



**Asheboro Planning Board**  
**Asheboro City Hall (146 N. Church Street)**  
Monday, August 3, 2015  
**7:00 PM**  
**AGENDA**

- I. Call to Order
- II. Consent Agenda Items
  - a.) Approval of Minutes from July 6, 2015 meeting
  - b.) Approval of the General Account of a Closed Session conducted during the July 6, 2015 Meeting
  - c.) Approval of Findings of Fact, Conclusions, and Order for Board of Adjustment Case Number BOA-15-02 (Variance from front yard setback and front yard averaging requirements, Asheboro Zoning Ordinance, Table 200-1 and Section 305): Lawson Court and Homeplace Drive
- III. Review of Cases
- IV. Rezoning Case RZ-15-07: Rezone from R7.5 (Medium-Density Residential) to M (Mercantile): 1202 South Cox Street
- V. Items Not on the Agenda
- VI. Adjournment

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**MEETING OF THE ASHEBORO PLANNING BOARD  
CITY COUNCIL CHAMBERS, 146 N. CHURCH ST.  
MONDAY, JULY 6, 2015  
7:00 p.m.**

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

Van Rich ) - Chair  
James Lindsey ) - Vice Chair

Ritchie Buffkin )  
David Henderson ) - Members Present  
Thomas Rush )  
Dave Whitaker )

Lynette Garner ) - Members Absent

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

Six (6) citizens were present at this meeting.

**I. CALL TO ORDER**

Mr. Van Rich called the Asheboro Planning Board to order.

**II. APPROVAL OF MINUTES FROM JUNE 1, 2015 MEETING**

Mr. Rich inquired if there were any corrections to be made to the minutes of June 1, 2015. There being no corrections, the minutes were approved as presented.

**III. REVIEW OF CASES**

Mr. Justin Luck informed the board of the zoning related cases that the City Council heard in June.

**IV. OLD BUSINESS: REZONING CASE RZ-15-05: GENERAL TEXT AMENDMENTS TO THE ZONING ORDINANCE (ARTICLES 100 THROUGH 400 AND ASSOCIATED CHANGES TO ARTICLE 1100:DEFINITIONS)**

Mr. Nuttall presented an update of Zoning Ordinance text amendments to the board. He highlighted points that had been discussed at previous meetings and then went over some new changes to the amendments, which included Article 500 regarding content neutrality for signage and also Article 300A in how performance and design standards are regulated for single and two family dwellings due to changes in the general assembly. He stated that the City of Asheboro already had exemptions for performance and design standards related to single family dwellings, but had to alter language that would exempt two family dwellings from these standards. He stated that staff's recommendation was to send the amendments to the City Council at their July 16 meeting with a favorable recommendation. He also provided a consistency statement for the board's consideration. Upon motion by Mr. Whitaker and seconded by Mr. Henderson, the Board unanimously voted to send the amendments to City Council for their review at the July 16, 2015 regular City Council meeting with a favorable recommendation.

**V. PLANNING BOARD FUNCTIONING AS BOARD OF ADJUSTMENT (CASE NO. BOA-15-02): VARIANCE FROM FRONT SETBACK AND FRONT YARD AVERAGING REQUIREMENTS (ASHEBORO ZONING ORDINANCE, TABLE 200-1 AND SECTION 305): LAWSON COURT AND HOMEPLACE DRIVE**

Prior to presenting the case, Mr. Luck stated that this case involves a quasi-judicial hearing and that all who wished to speak on the matter would need to be sworn in before they provided testimony. At that time, Mr. Luck, along with five (5) others, including Mr. Robert Dischinger, Ms. Rita T. Minick, Mr. Herbert B. Parks, Mr. Robert W. Johnson and Mr. Barry G. Day, were sworn in to provide their testimony.

Mr. Luck informed the board and the applicant that variance cases would require a 4/5th majority vote to be granted and that, in the absence of Ms. Garner, a unanimous vote would need to occur. He then asked the applicant if he wished to proceed with the case. The applicant stated that he wanted to proceed.

Mr. Luck then utilized a visual presentation, which included maps of the location, photos from multiple directions, and a variance exhibit map submitted by the applicant, to provide the staff's analysis of the variance requests. Copies of the visual presentation utilized by the zoning administrator and the written staff report, including the written statement submitted as part of the application for variance, are on file with the Board's secretary. The narrative of the staff report is as follows:

This lot was created in 1999 as part of Kamelot Subdivision Section 3. The lot meets both the minimum area and minimum road frontage required for a legal R15 lot. This lot was purchased by the current owner on June 6th, 2012. Being a corner lot, the Asheboro Zoning Ordinance requires a front yard along both Homeplace Drive and Lawson Court. The minimum front yard in the R15 district is 30 feet. Furthermore, due to the front yard averaging provision of Section 305, a 46 foot front yard is required along Lawson Court due to the setback of neighboring homes to the south. No averaging is required along Homeplace Dr. as there are no adjoining homes. The applicant requests a variance to reduce the minimum front yard along Homeplace Drive by four (4) feet (Allowing a setback of 26 feet) and along Lawson Court by 11.5 feet (Allowing a setback of 34.5 feet).

After the zoning administrator completed his presentation, including an opportunity for questions to be asked, the applicant's engineer, Mr. Robert Dischinger, gave his expert testimony in support of the applicant's request. During his testimony, Mr. Dischinger entered two photographs into the record and handed up a written document designed to summarize the applicant's contention that the standards for granting the requested variances had been satisfied.

When the Board Chair asked for any testimony in opposition to the application for variances, Ms. Rita T. Minick, who lives at 3032 Lawson Court, testified in opposition to the request. Ms. Minick did not believe the applicant's request met the standards for the granting of a variance. In addition to her testimony, Ms. Minick handed up to the Board copies of the restrictive covenants for the neighborhood in support of her contention that the applicant's request does not conform to the setback requirements found in the restrictive covenants.

In addition to the testimony provided by Ms. Minick, Mr. Robert W. Johnson, who lives at 3064 Kamerin Street, offered testimony in opposition to the application for variances. Mr. Johnson described problems associated with the developer that preceded the applicant and also expressed concerns about soil compaction and the potential environmental impact of the development of the subject lot.

The Board Chair gave the engineer, Mr. Dischinger, an opportunity to address the engineering/environmental concerns raised by the individuals who offered testimony in opposition to the applicant's request. During the engineer's testimony, Mr. Barry G. Day, who resided at 3093 Kamerin Street, raised questions about soil erosion issues that were addressed by the engineer.

Throughout the hearing, there were a number of questions and comments by both Board Members and citizens. An audio recording of the hearing is on file with the Board's secretary.

At the conclusion of the discussion, the Board Chair asked for a motion. Mr. Whitaker made a motion to approve the requested variances. At this time there was no second to his motion, therefore the motion died.

Mr. Rush then made a motion to deny the variance request, and Mr. Henderson seconded the motion. The motion failed on a vote of two (2) ayes (Mr. Rush and Mr. Henderson voting to approve the motion) and four (4) no votes (Mr. Buffkin, Mr. Lindsey, Mr. Rich, and Mr. Whitaker voted against the motion).

In the aftermath of the initial motion that failed to gain a second and the subsequent motion that only received two (2) affirmative votes, a question arose as to the correct procedural path to follow. After some discussion, the Board Chair entertained a motion to go into closed session so that the Board could consult with the city attorney and preserve the attorney-client privilege.

**a. Closed Session**

Upon motion by Mr. Buffkin and seconded by Mr. Whitaker, the Board unanimously voted to go into closed session.

A general written account of the closed session has been prepared for separate approval by the board.

**b. Return to Open Session**

Chairman Rich called the open session of the Board's meeting back to order. Mr. Rich informed the audience that no action was taken by the board in closed session.

After a brief discussion of his analysis of the evidence produced during the hearing, Mr. Whitaker renewed his motion to approve both of the requested variances, and Mr. Buffkin seconded the motion. At this point, the Board Members voted unanimously to approve both variance requests, wherein voting slips were signed and passed to the secretary. The variances were granted based on the four (4) standards for the granting of a variance being met. The stand-alone document with the findings of fact, conclusions of law, and order reflecting the Board's decision will be prepared and then submitted for approval at the Board's next regular meeting.

**VI. US HWY. 220 OVERLAY DISTRICT REVIEW: RANDOLPH COUNTY EMERGENCY SERVICES FACILITY (NEW CENTURY DRIVE)**

Mr. Evans presented the US Hwy. 220 Overlay District review to the board concerning a proposal by Randolph County to construct a public use facility for emergency services. The property is located on the west side of New Century Drive, behind the Randolph County administrative and Sheriff's Offices and is owned by Randolph County. He stated that this review is required due to the property's location within 500 feet of the centerline of US Hwy. 220 Bypass (I-73/I-74). He stated that the intent was to protect the existing natural character of the view from US Hwy. 220 Bypass. He showed overview, topographic and aerial maps of the property, photos of the property and vicinity, the landscaping plan and building elevations, which were submitted by the applicant, who had a representative (David Powlen) present. He mentioned the minimum building setbacks on both New Century Drive and US Hwy. 220 Bypass/I-73/I-74 are 10 feet and that the proposed principal structure is 105 feet from US Hwy. 220 Bypass. He also mentioned that a communication tower is shown on the plan and that the location of this tower must comply with the Zoning Ordinance and other applicable requirements must be met as part of the zoning compliance permit review. He stated that this was a time for the Planning Board to review landscaping and setbacks and engage in a dialogue with the developer if they had any suggested changes to the proposed plan to meet the intent of the district. He stated that staff had no objection to the proposed setbacks and landscaping, and advised the board that if they were satisfied with the proposal, their approval of the overlay district proposal should be subject to additional detail being provided for the communication tower for staff's Zoning review and that it meet all regulatory requirements. He offered to entertain any questions the board had. The board had no questions. Upon motion by Mr. Whitaker and seconded by Mr. Lindsey, the Board unanimously voted to approve the request, noting the comment about the communication tower.

**VII. PRESENTATION OF DRAFT LAND USE PLAN UPDATE MAPS**

Mr. Nuttall briefly updated the board on the progress made during the land use plan map update process. He stated that since January, staff has been working on this update and two (2) informational sessions were held in June. He showed the board a draft proposal of the 2020 Proposed Land Use map. He stated that there were fewer changes to the map than were originally anticipated and such are highlighted with a black outline. He went over certain reasons why the maps are changing, including public infrastructure changes and development that has occurred since 2000. He went over a few of the proposed areas to be updated including Greensboro Street, McDowell Road and some parts of East Salisbury Street and Dublin Road. He stated that an updated Zoning map, as well as the Growth Strategy map, would be included in the update and showed draft maps of such updates. He stated that by updating the maps, we hope to get another five (5) years of use and by the end of the plans term, we likely will be needing to perform a more comprehensive update to the Land Development Plan. He stated that no recommendation was necessary at this point and the updates would also be shown to the City Council at their July regular meeting.

### **VIII. ITEMS NOT ON THE AGENDA**

Mr. Nuttall mentioned that a North Carolina Housing Finance Agency representative would be coming to the July 16 City Council meeting to discuss the NC Prevention Foreclosure Fund. He then handed out some materials regarding the program. Mr. Henderson asked a question on how to obtain the funds. Mr. Nuttall stated that the representatives of the program are more than willing to hear any type of situation, so he urged the board to call the NC Housing Finance Agency if they had any questions. Mr. Buffkin asked about the All America City process. Mr. Nuttall stated that it was a very good learning opportunity. He stated that we did not receive the All America City award, but did get to hear from other communities and learn from their presentations. He stated that the city will likely apply again at a later date.

### **IX. ADJOURNMENT**

There being no further business to discuss, Mr. Rich adjourned the meeting.

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Bradley Morton, Secretary, Planning Board

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Van Rich, Planning Board Chairman

**GENERAL ACCOUNT OF A CLOSED SESSION**

**Asheboro Planning Board  
Council Chamber, 146 North Church Street  
Monday, July 6, 2015**

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Upon the unanimous adoption of a motion to go into closed session in order to consult with the city attorney about a matter that falls within the attorney-client privilege, a closed session was conducted under the authority of Section 143-318.11(a)(3) of the North Carolina General Statutes with the following officials and city staff members present:

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

Bradley Morton, Planning Technician/Deputy City Clerk  
Trevor Nuttall, Community Development Division Director  
Jeff Sugg, City Attorney

Upon going into closed session, the Board Chair asked the city attorney to address, in light of the attempted Board actions in open session, the question of the next procedural steps to be used to reach a final decision. Mr. Sugg stated that, with the exception of variance requests, the board acts collectively by means of a majority vote of the Board. The first motion in open session did not receive a vote because of a lack of a second. The second motion to deny the combined variance requests only received two (2) votes.

The absence of a majority indicated that the Board had not acted collectively as a public body to deny each of the applicant's requested variances. The presence of four (4) votes in opposition to the motion indicated that more support was present for at least one component of the applicant's requests than had been initially indicated by the lack of a second for the motion to approve both of the requested variances with one action.

Mr. Sugg advised the Board that the process of definitively resolving the level of support, or lack thereof, for one or more of the variance requests could be undertaken, upon returning to open session, by entertaining a motion once again to approve one of both of the requested variances. If only four (4) Board Members voted to approve the motion to grant one or more of the variance requests (the scope of the motion to approve the variance request would be within the discretion of the Board Member making the motion), then the Board Chair would rule the variance request(s) specified in the motion to be denied because of the absence of the statutorily mandated concurring vote of four-fifths of the Board (6 votes) needed to grant a variance.

Such a process of making and obtaining seconds for motions to approve the variance requests, either individually or in combination, would be followed until a final decision is entered, on the basis of the super majority standard, for the entirety of the applicant's request.

Before returning to open session, Mr. Sugg and the Board Members entered into a discussion about the standards for granting a variance. Due to the reference by a witness during the hearing to a court case that predated certain statutory changes, Mr. Sugg's of this topic focused on the differences between the standards in the Asheboro Zoning Ordinance prior to 2013 and the changes to the standards as consequence of legislative action. The majority of the time spent on this particular discussion pertained to the standard involving whether a hardship is self-created and the amendment of the former standard that an applicant must show there is no reasonable use of the property without a variance.

Upon the conclusion of this in-depth discussion, Mr. Buffkin moved, and Mr. Whitaker seconded, for the Board to return to open session. The Board Members voted unanimously to end the closed session and return to open session.

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Bradley Morton, Secretary, Planning Board

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Van Rich, Planning Board Chairman



**RZ-15-07: Rezone from Medium-Density Residential (R7.5)  
to Mercantile (M)**

(Rodger Chriscoe: 1202 South Cox Street)

**Staff Report**

# Rezoning Staff Report

RZ Case # RZ-15-07

Date 8/3/2015 PB  
9/17/2015 CC

## General Information

**Applicant** Rodger Chriscoe  
**Address** 6272 Foushee Road  
**City** Ramseur NC 27316  
**Phone** 336-953-7911  
**Location** 1202 South Cox Street

**Requested Action** Rezone from R7.5 (Medium-Density Residential) to M (Mercantile)

**Existing Zone** R7.5 **Existing Land Use** Undeveloped (dwelling removed in 2008)  
**Size** 0.31 acres +/- **Pin #** 7750879078

## Applicant's Reasons as stated on application

...To allow increased opportunity for business growth. This was vacant...un-maintained overgrown property. I plan to attract business which will maintain and enhance the property and contribute to tax base, etc...

## **Surrounding Land Use**

**North** Office/Residential Planned Unit Development **East** Office/Commercial  
**South** Office/Commercial **West** Single-family residence

## **Zoning History**

### **Legal Description**

The property of Chriscoe Properties, LLC, located at 1202 South Cox Street, more specifically identified by Randolph County Parcel Identification Number 7750879078, and totaling approximately 0.31 acres (+/-).

### **Analysis**

1. The property is inside the city limits. All city services are available.
2. South Cox Street is a state-maintained minor thoroughfare at this location.
3. The property is within the Center City Planning Area (Tier 3), which is identified as part of the city center by the Land Development Plan. Certain overlay requirements (parking location, impervious coverage, etc.) apply in the CCPA.
4. The surrounding area is characterized by a mix of uses including single family and multi-family residential (Planned Unit Development), commercial uses, and offices.
5. The property is undeveloped. A single-family dwelling was previously located on the property.
6. Approval of the request would permit all uses permitted by right in the Mercantile (M) District. The Mercantile District permits a broader range of commercial uses than found in the B1 (Neighborhood Commercial) Zoning District, but excludes uses that are permitted in the B2 (General Commercial) District that would likely have the greatest negative impact on adjacent residential properties. Residential uses are not a permitted use in the M District. The maximum floor area for a property in the M district is 6,000 square feet (1,500 s.f. for an eating establishment).
7. An application has been filed for a variance from sidewalk requirements (See Section 322A). The pending variance request to be heard September 14, 2015 is independent of the zoning map amendment request and not considered as part of this analysis.

# Rezoning Staff Report

RZ Case # RZ-15-07

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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.*

**Proposed Land Use Map Designation** City Activity Center  
**Small Area Plan** Central  
**Growth Strategy Map Designation** Primary Growth

## 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 4:** The proposed rezoning is compatible with surrounding land uses.

**Checklist Item 5:** The request is compliant with the Growth Strategy Map.

**Checklist Item 8:** The request is an adaptive reuse of a vacant or unused lot

**Policy 2.1.5:** City will ensure development regulations provide appropriate transitional land uses, such as office and institutional, between high-intensity industrial/commercial and low-intensity residential uses.

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

# Rezoning Staff Report

RZ Case # RZ-15-07

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## LDP Goals/Policies Which Do Not Support Request

**Recommendation** Approve

**Reason for Recommendation**

The property is located within the City Activity Center, which encourages a pedestrian-friendly mix of uses, and considers the land use patterns around the subject property, to determine appropriate zoning designations.

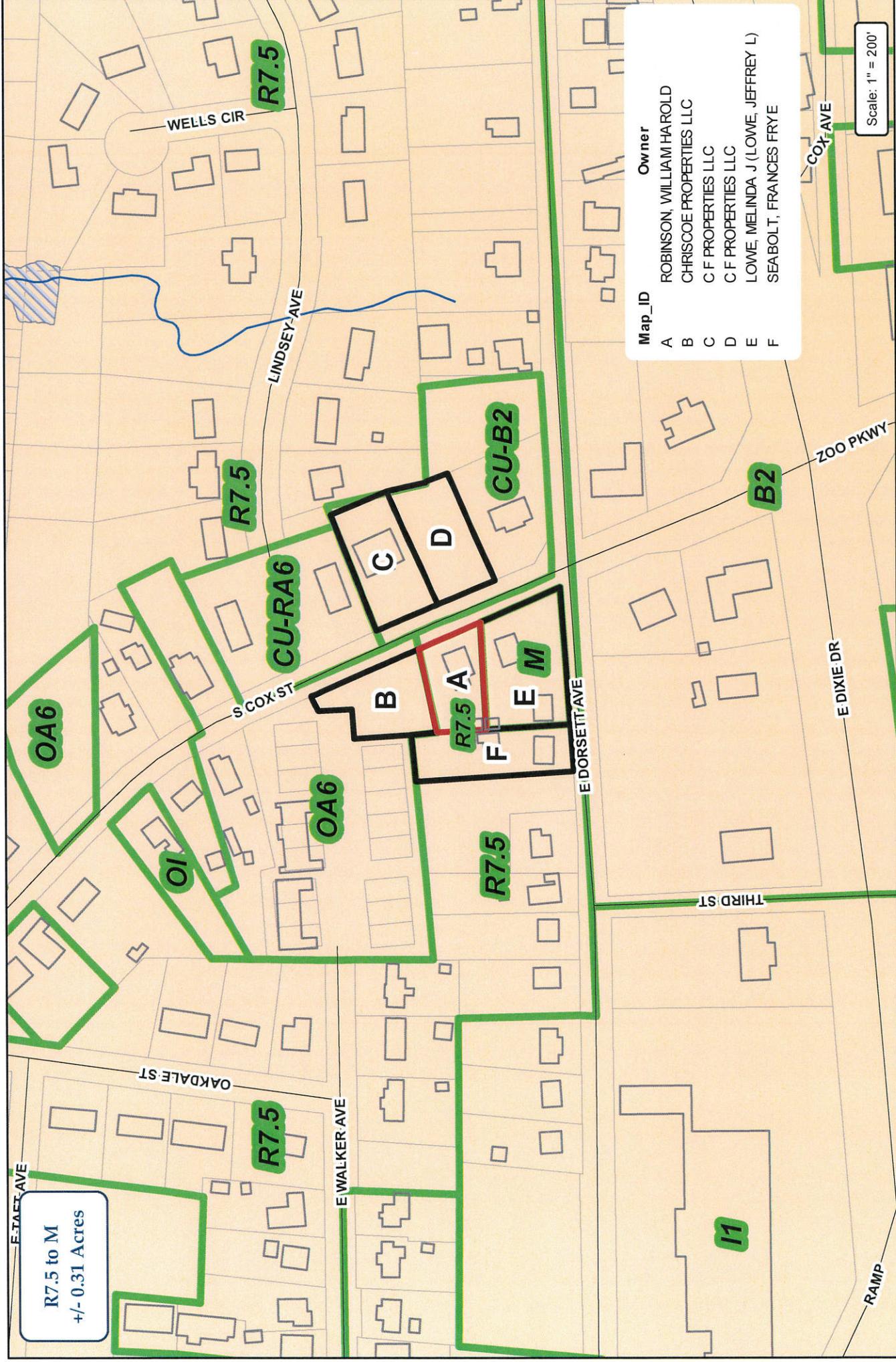
The Mercantile zoning district, which is also adjacent to the south of the property, provides a transition from the broader range of commercial activities to the south along East Dixie Drive and more limited office and residential activities to the north and west.

The Mercantile zoning district limits the size of buildings (and specific uses) and excludes the most intensive commercial uses to ensure harmony with adjacent residential property. Considering all of these factors, staff believes the rezoning request is within the public interest in supporting a reasonable use of property.

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

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





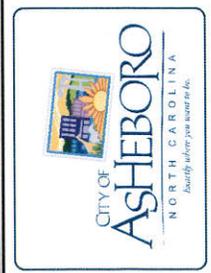
R7.5 to M  
+/- 0.31 Acres

Map_ID	Owner
A	ROBINSON, WILLIAM HAROLD
B	CHRISCOE PROPERTIES LLC
C	C F PROPERTIES LLC
D	C F PROPERTIES LLC
E	LOWE, MELINDA J (LOWE, JEFFREY L)
F	SEABOLT, FRANCES FRYE

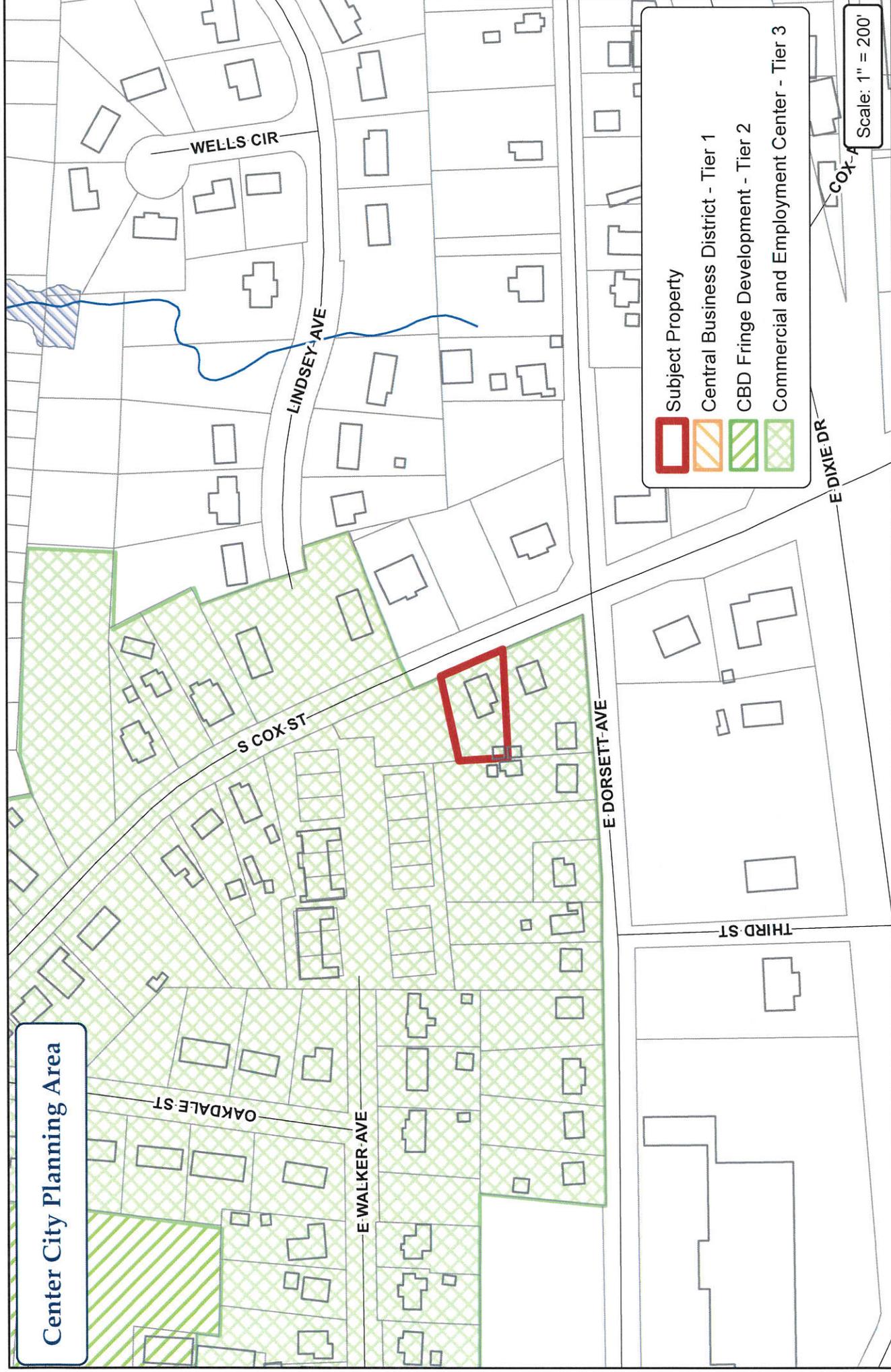
Scale: 1" = 200'

Subject Property  
Zoning  
City Limits  
ETJ

City of Asheboro  
Planning & Zoning Department  
Rezoning Case: RZ-15-07  
Parcels: 7750879078



Center City Planning Area



Subject Property

Central Business District - Tier 1

CBD Fringe Development - Tier 2

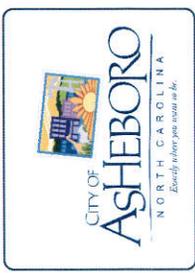
Commercial and Employment Center - Tier 3

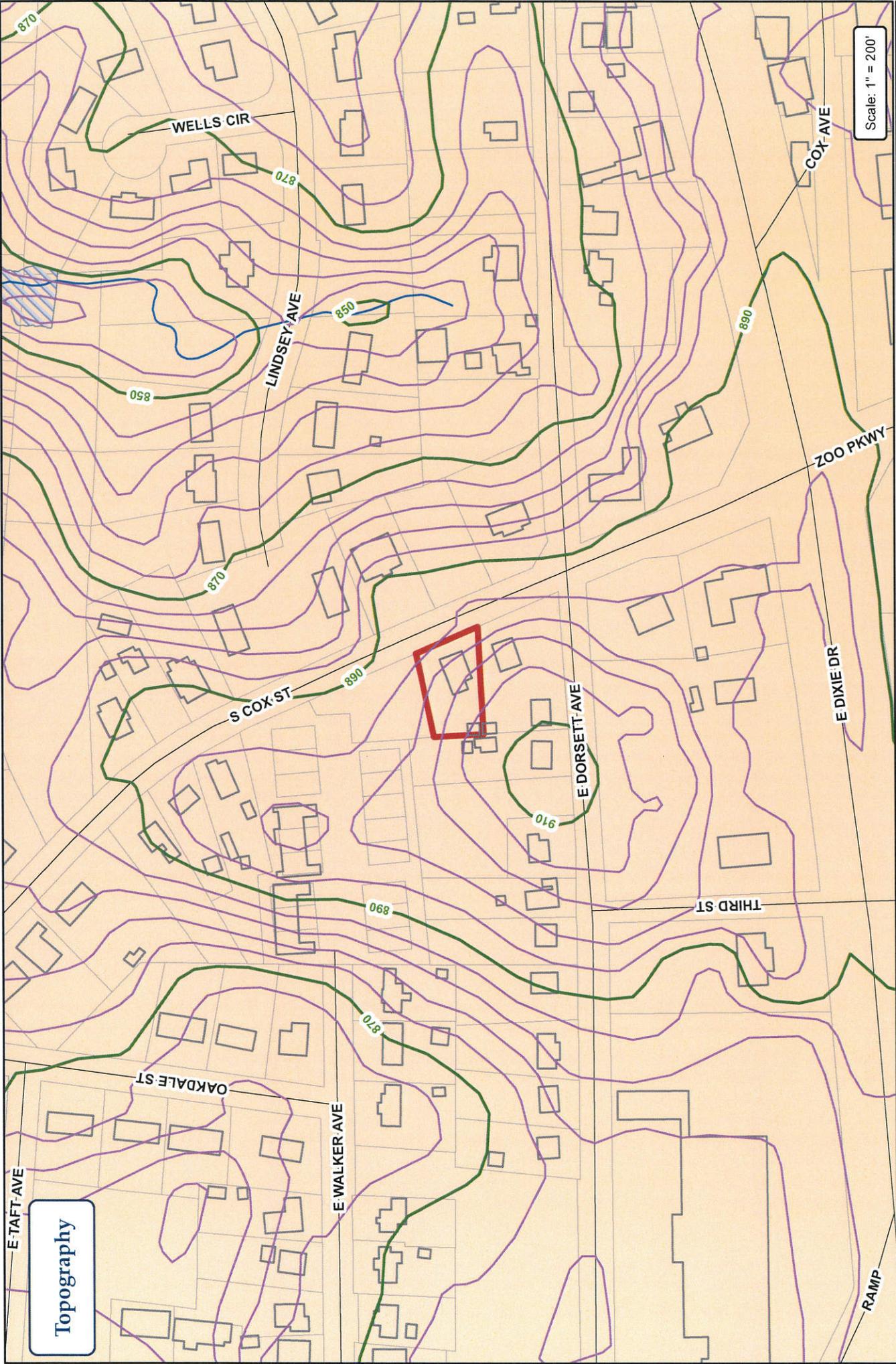
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City of Asheboro  
Planning & Zoning Department  
Rezoning Case: RZ-15-07

Parcel: 7750879078





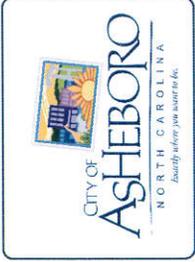
**Topography**

Scale: 1" = 200'



Subject Property  
 City Limits  
 ETJ

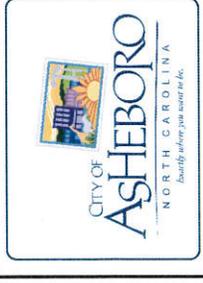
**City of Asheboro**  
**Planning & Zoning Department**  
**Rezoning Case: RZ-15-07**  
 Parcels: 7750879078





Subject Property  
Zoning

City of Asheboro  
 Planning & Zoning Department  
 Rezoning Case: RZ-15-06  
 Parcels: 7750879078



Aerial