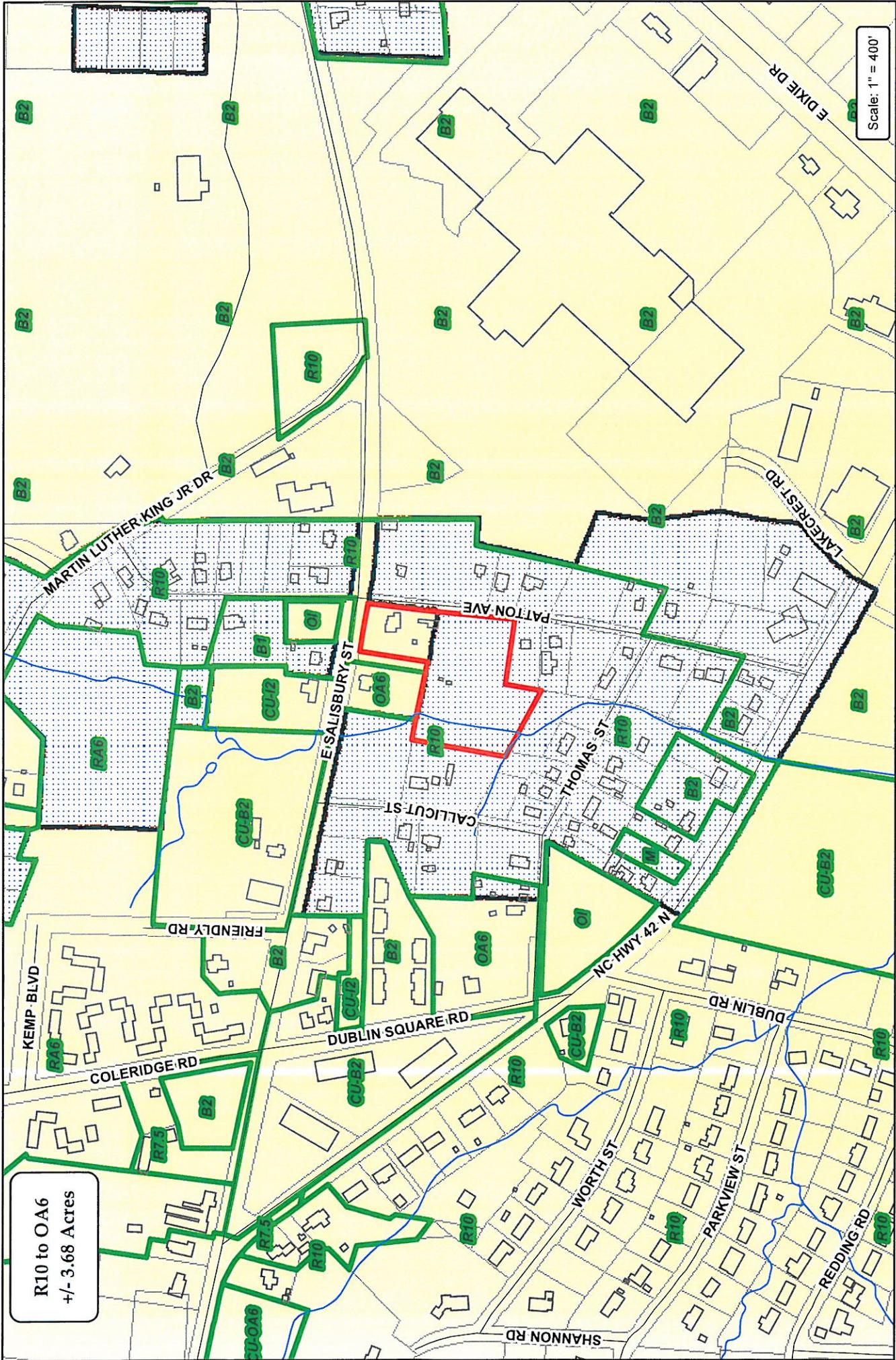
Approve

## Reason for Recommendation

The request complies with the Land Development Plan proposed land use map which designates the property for office/institutional and urban residential uses, which are consistent with the uses allowed in the OA6 district. The Central Small Area Plan encourages office uses and urban residential uses in strategically designated locations. In this context, the property's proximity to other office, institutional, and commercial uses make the OA6 district appropriate for the property. Additionally, while there is concern over existing conditions on Patton Avenue, driveway permitting requirements and potential improvements required by N.C. Department of Transportation should help ensure safe traffic movements into and out of any future development.

## Evaluation of Consistency with Adopted Comprehensive Plans/Reasonableness and Public Interest

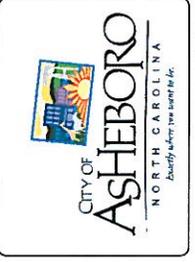
Considering the above factors detailed in the recommendation above, staff believes the OA6 designation is in the public interest by allowing a reasonable use of the property and ensuring consistency with the LDP.



Subject Property  
 Zoning  
 City Limits  
 ETJ

City of Asheboro  
 Planning & Zoning Department  
 Rezoning Case: RZ-14-11  
 Parcels: 7761510840

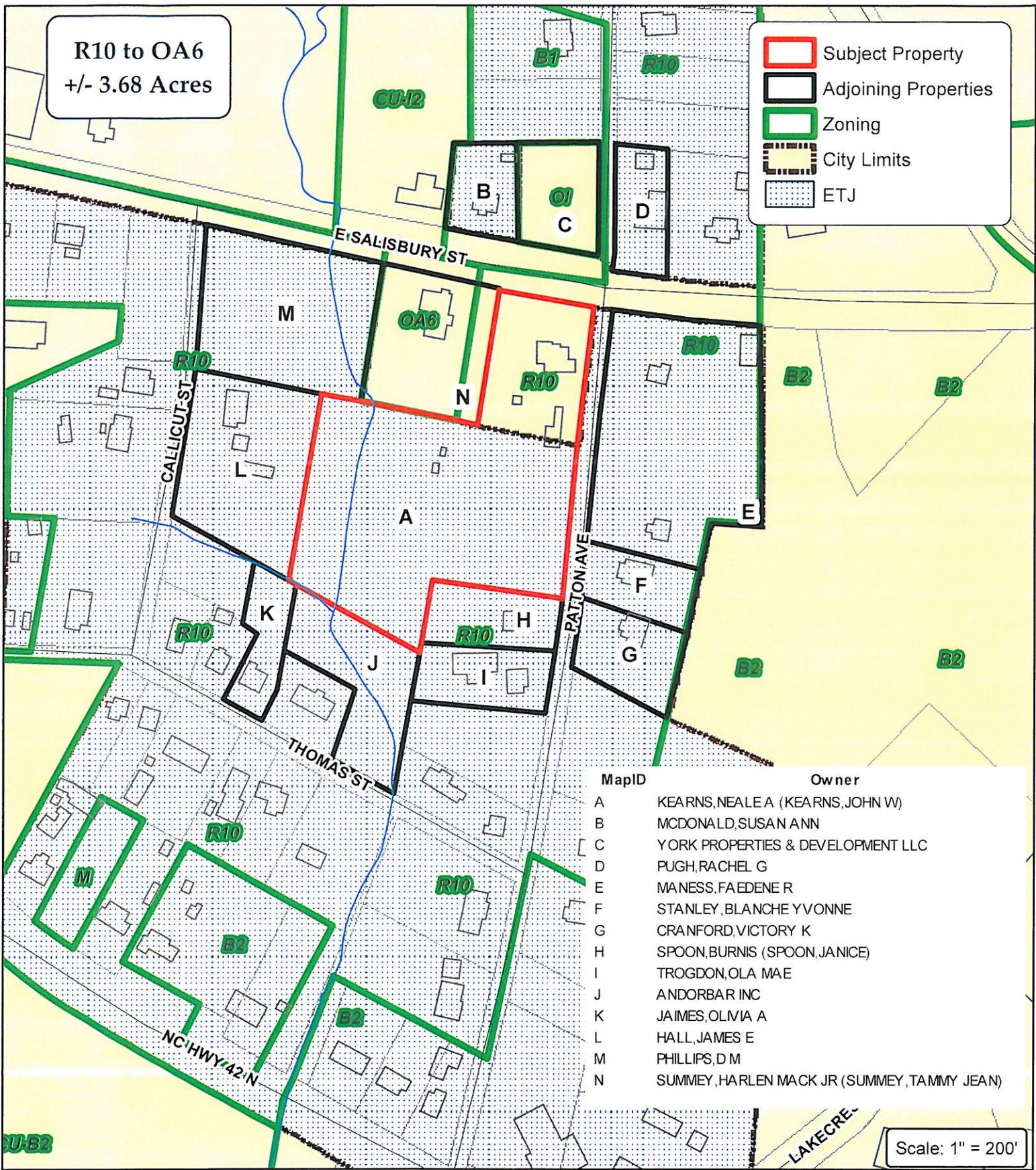
R10 to OA6  
 +/- 3.68 Acres



R10 to OA6  
+/- 3.68 Acres

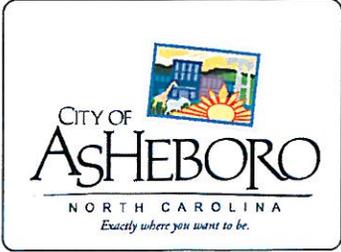
**Legend**

- Subject Property
- Adjoining Properties
- Zoning
- City Limits
- ETJ

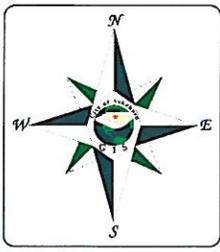


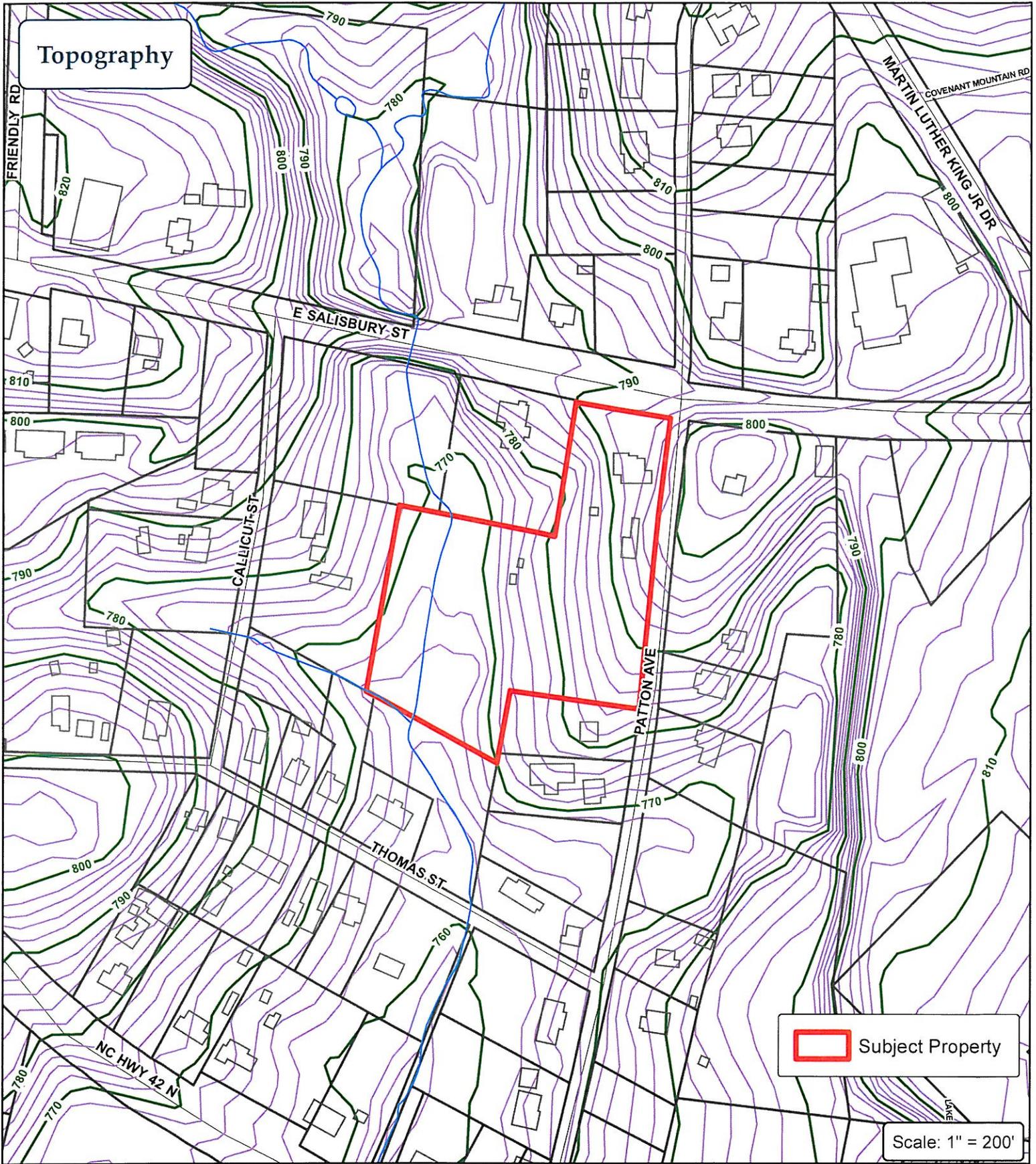
MapID	Owner
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B	MCDONALD, SUSAN ANN
C	YORK PROPERTIES & DEVELOPMENT LLC
D	PUGH, RACHEL G
E	MANESS, FAEDENE R
F	STANLEY, BLANCHE YVONNE
G	CRANFORD, VICTORY K
H	SPOON, BURNIS (SPOON, JANICE)
I	TROGDON, OLA MAE
J	ANDORBAR INC
K	JAIMES, OLIVIA A
L	HALL, JAMES E
M	PHILLIPS, D M
N	SUMMEY, HARLEN MACK JR (SUMMEY, TAMMY JEAN)

Scale: 1" = 200'



**City of Asheboro**  
**Planning & Zoning Department**  
**Rezoning Case: RZ-14-11**  
**Parcels: 7761510840**

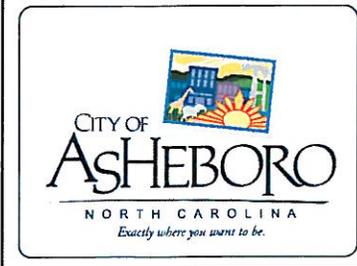




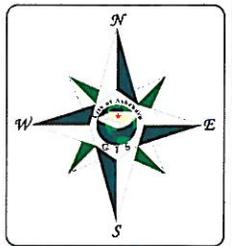
Topography

 Subject Property

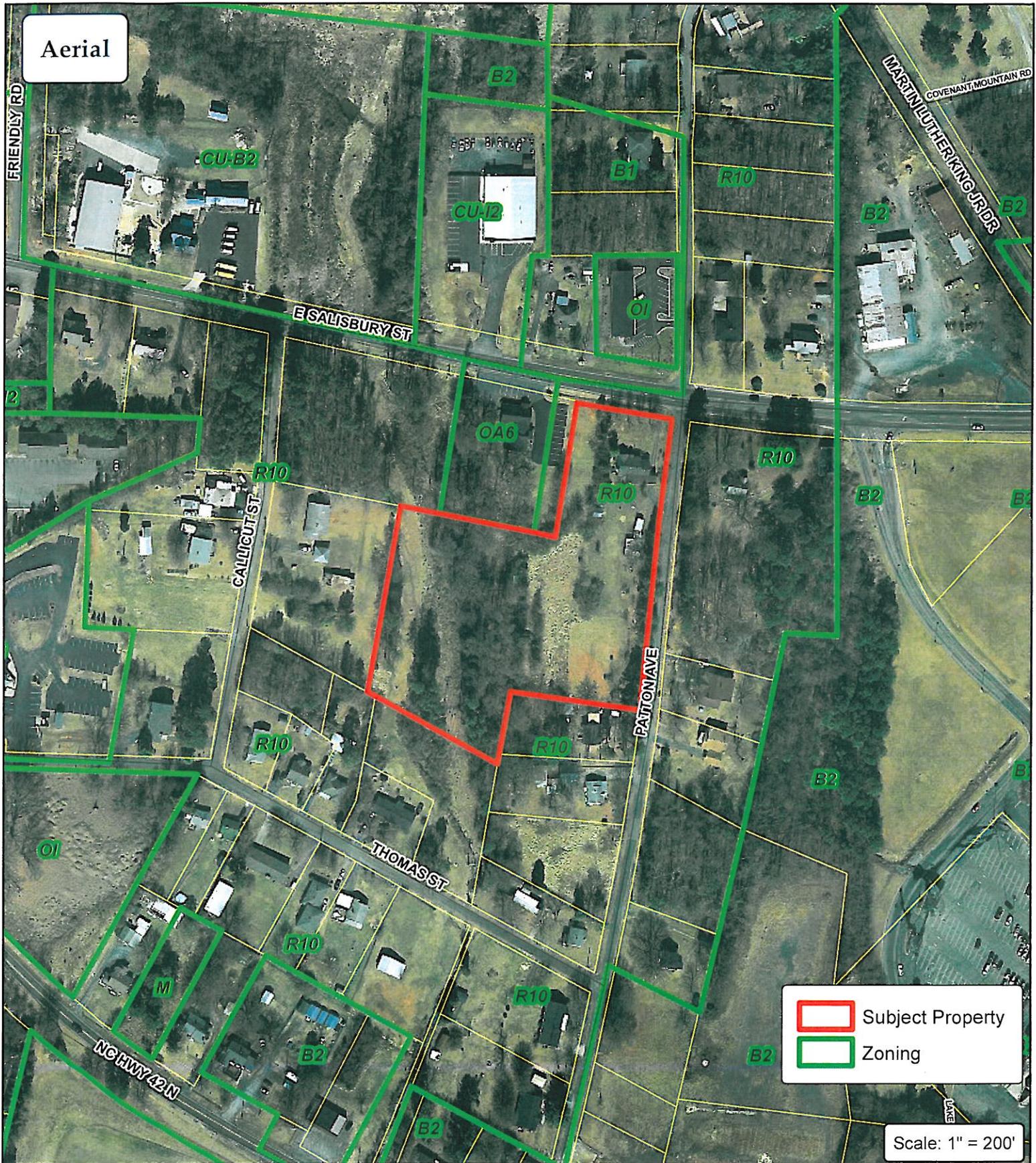
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City of Asheboro  
Planning & Zoning Department  
Rezoning Case: RZ-14-11  
Parcels: 7761510840



Aerial

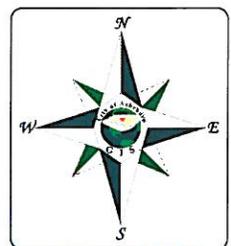


 Subject Property  
 Zoning

Scale: 1" = 200'



City of Asheboro  
Planning & Zoning Department  
Rezoning Case: RZ-14-11  
Parcels: 7761510840





**RZ-14-12: Text Amendments to the Zoning Ordinance**

(City of Asheboro: Watershed Regulations, Accessory Apartments, Correctional Facilities/Professional Residential Facilities/Structured Environment)

**Staff Report**

# Rezoning Staff Report

RZ Case # **RZ-14-12**

Date 10/6/2014 Planning Bd.

11/6/2014 City Council

## General Information

**Applicant** City of Asheboro

**Address** 146 North Church Street

**City** Asheboro NC 27203

**Phone** 336-626-1201

## **Location**

**Requested Action** General text amendments to the Zoning Ordinance concerning watershed protection requirements, accessory apartments, correctional facilities and professional residential facilities/structured environments (i.e. halfway houses).

**Existing Zone** N/A

**Existing Land Use** N/A

**Size** N/A

**Pin #** N/A

## Applicant's Reasons as stated on application

The amendments are proposed to update outdated language and improve the administration concerning various items in the Zoning Ordinance. The amendments will ensure that the Zoning Ordinance is up-to-date and represents current statewide legislation and current land use trends.

## **Surrounding Land Use**

**North** N/A

**East** N/A

**South** N/A

**West** N/A

**Zoning History** The Watershed Protection Ordinance was adopted in 1993 and last amended in 2000. Since 1991, various amendments have addressed correctional facilities, professional residential facilities, structured environments. No recent changes appear to have been made to the zoning ordinance related to accessory apartments.

## **Legal Description**

General text amendments to the Zoning Ordinance concerning watershed protection requirements, accessory apartments, correctional facilities and professional residential facilities/structured environments (i.e. halfway houses). These amendments affect Table of Uses 200-2, Art.300 (Modification of yard/height requirements), Art. 300A (Supplemental Regulations), Art. 300B (Watershed Protection Ordinance), Art. 400 (Off-Street Parking and Loading) Article 600 (Special Uses), and Art. 1100 (Definitions).

## **Analysis**

Updates to the Ordinance are proposed to address the following items:

- 1.) Watershed Protection Regulations: Amendments will improve and streamline the review process when hazardous materials are stored in the non-critical watershed areas. The proposed amendments are not in conflict with the state's (NC Department of Environment and Natural Resources) model watershed ordinance.
- 2.) Accessory Apartments: Update the language concerning accessory dwelling apartments to ensure consistency with state law.
- 3.) Correctional facilities./structured environments (halfway houses), professional residential facilities: Amendments ensure these facilities are allowed in districts that are best suited for their external impacts and update Ordinance language to better reflect the present location of ehse facilities in the City, current conditions. Amendments also change the way these facilities are identified and regulated.

# Rezoning Staff Report

RZ Case # RZ-14-12

Page 2

## Consistency with the 2020 LDP Growth Strategy designations

*In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.*

**Growth Strategy Map Designation** N/A

**Proposed Land Use Map Designation** N/A

**Small Area Plan** N/A

## LDP Goals/Policies Which Support Request

**2.1.1** The Zoning Ordinance will periodically be reviewed to ensure that the specific regulations for each Zoning District are aligned with the desired character and focus of each district.

**Goal 2.2:** Development that is located in appropriate locations

# Rezoning Staff Report

RZ Case # RZ-14-12

Page 3

## LDP Goals/Policies Which Do Not Support Request

### Recommendation

Approve

### Reason for Recommendation

The Land Development Plan emphasizes periodic review of provisions within the zoning ordinance to ensure that they are up-to-date with current legislation and land use trends, which is the intent of the proposed amendments. Staff recommends approving the proposed text amendments to improve clarity, reflect current state legislation, streamline review processes, and better mirror model language provided by the State of North Carolina. The proposed amendments are also intended to ensure that certain land uses requiring special care due to their potential negative external impacts are managed effectively through appropriate siting and development standards.

### Evaluation of Consistency with Adopted Comprehensive Plans/Reasonableness and Public Interest

As described in the above staff recommendation, staff believes that the proposed text amendments are consistent with the adopted comprehensive plan, reasonable, and in the public interest in protecting public health, safety, and general welfare.



**RZ-14-12 Text Amendments to the Zoning Ordinance**

**1.) Watershed Protection Ordinance**

**2.) Accessory Apartments**

**3.) Correctional and Recovery Facilities**

Staff Note: The following text is a preliminary draft of the proposed amendments.

## Zoning Ordinance Proposal Concerning Watershed

### 310B.3 Back Creek Lake Watershed -- Balance of Watershed UT to Cedar Creek -- Balance of Watershed WS-II-BW

#### A. Intent.

In order to maintain a predominantly undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per acre. All other residential and nonresidential development shall be allowed a maximum of 12% built-upon area. In addition, non residential uses may occupy ten percent (10%) of the balance of the watershed which is outside the critical area, with a seventy percent (70%) built upon area when approved as a special non residential intensity allocation (SNIA).

The City Council is authorized to consider a Special Use Permit for SNIAs consistent with the provisions of Article 600 and Section 647.

#### 1. Allowed Uses:

- a. All uses allowed in the underlying zoning districts where the watershed is located, subject to the modifications noted below unless specifically excluded in (2) Prohibited Uses.
- b. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- c. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- d. Non-discharging landfills and sludge application sites are allowed.

#### 2. Prohibited Uses:

- a. discharging landfills.
- b. new underground fuel or chemical storage tanks.
- c. storage of hazardous materials ~~except by Special Use Permit as set forth in Article 600 as provided in 3, Hazardous Material Storage Requirements.~~

#### 3. Hazardous Material Storage Requirements:

- a. The applicant shall submit a spill prevention, containment, and control plan (SPCC) prepared by a professional competent in SPCC development.
- b. The SPCC shall demonstrate that the proposed hazardous materials which are to be stored cannot pose a threat of contamination to the watersupply

c. All spill containment structures shall be designed by a North Carolina registered professional engineer or architect.

d. The applicant shall enter into a binding Operation and Maintenance Agreement between the City of Asheboro and all interests in the development. Said agreement shall require the owning entity to maintain, repair, and if necessary, reconstruct any spill containment structure in accordance with the operation and management plan or manual provided. The Operation and Maintenance Agreement shall be filed with the Randolph County Register of Deeds by the Watershed Review Board.

e. The spill containment structure shall be inspected by the Watershed Administrator, or his designated representative, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide a certification sealed by an engineer or architect stating that any spill containment structure is complete and consistent with the approved plans and specifications.

f. A Watershed Protection Occupancy permit shall not be issued for any building within the permitted development until the SPCC is approved and any spill containment structure's construction has been properly certified approved.

g. The property owner shall have all spill containment structures inspected at least on an annual basis to determine whether the controls are performing as designed and intended.

h. In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All corrective action or improvements shall be made consistent with the plans and specifications and the operation and maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed corrective action or improvements.

B. Density and Built-upon Limits:

1. Single family Residential -- development shall not exceed one dwelling unit per acre on a project by project basis. No residential lot shall be less than one acre, except within an approved cluster development.
2. All other residential and nonresidential development shall not exceed twelve (12%) percent built-upon area on a project by project basis except that up to ten percent (10%) of the balance of the watershed may be developed for nonresidential uses to seventy percent (70%) built upon area on a project by project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

642 Storage of Hazardous Material within Balance of Watershed (Reserved for future amendments)

~~No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from the absence or improper implementation of a spill containment plan for hazardous materials or any other situation found to pose a threat to water quality.~~

~~642.1—Application of this SUP shall demonstrate that the proposed hazardous materials which are to be stored cannot pose a threat of contamination to the watersupply~~

~~642.2—All spill containment structures and plans shall be designed by a North Carolina registered professional engineer or architect.~~

~~642.3—All spill containment structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance. Financial assurance shall be in the form of a Security Performance Bond. The bond shall be in an amount equal to 1.25 times the total cost of the spill containment structure. *(The total cost shall include the value of all materials; design and engineering; and grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.)*~~

~~642.4—The applicant shall enter into a binding Operation and Maintenance Agreement between the Watershed Review Board and all interests in the development. Said agreement shall require the owning entity to maintain, repair, and if necessary, reconstruct the spill containment structure in accordance with the operation and management plan or manual provided by the developer. The Operation and Maintenance Agreement shall be filed with the Randolph County Register of Deeds by the Watershed Review Board.~~

~~642.5—The spill containment structure shall be inspected by the Watershed Administrator, or his designated representative, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:~~

~~1.—A certification sealed by an engineer or architect stating that the spill containment structure is complete and consistent with the approved plans and specifications.~~

~~2.—The Watershed Administrator shall approve the materials submitted by the developer and the inspection report.~~

~~a.—A Watershed Protection Occupancy permit shall not be issued for any building within the permitted development until the spill containment structure and/or plan is approved.~~

b. ~~All spill containment structures shall be inspected **at least on an annual basis** to determine whether the controls are performing as designed and intended.~~

~~In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications and the operation and maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed improvements.~~

# Zoning Ordinance Proposal Concerning Accessory Apartments

## ARTICLE 1100

### Accessory Apartments

A ~~second~~ dwelling unit, either in or added to an existing ~~single family detached principal~~ dwelling or in a separate accessory structure on ~~a lot containing a the same lot as the main~~ principal dwelling, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation, and sleeping ~~for use by an a extended family member on a noncommercial basis. Such use shall not include manufactured homes as the accessory structure.~~

## ARTICLE 300

### 303 Accessory detached Structures

Accessory structures shall be permitted in all districts subject to the Floor Area Ratio restrictions in those Districts where FAR applies. In no instance shall the FAR of all permitted structures exceed the maximum permitted for that lot. Accessory structures lawfully in existence prior to the application of these requirements which otherwise conformed to this Article shall be considered conforming uses.

303.1 Accessory detached structures including, but not limited to storage shed, storage tank, greenhouse, horse stall, gazebo or garage shall be permitted in residential districts provided that all of the following are met:

(a) There shall be a dwelling located on the lot.

(b) In the R-40, R-15 and R-10 districts, accessory structures shall be located no closer than 10 feet to any rear or side lot line.

(c) In the R-7.5, RA-6, OA-6, O&I, M and TH districts, accessory structures shall be located no closer than 5 feet to any rear lot line or no closer than 5 feet to side lot line.

~~(d) If the accessory structure is to be used for an accessory apartment, the same setback requirements in (c) above shall be met. However, there can be no dwelling unit closer than 10 feet to the accessory apartment as per the N. C. Building Code.~~

(ed) Recreational equipment including but not limited to basketball hoops, slides, swings, jungle gyms, and volleyball nets may encroach into front yard setbacks for a distance of up to ten feet in residential districts. Recreational vehicles shall comply with setbacks as established in Section 303A.

### 303.2 Accessory Apartments

(a) No more than one (1) accessory apartment is permitted on the same lot with a principal dwelling, except that one (1) Temporary Family Health Care Structure as defined by G.S. 160A-383.5 shall be permitted notwithstanding the presence of an accessory apartment.

(b) The accessory structure setback requirements listed in 303.1 shall be met.

(c) Accessory apartments shall be constructed and located in accordance with the standards set forth in the North Carolina State Building Code. A manufactured/mobile home is not a permitted accessory apartment.

(d) Except for accessory apartments that qualify as a Temporary Family Health Care Structure as defined by G.S. 160A-383.5, accessory apartments shall be permitted as an accessory to single-family dwelling only.

(e) Accessory apartments shall be occupied by a relative of the occupant or owner of the principal dwelling located on the lot.

~~303.2~~ 303.3 Accessory detached structures in commercial and industrial districts shall be permitted provided that all of the following is met:

(a) In commercial districts, accessory structures, with the exception of accessory recreational equipment, must meet all setback requirements. Recreational equipment including but not limited to basketball hoops, slides, swings, jungle gyms, and volleyball nets may encroach into front yard setbacks for a distance of up to ten feet in commercial districts. Equipment, structures, and/or rides associated with Circuses, Carnivals, Fairs, and Limited Duration Events shall not be considered accessory recreational equipment. No accessory structure may be located within any required buffer yard.

(b) In industrial districts, accessory structures must meet all setback requirements, and no accessory structure may be located within any required buffer yard.

~~303.3~~ 303.4 Accessory structures shall be limited to 25 feet in height except television and radio receiving and transmitting antenna and their supporting structures which shall be permitted to exceed this limit. No such antenna shall be permitted to exceed seventy five (75) feet in height in any residential district or one hundred (100) feet in any other district except as permitted in Section 302.4.

**TABLE 200-2**

**Accessory Apartment - ~~Non Commercial~~ — ~~Manufactured homes not permitted~~ Refer to Section 303**

**Delete Note 1 (shown below) from Table and Notes section**

~~For related family members only of the owner who shall reside at the residence.~~

# Zoning Ordinance Proposal Concerning Correctional Facilities

## Current Zoning Ordinance

### I. Correctional facilities

#### Current Ordinance:

Article 1100 defines a correctional facility as "a public facility for the housing of persons convicted of a crime".

#### Table 200-2

Correctional Facilities are permitted by right in B2 (General Commercial), B3 (Central Commercial), I1 (Light Industrial), and I2 (General Industrial) districts.

Correctional facilities are in a Buffer Group 3. *Staff Note: The buffer group relates to the width and amount of landscaping or screening required along the perimeter of property adjacent to other adjacent uses. The buffer or screen number ranges from one (1) to three (3). Buffer Group 1 requires the least amount of planting or screening materials and width; Buffer Group 3 requires the most.*

#### Proposal:

Leave the definition as-is.

Leave the use as a Buffer Group 3.

Remove "correctional facilities" as a permitted use in the B3 (Central Business) zoning district.

# Zoning Ordinance Proposal Concerning Professional Residential Facilities/Structured Environment

## II. Professional Residential Facilities/Structured Environment (Halfway Houses)

### Current Ordinance:

"Professional Residential Facility" and "Structured Environment- halfway houses" are grouped into the same use in the Table of Uses 200-2. They are permitted with a Special Use Permit in the B2 (General Commercial) and B3 (Central Commercial Districts). They are defined separately (in Article 1100).

### Table 200-2:

The use (listed in Table 200-2 as "Professional Residential Facility/Structured Environment(halfway houses):"

Permitted in the B2 (General Commercial) and B3 (Central Commercial) Districts with a Special Use Permit.

Professional Residential Facility/Structured Environment are in a Buffer Group 2.

### Proposal:

#### Delete "professional residential facility" and "structured environment" definitions from Article 1100 (Definitions).

~~Professional Residential Facility: Any residential establishment, other than a hospital or nursing home, providing to persons in need of a structured environment board, lodging, supervision, medication, counseling, or other diagnostic or therapeutic services and licensed by the N.C. Department of Social Services.~~

~~Structured Environment: A residential setting within which persons, progressing from relatively intensive treatment for crime, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions to full participation in community life, are provided professional staff services, as well as board, lodging, supervision, medication and other treatment.~~

#### Add new use, "Professional Recovery Facility." Add a definition to Article 1100 (Definitions) as follows:

Any establishment, other than a family care home, hospital or nursing home, licensed by the N.C. Department of Social Services, or other unit of state government, to provide persons a structured environment. A structured environment shall be defined as a setting within which persons, progressing from relatively intensive treatment for crime, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions to full participation in community life, are provided professional staff services, as well as board, lodging, supervision, medication and other treatment.

#### Amend definition of "Congregate Living Facility" as follows:

Any building, buildings, section of a building, or distinct part of a dwelling unit, home for the aged or other place, whether operated for profit or not, which undertakes through its ownership or management to provide to individuals, for a period exceeding twenty-four hours, housing,

food services, and one or more personal care services. For purposes of this definition "Personal Care Services," means services, in addition to housing and food service which include, but are not limited to, personal assistance with bathing, dressing, ambulation, supervision of self-administered medication, transportation, emotional security, and other related service. Furthermore, personal care services are deemed to include on-site ancillary services to mentor and provide personal support and improve life skills of residents, including but not limited to, job training, homemaking skills, personal budgeting, parenting, personal counseling and GED programs. Personal care services do not include nursing or medical treatment. Such facilities shall contain congregate kitchen, dining and living areas only, with separate sleeping rooms. Further, such facilities shall not be used for those persons in need of a structured environment, as it is defined herein. For purposes of this Ordinance, Congregate Living Facilities shall not be deemed to include boarding/rooming houses; fraternities/sororities; monasteries; convents; hotels/motels; professional residential recovery facilities; or nursing, convalescent and extended care facilities. A congregate living facility is synonymous with a family care home as defined by NCGS § 168, Article 3.

#### **Table of Uses 200-2**

**Delete notation in "Congregate Living Facility" use stating "DOES NOT INCLUDE STRUCTURED ENVIRONMENT."**

#### **Proposed permitted districts for Professional Recovery Facility:**

B2 (General Commercial) with Special Use Permit (SUP) (which is currently required for professional residential facility/structured environment).

I1 (Light Industrial) by right (new)

I2 (General Industrial) by right (new)

*Staff Note: Proposed does not designate B3 as a district permitting the use.*

Designate the use as a Buffer Group 2.

#### **Table 400-1 Required Offstreet Parking Spaces**

Rename "Professional Residential Facility" to "Professional Recovery Facility"

**When a Special Use Permit is required (B2 District), rename the current Special Use Permit requirements of Section 639 from "Professional Residential Facility (Structured Environment)" to "Professional Recovery Facility" and amend as follows:**

~~639 Professional Residential Facility (Structured Environment)~~ Recovery Facility

~~639.1 All professional residential facilities shall have direct frontage onto a collector street as or arterial street, as shown on the Thoroughfare Plan.~~

~~639.12~~ No such use shall be established within one-half mile of another such use, congregate living facility, or family care home.

~~639.23~~ No sign identifying the facility shall be permitted beyond the name of the facility on the mailbox.

~~639.34 At the time of the Special Use request, the operator of such a the facility shall provide evidence information on, and if approved, shall be provided indicating utilize adequate measures to prevent the unauthorized exit of clients, the patients. The more dangerous the patients are to the public, the more elaborate and certain the security measures shall be.~~

693.45 The applicant shall prove the ability to meet and, if approved, maintain, all required governmental licensure requirements of any applicable state governmental body responsible for licensing operations of the facility.

~~639.5 Buffering and screening shall be as required by Article 300A.~~

~~639.6 Parking shall be provided as required by Article 400.~~

~~639.7 The facility shall comply with all applicable Federal, State and local requirements~~



**SUB-12-01:**  
**Subdivision Final Plat**

(Olde Towne Parkway: Olde Towne Village, Section II, Phase II )

**Staff Report**

**SUBDIVISION STAFF REPORT**  
Final Plat

**CASE #** SUB-12-01

**Date** 10-6-14 PB  
10-9-14 CC

**GENERAL INFORMATION**

**Subdivision Name** Olde Towne Village Section II, Phase II  
**Requested Action** Final Plat Approval  
**Applicant** Carolina Bank  
**Address** PO Box 10209; Greensboro, NC 27404  
**Phone** 336-318-1381  
**Location** South side of Old Lexington Road

**PARCEL INFORMATION**

**PIN** 7741980250 (portion)  
**Size** 0.21 acres (+/-) of 21.61 acres +/- total;      **Number of Lots** 1  
**Average Lot Size** 3,528 square feet  
**Existing Zoning** CU-R10  
**Existing Land Use** Residential PUD  
**Surrounding Land Use**  

<b>North</b>	Low-density residential	<b>East</b>	Low-density residential
<b>South</b>	Undeveloped	<b>West</b>	Low-density residential

**LAND DEVELOPMENT PLAN**

**Growth Strategy Map** Long-Range Growth  
**Proposed Land Use Map** Suburban Residential  
**Small Area Plan Map** Northwest  
**Identified Activity Center?** No

**Development Issues** 1. The current request for this phase of development includes extension of Olde Towne Parkway approximately 110' (street, sidewalks, water/sewer) and platting of Lot 52.  
  
2. The request includes a temporary turnaround at the end of Olde Towne Parkway, which is required in order to plat Lot 52. A temporary easement is required for this turnaround for emergency and sanitation vehicles until the completion of Olde Towne Parkway.

**SUBDIVISION STAFF REPORT**  
Final Plat

**DEPARTMENT COMMENTS**

**Engineering**      Plat comments have been addressed.

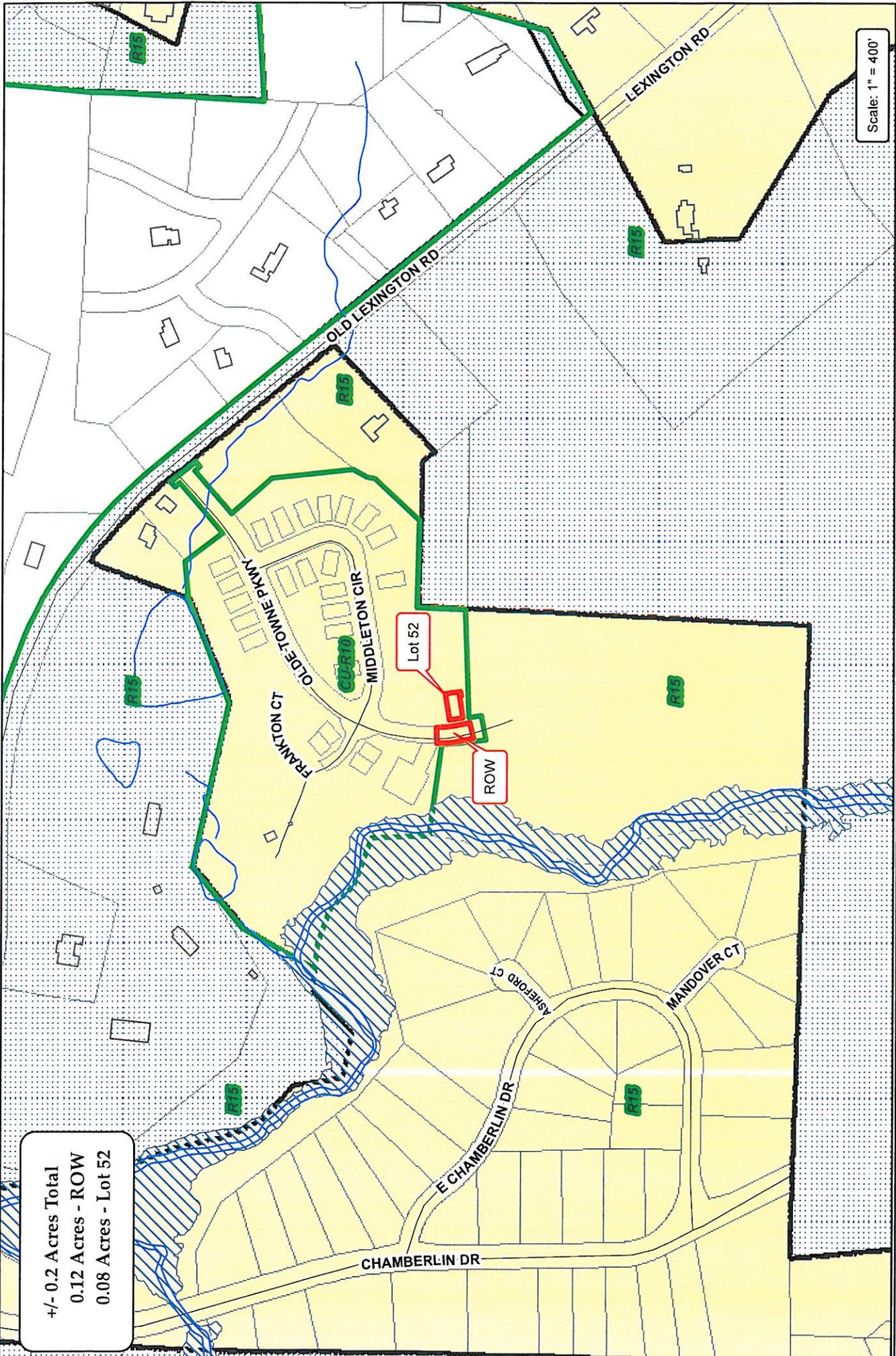
**Public Works**      Infrastructure for this phase of development (final layer of asphalt, sidewalks, street seeding) must be completed or guaranteed as allowed by the Subdivision Ordinance prior to City Council review of the final plat on October 9, 2014. Temporary turnaround must be installed with required temporary easement to meet City requirements.

**Planning**            Plat comments have been addressed.

**Other**                N/A

**Staff Recommendation**      Approve subject to completion of required improvements or submittal of guarantee (as permitted by Subdivision Ordinance)

**Planning Board Recommendation**      Pending: The Planning Board will consider this request during its October 6, 2014 meeting.



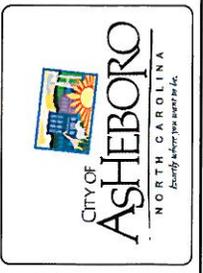
+/- 0.2 Acres Total  
 0.12 Acres - ROW  
 0.08 Acres - Lot 52

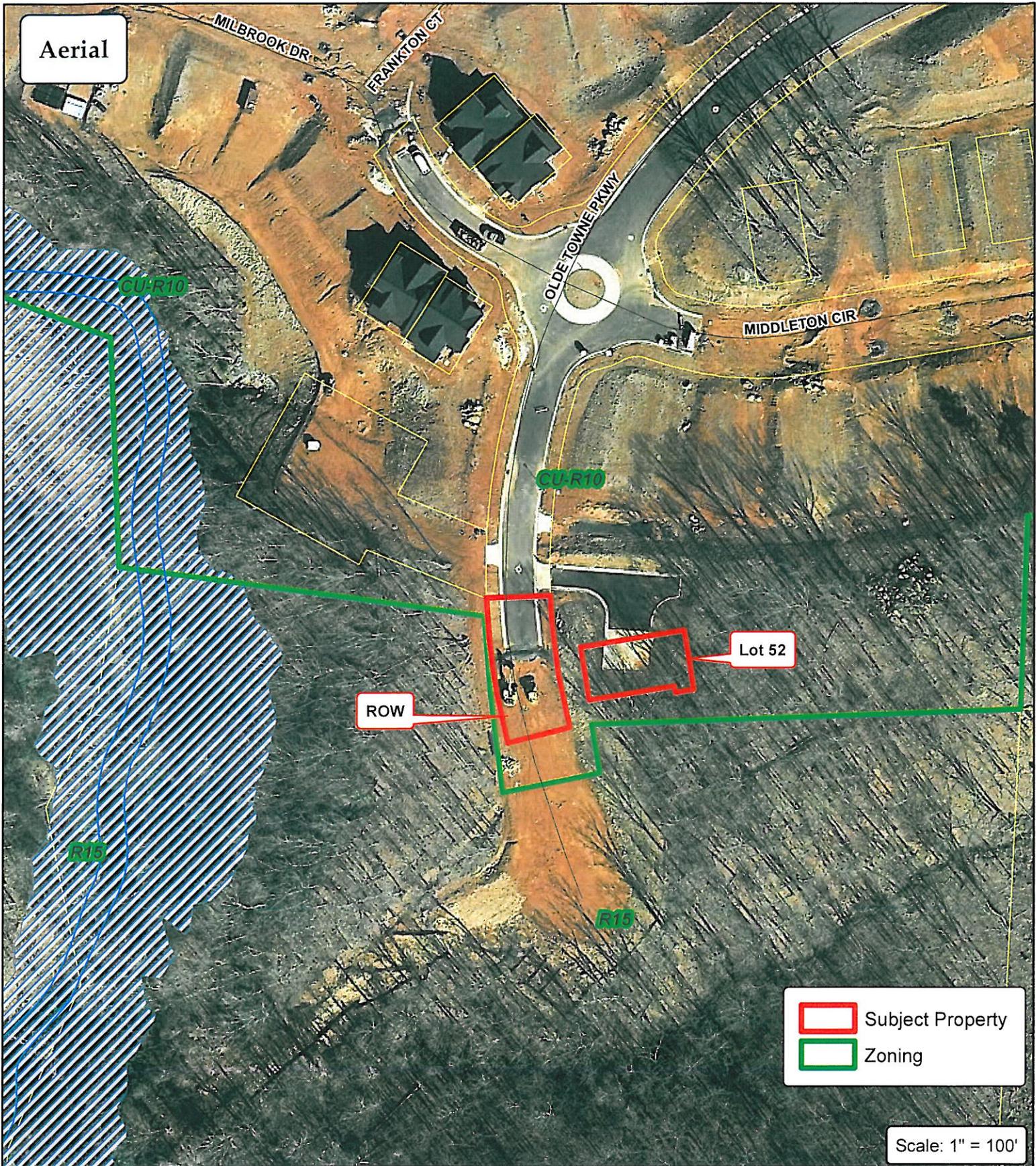
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Subject Property  
 Zoning  
 City Limits  
 ETJ

City of Asheboro  
 Planning & Zoning Department  
 Subdivision Case: SUB-12-01  
 Parcel: 7741980250 (pt)





Aerial

MILBROOK DR

FRANKTON CT

OLDE TOWNE PKWY

MIDDLETON CIR

CU-R10

CU-R10

R15

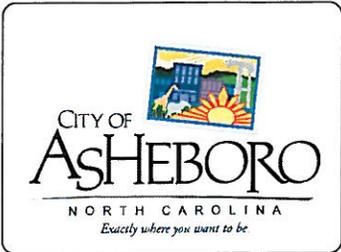
R10

Lot 52

ROW

Subject Property  
 Zoning

Scale: 1" = 100'



**City of Asheboro**  
**Planning & Zoning Department**  
**Subdivision Case: SUB-12-01**  
**Parcel: 7741980250 (pt)**



