

CITY OF CONCORD PLANNING & ZONING COMMISSION

Meeting Agenda

Tuesday, December 20, 2022 at 6:00 PM

City Hall Council Chambers - 35 Cabarrus Avenue West

**I. CALL TO ORDER - *Chair***

**II. CHANGES TO THE AGENDA**

**III. APPROVAL OF THE MINUTES - *Motion, second, and vote needed.***

**IV. OLD BUSINESS**

**V. NEW BUSINESS**

**1. Z(CD)-16-22**

**Kate Underwood.**, has submitted a Zoning Map Amendment application for +/- .953 acres of property located at 164 Wilkinson Ct. SE from RC (Residential Compact) to TND (Traditional Neighborhood Development) for the purpose of developing up to 8 single family detached houses. PINs 5630-18-0077 and 5630-18-2007.

- a. Open Public Hearing by Motion - *Motion, second, and vote needed.*
- b. Staff Presentation
- c. Staff Recommendation
- d. Applicant's/Proponent's Testimony
- e. Opponent's Testimony
- f. Close Public Hearing by Motion - *Motion, second, and vote needed.*
- g. Approve Statement of Consistency by Motion - *Motion, second, and vote needed.*
- h. Approve/Deny Zoning Amendment by Motion - *Motion, second, and vote needed.*

**2. Z-21-22**

**David and Georgia Berry** have submitted a Zoning Map Amendment application for +/- 3.215 acres of property located at 494 Corban Ave SE from RM-1 (Residential Medium Density) to C-2 (General Commercial). PIN 5630-59-7682 and p/o PIN 5630-68-0867.

- a. Open Public Hearing by Motion - *Motion, second, and vote needed.*
- b. Staff Presentation
- c. Staff Recommendation
- d. Applicant's/Proponent's Testimony
- e. Opponent's Testimony
- f. Close Public Hearing by Motion - *Motion, second, and vote needed.*
- g. Approve Statement of Consistency by Motion - *Motion, second, and vote needed.*
- h. Approve/Deny Zoning Amendment by Motion - *Motion, second, and vote needed.*

**3. TA-10-22**

**Kimberly M. Barb** has applied for a text amendment to Table 7.6.2.A. to add Note 5 to the O-I district max. building height column in Table 7.6.2.A that would allow multi-family buildings in the O-I district to have a height limit of four (4) stories.

- a. Staff Presentation
- b. Applicant's/Proponent's Testimony
- c. Commission Guidance *Motion, second, and vote needed.*

RECOGNITION OF PERSONS REQUESTING TO BE HEARD

**VI. MATTERS NOT ON THE AGENDA**

**VII. ADJOURNMENT**



**DATE:** December 20, 2022

**REZONING CASE #:** Z(CD)-16-22

**ACCELA:** CN-RZZ-2022-00009

**DESCRIPTION:** Zoning Map Amendment  
RC (Residential Compact) to TND (Traditional Neighborhood Development – Infill)

**APPLICANT/OWNER:** Charles and Stephanie Stapleton

**LOCATION:** 164 Wilkinson Ct SE

**PIN#s:** 5630-28-0077, 5630-18-2007

**AREA:** +/- 0.953 acres

**PREPARED BY:** George Daniels, Senior Planner

**BACKGROUND**

The subject property consists of two (2) parcels comprising approximately 0.953 acres on the south side of Wilkinson Ct SE. The property is currently undeveloped.

**HISTORY**

The property was annexed into the City before 1932 and the earliest recorded zoning was R-4 Residential. The zoning was converted to RC (Residential Compact) with the adoption of the Unified Development Ordinance (UDO) and remained with the conversion to the Concord Development Ordinance (CDO). The property is vacant and does not appear to have ever been developed in the past.

**SUMMARY OF REQUEST**

The applicant is requesting to rezone the subject property from RC (Residential Compact) to TND (Traditional Neighborhood Development – Infill) in order to construct eight (8) single family homes on the site. The TND zoning would allow for smaller lot sized than permitted in the RC (Residential Compact) zoning district.

The TND option is designed to permit the development of land in a manner consistent with traditional neighborhoods. Its provisions adapt the urban conventions which were normal in the United States from colonial times until the 1940's.

The TND zoning allows development either as a “greenfield” for larger parcels of raw land, or “infill” for smaller parcels in urbanized areas, such as the subject property. In October, 2016 a similar TND-infill zoning was approved on the west side of Marsh Avenue NW between Union Street North and Church Street. This zoning permitted the development of four (4) single family residences which equated to a density of 18 dwelling units per acre. The proposed density of the subject property is eight (8) units per acre. The Mixed Use Activity Center (MUAC) land use designation permits up to thirty (30) dwelling units per acre.

The surrounding zoning on all sides of the subject properties is RC (Residential Compact). The surrounding land uses are primarily residential apartments (multi-family) buildings. Directly to the east are the Colonial Heights apartment buildings which contains twenty (20) housing units. Across the street to the north is a single-story apartment building with four (4) units and two single family homes on individual lots. To the northwest further up on Wilkinson Ct SE there are twelve (12) newly constructed townhomes that back up to the downtown greenway. Directly to the west the adjacent property contains a duplex residential structure and then across Hopkins St SE there is a two-story apartment building that contains sixteen (18) units. To the south the subject property backs up to an unopened right-of-way and then to several single-family homes and a single-story apartment building that contains four (4) housing units.

The CDO specifies that TND zoning is processed as a conditional district and a site plan is required. The development will be required to match the submitted site plan, building elevations and specified conditions. A TND (Traditional Neighborhood District) is also required to have a set of restrictive covenants and a property owners association once developed.

The site plan has been reviewed by the Development Review Committee (DRC) and there are no objections to the proposed rezoning.

<b>Existing Zoning and Land Uses (Subject Parcel)</b>					
<b>Current Zoning of Subject Property</b>	<b>Zoning Within 500 Feet</b>		<b>Land Uses(s) of Subject Property</b>	<b>Land Uses within 500 Feet</b>	
RC (Residential Compact)	<b>North</b>	RC (Residential Compact)	Vacant land	<b>North</b>	Multi-family and single family residential
	<b>South</b>	RC (Residential Compact) & RM-1 (Residential Medium Density)		<b>South</b>	Multi-family and single family residential
	<b>East</b>	RC (Residential Compact)		<b>East</b>	Multi-family residential
	<b>West</b>	RC (Residential Compact)		<b>West</b>	Multi-family residential & single family attached

**COMPLIANCE WITH 2030 LAND USE PLAN**

The 2030 Land Use Plan (LUP) designates the subject property as “Mixed-Use Activity Center” for which TND (Traditional Neighborhood District) is listed as a corresponding zoning district.

**From the 2030 Land Use Plan – “Mixed-Use Activity Center”:**

*The intent of the Mixed-Use Activity Center (MUAC) Future Land Use category is to identify areas that serve broader economic, entertainment, and community activities as compared to mixed-use neighborhoods. Uses and buildings are located on small blocks with streets designed to encourage pedestrian activities. Buildings in the core of the mixed-use center may stand three or more stories. Residential units or office space may be found above storefronts. Parking is satisfied by using on-street parking, structured parking, and shared rear-lot parking strategies. Structured parking should be encouraged to be incorporated into the principal structure.*

**Policy Guidance:**

**Objective 1.6:**

*Provide a diverse mix and range of housing options throughout the City that will accommodate the current and future needs of the citizens of Concord.*

**Policy guidance for Objective 1.6:**

*Infill Housing: Promote a variety of compatible infill housing types in areas with access to adequate facilities and services.*

*Housing Balance: Ensure that zoning allows for a mix of housing types at a variety of prices to meet the demands of existing and future residents.*

*Mixed-Density Housing: Foster a compatible mix of higher density housing types at different densities within mixed-use activity centers and village centers.*

**SUGGESTED STATEMENT OF CONSISTENCY**

- The subject property is approximately +/- 0.953 acres and is zoned City of Concord RC (Residential Compact)
- The subject property was annexed into the City before 1932 and the earliest recorded zoning was R-4 (Residential), later converted to RC (Residential Compact)
- The proposed zoning is consistent with the 2030 Land Use Plan (LUP) as TND (Traditional Neighborhood Development) is a corresponding zoning classification to the Mixed-Use Activity Center classification and meets the policy guidance to promote infill housing development and a mix of higher density housing types.
- The zoning amendment is reasonable and in the public interest as it is complementary to the use, design and density with the adjacent residential land uses.

## **SUGGESTED CONDITIONS**

If approval is desired, staff recommends the following conditions:

1. Compliance with “Greenway Village Park Conditional Rezoning Plan” sheets C200CZ and C201CZ
2. Building elevations to be consistent in appearance and materials to the elevations submitted in the “House Scheme” document drawn by Objectechne Studio
3. Adoption of the “Restrictive Covenants for the Greenway Village Park” document as required for TND (Traditional Neighborhood District).
4. Technical site plan review and approval is required including all approvals from outside local, state and federal agencies
5. Accommodations for solid waste and recycling collection to be coordinated at time of technical site plan review.

## **PROCEDURAL CONSIDERATIONS**

This particular case is a rezoning, which under the CDO, is legislative in nature. Legislative hearings do not require the swearing or affirming of witnesses prior to testimony at the public hearing.

**APPLICATIONS NOT COMPLETED BY THE PUBLISHED APPLICATION  
DEADLINE WILL NOT BE CONSIDERED.**

**Required Attachments / Submittals:**

- 1. Typed metes and bounds description of the property (or portion of property) in a Word document format.
  
- 2. Cabarrus County Land Records printout of names and addresses of all immediately adjacent landowners, including any directly across the street.
  
- 3. **FOR CONDITIONAL DISTRICT APPLICATIONS ONLY**, a plan drawn to scale (conditional district plan), and elevations if applicable submitted digitally.
  
- 4. If applicable, proof of a neighborhood meeting (signature page) or receipt from certified letters mailed to adjoining property owners if project increases density or intensity (See Section 3.2.3). Staff will provide further information on this requirement during the required pre-application meeting.
  
- 5. Money Received by \_\_\_\_\_ Date: \_\_\_\_\_  
Check # \_\_\_\_\_ Amount: \$ 800.00 (Conditional) or \$600 (Conventional)  
Cash: \_\_\_\_\_

***The application fee is nonrefundable.***



(Please type or print)

Applicant Name, Address, Telephone Number and email address:

Kate Underwood, 45 Spring St. SW, Concord, NC 28025  
980-234-7500, kateunderwood@cesicgs.com

Owner Name, Address, Telephone Number:

Charles Stapleton and Stephanie Stapleton, 4779 Rocky River Rd., Concord,  
NC 28027

Project Location/Address: 164 Wilkinson Ct. SE, Concord, NC 28025

Parcel Identification Number (PIN): 5630-18-0077, 5630-18-2007

Area of Subject Property (acres or square feet): 0.953 Acres

Lot Width: 224' Lot Depth: 186'

Current Zoning Classification: RC

Proposed Zoning Classification: TND-CD

Existing Land Use: Vacant

Future Land Use Designation: Residential

Surrounding Land Use: North RC South RC  
East RC West RC

Reason for request:

Rezoning from RC to TND-CD

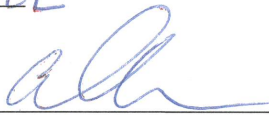
Has a pre-application meeting been held with a staff member? \_\_\_ Yes \_\_\_ No

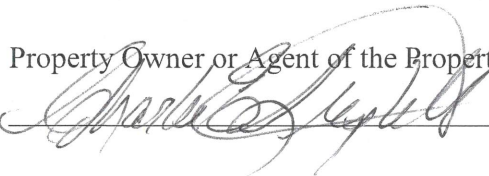
Staff member signature: \_\_\_\_\_ Date: \_\_\_\_\_

***Certification***

*I hereby acknowledge and say that the information contained herein and herewith is true, and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the City of Concord Development Services Department.*

Date: 14 July 2022

Applicant Signature: 

Property Owner or Agent of the Property Owner Signature: 



**THIS PAGE APPLICABLE TO CONDITIONAL DISTRICT REQUESTS ONLY**

(Please type or print)

1. List the Use(s) Proposed in the Project:

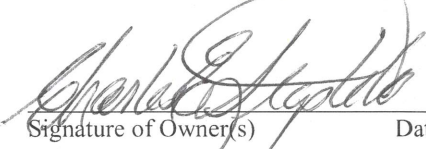
Infill single family residential development

2. List the Condition(s) you are offering as part of this project. Be specific with each description.

(You may attach other sheets of paper as needed to supplement the information):

I make this request for Conditional district zoning voluntarily. The uses and conditions described above are offered of my own free will. I understand and acknowledge that if the property in question is rezoned as requested to a Conditional District the property will be perpetually bound to the use(s) specifically authorized and subject to such conditions as are imposed, unless subsequently amended as provided under the City of Concord Development Ordinance (CDO). All affected property owners (or agents) must sign the application.

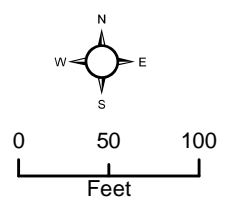
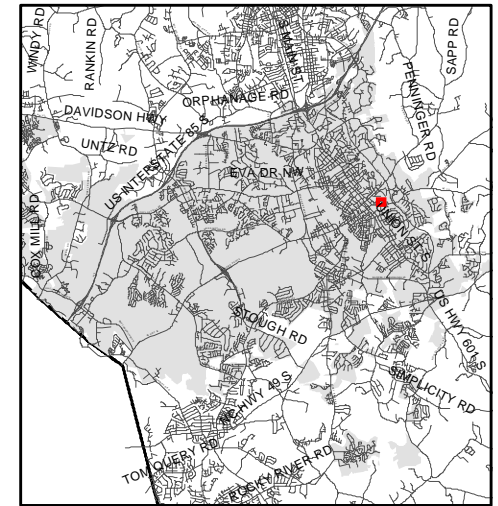
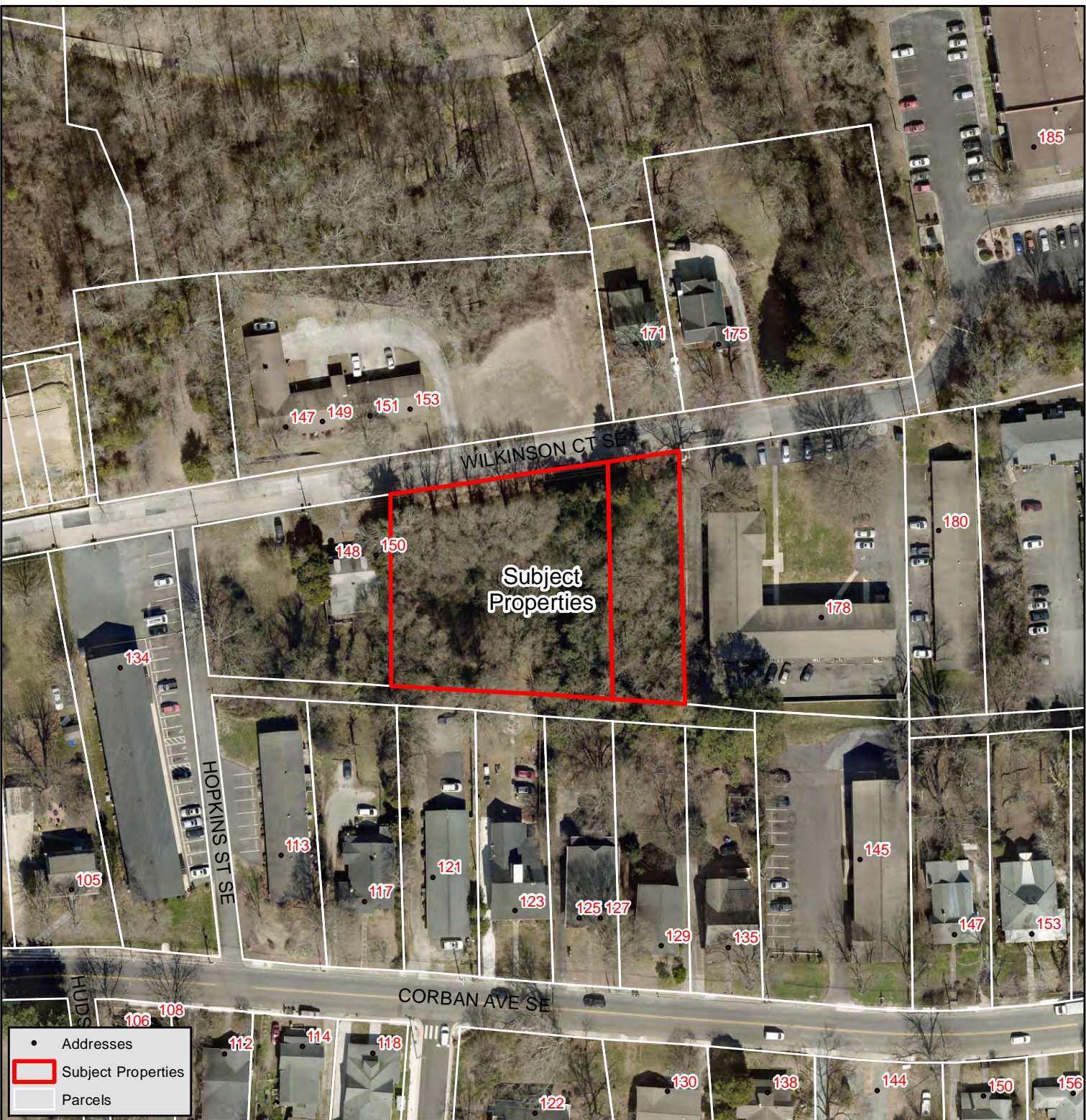
  
Signature of Applicant      7/14/22  
Date

  
Signature of Owner(s)      7/14/22  
Date

**Z(CD)-16-22  
AERIAL**

**Rezoning application  
RC (Residential Compact)  
to TND-CD (Traditional  
Neighborhood District)**

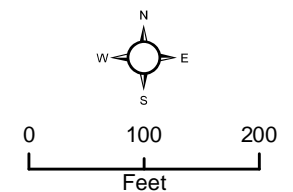
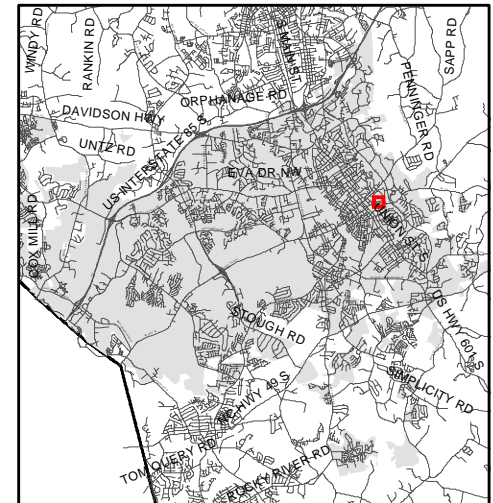
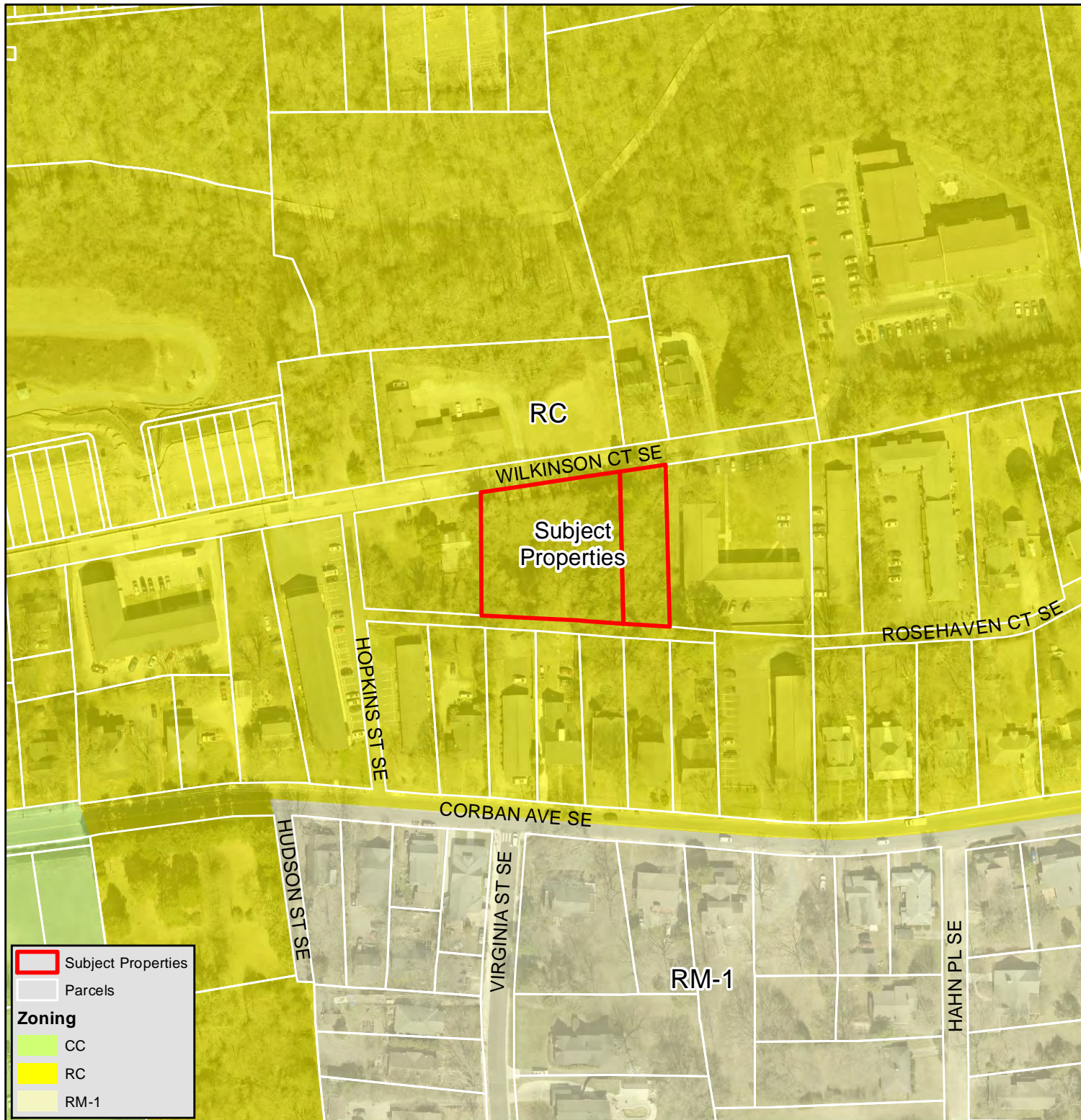
164 Wilkinson Ct SE  
PIN: 5630-18-0077, 5630-18-2007

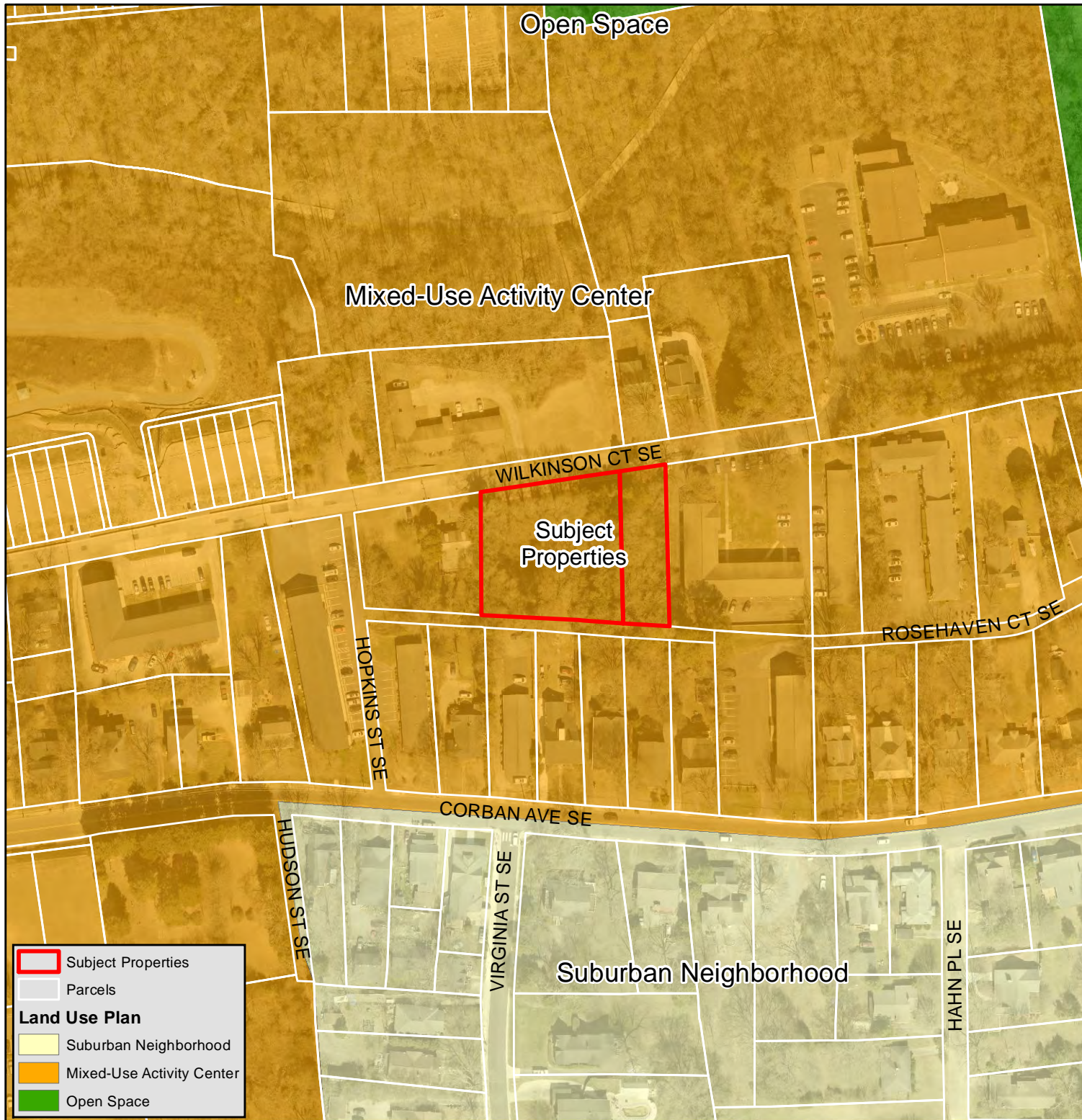


**Z(CD)-16-22  
ZONING**

**Rezoning application  
RC (Residential Compact)  
to TND-CD (Traditional  
Neighborhood District)**

164 Wilkinson Ct SE  
PIN: 5630-18-0077, 5630-18-2007

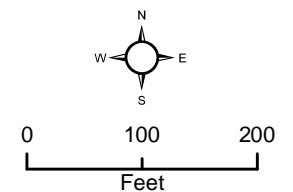
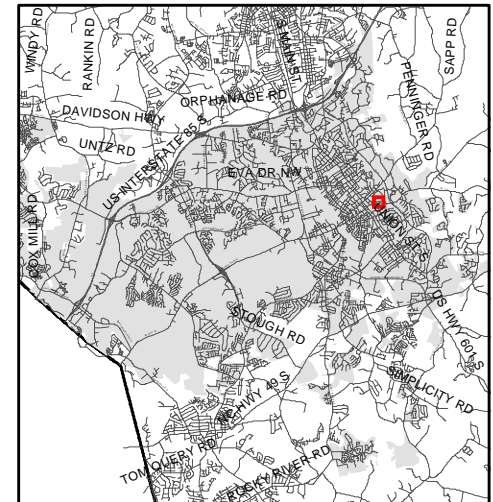




**Z(CD)-16-22  
LAND USE PLAN**

**Rezoning application  
RC (Residential Compact)  
to TND-CD (Traditional  
Neighborhood District)**

164 Wilkinson Ct SE  
PIN: 5630-18-0077, 5630-18-2007

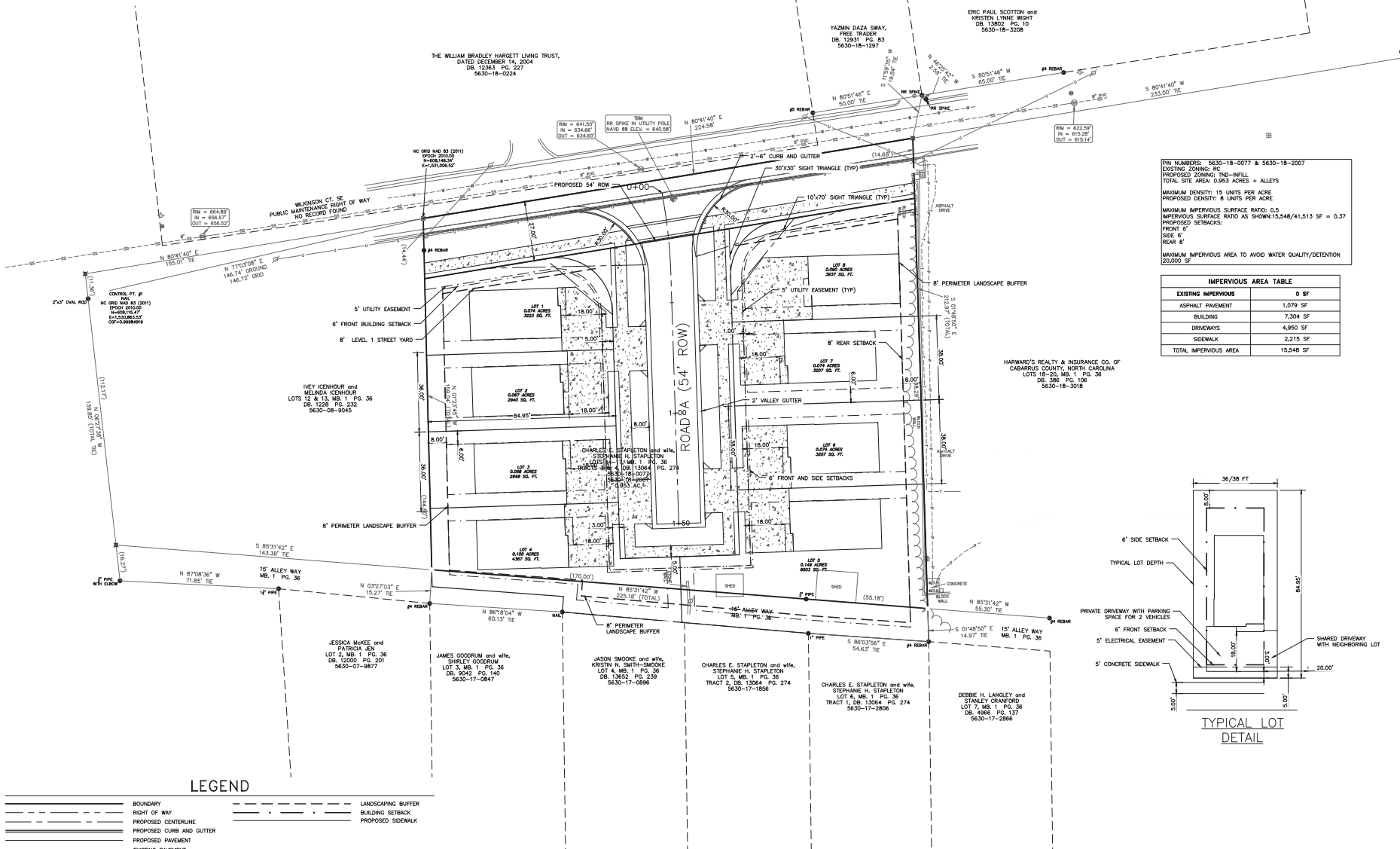
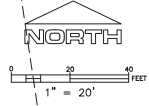


**NOTES**

- THE DEVELOPER SHALL BE RESPONSIBLE FOR ANY REQUIRED SYSTEM MODIFICATIONS AND/OR EXTENSIONS TO ENSURE SERVICE TO THE PROPOSED DEVELOPMENT IN ACCORDANCE WITH CITY OF CONCORD CODE OF ORDINANCE CHAPTER 62, ARTICLE 3; THE CITY OF CONCORD'S POLICIES AND STANDARD SPECIFICATIONS; NC FIRE CODE; WATER AND SEWER AUTHORITY OF CABARRUS COUNTY'S STANDARD SPECIFICATIONS; AND THE NORTH CAROLINA ADMINISTRATIVE CODE FOR WASTEWATER COLLECTION AND WATER DISTRIBUTION SYSTEMS.

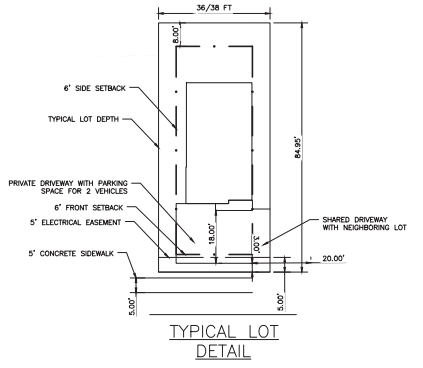
-BASED ON THE DESIGNS AND ALIGNMENT OF THE PUBLIC UTILITIES, THE PUBLIC WATER AND SEWER SERVICES ARE TO BE ENCOMPASSED IN PUBLIC ROAD RIGHT OF WAY, PUBLIC 30-FT UTILITY EASEMENTS, AND/OR A COMBINATION OF BOTH. BASED ON THE DESIGNS AND ALIGNMENT OF THE PUBLIC UTILITY, ADDITIONAL EASEMENT AND/OR EASEMENT WIDTH MIGHT BE REQUIRED DUE TO DEPTH, LOCATION, AND/OR ACCESS. REFERENCE THE CITY OF CONCORD CODE OF ORDINANCE CHAPTER 62, ARTICLE 3.

-THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ANY REQUIRED OFF-SITE EASEMENTS TO ENSURE SERVICE TO THE PROPOSED SITE. DOCUMENTATION OF THE OFF-SITE EASEMENTS ARE REQUIRED PRIOR TO FORMAL APPROVALS AND AUTHORIZATION TO CONSTRUCT.



PRN NUMBERS: 5630-18-0077 & 5630-18-2007  
 EXISTING ZONING: NC  
 PROPOSED ZONING: TWO-INFLU  
 TOTAL SITE AREA: 0.935 ACRES + ALLEYS  
 PROPOSED DENSITY: 8 UNITS PER ACRE  
 MAXIMUM DENSITY: 15 UNITS PER ACRE  
 MAXIMUM IMPERVIOUS SURFACE RATIO: 0.5  
 IMPERVIOUS SURFACE RATIO AS SHOWN: 15,548/41,513 SF = 0.37  
 PROPOSED SETBACKS:  
 FRONT 6'  
 SIDE 6'  
 REAR 8'  
 MAXIMUM IMPERVIOUS AREA TO AVOID WATER QUALITY/DETENTION: 20,000 SF

IMPERVIOUS AREA TABLE	
EXISTING IMPERVIOUS	0 SF
ASPHALT PAVEMENT	1,079 SF
BUILDING	7,304 SF
DRIVEWAYS	4,950 SF
SIDEWALK	2,215 SF
<b>TOTAL IMPERVIOUS AREA</b>	<b>15,548 SF</b>



**LEGEND**

--- BOUNDARY	--- LANDSCAPING BUFFER
--- RIGHT OF WAY	--- BUILDING SETBACK
--- PROPOSED CENTERLINE	--- PROPOSED SIDEWALK
--- PROPOSED CURB AND GUTTER	
--- PROPOSED PAVEMENT	
--- EXISTING PAVEMENT	

North Carolina One-Call Center  
 CALL 1-800-552-4949  
 BEFORE YOU DIG!  
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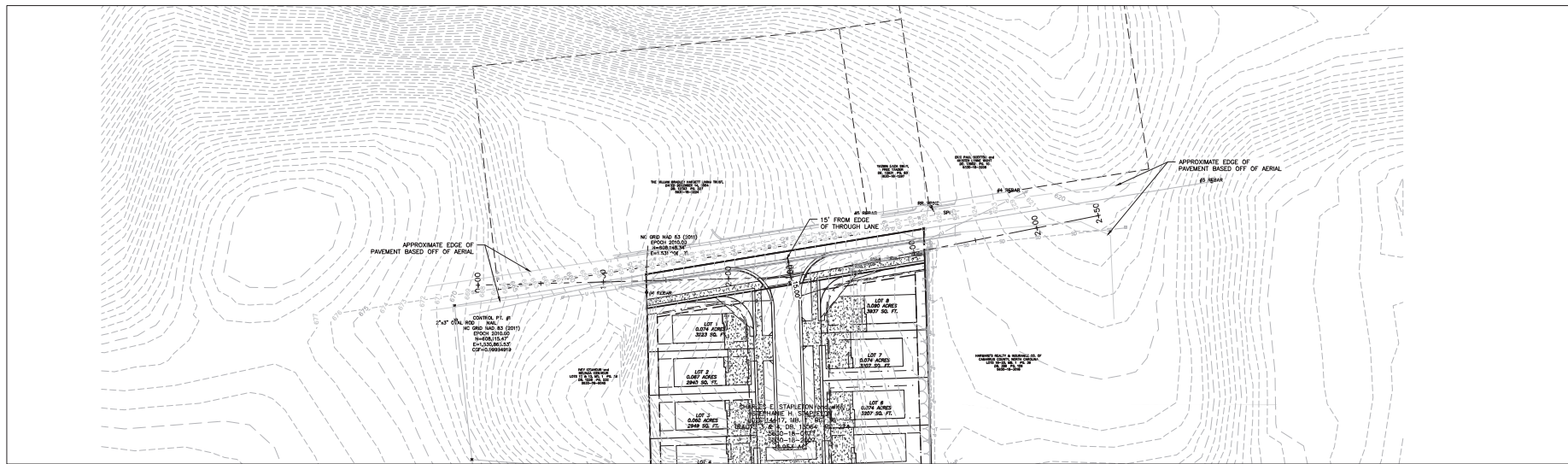
DESCRIPTION	DATE
ADDRESS CONCORD COMMENTS DATED 10.26.2022	10.27.2022
REVISION	1.

**GREENWAY VILLAGE PARK**  
 CONDITIONAL REZONING PLAN  
 WILKINSON COURT SE, CONCORD, NC  
 CHARLES STAPLETON  
 PROJECT NUMBER: 210205.000  
 APPROVED BY: NBU  
 CHECKED BY: NBB  
 PROJECT START: 01.15.21

**CES** CIVIL GEOTECHNICAL SURVEYING  
 PO BOX 268  
 CONCORD, NC 28026-0268  
 P. 704.786.5404  
 F. 704.786.7454  
 www.cesnc.com  
 NCELS CORP. INC. C-0263  
 ©COPYRIGHT 2012

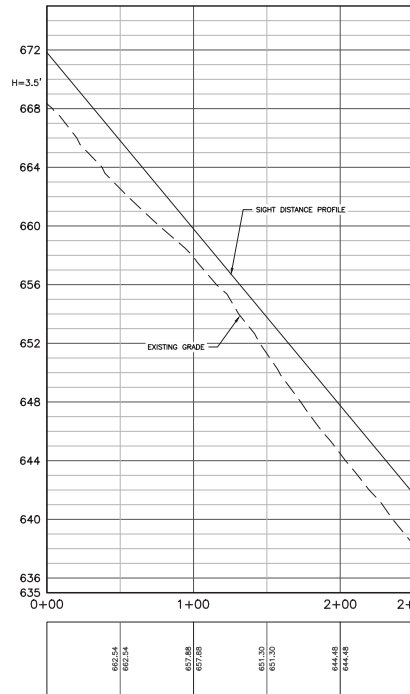
ENGINEERS SEAL  
 PRELIMINARY  
 NOT FOR  
 CONSTRUCTION

10/27/2022  
**C200CZ**

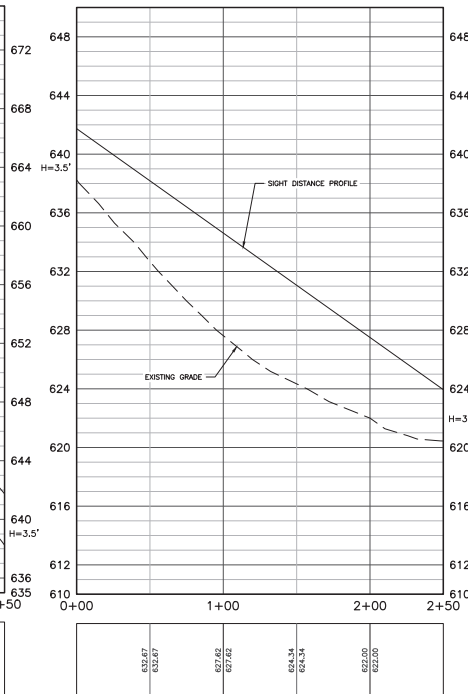


**SIGHT DISTANCE CALCULATION:**  
 PASSENGER VEHICLE: 100 FT PER 10 MPH  
 WILKINSON COURT SPEED LIMIT: 20 MPH  
 DESIGN SPEED = 20 MPH + 5 MPH = 25 MPH  
 SIGHT DISTANCE REQUIRED = 100 FT \* 2.5 = 250 FT

**ALIGNMENT - SD LEFT**



**ALIGNMENT - SD RIGHT**



PROFILE SCALE  
 VERTICAL SCALE: 1" = 4'  
 HORIZONTAL SCALE: 1" = 40'

North Carolina One-Call Center  
 CALL 1-800-452-4949  
 Call BEFORE you Dig!  
 "It's The Law"

REVISION	DATE	DESCRIPTION
1.	10/27/2022	ADDRESS CHANGE COMMENTS DATED 10/26/2022

**GREENWAY VILLAGE PARK**  
 SIGHT DISTANCE PROFILES  
 WILKINSON COURT SE, CONCORD, NC  
 CHARLES STANLTON  
 PROJECT NUMBER: 19U  
 APPROVED BY: NCB  
 CHECKED BY: NCB  
 PROJECT START: 9/15/21

**CESI** CIVIL GEOTECHNICAL SURVEYING  
 PO BOX 268  
 CONCORD, NC 28026-0268  
 P. 704.786.5404  
 F. 704.786.7454  
 WWW.CESI-NC.COM  
 NCBELS CORP. NO. C-0263  
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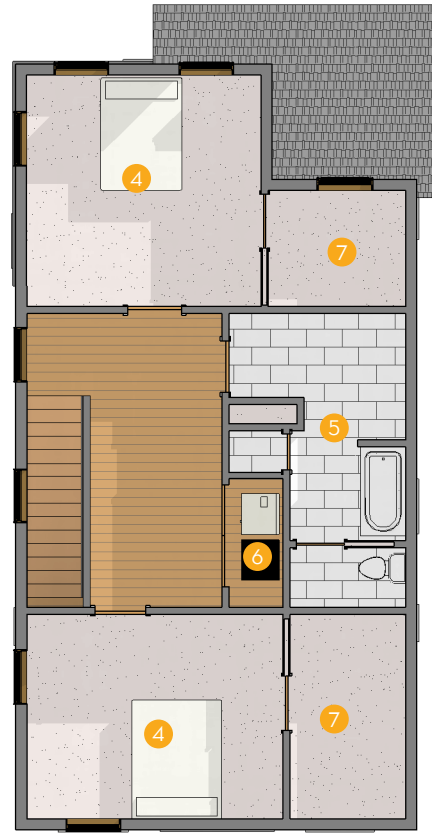
ENGINEERS SEAL  
 PRELIMINARY  
 NOT FOR  
 CONSTRUCTION

10/27/2022

**C201CZ**



1<sup>st</sup> Level



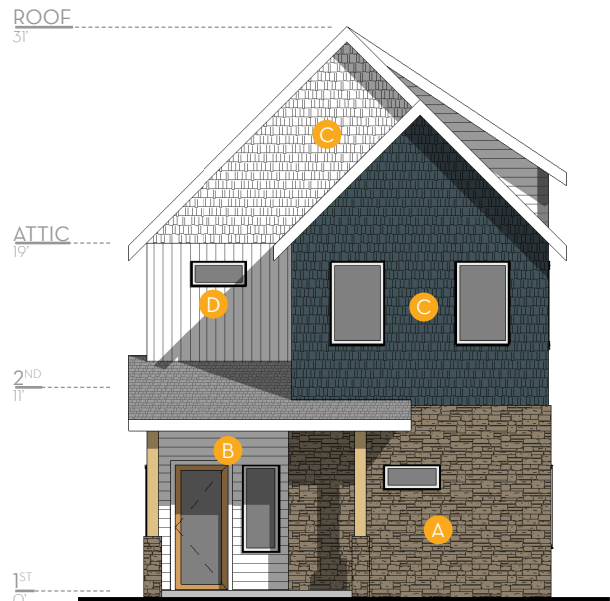
2<sup>nd</sup> Level

### Rooms

- 1 DINING
- 2 LIVING
- 3 KITCHEN
- 4 BEDROOM
- 5 BATHROOM
- 6 LAUNDRY
- 7 CLOSET

### Materials

- A STONE
- B HORIZONTAL SIDING
- C SHAKE SIDING
- D VERTICAL SIDING
- E ROOF SHINGLES



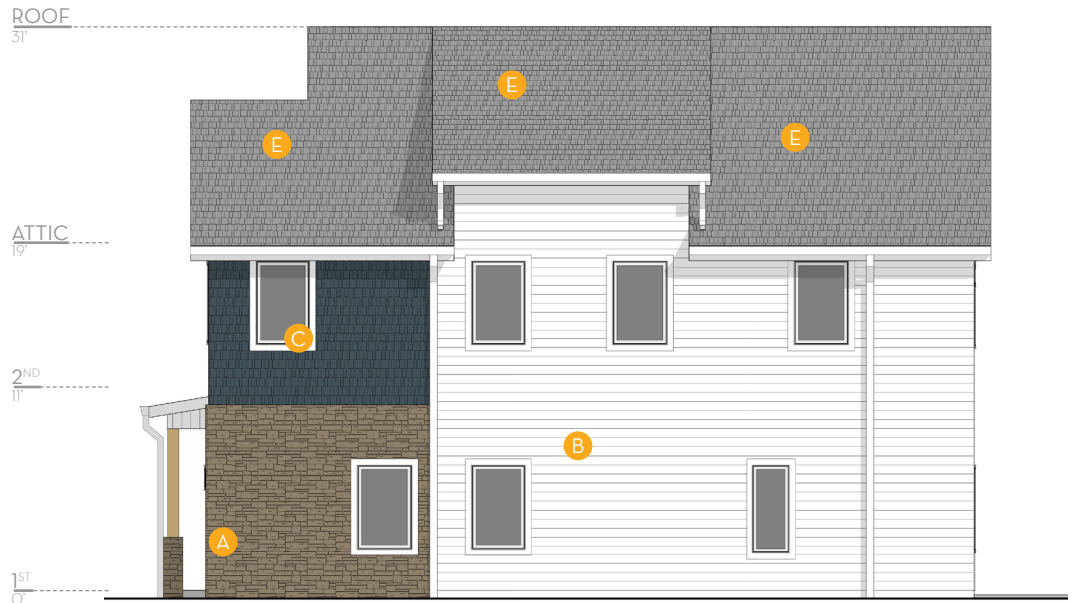
Front Elevations

### House Scheme



4/21/2022

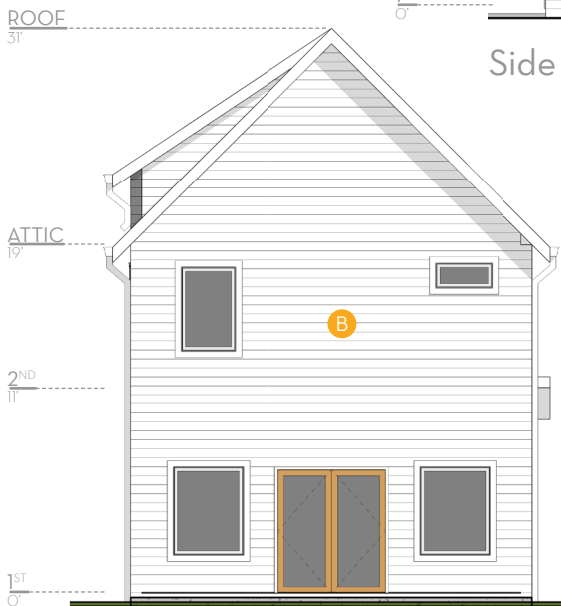




Side Elevation



Side Elevation



Rear Elevation

### Materials

- A STONE
- B HORIZONTAL SIDING
- C SHAKE SIDING
- D VERTICAL SIDING
- E ROOF SHINGLES

### House Scheme



4/21/2022





## **OUTLINE OF RESTRICTIVE COVENANTS**

- ARTICLE I                   Definitions: Owner; Lot; Declarant
- ARTICLE II                 Membership Rights:  
1.   Right to Approve Additional Covenants
- ARTICLE III                General Provisions:  
1.   Amendment
- ARTICLE IV                Use Restrictions:  
1.   Land use Building Type: Single family detached house  
2.   Setback; See Plat  
3.   No mobile or modular homes or temporary residences  
4.   No Nuisances  
5.   Garbage, clothesline, woodpiles screened  
6.   Damaged Property  
7.   Guns Restricted  
8.   All Terrain or other Off Road Vehicles

**RESTRICTIVE COVENANTS**

**FOR THE GREENWAY VILLAGE PARK**

**STATE OF NORTH CAROLINA COUNTY OF CABARRUS**

**Lots 1-8**

This declaration was made on the date hereinafter set forth by Charles Stapleton hereinafter referred to as "Declarant."

**ARTICLE I  
DEFINITIONS**

Section 1. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for performance of an obligation.

Section 2. "Unit/Lot" shall mean and refer to a portion of the Properties, whether improved or unimproved, which may be independently owned and is intended for development use and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to be a single Unit until such time as a subdivision plat is filed of record on all or a portion of the parcel. Thereafter the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

Section 3. "The Community and Properties" shall mean and refer to that certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Community

Section 4. "Declarant" shall mean and refer to Charles Stapleton, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 5. "Builders" shall mean a licensed general contractor constructing a dwelling or other structure on a Lot.

**ARTICLE II  
MEMBERSHIP RIGHTS**

Section 1. Right to Approve Additional Covenants. No person shall record any declaration of covenants, conditions, and restrictions or similar instrument affecting any portion of the Community without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by Declarant and recorded in the public records.

**ARTICLE III  
GENERAL PROVISIONS**

Section 1. Amendment. This Declaration may be amended as provided in this section. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein.

(a) By Declarant. So long as Declarant owns any property described on Exhibits "A" or "B", it may unilaterally amend this Declaration to (a) bring any provision hereof into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) enable any title insurance company to issue title insurance coverage; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans; or (d) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage loans. However, any such amendment shall not adversely affect the title to any Owners Unit unless any such Unit Owner shall consent thereto in writing. Further, so long as Declarant has the right unilaterally to subject additional property to this Declaration, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Unit

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one (1) year of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

#### **ARTICLE IV USE RESTRICTIONS**

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes and for single family houses.

Section 2. The building setback distances from property line shall be as shown on the recorded plat.

Section 3. Character of Structures. No trailer, basement, tent, shack, garage, barn, or other outbuilding erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of temporary character be used as a residence on the property. No mobile homes or modular homes shall be permanently or temporarily located on a Lot.

Section 4. Nuisances. No noxious or offensive activity shall be carried on upon any Unit nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 5. Garbage, Clotheslines and Woodpiles. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 6. Damaged property. Any dwelling or outbuilding on any Lot which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God must be rebuilt or all debris removed and the Lot restored to a slightly condition with reasonable promptness.

Section 7. Guns. The use of firearms on the Properties or in the Community is prohibited. This includes "BB" guns, pellet guns and small firearms of all types.

Section 8. All Terrain or Other Off-road Vehicles. All terrain or other off-road vehicles are prohibited from all Common Areas.



**DATE:** December 20, 2022

**REZONING CASE #:** Z-21-22

**ACCELA:** CN-RZZ-2022-00011

**DESCRIPTION:** Zoning Map Amendment  
RM-1 (Residential Medium Density) to C-2 (General Commercial)

**APPLICANT/OWNER:** David & Georgia Berry

**LOCATION:** 494 Corban Ave SE

**PIN#s:** 5630-59-7682, 5630-68-0867 part of

**AREA:** +/- 3.215 acres

**PREPARED BY:** George Daniels, Senior Planner

**BACKGROUND**

The subject property consists of one (1) parcel comprising approximately 3.215 acres on the south side of Corban Ave SE (NC Hwy 73) near the intersection of Honeycutt Dr SE. The property currently contains one commercial building which is operated as an automotive repair business. The site is also used for sales of utility trailers and storage buildings.

On October 18<sup>th</sup> 2022 a recombination plat was recorded that created the lot in this zoning amendment application. This is labeled as Lot 1 on the attached plat. The area in Lot 2 is not part of this application and will remain as RM-1 (Residential Medium Density).

**HISTORY**

The property was annexed into the City on May 14<sup>th</sup> 1975 and zoned R-1 (Residential) at that time. The zoning was converted to RM-1 (Residential Medium Density) with the adoption of the Unified Development Ordinance (UDO) and remained with the conversion to the Concord Development Ordinance (CDO).

The building was constructed in 1988 and the site was purchased by the applicant in 1989 and has been utilized for automobile repair and related businesses since this time.

**SUMMARY OF REQUEST**

The applicant is requesting to rezone the subject property from RM-1 (Residential Medium Density) to C-2 (General Commercial) in order for zoning district to be in accordance with the property’s existing land use. This would be an extension of the existing C-2 (General Commercial) on the adjacent parcels to the west of the property and the properties across Corban Ave SE. The proposed zoning would extend the commercial zoning any further from Corban Avenue than the C-2 zoning to the west. The subject property lies within an area of historical commercial land uses which function as a small commercial node but are designated Suburban Neighborhood and not Commercial.

Directly across Corban Ave SE to the north the zoning is C-2 (General Commercial), and is the location of a plumbing supply store, and a vacant lot. The vacant lot is unlikely to be developed as it is almost entirely in the 100-year flood plain.

To the northwest across the intersection with Honeycutt Dr SE the corner lot is also zoned C-2 (General Commercial) and is the site of Herc Enterprises which is a general contractor office.

The two parcels to the west of Honeycutt Dr SE have B-1 (Neighborhood Commercial/Office District) zoning and contain a commercial building and the Brickhouse Restaurant.

Directly to the West of the subject property is C-2 (General Commercial) zoning and this is the site of a car wash and a self-storage facility.

The surrounding property to the southwest is RM-1 (Residential Medium Density) and contains several single-family homes on large lots.

Directly to the east the zoning is also RM-1 (Residential Medium Density) and is the site of soccer fields, this area is also entirely in the 100-year flood plain.

Because the request is for straight zoning of C-2 (General Commercial) and not a conditional district, all permitted uses with the C-2 (General Commercial) zoning classification would be allowed on the site.

<b>Existing Zoning and Land Uses (Subject Parcel)</b>					
<b>Current Zoning of Subject Property</b>	<b>Zoning Within 500 Feet</b>		<b>Land Uses(s) of Subject Property</b>	<b>Land Uses within 500 Feet</b>	
RM-2 (Residential Medium Density)	<b>North</b>	C-2 (General Commercial) RM-1 (Residential Medium Density)	Automobile Repair	<b>North</b>	Single-family residential & commercial
	<b>South</b>	RM-1 (Residential Medium Density)		<b>South</b>	Single-family residential & vacant
	<b>East</b>	RM-1 (Residential Medium Density)		<b>East</b>	Soccer fields & vacant
	<b>West</b>	C-2 (General Commercial)		<b>West</b>	Self-storage and car wash

## COMPLIANCE WITH 2030 LAND USE PLAN

The 2030 Land Use Plan (LUP) designates the subject property as “Suburban Neighborhood” for which C-2 (General Commercial) is not listed as a corresponding zoning district. Rezoning to C-2 (General Commercial) will therefore also require a Land Use Plan Amendment to be approved by City Council. The land use recommendation by staff is “Commercial” and this would also be compatible with the surrounding commercial land use.

### **From the 2030 Land Use Plan – “Commercial”:**

*The Commercial Future Land Use category includes a mix of commercial land use types. While these areas continue to support additional commercial development and redevelopment, much of the new commercial development should be concentrated within the Mixed-Use Activity Centers and Village Centers. Strip commercial development along major corridors is discouraged in the 2030 Plan. Instead, commercial development integrated into Mixed-Use Activity Centers at key intersections is desired. Areas designated as Commercial are intended to represent those that include a variety of commercial uses at different intensities, including large scale malls, lifestyle centers, and community shopping centers..*

## SUGGESTED STATEMENT OF CONSISTENCY

- The subject property is approximately +/- 3.215 acres and is zoned City of Concord RM-1 (Residential Medium Density)
- The subject property was annexed into the City on May 14<sup>th</sup> 1975 and zoned to R-1 Residential at that time. The zoning was later converted to RM-1 (Residential Medium Density)
- The subject property has been an established commercial use since 1989. The proposed C-2 (General Commercial) zoning will allow for continued operation and expansion of the commercial use on the property. The proposed zoning is not consistent with the 2030 Land Use Plan (LUP) as C-2 (General Commercial) is not a corresponding zoning classification to the Suburban Neighborhood land use category. The subject property and surrounding properties, however, are all developed as commercial uses, therefore this would be consistent with a Commercial land use category.
- The zoning amendment is reasonable and in the public interest as it is consistent with the existing zoning surrounding the subject property and the adjacent commercial uses.

## SUGGESTED RECOMMENDATION AND CONDITIONS

A Land Use Plan amendment will be needed for this request, which is subject to City Council approval. Staff is seeking a recommendation to City Council on the rezoning and land use plan amendment

## PROCEDURAL CONSIDERATIONS

This particular case is a rezoning, which under the CDO, is legislative in nature. Legislative hearings do not require the swearing or affirming of witnesses prior to testimony at the public hearing. As the request is not a Conditional District no conditions may be applied.

**APPLICATIONS NOT COMPLETED BY THE PUBLISHED APPLICATION DEADLINE WILL NOT BE CONSIDERED.**

**Required Attachments / Submittals:**

1. Typed metes and bounds description of the property (or portion of property) in a Word document format. *-> Have surveyor provide*

2. Cabarrus County Land Records printout of names and addresses of all immediately adjacent landowners, including any directly across the street. *-> we provide*

3. **FOR CONDITIONAL DISTRICT APPLICATIONS ONLY**, a plan drawn to scale (conditional district plan), and elevations if applicable submitted digitally.

4. If applicable, proof of a neighborhood meeting (signature page) or receipt from certified letters mailed to adjoining property owners if project increases density or intensity (See Section 3.2.3). Staff will provide further information on this requirement during the required pre-application meeting.

5. Money Received by \_\_\_\_\_ Date: \_\_\_\_\_  
Check # \_\_\_\_\_ Amount: \$ 800.00 (Conditional) or \$600 (Conventional)  
Cash: \_\_\_\_\_

*The application fee is nonrefundable.*

*MSA*

*8*

(Please type or print)

Applicant Name, Address, Telephone Number and Email Address: 704-796-0476

DAVID & GEORGIA BERRY  
494 Corban Ave SE. Concord NC 9041berry61@gmail.com.

Owner Name, Address, Telephone Number: \_\_\_\_\_  
SAME

Project Location/Address: 494 Corban Ave SE Concord NC

P.I.N.: 5630-59-7082 P-D 5630-68-0867

Area of Subject Property (acres or square feet): 3.215 acres

*PINs prior to recording  
of recombination  
plat*

Lot Width: \_\_\_\_\_ Lot Depth: \_\_\_\_\_

Current Zoning Classification: RM-1

Proposed Zoning Classification: C-2

Existing Land Use: Auto Repair

Future Land Use Designation: Sub. Land Use

Surrounding Land Use: North C-2 South Rm1

East Rm1 West Rm1-C-2

Reason for request: Inane other business uses.

Has a pre-application meeting been held with a staff member? Yes

Staff member signature: [Signature] Date: 10/18/22



**THIS PAGE APPLICABLE TO CONDITIONAL DISTRICT REQUESTS ONLY**

(Please type or print)

1. List the Use(s) Proposed in the Project:

all allowed uses in C-2

2. List the Condition(s) you are offering as part of this project. Be specific with each description.  
(You may attach other sheets of paper as needed to supplement the information):

None

I make this request for Conditional district zoning voluntarily. The uses and conditions described above are offered of my own free will. I understand and acknowledge that if the property in question is rezoned as requested to a Conditional District the property will be perpetually bound to the use(s) specifically authorized and subject to such conditions as are imposed, unless subsequently amended as provided under the City of Concord Development Ordinance (CDO). All affected property owners (or agents) must sign the application.

Signature of Applicant [Signature] Date 10-18-22

Signature of Owner(s) [Signature] Date 10-18-22



NORTH CAROLINA

High Performance Living



**Certification**

I hereby acknowledge and say that the information contained herein and herewith is true, and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the City of Concord Development Services Department.

Date: 10.18.22

Applicant Signature: *Nigi A. B*

Property Owner or Agent of the Property Owner Signature:  
*Nigi A. B*

***Certification***

*I hereby acknowledge and say that the information contained herein and herewith is true, and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the City of Concord Development Services Department.*

Date: 12-9-22

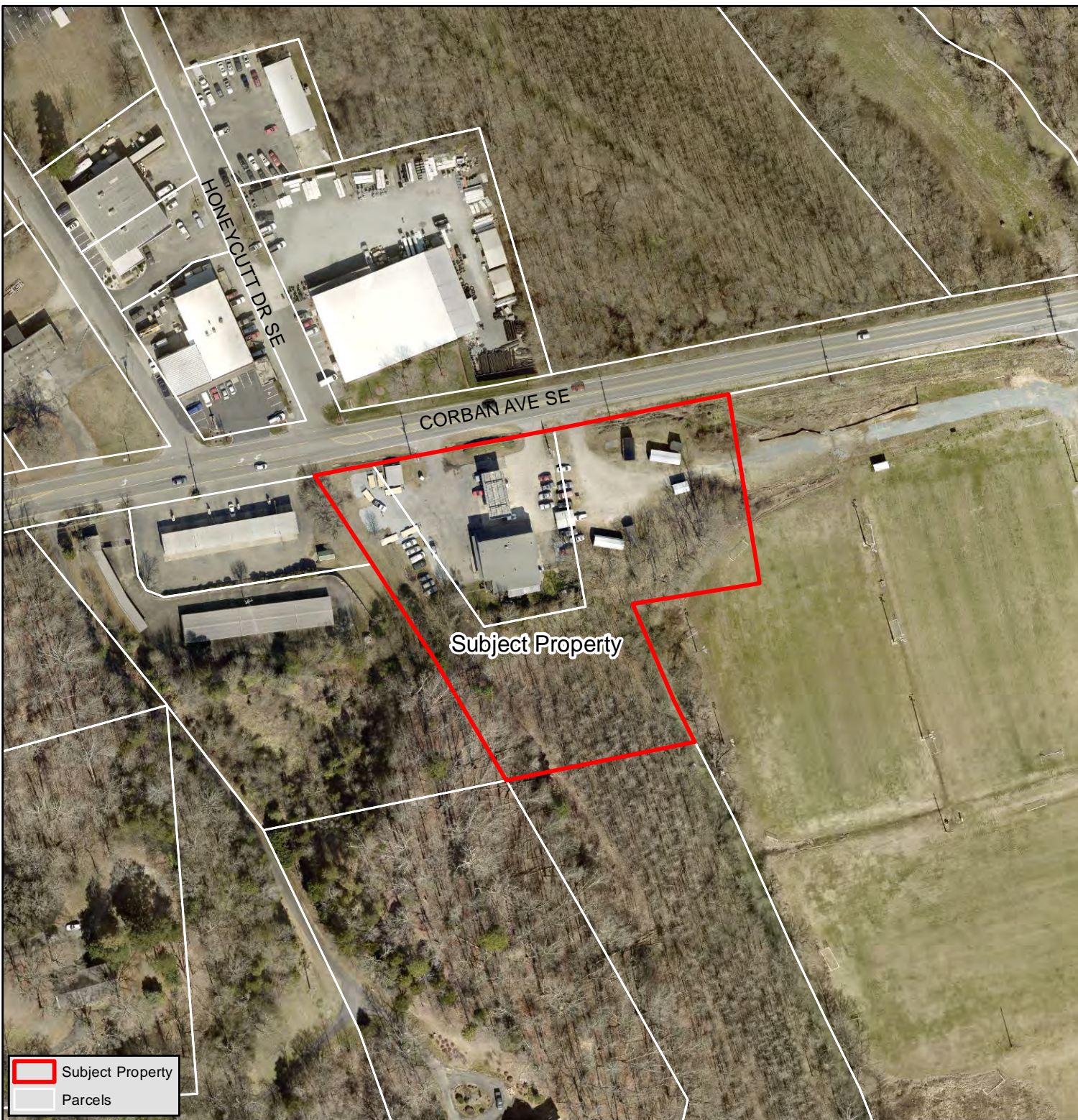
Applicant Signature: 

Property Owner or Agent of the Property Owner Signature: 



**Z-21-22  
AERIAL**

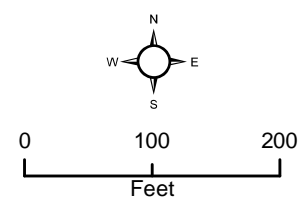
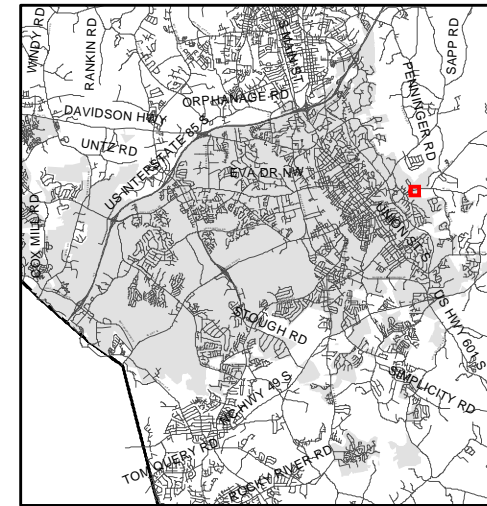
**Rezoning application  
RM-1 (Residential Medium Density)  
to  
C-2 (General Commercial)**

494 Corban Ave SE  
PIN: 5630-59-7682, 5630-68-0867 part of



Subject Property

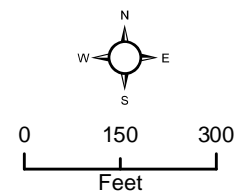
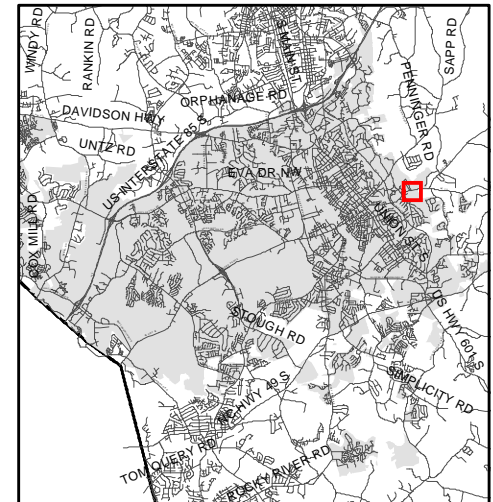
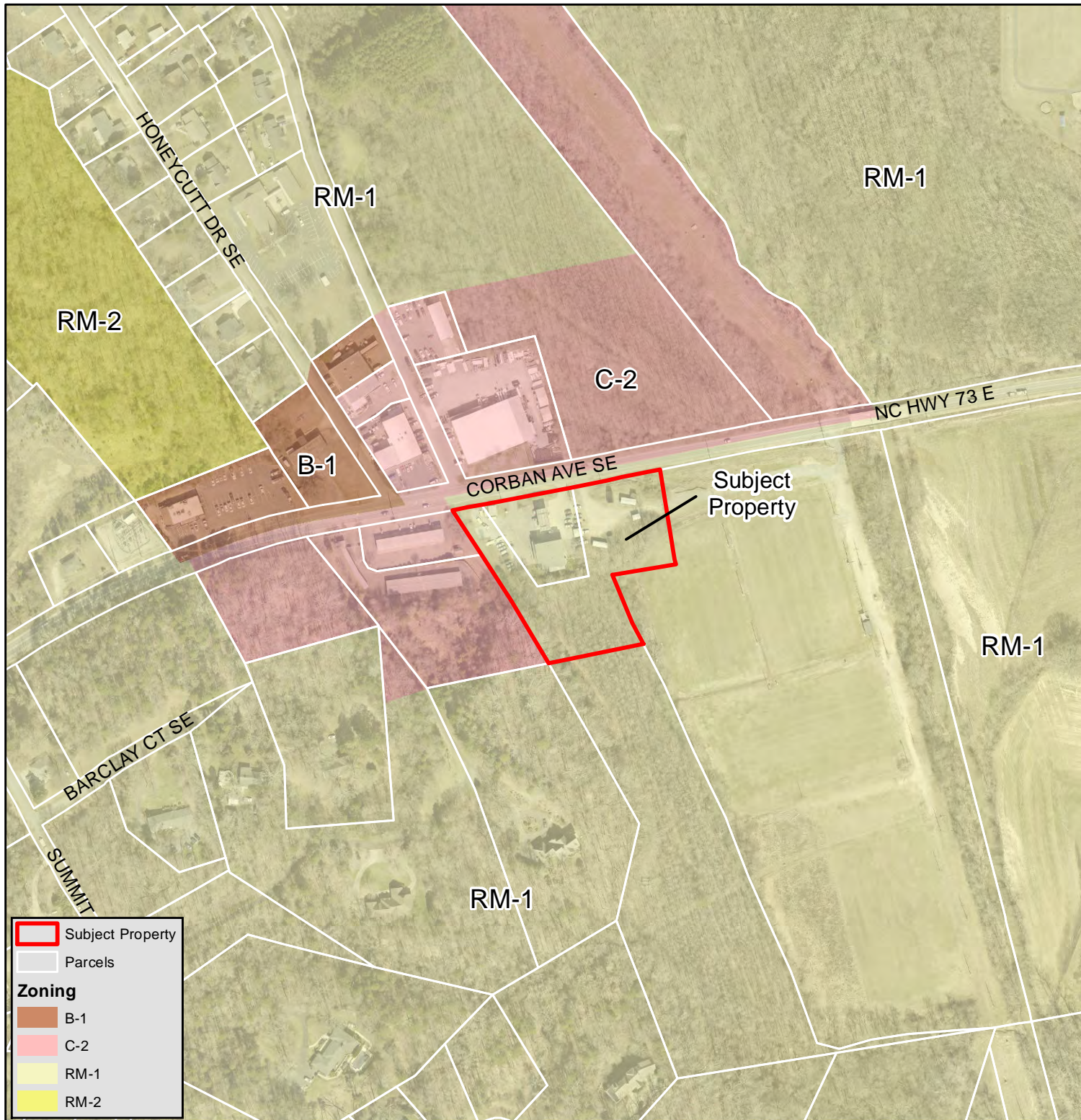
 Subject Property  
 Parcels



# Z-21-22 ZONING

**Rezoning application  
RM-1 (Residential Medium Density)  
to  
C-2 (General Commercial)**

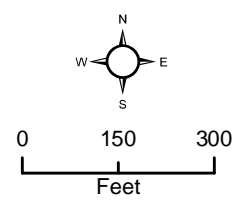
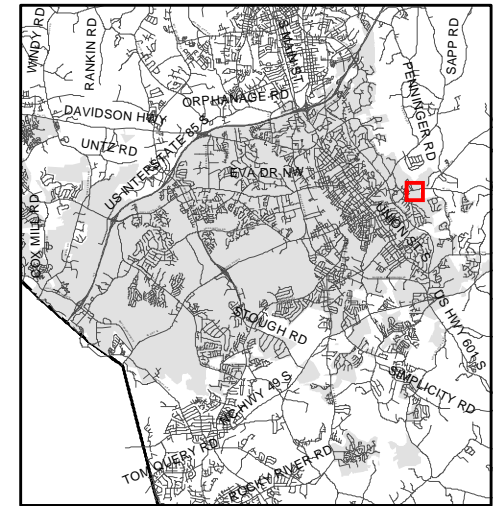
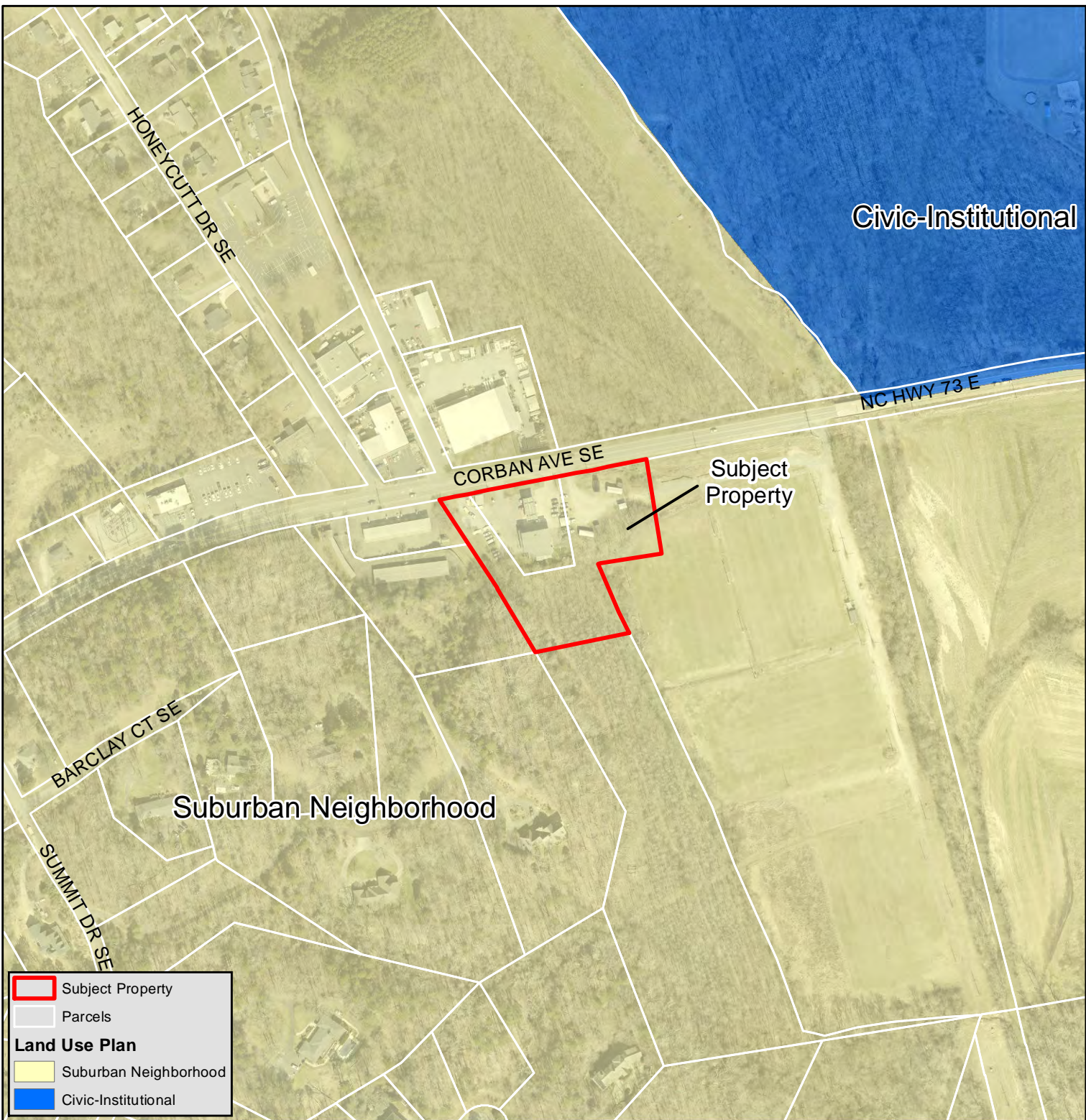
494 Corban Ave SE  
PIN: 5630-59-7682, 5630-68-0867 part of

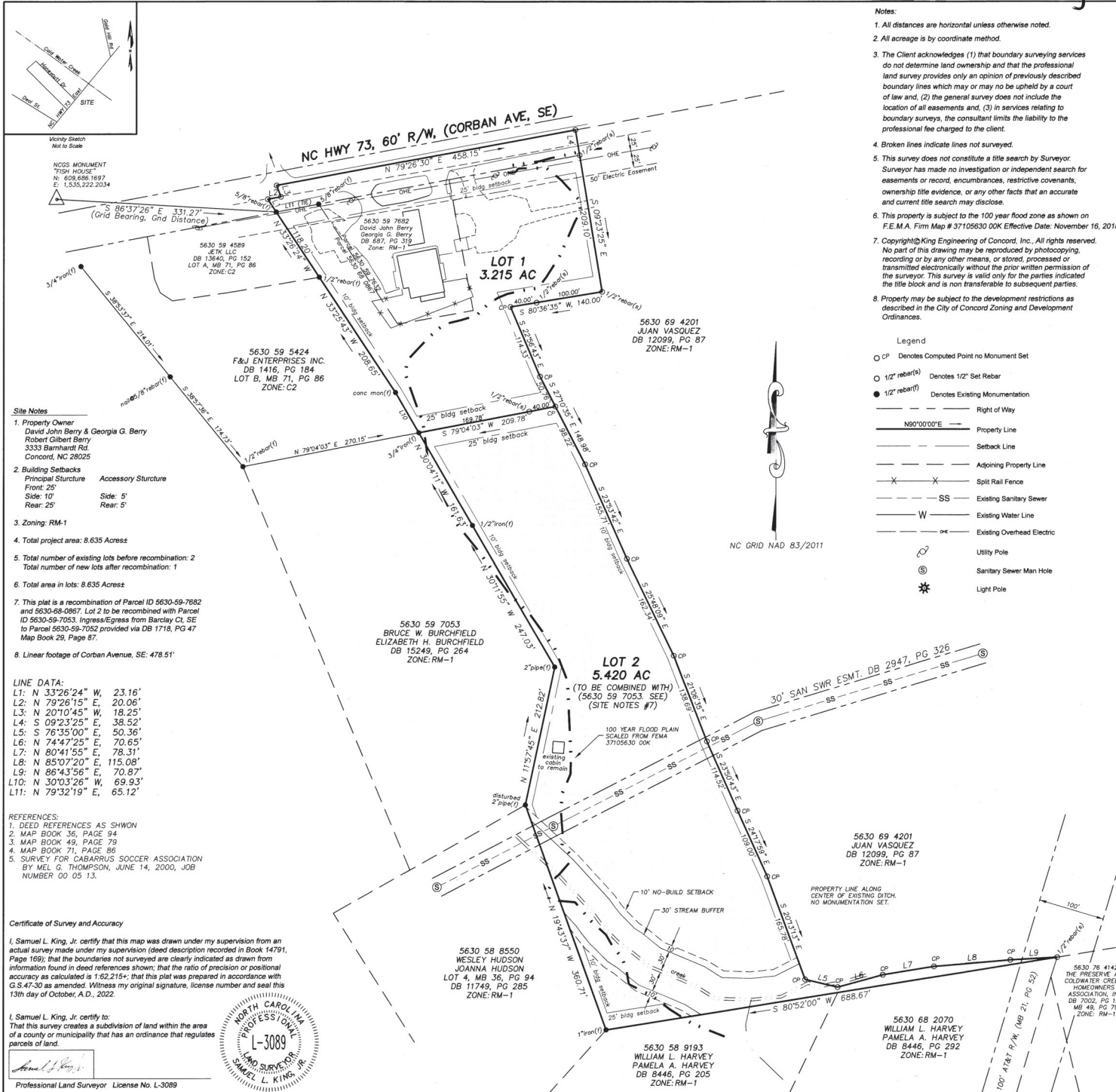


**Z-21-22  
LAND USE PLAN**

**Rezoning application  
RM-1 (Residential Medium Density)  
to  
C-2 (General Commercial)**

494 Corban Ave SE  
PIN: 5630-59-7682, 5630-68-0867 part of





- Notes:
- All distances are horizontal unless otherwise noted.
  - All acreage is by coordinate method.
  - The Client acknowledges (1) that boundary surveying services do not determine land ownership and that the professional land survey provides only an opinion of previously described boundary lines which may or may not be upheld by a court of law and, (2) the general survey does not include the location of all easements and, (3) in services relating to boundary surveys, the consultant limits the liability to the professional fee charged to the client.
  - Broken lines indicate lines not surveyed.
  - This survey does not constitute a title search by Surveyor. Surveyor has made no investigation or independent search for easements or record, encumbrances, restrictive covenants, ownership title evidence, or any other factors that an accurate and current title search may disclose.
  - This property is subject to the 100 year flood zone as shown on F.E.M.A. Firm Map # 37105630 00K Effective Date: November 16, 2018.
  - Copyright © King Engineering of Concord, Inc. All rights reserved. No part of this drawing may be reproduced by photocopying, recording or by any other means, or stored, processed or transmitted electronically without the prior written permission of the surveyor. This survey is valid only for the parties indicated the title block and is non transferable to subsequent parties.
  - Property may be subject to the development restrictions as described in the City of Concord Zoning and Development Ordinances.

Certificate of Ownership and Offer of Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Concord, and that I hereby submit this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate to public use all areas shown on this plat as streets, sidewalks, greenways, rights of way, easements, and/or open space and/or parks, except any of those uses specifically indicated as private, and I further dedicate all sanitary sewer, stormwater drainage and water lines that are located in any public utility easement or right of way and certify that I will maintain all such areas until accepted by the City of Concord, and further that I hereby guarantee that I will correct defects or failure of improvements in such areas for a period of one year commencing after final acceptance of required improvements. Any streets indicated as private shall be open to public use, but shall be privately maintained. Said dedication shall be irrevocable provided dedications of easements for storm drainage, whether indicated as private or public, are not made to the City of Concord but are irrevocably made to subsequent owners of any and all properties shown hereon for their use and benefit unless previously designated a drainage easement to the City of Concord.

BY: *Ray B. Johnson* 10-16-22  
*David John Berry* 10-16-22  
*Georgia G. Berry* 10-16-22  
*Robert Gilbert Berry* 10-16-22

Date: 10-16-22

NORTH CAROLINA  
 CABARRUS COUNTY

I, *Ray B. Johnson*, a notary public for said county and state do hereby certify that *David John Berry, Georgia G. Berry, & Robert Gilbert Berry* before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the *16th* day of *October*, 2022.

Notary: *Ray B. Johnson*

My commission expires: 01/10/2025

Certificate of Final Plat Approval

I hereby certify that this plat is in compliance with the City of Concord Code of Ordinances. This final plat for the David John Berry & Georgia G. Berry Subdivision was approved by the Administrator with the concurrence of the Development Review Committee at its meeting on *October 13, 2022*.

Date: *10/13/22*

*[Signature]*  
 Planning and Neighborhood Services Director or Designer

State of North Carolina  
 County of Cabarrus

I, *Green Bell*, Review Officer of Cabarrus County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording

*[Signature]* 10/13/22  
 Review Officer Date

Site Notes

- Property Owner: David John Berry & Georgia G. Berry, Robert Gilbert Berry, 3333 Barnhardt Rd, Concord, NC 28025
- Building Setbacks: Principal Structure, Accessory Structure. Front: 25', Side: 10', Rear: 25'. Side: 5', Rear: 5'.
- Zoning: RM-1
- Total project area: 8.635 Acres
- Total number of existing lots before recombination: 2. Total number of new lots after recombination: 1.
- Total area in lots: 8.635 Acres
- This plat is a recombination of Parcel ID 5630-59-7682 and 5630-68-0867. Lot 2 to be recombined with Parcel ID 5630-59-7053. Ingress/Egress from Barclay Ct, SE to Parcel 5630-59-7052 provided via DB 1718, PG 47 Map Book 29, Page 87.
- Linear footage of Corban Avenue, SE: 478' 51"

LINE DATA:

L1: N 33°26'24" W, 23.16'  
 L2: N 79°26'15" E, 20.06'  
 L3: N 20°10'45" W, 18.25'  
 L4: S 09°23'25" E, 38.52'  
 L5: S 76°35'00" E, 50.36'  
 L6: N 74°47'25" E, 70.65'  
 L7: N 80°41'55" E, 78.31'  
 L8: N 85°07'20" E, 115.08'  
 L9: N 86°43'56" E, 70.87'  
 L10: N 30°03'26" W, 69.93'  
 L11: N 79°32'19" E, 65.12'

REFERENCES:

- DEED REFERENCES AS SHOWN
- MAP BOOK 36, PAGE 94
- MAP BOOK 49, PAGE 79
- MAP BOOK 71, PAGE 86
- SURVEY FOR CABARRUS SOCCER ASSOCIATION BY MEL G. THOMPSON, JUNE 14, 2000, JOB NUMBER 00 05 13.

Certificate of Survey and Accuracy

I, Samuel L. King, Jr. certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 14791, Page 169) that the boundaries not surveyed are clearly indicated as drawn from information found in deed references shown; that the ratio of precision or positional accuracy as calculated is 1:52,214; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, license number and seal this 13th day of October, A.D., 2022.

I, Samuel L. King, Jr. certify to: That this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.

*[Signature]*  
 Samuel L. King, Jr.  
 Professional Land Surveyor License No. L-3089

FILED Oct 18, 2022 12:24 pm FILED  
 BOOK 00094 CABARRUS COUNTY NC  
 PAGE 0019 THRU 0019 WAYNE NIXON  
 INSTRUMENT # 30489 REGISTER  
 EXCISE TAX \$0.00 OF DEEDS

Final Minor Plat for:  
**David John Berry & Georgia G. Berry**  
 494 Corban Avenue, SW, Concord, North Carolina 28025  
 8.635 Acre, Parcel ID 5630-59-7682 & 5630-68-0867  
 Recorded in Deed DB 687, PG 319 and DB 14791 PG 270,  
 Number Twelve Township, Cabarrus County, North Carolina

**K** PLAT PREPARED BY:  
 KING ENGINEERING OF CONCORD, INC., C-4909  
 35 CHURCH STREET SOUTH, SUITE 107  
 CONCORD, NORTH CAROLINA 28025  
 MAILING ADDRESS:  
 401 POTATE DRIVE, MORGANTON, NC 28655  
 kingengineer.com PHONE (828) 403-5586

October 13, 2022  
 Job Number 2022 069  
 Scale: 1" = 100'  
 0 50' 100' 200' 300'

NO	DATE	BY	REVISION
1	9/14/2022	SLK	REVISED PER CONCORD PLAN REVIEW COMMENTS

2022 089.dwg Model 10/13/2022 14:38:32



**DATE:** December 20, 2022  
**CASE:** TA-10-22 Text Amendment – Height Limits  
**PREPARED BY:** Scott Sherrill, AICP, Development Review Manager

**BACKGROUND: TA-10-22, APPLICANT PETITION**

Kimberly M. Barb has applied for a text amendment to Table 7.6.2.A. to add Note 5 to the O-I district max. building height column in Table 7.6.2.A that would allow multi-family buildings in the O-I district to have a height limit of four (4) stories.

The height limit for multi-family buildings in the RV and RC zoning districts was modified to include Note 5 via text amendment TA-06-22 which was adopted in June of 2022.

**Action Requested:**

For an applicant-initiated text amendment, staff presents to the Planning and Zoning Commission and requires discussion and authorization from the Planning and Zoning Commission prior to drafting the text amendment. If the broad principles of the text amendment are acceptable to the Planning and Zoning Commission, the draft would come back to the Planning and Zoning Commission in January of 2023 for recommendation to City Council.



I, Kimberly M. Barb, PLA, do hereby request that the Planning and Zoning Commission consider a Concord Development Text amendment to amend Section Table 7.6.2.A for the following reasons:

Article 7 - Base Zoning Districts  
Request to add Note 5 to the O-I district max. building height column in Table 7.6.2.A.  
This would allow Multi-Family buildings in the O-I district to have a height limit of four (4) stories.

(attach additional sheets if necessary)

Date: 11/28/2022

Signature of Applicant: [Signature]

Address: Stimmel Associates, PA

601 N. Trade Street, Suite 200, Winston-Salem, NC 27101

Telephone: (336) 723-1067

*Note: Acceptance and processing of this application provides the applicant with an opportunity to present his/her request to the Planning and Zoning Commission, but in no way guarantees that an amendment will either be requested or considered by the Commission, or that an amendment will be voted upon and recommended by the City Council for approval. Payment of the application fee shall be due upon the direction of the Planning and Zoning Commission that an amendment be drafted for consideration.*

**Staff Use Only:**

Application Received by: \_\_\_\_\_ Date: \_\_\_\_\_, 20\_\_\_\_

Fee: \$400.00 Received by: \_\_\_\_\_ Date: \_\_\_\_\_, 20\_\_\_\_

*The application fee is nonrefundable.*