



FAYETTEVILLE CITY COUNCIL  
AGENDA  
FEBRUARY 25, 2013  
7:00 P.M.  
Council Chamber

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**1.0 CALL TO ORDER**

**2.0 INVOCATION**

**3.0 PLEDGE OF ALLEGIANCE**

**4.0 APPROVAL OF AGENDA**

**5.0 CONSENT**

- 5.1 Adopt the Resolution to Accept a Report of Unpaid Taxes for 2012 and Direct the Advertisement of Tax Liens
- 5.2 Extension of Grants for Cape Fear Rivertrail-Phase 2
- 5.3 Approval of Mediated Settlement Agreement in the matter of *City of Fayetteville v. Jacqueline Pfendler, et al.*
- 5.4 Approval of Speed Limit recommendations along Bingham Drive and Robeson Street
- 5.5 Community Development - Approval of transfer of a City-owned vacant lot located at 312 Old Wilmington Road to Fayetteville Metropolitan Housing Authority (FMHA) in exchange for a vacant lot located at 329 Cross Creek Street.
- 5.6 Budget Ordinance Amendment 2013-10 (Stormwater Management Funds)
- 5.7 P13-02F Request for a Rezoning from NC – Neighborhood Commercial to CC – Community Commercial or to a more restrictive zoning district on property located at 821 Cliffdale Road containing 1.92 acres more or less and being the property of McCauley and McDonald. (Staff and Zoning Commission recommend rezoning to LC)

- 5.8 P13-03F Request for a Rezoning from LC – Limited Commercial to CC – Community Commercial or to a more restrictive zoning district on property located at 5522 Yadkin Rd. containing 1.07 acres more or less and being the property of JPIII Family Limited Partnership.
- 5.9 Approval of a Municipal Agreement with NCDOT in support of improving vertical clearances of bridges over I-95 Business
- 5.10 Approval of a Municipal Agreement with NCDOT for Landscaping on Ramsey Street
- 5.11 Request to Set Public Hearing for Proposed Revisions to Stormwater Management Ordinance
- 5.12 Special Revenue Fund Project Ordinance 2013-8 (FY13 Juvenile Restitution Program)

## **6.0 PUBLIC HEARINGS**

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

- 6.1 Case No. P11-47F. Request for rezoning from SF-10 Single Family Residential to LC Limited Commercial on property located at 1520 Hope Mills Road. Containing 1.59 acres more or less and being the property of Matilda Autry. (Appeal of a Zoning Commission Recommendation)  
Presenter(s): Craig Harmon, AICP, CZO - Planner II
- 6.2 P13-01F Request for a Special Use Permit for Retail Establishment greater than 2,500 square feet in the NC – Neighborhood Commercial District, located beside 247 Bonanza Dr. containing 1.25 acres more or less and being the property of Par 5 Development.  
Presenter(s): Craig Harmon, AICP, CZO - Planner II
- 6.3 P13-04F Request for a Special Use Permit to operate a heavy automotive repair business on property located at 5522 Yadkin Rd., contingent upon rezoning to CC Community commercial zoning district containing 1.07 acres more or less and being the property of JPIII Family Limited Partnership.  
Presenter(s): Craig Harmon, AICP, CZO - Planner II

## **7.0 OTHER ITEMS OF BUSINESS**

- 7.1 Approval of Lease Agreement between the City of Fayetteville and Megabus  
  
Presenter(s): Randall J. Hume, Transit Director

## **8.0 ADMINISTRATIVE REPORTS**

8.1 Monthly Statement of Taxes for January 2013

8.2 Tax Refunds of Less Than \$100

## **9.0 ADJOURNMENT**

### **CLOSING REMARKS**

#### **POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS**

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

#### **POLICY REGARDING PUBLIC HEARING AGENDA ITEMS**

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

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

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

#### **COUNCIL MEETING WILL BE AIRED**

**February 25, 2013 - 7:00 p.m.**

**COMMUNITY CHANNEL 7**

#### **COUNCIL MEETING WILL BE RE-AIRED**

**February 27, 2013 - 10:00 p.m.**

**COMMUNITY CHANNEL 7**

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

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Lisa Smith, Chief Financial Officer  
**DATE:** February 25, 2013  
**RE:** **Adopt the Resolution to Accept a Report of Unpaid Taxes for 2012 and Direct the Advertisement of Tax Liens**

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**THE QUESTION:**

Council is asked to adopt the attached resolution to accept the report of unpaid taxes for 2012 and direct the advertisement of tax liens.

**RELATIONSHIP TO STRATEGIC PLAN:**

Core Value: Stewardship

**BACKGROUND:**

North Carolina General Statutes 105-369 requires the County Tax Administrator to report to the governing body in February of each year the total amount of unpaid taxes for the current fiscal year that are liens on real property. The purpose of the report is to allow the governing body to order the Tax Collector to advertise the tax liens. The statute requires the advertisement period to occur during the period of March 1st through June 30th.

Please review the attached correspondence from the County Tax Administrator. The detailed report is available in the City Clerk's office for review. The report lists delinquent city and county taxes for all city properties.

**ISSUES:**

None.

**BUDGET IMPACT:**

See the information provided in the above background section.

**OPTIONS:**

1. Adopt the attached resolution.
2. Do not adopt the attached resolution.

**RECOMMENDED ACTION:**

Staff recommends that Council move to pass the attached resolution.

**ATTACHMENTS:**

Tax Administrator Letter Regarding 2012 Delinquent Taxes  
Resolution



OFFICE OF THE TAX ADMINISTRATOR

117 Dick Street, 5<sup>th</sup> Floor, New Courthouse • PO Box 449 • Fayetteville, North Carolina • 28302  
Phone: 910-678-7507 • Fax: 910-678-7582 • [www.co.cumberland.nc.us](http://www.co.cumberland.nc.us)

January 29, 2013

TO: Anthony G. Chavonne, Mayor  
FROM: Aaron Donaldson, Tax Administrator *AD*  
RE: Delinquent Taxes for Year 2012 for the City of Fayetteville

**BACKGROUND:** North Carolina General Statute 105-369 requires the Tax Collector to report unpaid taxes for municipalities for the current fiscal year that are liens on real property by the second Monday in February. The purpose of the reporting is to allow you to order the Tax Collector to advertise the tax liens.

Upon receipt of your order, I will advertise the tax liens by publishing each lien at least one time in one or more of the local newspapers having general circulation in the County. The statute requires that advertisement period to occur during the period of March 1<sup>st</sup> through June 30<sup>th</sup>. It is my intention to deliver the list of delinquent taxes to the newspaper in the latter part of March for advertisement in April.

Enclosed please find the list of real property delinquent taxes for your municipality that is required to be posted at the city or town hall of each municipality by North Carolina General Statute 105-369(c).

**RECOMMENDATION:** Accept the report of unpaid taxes for the current fiscal year that are liens on real property and charge the Collector to advertise the tax liens.

AD/kp

cc: file

*Celebrating Our Past...Embracing Our Future*

*EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE*

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE  
ACCEPTING THE REPORT OF UNPAID TAXES AND DIRECTING THE  
ADVERTISEMENT OF TAX LIENS**

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL:

Section 1. The City Council accepts the report of unpaid taxes for the current fiscal year that are liens on real property as submitted by the tax collector.

Section 2. The City Council orders the tax collector to advertise the tax liens pursuant to North Carolina General Statute 105-369.

Section 3. The resolution shall take effect immediately upon its passage.

Passed and adopted the 25<sup>th</sup> day of February, 2013.

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_  
Anthony G. Chavonne, Mayor

ATTEST:

\_\_\_\_\_  
Pamela Megill, City Clerk

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and City Council  
**FROM:** Craig Hampton, Special Projects Director  
**DATE:** February 25, 2013  
**RE:** **Extension of Grants for Cape Fear Rivertrail-Phase 2**

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**THE QUESTION:**

Approve Supplemental Agreement to merge and extend end date of grants.

**RELATIONSHIP TO STRATEGIC PLAN:**

Strategic Plan Goal #2-Growing City-A great Place to Live; Major project in 2013 Strategic Plan. Trail is also a part of the East Coast Greenway System.

**BACKGROUND:**

Currently the two funding grants for this project have different grant completion dates. This amendment will move the completion deadline of the grants to the same date and extend construction completion to December 2014. An extension was requested by DOT to account for the increase time for plan and bid document review by DOT and CSX railroad. The current schedule (copy attached) shows completion of the current trail work by late spring 2014. The attached map shows the overall length of the trail, certain design elements such as bridges and elevated boardwalks, and the 3 sections of the trail under design. The design for sections A&B has been completed and submitted to DOT, City staff is currently completing the bid documents for both sections in accordance with DOT's new format and will submit for review and bid approval within the next month or less. Review and approval is expected 60-90 days thereafter. The design for the covered bridge underneath the mainline CSX track for Section C has been changed per direction from CSX and resubmitted for approval. Once completed CSX will provide a development agreement to COF for authorization of the work. All work is expected to be completed by summer 2014 with the exception of the connection to Botanical Gardens. That connection will occur during the replacement of the bridges over the Cape Fear River.

**ISSUES:**

There are no unresolved issues affecting the completion schedule. The recent change in required format of design and bid documents from DOT has created some delays in the overall schedule. The complexity of the DOT requirements has required the creation of submittal in a completely different format than past submittals.

**BUDGET IMPACT:**

No impact. Funds are budgeted and engineering estimates are within budgeted funds.

**OPTIONS:**

1. Approve Attached Supplemental Agreement Authorizing Extension of Grant.
2. Provide other direction.

**RECOMMENDED ACTION:**

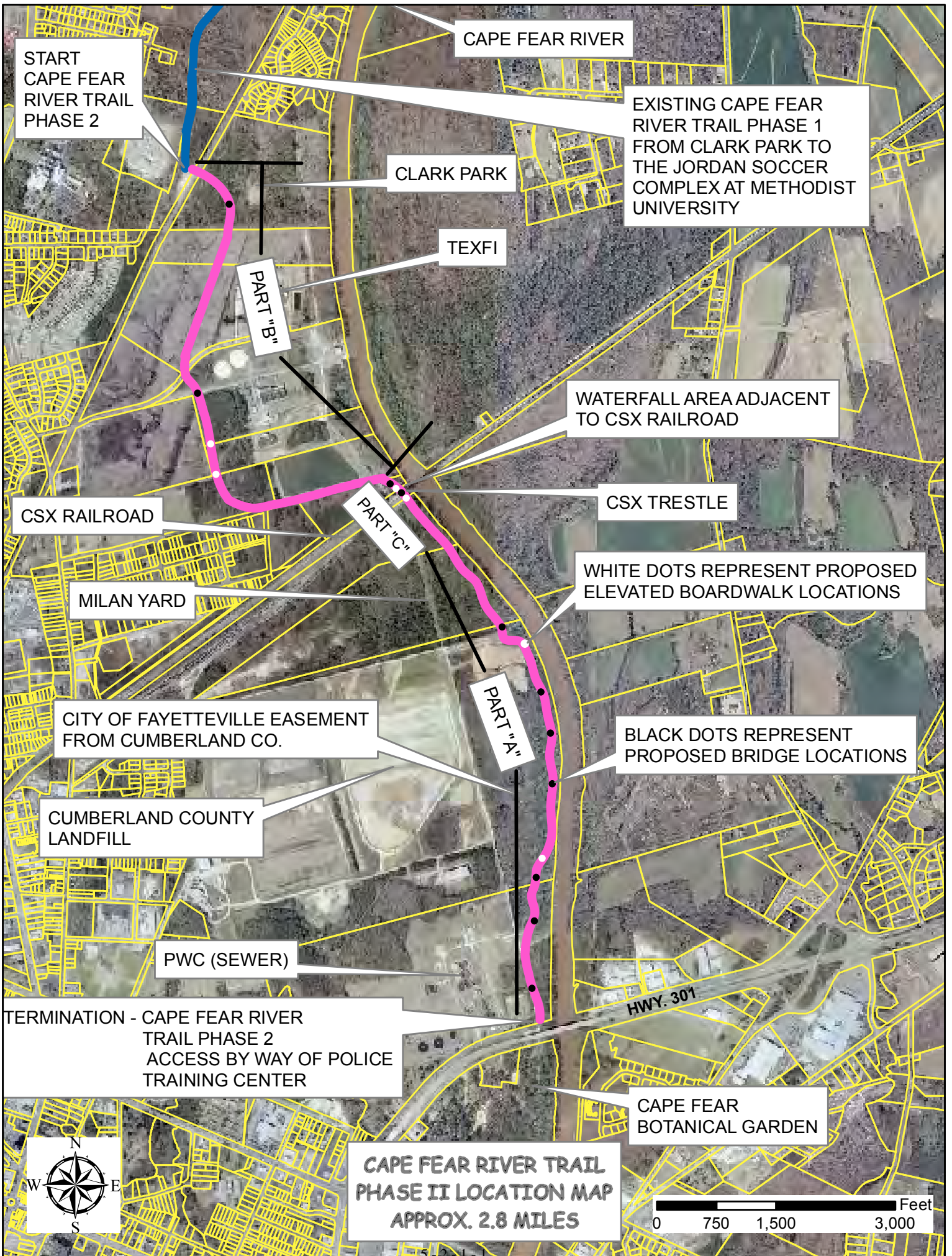
Staff recommends that Council move to authorized the City Manager to execute the attached supplemental agreement authorizing extension of grant.

**ATTACHMENTS:**

Map of Trail Sections  
CFRT Schedule  
Supplemental Agreement to DOT Grant







START  
CAPE FEAR  
RIVER TRAIL  
PHASE 2

CAPE FEAR RIVER

EXISTING CAPE FEAR  
RIVER TRAIL PHASE 1  
FROM CLARK PARK TO  
THE JORDAN SOCCER  
COMPLEX AT METHODIST  
UNIVERSITY

CLARK PARK

TEXFI

PART "B"

WATERFALL AREA ADJACENT  
TO CSX RAILROAD

CSX RAILROAD

CSX TRESTLE

MILAN YARD

PART "C"

WHITE DOTS REPRESENT PROPOSED  
ELEVATED BOARDWALK LOCATIONS

CITY OF FAYETTEVILLE EASEMENT  
FROM CUMBERLAND CO.

PART "A"

BLACK DOTS REPRESENT  
PROPOSED BRIDGE LOCATIONS

CUMBERLAND COUNTY  
LANDFILL

PWC (SEWER)

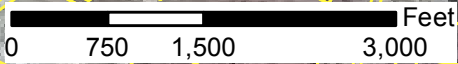
TERMINATION - CAPE FEAR RIVER  
TRAIL PHASE 2  
ACCESS BY WAY OF POLICE  
TRAINING CENTER

HWY. 301

CAPE FEAR  
BOTANICAL GARDEN



CAPE FEAR RIVER TRAIL  
PHASE II LOCATION MAP  
APPROX. 2.8 MILES



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

ID	Task Name	Duration	Start	Finish	Qtr 2, 2012	Qtr 3, 2012	Qtr 4, 2012	Qtr 1, 2013	Qtr 2, 2013	Qtr 3, 2013	Qtr 4, 2013	Qtr 1, 2014	Qtr 2, 2014	Qtr	
					Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul	
1	<b>Cape Fear Rivertrail-Phase 2</b>	<b>327 days?</b>	<b>Mon 2/25/13</b>	<b>Tue 5/27/14</b>											
2	<b>DOT Agreement Process</b>	<b>5 days</b>	<b>Mon 2/25/13</b>	<b>Fri 3/1/13</b>											
3	Approve Amendment By COF	0 days	Mon 2/25/13	Mon 2/25/13											Approve Amendment By COF ◆ 2/25
4	Approve Amendment by DOT Bd	5 days	Mon 2/25/13	Fri 3/1/13											
5	<b>Bid Package Process</b>	<b>117 days?</b>	<b>Fri 3/8/13</b>	<b>Mon 8/19/13</b>											Submit final design Package to DOT ◆ 3/8
6	Submit final design Package to DOT	0 days	Fri 3/8/13	Fri 3/8/13											
7	Final DOT Review Period	60 days	Fri 3/8/13	Thu 5/30/13											
8	Approval to bid	1 day?	Fri 5/31/13	Fri 5/31/13											
9	<b>Bid Process-A&amp;B&amp;C</b>	<b>52 days</b>	<b>Fri 6/7/13</b>	<b>Mon 8/19/13</b>											Issue Bid Notice ◆ 6/7
10	Issue Bid Notice	0 days	Fri 6/7/13	Fri 6/7/13											
11	pre-bid conference	0 days	Wed 6/26/13	Wed 6/26/13											pre-bid conference ◆ 6/26
12	Bid Opening	0 days	Tue 7/9/13	Tue 7/9/13											Bid Opening ◆ 7/9
13	Award by CC	0 days	Mon 7/22/13	Mon 7/22/13											Award by CC ◆ 7/22
14	Review and Concur by DOT	21 days	Mon 7/22/13	Mon 8/19/13											
15	<b>Construction Phase</b>	<b>191 days?</b>	<b>Mon 8/19/13</b>	<b>Tue 5/13/14</b>											Notice to Proceed ◆ 8/19
16	Notice to Proceed	0 days	Mon 8/19/13	Mon 8/19/13											
17	Construction Period	190 days	Tue 8/20/13	Mon 5/12/14											
18	Substantial Completion	1 day?	Tue 5/13/14	Tue 5/13/14											
19	Ribbon Cutting	0 days	Tue 5/13/14	Tue 5/13/14											Ribbon Cutting ◆ 5/13
20	Close out Grant	10 days?	Wed 5/14/14	Tue 5/27/14											

Project: Cape Fear Rivertrail Schedule  
Date: Fri 2/15/13  
Draft-not for issue or release



NORTH CAROLINA  
CUMBERLAND COUNTY

**3<sup>rd</sup> SUPPLEMENTAL AGREEMENT**

DATE: 1/7/2013

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: EB-4539 B

AND

WBS ELEMENTS: 41563

CON 41955.3.1

CITY OF FAYETTEVILLE

FEDERAL AID # STPEB- 0620(21)

CFDA #: 20.205

TOTAL SUPPLEMENTAL FUNDS [NCDOT PARTICIPATION] \$0

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

**WITNESSETH:**

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

WHEREAS, the Department and the Municipality, on 1/5/2010, entered into a Supplemental Agreement to extend the completion date of the Project; and,

WHEREAS, the Department and the Municipality, on 6/6/2012, entered into a Supplemental Agreement to split the Project into 3 segments and revise the funding for each segment; and

WHEREAS the Department and Municipality have mutually agreed to extend the completion date of the project;

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

## **RESPONSIBILITIES**

The Municipality shall complete pre-construction activities by September 30, 2013.

The Municipality shall complete Segment A by December 31, 2014.

The Municipality shall complete Segment B by December 31, 2014.

Except as hereinabove provided, the Agreement heretofore executed by the North Carolina Department of Transportation and City of Fayetteville on 9/23/2010, 1/5/2010, and 6/6/2012, is ratified and affirmed as therein provided.

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

ATTEST: CITY OF FAYETTEVILLE  
BY: \_\_\_\_\_ BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_ TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_ DATE: \_\_\_\_\_

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

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

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

(SEAL)

\_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_

Remittance Address:

City of Fayetteville

\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
(CHIEF ENGINEER)

DATE: \_\_\_\_\_

APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_ (Date)

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Dana C. Clemons, Assistant City Attorney  
**DATE:** February 25, 2013  
**RE:** **Approval of Mediated Settlement Agreement in the matter of *City of Fayetteville v. Jacqueline Pfendler, et al.***

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**THE QUESTION:**

Whether to approve the proposed mediated settlement agreement reached by the parties in the matter of *City of Fayetteville v. Jacqueline Pfendler, et al.*

**RELATIONSHIP TO STRATEGIC PLAN:**

Revitalized Downtown – A Community Focal Point

**BACKGROUND:**

On January 30, 2012, the City of Fayetteville filed a condemnation action to acquire Defendants' real property for construction of the Multi-Modal Transportation Center (MMTC). On January 30, 2013, the parties participated in court-ordered mediation and reached a proposed settlement agreement. The proposed settlement agreement is fully set forth in the attached document and incorporated herein by reference. The key terms of the agreement are as follows:

1. The Defendants will withdraw all challenges to the City's authority to condemn the property except those issues related to just compensation;
2. The Defendants will vacate the property within 120 days of approval of the proposed settlement agreement;
3. The City will pay the Defendants' moving expenses consistent with FTA regulations and up to a maximum of \$20,000.00; and
4. The City will guarantee payment to the Defendants of \$505,000.00 which shall serve as a credit against any future just compensation verdict or settlement.

The proposed settlement agreement eliminates the Defendants' challenge to the City's authority to condemn and the City's costs to defend that authority. Moreover, the agreement establishes that the City will take possession of the property within 120 days of approval. Rejecting the proposed settlement agreement would likely result in continued litigation and probable appeals on the issue of condemnation authority which could delay the City's possession of the property for up to 18 months. A delay in possession would likely delay construction of the MMTC and potentially affect construction costs.

**ISSUES:**

None

**BUDGET IMPACT:**

Acquisition of the property and relocation expenses are funded by an existing federal grant (80% federal, 10% NCDOT, 10% City). The local share is already appropriated.

**OPTIONS:**

1. Approve the proposed mediated settlement agreement.
2. Reject the proposed mediated settlement agreement.

**RECOMMENDED ACTION:**

Staff recommends that City Council authorize the City Manager and City Attorney to execute documents necessary to implement the attached mediated settlement agreement.

**ATTACHMENTS:**

Settlement Agreement


SETTLEMENT AGREEMENT

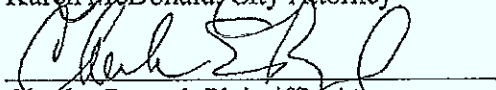
THIS AGREEMENT has been entered between City of Fayetteville ("Plaintiff") and Dale and Jackie Pfendler and JP Electric Inc. ("Defendants") as a result of a mediated settlement conference completed upon the date subscribed below.

Plaintiff and Defendants agree as follows: See Exhibit A


Cumberland County Superior Case No. 12 CVS 0917

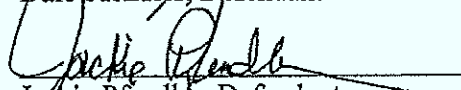
This the 30<sup>th</sup> day of January 2013.


  
\_\_\_\_\_  
Karen McDonald, City Attorney

  
\_\_\_\_\_  
Charles Raynal, Plaintiff's Attorney

  
Ann L. Senter, mediator

  
\_\_\_\_\_  
Dale Pfendler, Defendant

  
\_\_\_\_\_  
Jackie Pfendler, Defendant

  
\_\_\_\_\_  
JP Electric Inc.

  
\_\_\_\_\_  
Garris Neil Yarborough, Defendants Attorney



EXHIBIT A

1. This MSA forms an agreement as to all matters in litigation between the parties except just compensation as provided herein below.
2. Defendants will withdraw all challenges to the Plaintiff's right to condemn Defendants' property and any defenses thereto except for those issues related to just compensation. At Plaintiff's request, Defendant will file any additional pleadings necessary to implement this provision.
3. Plaintiff as a minimum, guaranteed payment will pay Defendants \$505,000 which shall serve as a credit against any future just compensation verdict or settlement, if said verdict or settlement is in excess of \$505,000. In the event of a verdict in an amount less than \$505,000, the \$505,000 shall be retained by the Defendants as full compensation for the taking.
4. The \$505,000 will be paid as follows:
  - a. Upon final approval of this settlement, the Defendants may withdraw through normal process the initial \$440,000 deposit.
  - b. Upon final approval and proof of withdrawal of the initial \$440,000, the Plaintiff shall pay the additional \$65,000 within 10 days of delivery of said proof of disbursement. Proof of withdrawal shall be by facsimile letter to Plaintiffs counsel at 919-832-4564.
5. The Plaintiff shall also pay the Defendants their relocation expenses, allowed by the FTA regulations, and properly submitted for approval in accordance with FTA regulations, up to a maximum of \$20,000.
6. The Defendants shall remove all of their fixtures as designated below and their personal property within 120 days of written notice of the final approval of this settlement. Failure by the Defendants to vacate the subject property and remove all items they are authorized to remove within the 120 days noted above, shall result in the following:
  - a. \$1000 per day liquidated damages clause; and/or
  - b. Injunctive relief or court imposed sanctions; and/or
  - c. Any other relief authorized by law; and/or
  - d. Any items that the Defendants may otherwise be authorized to remove as noted above shall be deemed abandoned if not removed within the 120 time limit.
7. The Defendants upon notice of final approval of this settlement will have 120 days to vacate the subject property and to deliver a warranty deed to the Plaintiff.
8. In addition to any personal property of the Defendants, the Defendants may remove the following items that could be considered fixtures:
  - a. All appliances (Refrigerator, microwave oven, water fountain, etc.);
  - b. Phone system;
  - c. Interior doors;
  - d. Cabinets, bookshelves and print tables;
  - e. Shelving;

ASA

CEM  
DJD  
KUH  
DYS  
DAP

- f. HVAC condenser and AC handler;
  - g. Security control box;
  - h. Wood blinds;
  - i. Flag pole
9. The parties agree that the date of valuation for this proceeding is January 30, 2012, however the Defendants shall not be entitled to compensation as to "fixtures" subsequently removed in accordance with this agreement. Either party may make such argument as is appropriate under the Rules of Evidence related to the value of said "fixtures" that have been removed.
  10. The term "upon final approval" shall mean approval by the Fayetteville City Council and the Federal Transportation Administration.
  11. Notice of said final approval shall be provided to the Defendants by facsimile letter to Defendants counsel at 910-433-2233 and executed by any one of Plaintiff's attorneys of record.
  12. The Motion hearing previously scheduled for February 4, 2013 shall be continued off of that week's docket. If this settlement agreement receives final approval, the motion shall be withdrawn. If this settlement agreement does not receive final approval, it may be rescheduled upon 10 days written notice.
  13. Time is of the essence as to all provisions of this agreement.
  14. Plaintiff or Plaintiff's agents may have access to the subject property for asbestos inspections or expert witness review upon 10 days written notice to the Defendants as noted in Paragraph 11 above. Any inspections or reviews shall be non-intrusive.
  15. This settlement agreement shall not be admissible into evidence for any just compensation matter.


This the 30<sup>th</sup> day of January, 2013.


  
 \_\_\_\_\_  
 Karen McDonald, City Attorney


  
 \_\_\_\_\_  
 Charles Raynal, Plaintiff's Attorney

  
 William L. Antev, MEDIATOR

  
 \_\_\_\_\_  
 Dale Pfendler, Defendant

  
 \_\_\_\_\_  
 Jackie Pfendler, Defendant

  
 \_\_\_\_\_, Pres.  
 JP Electric Inc.

  
 \_\_\_\_\_  
 Garris Neil Yarborough, Defendants  
 Attorney

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Lee Jernigan, P.E., City Traffic Engineer  
**DATE:** February 25, 2013  
**RE:** **Approval of Speed Limit recommendations along Bingham Drive and Robeson Street**

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**THE QUESTION:**

Speed limit certificates on Bingham Drive at Brentwood Elementary School and on Robeson Street near Blount Street.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhoods - Great Place to Live

**BACKGROUND:**

NCDOT is asking for City concurrence on the existing 25 mph school speed limit on Bingham Drive at Brentwood Elementary School and the existing 45 mph speed limit on Robeson Street from Blount Street to the MLK Freeway.

**ISSUES:**

NCDOT is requesting concurrence from the City for these existing speed limits on Bingham Drive and Robeson Street. NCDOT is updating their ordinance database and is requesting concurrence of these existing speed limits. If NCDOT and the City cannot agree on the speed limit for a particular street, the existing speed limit will remain in place.

**BUDGET IMPACT:**

The adoption of this ordinance will not have an impact on the budget.

**OPTIONS:**

- Adopt the ordinances as recommended.
- Reject the ordinances.
- Reject the ordinances and request NCDOT to study further.

**RECOMMENDED ACTION:**

Staff recommends that Council move to adopt the attached speed ordinances for concurrence with NCDOT.

**ATTACHMENTS:**

Bingham Drive and Robeson Street Certificates and Maps

**Certification of Municipal Declaration  
To Enact Speed Limits and Request for Concurrence**

---

Concurring State Ordinance Number: 1066220

Division: 6      County: CUMBERLAND

Municipality: FAYETTEVILLE

Type: School Speed Zone - Municipal

Road: SR 4160

Car: 25 MPH

Truck: 25 MPH

Description: Between SR 1391 and SR 1321 (Brentwood Elementary School, in effect from 30 minutes before to 30 minutes after school begins and ends on school days only).

---

**Municipal Certification**

I, \_\_\_\_\_, Clerk of \_\_\_\_\_, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: \_\_\_\_\_ Page: \_\_\_\_\_ Ordinance/Resolution Number: \_\_\_\_\_

In witness whereof, I have hereunto set my  
hand and the municipal seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(municipal seal)

---

**Department of Transportation Approval**

Division: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Region: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

---



**Certification of Municipal Declaration  
To Enact Speed Limits and Request for Concurrence**

---

**Concurring State Ordinance Number:** 1066228

**Division:** 6      **County:** CUMBERLAND

**Municipality:** FAYETTEVILLE

**Type:** Municipal Speed Zones

**Road:** SR 3828

**Car:** 45 MPH

**Truck:** 45 MPH

**Description:** Between Blount Street and NC 87 (Martin Luther King, Jr. Freeway).

---

**Municipal Certification**

I, \_\_\_\_\_, Clerk of \_\_\_\_\_, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: \_\_\_\_\_ Page: \_\_\_\_\_ Ordinance/Resolution Number: \_\_\_\_\_

In witness whereof, I have hereunto set my  
hand and the municipal seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(municipal seal)

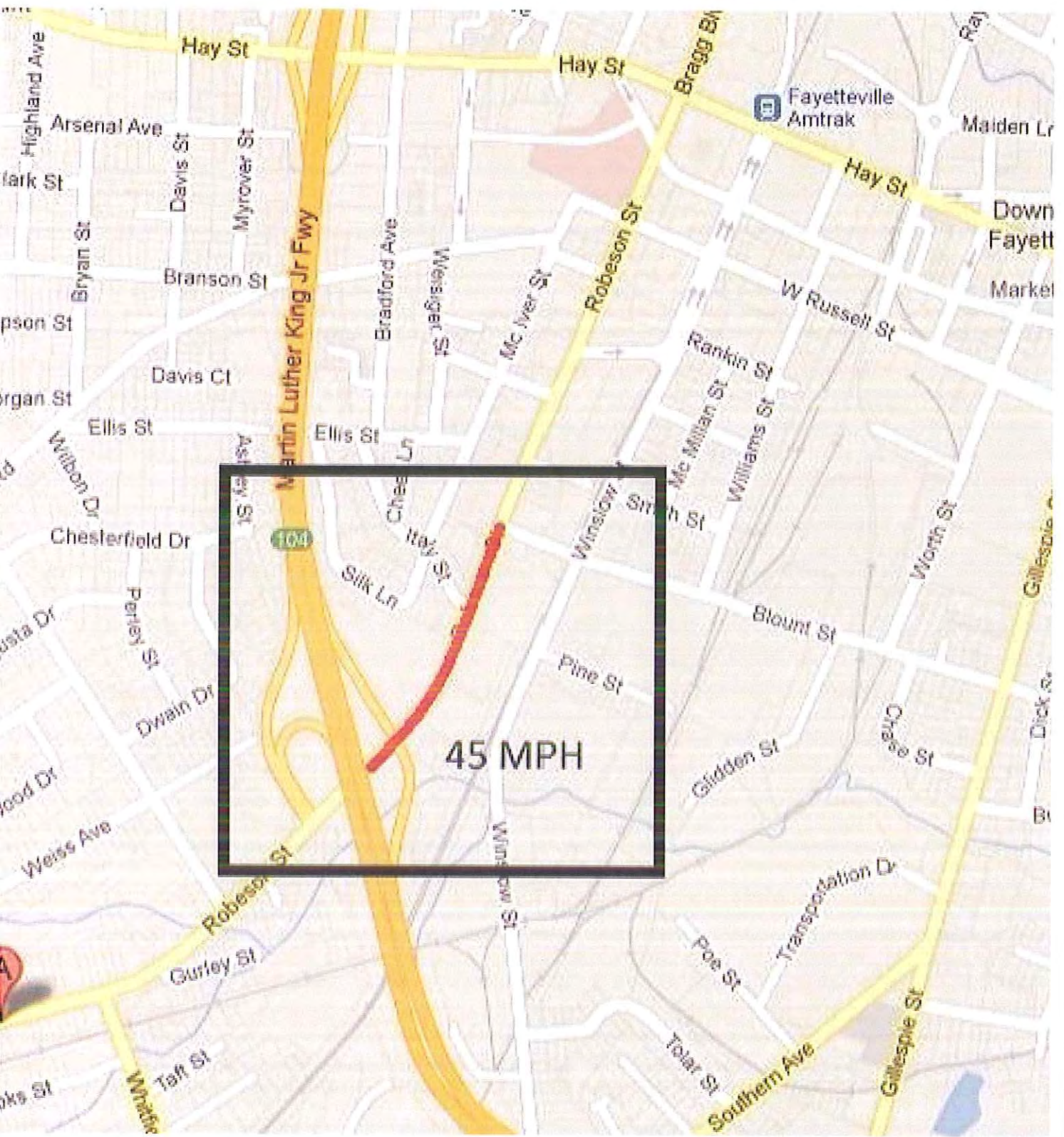
---

**Department of Transportation Approval**

**Division:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Region:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

---



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and City Council  
**FROM:** Victor Sharpe, Community Development Director  
**DATE:** February 25, 2013  
**RE:** **Community Development - Approval of transfer of a City-owned vacant lot located at 312 Old Wilmington Road to Fayetteville Metropolitan Housing Authority (FMHA) in exchange for a vacant lot located at 329 Cross Creek Street.**

---

---

**THE QUESTION:**

City Council authorization to exchange property is requested.

**RELATIONSHIP TO STRATEGIC PLAN:**

Greater Tax Base - Strong Local Economy and More Attractive City - Clean and Beautiful and Revitalized Downtown A Community Focal Point.

**BACKGROUND:**

- The City owns a vacant lot located at 312 Old Wilmington in the HOPE VI Revitalization Project Area that the Fayetteville Metropolitan Housing Authority is interested in exchanging with the City for a comparable vacant lot located at 329 Cross Creek Street.
- The City's vacant lot at 312 Old Wilmington Road is 11,122 square feet with an appraised taxable value of \$7,500. The FMHA's vacant lot at 329 Cross Creek Street is 8,125 square feet with an appraised taxable land value of \$5,500.
- The FMHA's plan to provide the lot to Habitat For Humanity to build a house is consistent with plans for single-family housing in the HOPE VI Revitalization Project area.
- The lot that the City will receive located at 329 Cross Creek Street is in an area where the City has acquired other lots. The lots in this area will be used for future market-rate housing consistent with the HOPE VI Revitalization plan.
- The Fayetteville Metropolitan Housing Authority Commissioners approved the land swap at their meeting on February 14, 2013.

**ISSUES:**

None.

**BUDGET IMPACT:**

Administrative costs are estimated to be less than \$100 to record the deeds.

**OPTIONS:**

- Approve property transfer/swap.
- Do not approve transfer/swap.
- Provide additional direction to staff.

**RECOMMENDED ACTION:**

Staff recommends that City Council move to authorize the City Manager to execute all documents necessary to transfer the property located at 312 Old Wilmington Road to the Fayetteville Metropolitan Housing Authority and accept the parcel of property owned by the Fayetteville Metropolitan Housing Authority located at 329 Cross Creek Street.



**ATTACHMENTS:**

312 Old Wilmington Road

329 Cross Creek Street



# 312 Old Wilmington Road Site Map

LINCOLN DR

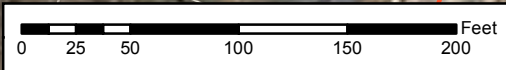
MCDANIEL ST

OLD WILMINGTON RD

Parcel No:  
0437-81-2432

ROUGH ST

CARBONTON ST



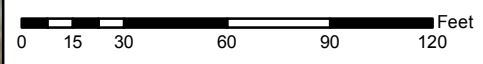


# 329 Cross Creek Street Site Map

CROSS CREEK ST

NIMOCKS AVE

Parcel No:  
0437-62-5091



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Lisa Smith, Chief Financial Officer  
**DATE:** February 25, 2013  
**RE:** **Budget Ordinance Amendment 2013-10 (Stormwater Management Funds)**

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**THE QUESTION:**

Council is asked to approve this budget ordinance amendment which will appropriate a \$60,000 contribution from the Home Builders Association of Fayetteville to share in the cost of a study to evaluate the performance of wet detention ponds for water quality improvement.

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal 4: Growing City, Livable Neighborhoods – A Great Place to Live

**BACKGROUND:**

- In December, the City entered into an agreement with the Home Builders Association of Fayetteville for the association to provide \$60,000 to share in the funding of a wet detention pond study.
- The study is being performed by the Urban Water Consortium Stormwater Group of the Water Resources Research Institute of the University of North Carolina, at a cost not to exceed \$122,849. The remainder of the cost of the study will be funded by the City's Stormwater Management Fund.
- The purpose of the study is to evaluate the performance of the detention basins in our area and to provide design recommendations that could be implemented in development requirements.
- It is anticipated that the study will be completed within approximately 18 months.

**ISSUES:**

None.

**BUDGET IMPACT:**

The budget impact is outlined above in the background section.

**OPTIONS:**

- Adopt the budget ordinance amendment as presented.
- Do not adopt the budget ordinance amendment.

**RECOMMENDED ACTION:**

Staff recommends that Council move to adopt Budget Ordinance Amendment 2013-10 as presented.

**ATTACHMENTS:**

Budget Ordinance Amendment 2013-10

2012-2013 BUDGET ORDINANCE AMENDMENT  
CHANGE 2013-10

BE IT ORDAINED BY THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA:

That the City of Fayetteville Budget Ordinance adopted June 11, 2012 is hereby amended as follows:

Section 1. It is estimated that the following revenues and other financing sources will be available during the fiscal year beginning July 1, 2012, and ending June 30, 2013, to meet the appropriations listed in Section 2.

<u>Item</u>	<u>Listed As</u>	<u>Revision</u>	<u>Revised Amount</u>
<u>Schedule E: Stormwater Management Funds</u>			
Other Revenues	\$ -	\$ 60,000	\$ 60,000
All Other Stormwater Management Revenues and OFS	9,125,454	-	9,125,454
Total Estimated Stormwater Management Funds Revenues and Other Financing Sources	<u>\$ 9,125,454</u>	<u>\$ 60,000</u>	<u>\$ 9,185,454</u>

Section 2. The following amounts are hereby appropriated for the operations of the City Government and its activities for the fiscal year beginning July 1, 2012, and ending June 30, 2013, according to the following schedules:

<u>Item</u>	<u>Listed As</u>	<u>Revision</u>	<u>Revised Amount</u>
<u>Schedule E: Stormwater Management Funds</u>			
Total Estimated Stormwater Management Funds Expenditures	<u>\$ 9,125,454</u>	<u>\$ 60,000</u>	<u>\$ 9,185,454</u>

Adopted this 25th day of February, 2013.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, AICP, CZO - Planner II  
**DATE:** February 25, 2013  
**RE:** **P13-02F Request for a Rezoning from NC – Neighborhood Commercial to CC – Community Commercial or to a more restrictive zoning district on property located at 821 Cliffdale Road containing 1.92 acres more or less and being the property of McCauley and McDonald. (Staff and Zoning Commission recommend rezoning to LC)**

---

**THE QUESTION:**

Does the Rezoning request fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

**RELATIONSHIP TO STRATEGIC PLAN:**

Livable Neighborhoods  
Growth and development

**BACKGROUND:**

Owner: McCauley and McDonald  
Applicant: Abdu Alsaïdi  
Requested Action: Rezoning from NC to CC  
Property Address: 8215 Cliffdale Road  
Council District: 7  
Status of Property: Developed - Vacant Auto Repair  
Size: 1.92 acres +/-  
Adjoining Land Use & Zoning:  
North - NC (Neighborhood Commercial)  
South - MR-5 (Mixed Residential 5 District)  
West - NC (Neighborhood Commercial),  
East – NC (Neighborhood Commercial)  
Letters Mailed: 19  
Land Use Plan: Heavy Commercial

**ISSUES:**

This property is currently zoned for NC - Neighborhood Commercial. The City's land use plan however calls for heavy commercial on this property. This intersection where Cliffdale and Rim Roads come together may be a good candidate for land use plan and zoning recommendations and changes. The area shown in red (heavy commercial) on the land use plan was zoned C1(P) under the City's old ordinance. The NC district here does not match the land use plan and it does not match with the existing businesses. A larger rezoning should be initiated by staff to address the zoning problem in a larger area. Staff recommends rezoning to a more restrictive LC - Limited Commercial district, which is a compromise zone between NC and the requested CC districts.

On January 8th the Zoning Commission held a public hearing regarding this case and voted 4-1 to recommend rezoning this property to LC.

Zoning Commission and Staff recommend approval of this rezoning to a more restrictive LC zoning district based on the following.

1. The land use plan calls for heavy commercial on this property.
2. Current zoning in this area doesn't match that of the land use plan.

**BUDGET IMPACT:**

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

**OPTIONS:**

- 1) Approval of the rezoning as requested by the applicant;
- 2) Approval of the rezoning to a more restrictive LC district (recommended);
- 3) Denial of the rezoning request.

**RECOMMENDED ACTION:**

Zoning Commission and Staff Recommend: That the City Council move to APPROVE the rezoning to a more restrictive LC - Limited Commercial district, as presented by staff.

**ATTACHMENTS:**

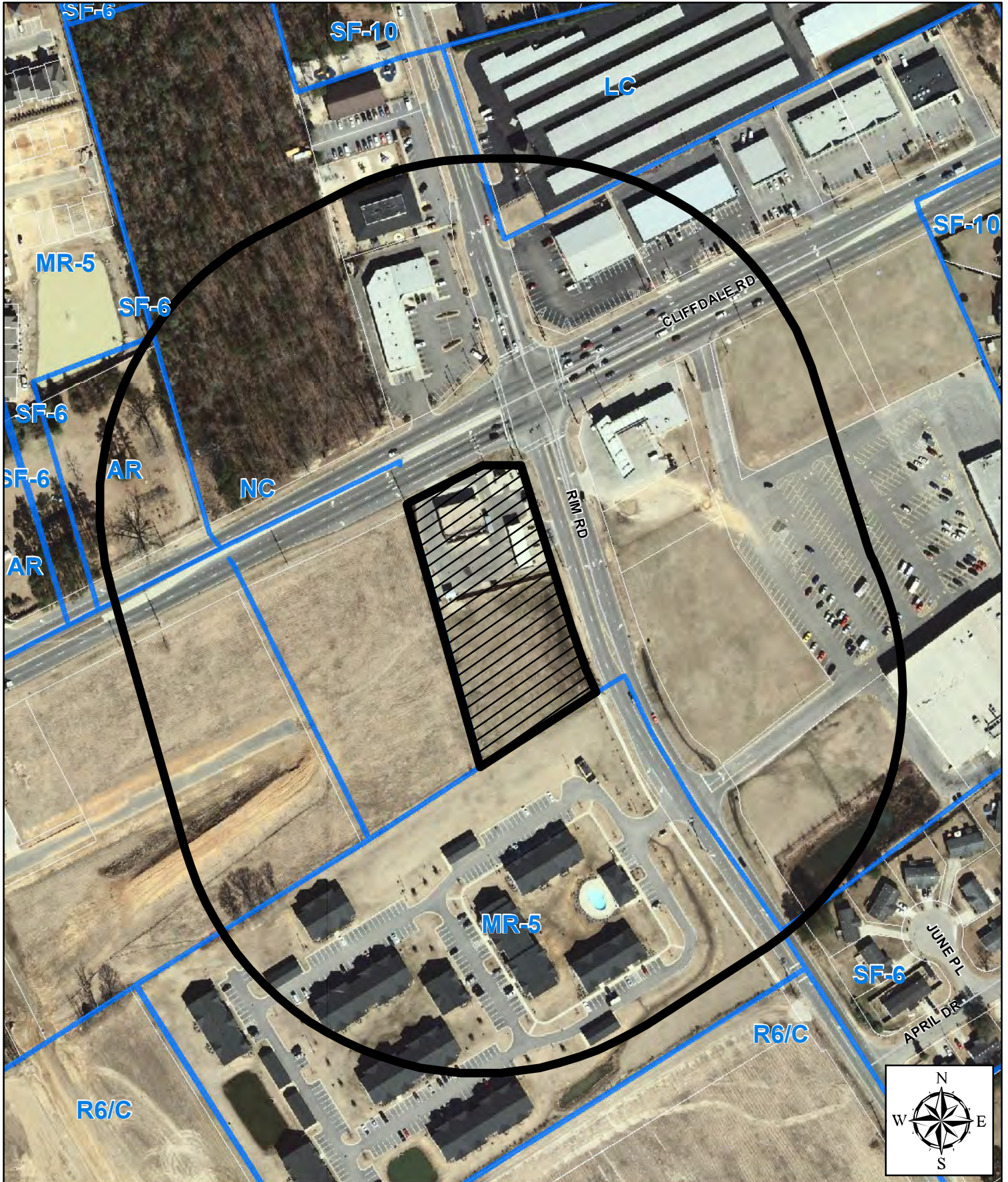
Zoning Map

Current Land Use

Land Use Plan

PowerPoint Presentation

**ZONING COMMISSION**  
**CASE NO. P13-02F**



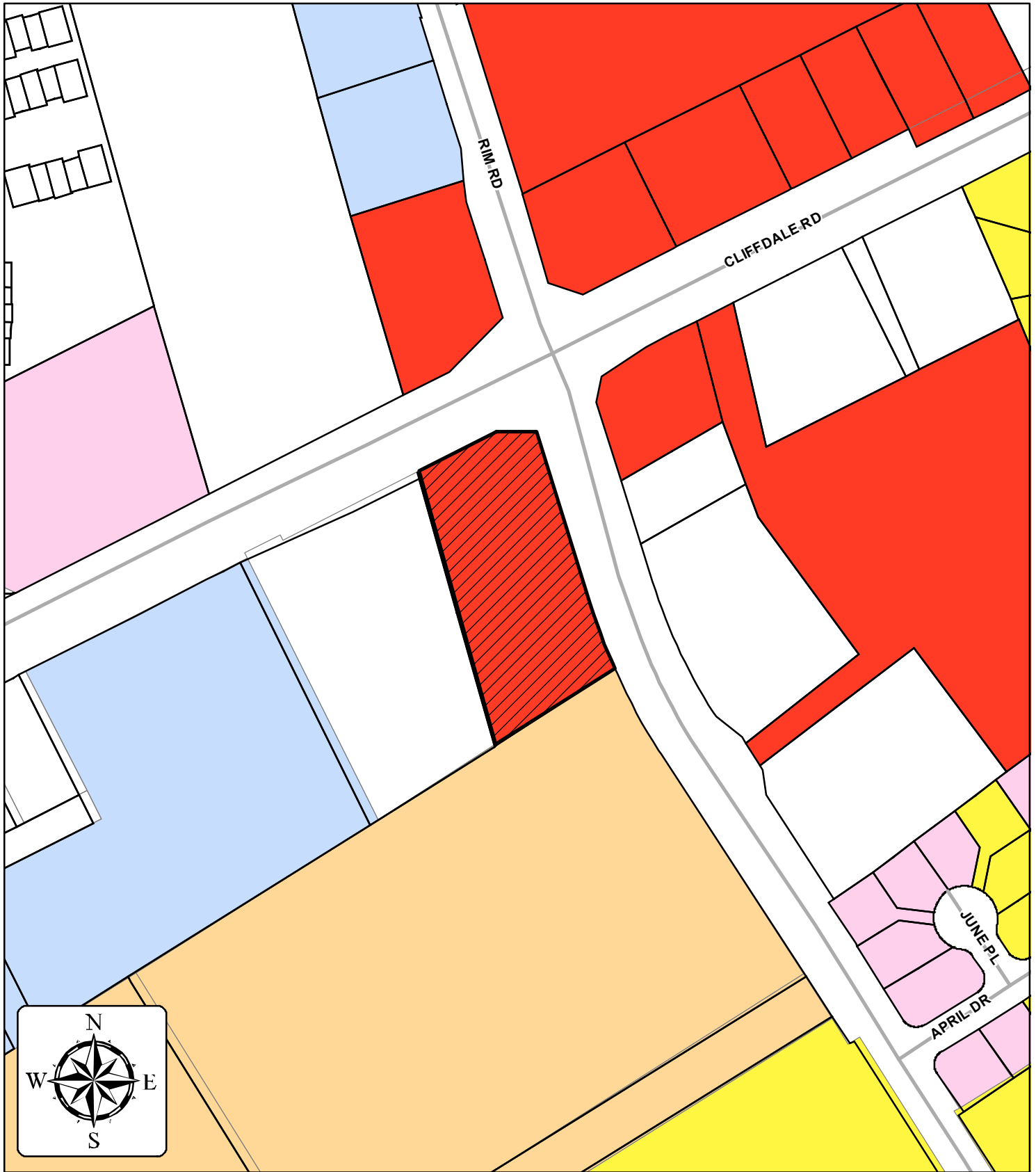
**Request: NC to CC**  
**Location: 8215 Cliffdale Rd.**  
**Size: 1.92 acres +/-**

**Zoning Commission: 01/08/2013**    **Recommendation: \_\_\_\_\_**  
**City Council: \_\_\_\_\_**    **Final Action: \_\_\_\_\_**  
**Pin: 9487-56-2185-**



# Current Land Use

P13-02F

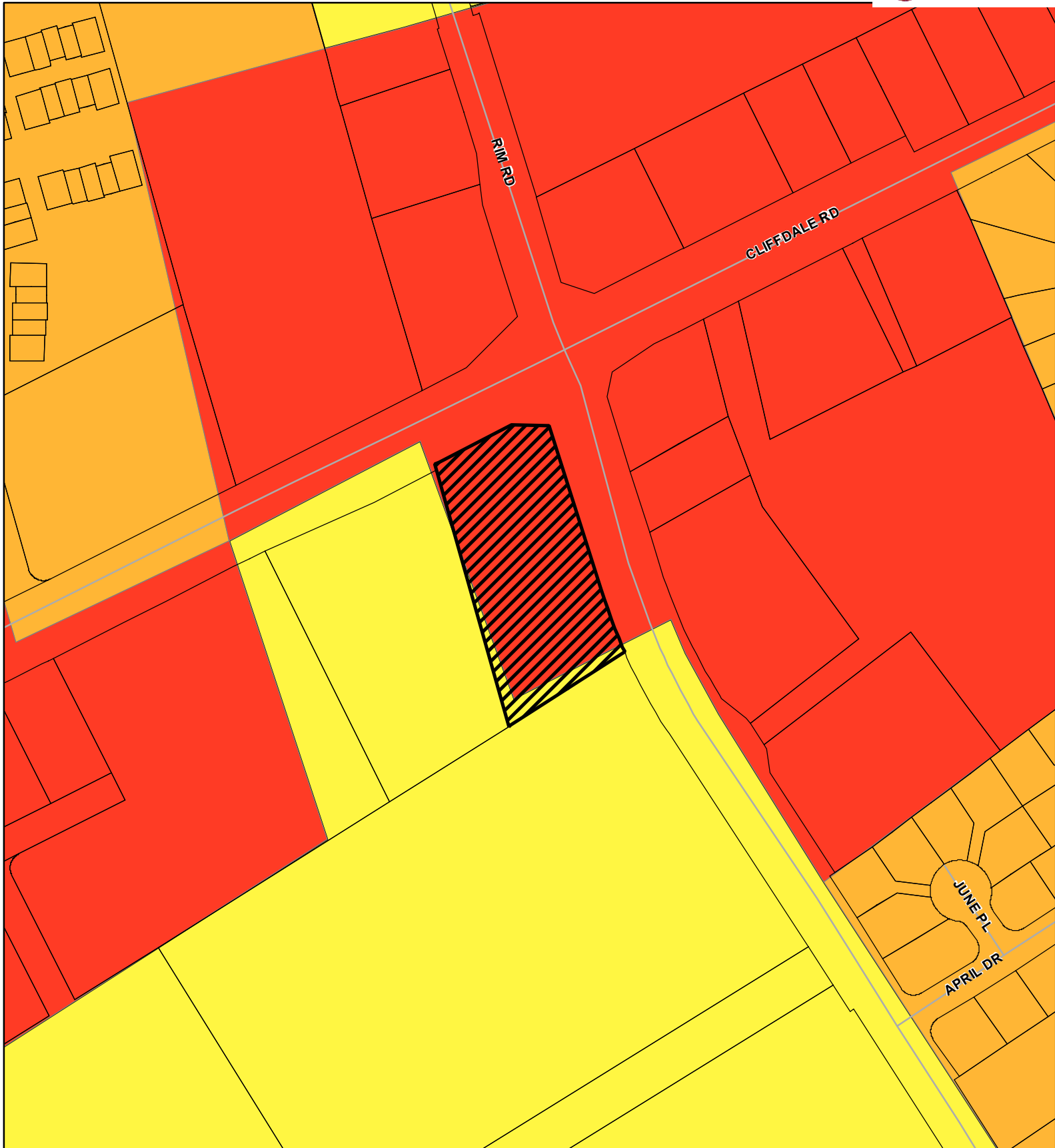


Legend

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

# 2010 Land Use Plan

Case No. P13-02F



## Legend

Academic Training-Fort Bragg	Farmland	Historical District-Fort Bragg	Neighborhood Activity Node	Policy Directed Light Commercial
Activity Node	Governmental	Light Commercial	Office & Institutional	Policy Directed Office & Institutional
Airfield Operations-Fort Bragg	Heavy Commercial	Light Industrial	One Acre Residential Lots	Range & Training-Fort Bragg
Community Activity Node	Heavy Industrial	Low Density Residential	Open Space	Redevelop/Holding-Fort Bragg
Downtown	High Density Residential	Medium Density Residential	Policy Directed Heavy Commercial	Suburban Density Residential

# CITY COUNCIL MEETING

February 25, 2013  
P13-02F – Consent Item

433 Hay Street  
Fayetteville, NC 28301  
[www.cityoffayetteville.org](http://www.cityoffayetteville.org)  
[facebook.com/cityoffayetteville](https://www.facebook.com/cityoffayetteville)  
Twitter @CityOfFayNC



City of  
*Fayetteville*  
North Carolina

**CASE NO. P13-02F**



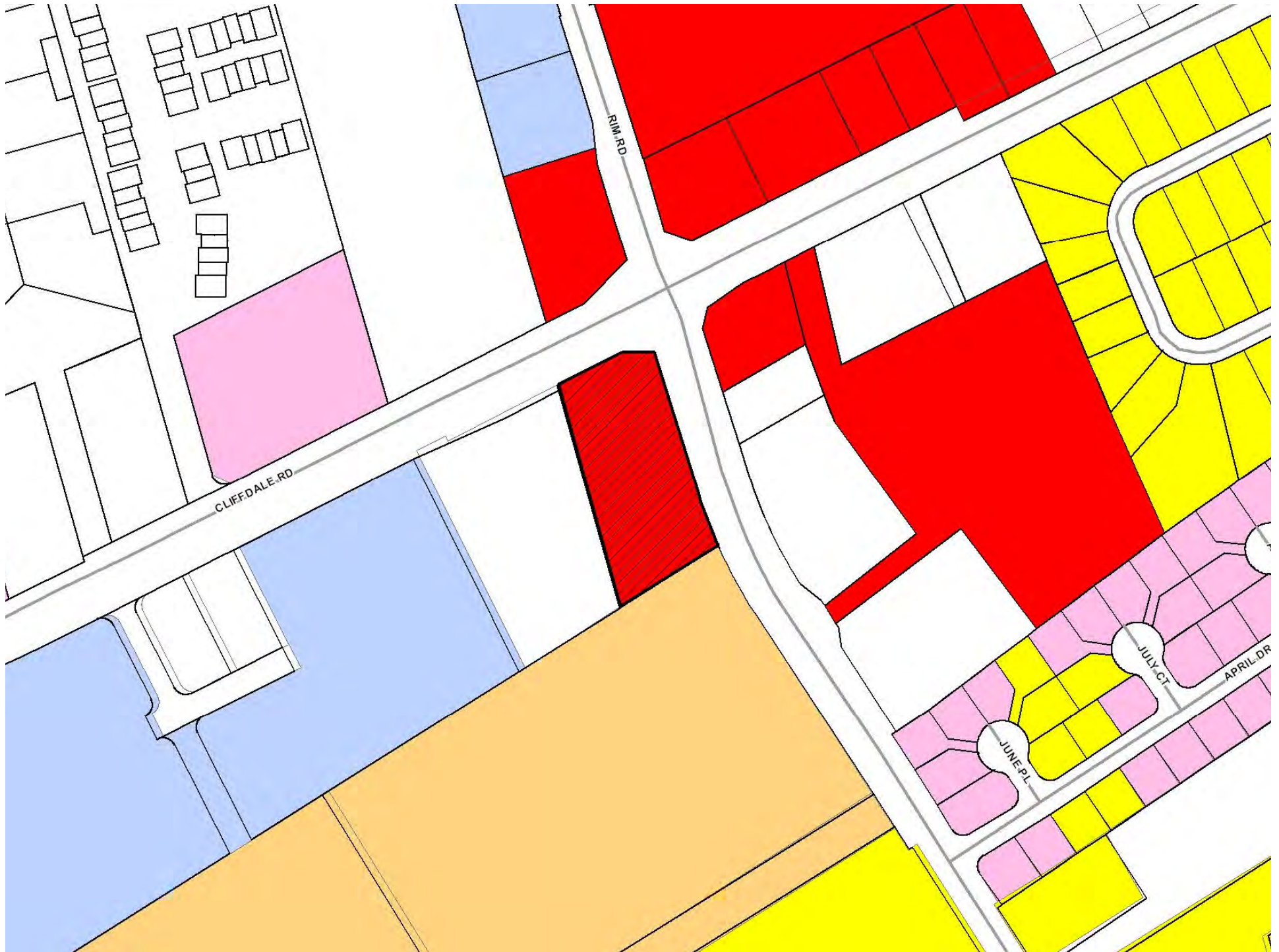
**Requested Action: NC to CC**

**Property Address: 821 Cliffdale Road (corner of Rim Road)**

**Size: 1.92 acres +/-**





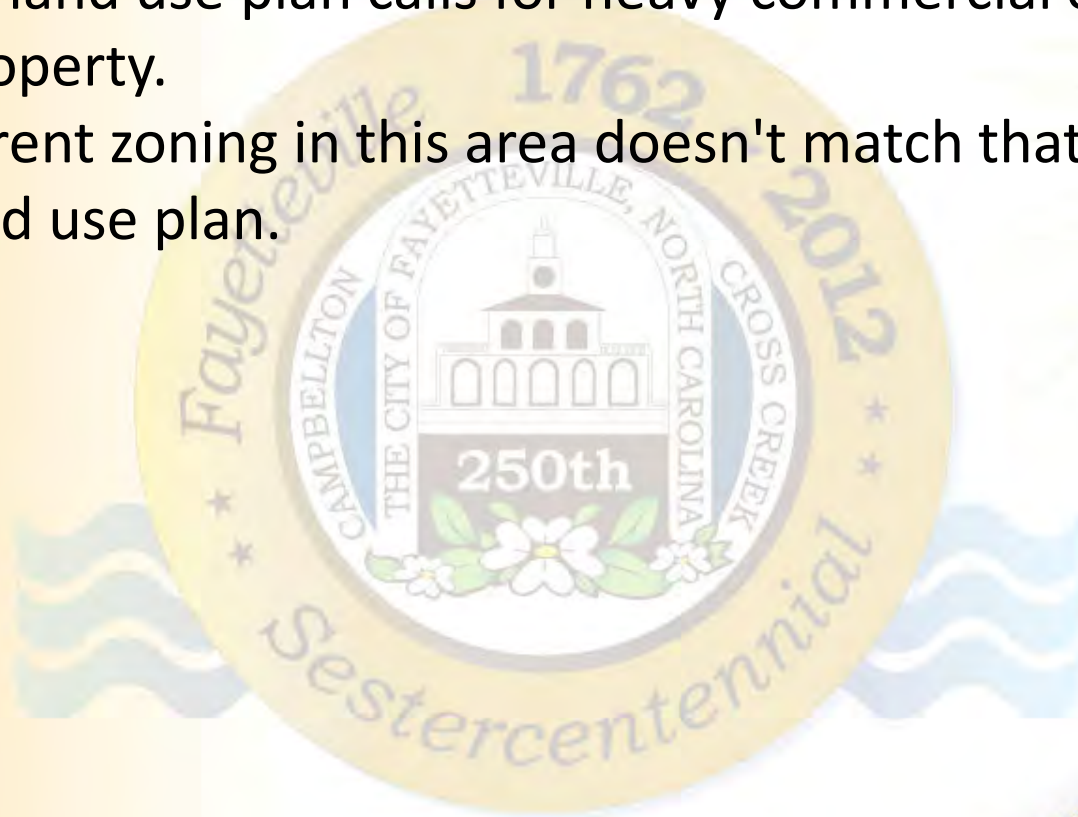




Zoning Commission and Staff recommend approval of this rezoning to a more restrictive LC zoning district based on the following.



1. The land use plan calls for heavy commercial on this property.
2. Current zoning in this area doesn't match that of the land use plan.



City of  
*Fayetteville*  
North Carolina



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, AICP, CZO - Planner II  
**DATE:** February 25, 2013  
**RE:** **P13-03F Request for a Rezoning from LC – Limited Commercial to CC – Community Commercial or to a more restrictive zoning district on property located at 5522 Yadkin Rd. containing 1.07 acres more or less and being the property of JP III Family Limited Partnership.**

---

**THE QUESTION:**

Does the Rezoning request fit with the character of the neighborhood and the long range plans of the City of Fayetteville?

**RELATIONSHIP TO STRATEGIC PLAN:**

Livable Neighborhoods  
Growth and development

**BACKGROUND:**

Owner: JP III Family Limited Partnership  
Applicant: Joseph P. Riddle, III  
Requested Action: Rezoning from LC to CC  
Property Address: 5522 Yadkin Rd.  
Council District: 4  
Status of Property: Developed  
Size: 1.07 acres +/-  
Adjoining Land Use & Zoning:  
North - SF-10 (Single Family Residential 10 District) & LC (Limited Commercial)  
South - LC (Limited Commercial)  
West - LC (Limited Commercial)  
East – SF-10 (Single Family Residential 10 District)  
Letters Mailed: 64  
Land Use Plan: Light Commercial

**ISSUES:**

This property is located along Yadkin Road to the south and east of Santa Fe Drive. This property has two businesses on it. Prior to the UDO one of these businesses was a heavy auto repair establishment. After the UDO remapping project auto repair was no longer allowed on this property. With the current UDO zoning of LC - Limited Commercial heavy auto repair is not allowed. The owner of this property has applied for a rezoning to CC-Community Commercial. They have also applied for a Special Use Permit (SUP) to allow heavy automotive repair in the CC district. They must get the rezoning to CC first. The City's land use plan calls for light commercial on this property.

On January 8th the Zoning Commission held a public hearing regarding this case and voted 4-1 to recommend approval of this rezoning request.

Zoning Commission and Staff recommend that this property be rezoned to CC based on:

1. CC zoning fits with the zoning of this property prior to the UDO.
2. CC zoning fits with the previous uses of this property.
3. This property has commercial zoning on three sides.
4. There is an existing buffer between this property and the residential lots behind it.

**BUDGET IMPACT:**

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

**OPTIONS:**

- 1) Approval of the rezoning to CC as requested by the applicant (recommended) ;
- 2) Approval of the rezoning to a more restrictive district;
- 3) Denial of the rezoning request.

**RECOMMENDED ACTION:**

**Zoning Commission and Staff Recommends:** That the City Council move to APPROVE the rezoning to CC, as presented by staff.

**ATTACHMENTS:**

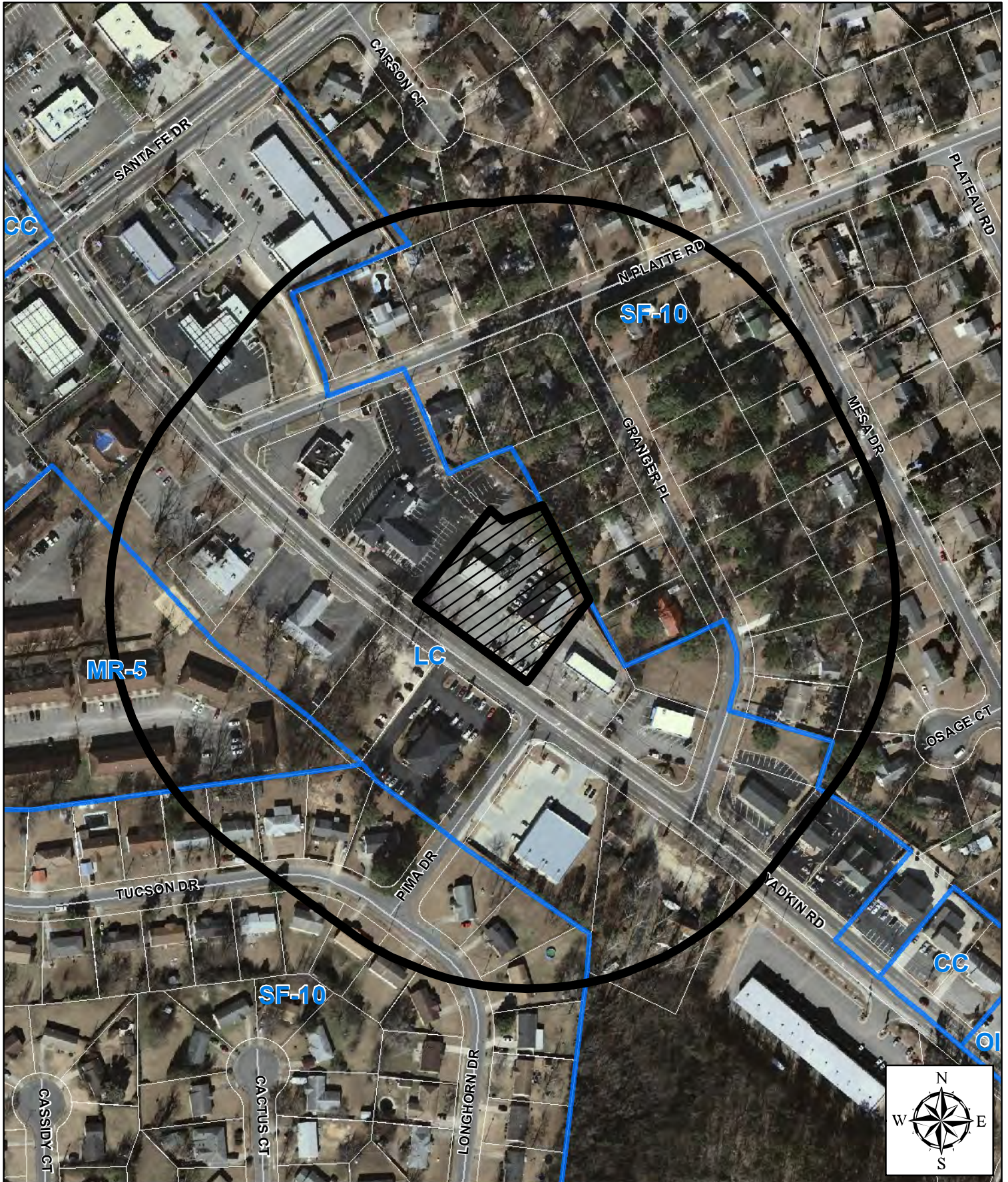
Zoning Map

Current Land Use

Land Use Plan

PowerPoint Presentation

**ZONING COMMISSION**  
**CASE NO. P13-03F**

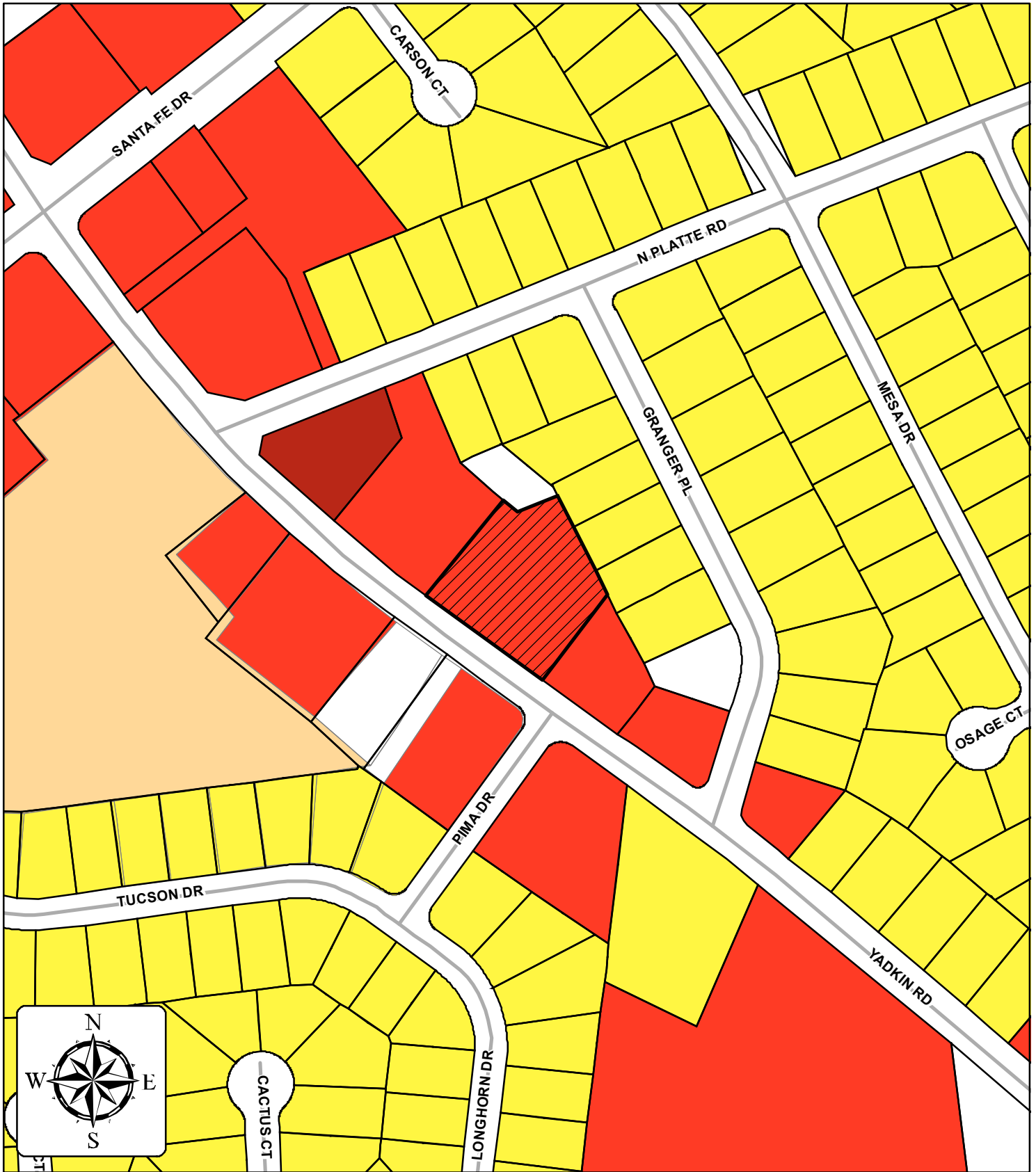


**Request:** LC to CC  
**Location:** 5522 Yadkin Rd.  
**Size:** 1.07 acres +/-

**Zoning Commission:** 01/08/2013    **Recommendation:** \_\_\_\_\_  
**City Council:** \_\_\_\_\_    **Final Action:** \_\_\_\_\_  
**Pin:** 9487-56-2185-

# Current Land Use

P13-03F

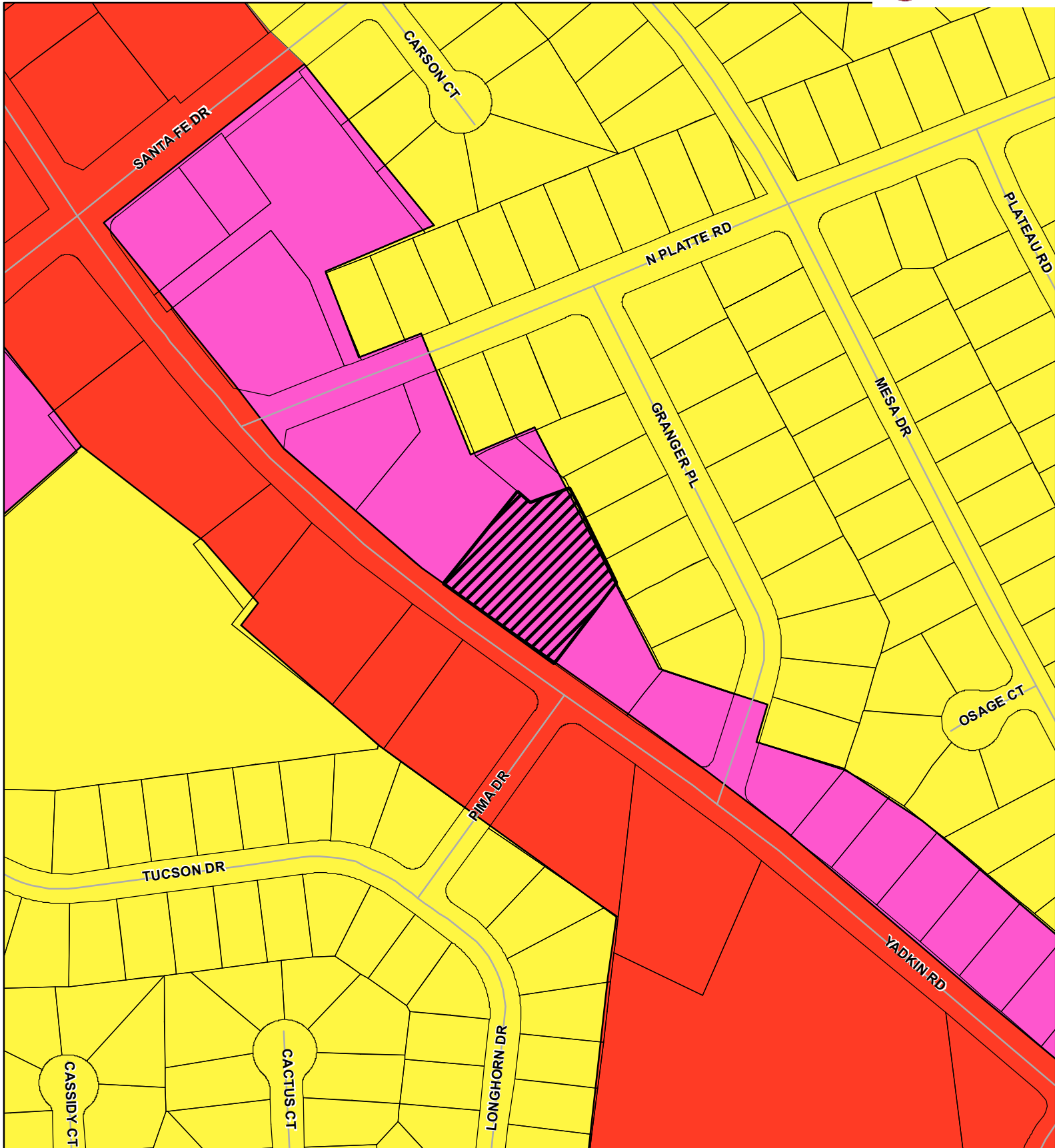


Legend

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

# 2010 Land Use Plan

Case No. P13-03F



## Legend

Academic Training-Fort Bragg	Farmland	Historical District-Fort Bragg	Neighborhood Activity Node	Policy Directed Light Commercial
Activity Node	Governmental	Light Commercial	Office & Institutional	Policy Directed Office & Institutional
Airfield Operations-Fort Bragg	Heavy Commercial	Light Industrial	One Acre Residential Lots	Range & Training-Fort Bragg
Community Activity Node	Heavy Industrial	Low Density Residential	Open Space	Redevelop/Holding-Fort Bragg
Downtown	High Density Residential	Medium Density Residential	Policy Directed Heavy Commercial	Suburban Density Residential

5831

# CITY COUNCIL MEETING

February 25, 2013  
P13-03F – Consent Item

433 Hay Street  
Fayetteville, NC 28301  
[www.cityoffayetteville.org](http://www.cityoffayetteville.org)  
[facebook.com/cityoffayetteville](https://facebook.com/cityoffayetteville)  
Twitter @CityOfFayNC



City of  
*Fayetteville*  
North Carolina

**CASE NO. P13-02F**



**Requested Action: LC to CC**

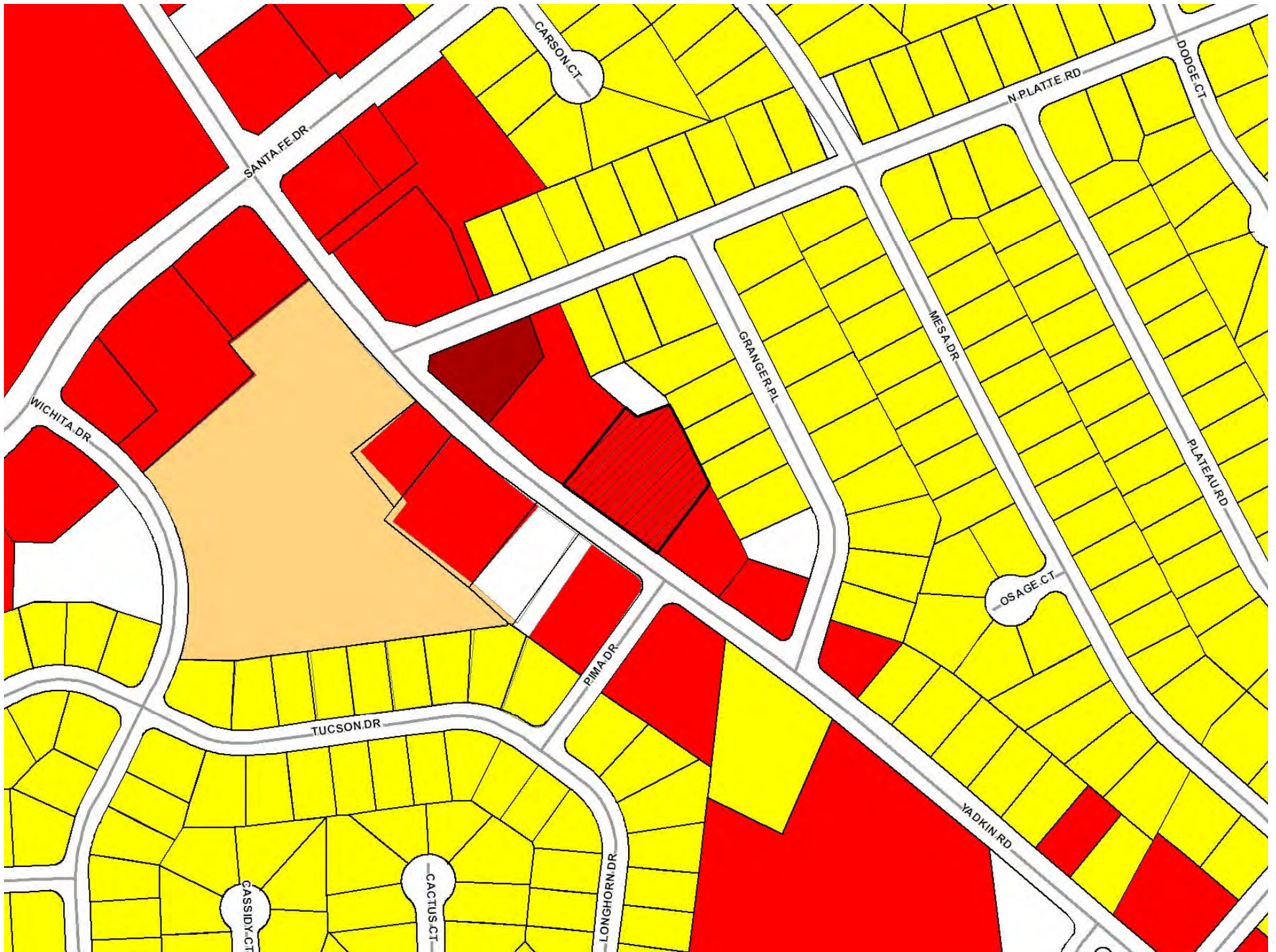
**Property Address: 5522 Yadkin Road**

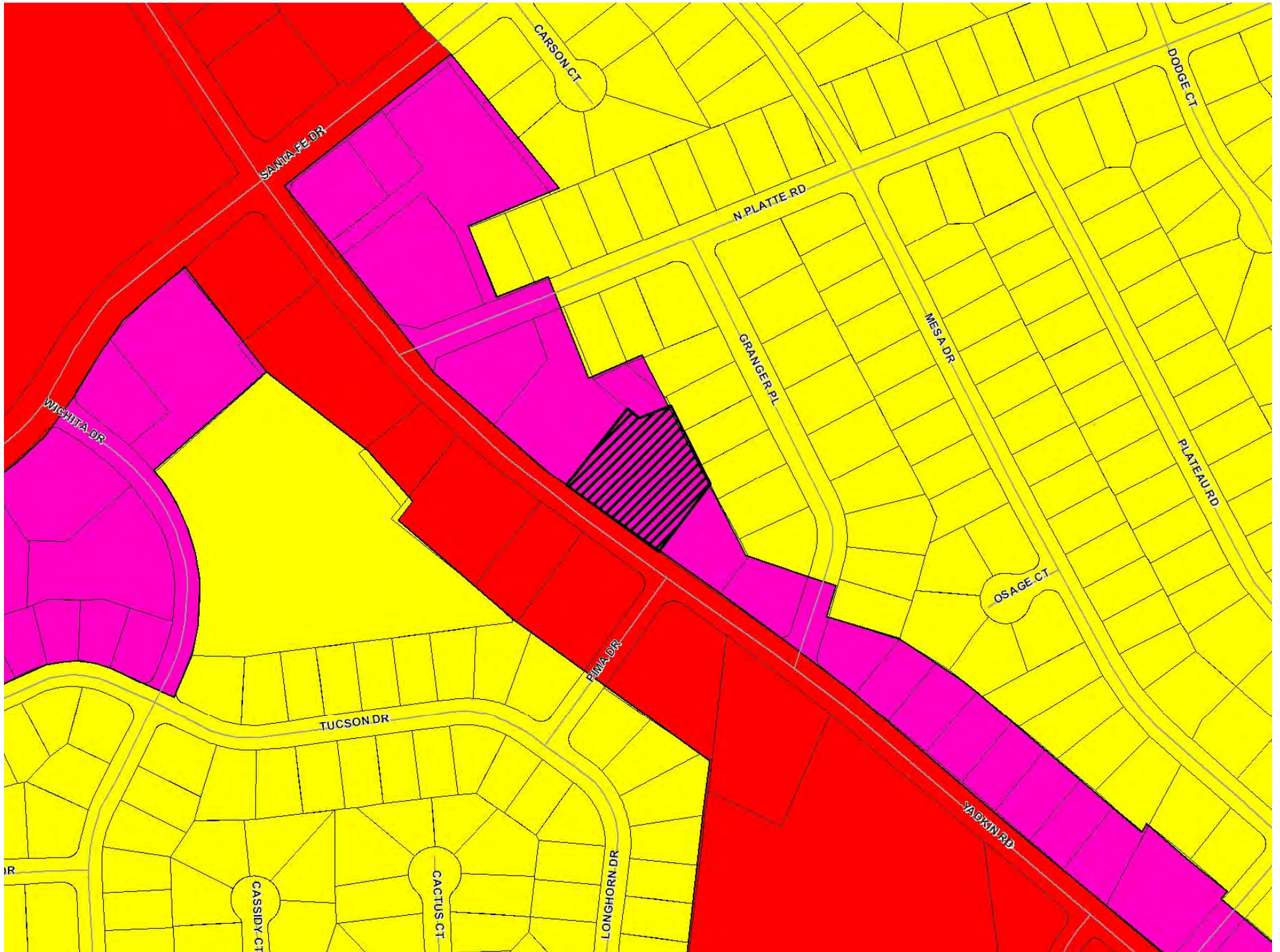
**Size: 1.07 acres +/-**













Zoning Commission and Staff recommend that this property be rezoned to CC based on:

1. CC zoning fits with the zoning of this property prior to the UDO.
2. CC zoning fits with the previous uses of this property.
3. This property has commercial zoning on three sides.
4. There is an existing vegetated buffer between this property and the residential lots behind it.

City of  
*Fayetteville*  
North Carolina

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Lee Jernigan, P.E., City Traffic Engineer  
**DATE:** February 25, 2013  
**RE:** **Approval of a Municipal Agreement with NCDOT in support of improving vertical clearances of bridges over I-95 Business**

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**THE QUESTION:**

Municipal Agreement with NCDOT for bridge projects on I-95 Business

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhoods - Great Place to Live

**BACKGROUND:**

- This is a NCDOT project to improve vertical clearances of bridges along I-95 Business in Cumberland County. The bridge on Middle Road over I-95 Business is the only location in this project in the City Limits.
- The estimated date to advertise this project for construction is April 2013.
- The City will request NCDOT coordinate this bridge work with the Cape Fear River bridge work.

**ISSUES:**

The City is simply being asked by NCDOT to execute the attached agreement to document its support for the project.

**BUDGET IMPACT:**

The Municipal Agreement does not require any financial participation from the City.

**OPTIONS:**

- Approve the attached Municipal Agreement for the project.
- Reject the Municipal Agreement.

**RECOMMENDED ACTION:**

Staff recommends that Council authorize the City Manager to execute the attached agreement.

**ATTACHMENTS:**

I-95 Business Bridge Project Agreement

NORTH CAROLINA

**TRANSPORTATION IMPROVEMENT PROJECT –  
MUNICIPAL AGREEMENT**

CUMBERLAND COUNTY

DATE: 1/15/2013

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: 17BP.6.H.1

AND

CITY OF FAYETTEVILLE

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

**WITNESSETH:**

WHEREAS, the Department has plans to make certain street and highway constructions and improvements within the Municipality under Project 17BP.6.H.1, in Cumberland County; and,

WHEREAS, the Department and the Municipality have agreed that the municipal limits, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following applicable legislation: General Statutes of North Carolina, Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the parties to this Agreement have approved the construction of said Project with cost participation and responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

## **SCOPE OF THE PROJECT**

1. The Project consists of jacking or replacing bridge superstructure spans to increase vertical clearances for Bridges 8, 117, 127, 129 and 130 over I-95 Business in Cumberland County..

## **PLANNING, DESIGN AND RIGHT OF WAY**

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, and prepare the Project plans and specifications needed to construct the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.
3. The Department shall be responsible for acquiring any needed right of way required for the Project. Acquisition of right of way shall be accomplished in accordance with the policies and procedures set forth in the North Carolina Right of Way Manual.

## **UTILITIES**

4. It is understood that there are no municipally-owned water and sewer lines to be adjusted or relocated at this time. If during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer lines a separate Utility Agreement will be prepared at the appropriate time.

## **CONSTRUCTION AND MAINTENANCE**

5. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.
6. It is further agreed that upon completion of the Project, the Department shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the "Policy on Street and Driveway Access to North Carolina Highways", and departmental criteria.
7. Upon completion of the Project, the improvement(s) shall be a part of the State Highway System and owned and maintained by the Department.

## **ADDITIONAL PROVISIONS**

8. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.
9. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
10. All terms of this Agreement are subject to available departmental funding and fiscal constraints.
11. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement.

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

L.S. ATTEST: CITY OF FAYETTEVILLE

BY: \_\_\_\_\_ BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_ DATE: \_\_\_\_\_

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

Approved by \_\_\_\_\_ of the local governing body of the City of Fayetteville as attested to by the signature of Clerk of said governing body on \_\_\_\_\_ (Date)

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

(SEAL)

BY: \_\_\_\_\_ (FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_

Remittance Address:

City of Fayetteville

\_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_ (CHIEF ENGINEER)

DATE: \_\_\_\_\_

APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_ (Date)



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Lee Jernigan, P.E., City Traffic Engineer  
**DATE:** February 25, 2013  
**RE:** **Approval of a Municipal Agreement with NCDOT for Landscaping on Ramsey Street**

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**THE QUESTION:**

Municipal Agreement with NCDOT for Landscaping on Ramsey Street

**RELATIONSHIP TO STRATEGIC PLAN:**

More Attractive City - Clean and Beautiful

**BACKGROUND:**

This is a municipal agreement with NCDOT for installation and maintenance of landscaping in the medians of the recently completed Ramsey Street project.

**ISSUES:**

Upon completion of the NCDOT project to install the landscaping in the medians of the recently completed Ramsey Street project, the City will reimburse NCDOT the cost of the irrigation and provide maintenance of the landscaping after the 1 year warranty period.

**BUDGET IMPACT:**

The City will be required to reimburse NCDOT for the cost of the irrigation estimated to be \$82,000. This amount has been included in the City's budget. After the project has completed the 1 year warranty period the landscaping will be maintained by Parks and Recreation.

**OPTIONS:**

- Approve the attached Municipal Agreement
- Reject the Municipal Agreement

**RECOMMENDED ACTION:**

The recommended action is to approve the agreement.

**ATTACHMENTS:**

Ramsey Street Landscape Agreement

NORTH CAROLINA  
CUMBERLAND COUNTY

**LANDSCAPE AGREEMENT**

DATE: 1/29/2013

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

Project: W-5000

AND

WBS Elements: 40995.3.2

3706.3.24

CFDA: 20.205

CITY OF FAYETTEVILLE

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

**WITNESSETH:**

WHEREAS, the Municipality has requested enhancement funding for certain landscape plantings in Cumberland County; and,

WHEREAS, the Municipality has agreed to participate in the costs of the project, subject to conditions hereinafter set forth; and,

WHEREAS, the Department and the Municipality have also agreed to the maintenance of said plantings as hereinafter set out;

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

**SCOPE OF THE PROJECT**

1. The Project consists of landscape plantings, including construction of the irrigation system, in the newly constructed median islands along Ramsey Street (US 401 Bus) in Fayetteville.

## **PLANNING AND DESIGN**

2. The Department, without expense to the Municipality, shall develop the landscape design and prepare the landscape plans and specifications in accordance with the Department's standard landscaping policies and procedures for highways. The landscape plans must be approved by the Department and the Municipality prior to planting.

## **FUNDING**

3. The Municipality shall reimburse the Department one-hundred percent (100%) for the actual cost of the irrigation system, estimated to be of \$82,000, upon completion of construction of the irrigation system.
4. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment herein above provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina, Section 136-41.1 until such time as the Department has received payment in full under the reimbursement terms set forth in this Agreement. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23.

## **RIGHT OF WAY AND UTILITIES**

5. The Department, without expense to the Municipality, shall prepare the site and furnish and install the plantings and irrigation system in accordance with the approved project plans and provide a one-year establishment period. All work shall be performed in accordance with Departmental standards, policies and procedures. In the event any additional right of way or construction easement is required for the plantings, the Municipality shall provide said additional right of way/or easement at no expense or liability whatsoever to the Department. Acquisition of any right of way and/or easements shall be performed in accordance with all State and Federal procedures.
6. The Department does not anticipate the need to relocate and adjust any municipally-owned utilities at this time. If during the project it becomes necessary to adjust and relocate the

municipally-owned utilities the Municipality, at no expense to the Department, shall be responsible for the relocation and adjustment of all utilities in conflict with the landscape planting.

## **CONSTRUCTION**

7. The Department shall install, or cause to be installed, said plantings and irrigation system in accordance with the plans and specifications of said project as filed with, and approved by, the Department.
  - A. Any changes, revisions, or alterations to the landscaping shall require prior review and approval by the Department's Division Engineer prior to the work being initiated.
  - B. Upon completion of the plantings, the Department shall maintain said planting areas for a period of one (1) calendar year, at no expense to the Municipality.

## **MAINTENANCE**

8. At the end of the one (1) year establishment period, the Department shall notify the Municipality, in writing, of the date the Municipality shall assume responsibility for all maintenance and replacement of the landscape materials. Maintenance shall include, but not be limited to, the following: watering, mulching, pruning, fertilizing, weeding, pest control, mowing, and replacing plant materials. All cost of maintenance shall be borne by the Municipality.
9. The Municipality agrees to continually maintain all plantings in accordance with generally accepted horticultural practices. The Municipality agrees to mow areas where landscaping will prohibit the ability of NCDOT to effectively mow without damage to plantings or equipment as mutually identified by the Department's Division Engineer and the Municipality. The Department shall have the right to periodically inspect the maintenance practices being utilized by the Municipality.
10. If the Department determines that the Municipality is not properly maintaining the plantings, the Department shall notify the Municipality. If proper maintenance is not performed by the

Municipality within a reasonable time after notification, the Municipality agrees that the Department shall perform the necessary maintenance, or at the Department's option, shall return the planted area to a natural condition (i.e. seeded and mulched, etc.). It is further agreed that the costs of the restoration shall be reimbursed to the Department by the Municipality. Reimbursement to the Department shall be made in one final payment within sixty (60) days of invoicing by the Department. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147.86.23.

11. In the event these plantings require relocation or removal for highway construction, re-construction, maintenance or safety, the Municipality shall be given the option to remove or relocate any plantings it considers salvageable immediately upon notification by the Department, at no expense to the Department.

## **TRAFFIC**

12. The Municipality, at no expense to the Department, shall provide traffic control during landscape maintenance procedures as required by the latest revision of the "Manual for Uniform Traffic Control Devices.

## **ADDITIONAL PROVISIONS**

13. The Department, at the end of the one (1) year establishment period, will not be responsible for any damages to the plantings which may be done by third parties.
14. Provisions for routine mowing shall be handled under separate agreement between the Department's Division Engineer and the Municipality.
15. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.

16. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
  
17. By Executive Order 24 and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).
  
18. All terms and conditions of this Agreement are dependent upon and subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement.

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

WITNESS:

CITY OF FAYETTEVILLE

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

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

Approved by \_\_\_\_\_ of the local governing body of the City of Fayetteville as attested to by the signature of Clerk \_\_\_\_\_ of said governing body on \_\_\_\_\_ (Date)

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

(SEAL)

\_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_  
Remittance Address:

City of Fayetteville

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
(CHIEF ENGINEER)

DATE: \_\_\_\_\_

APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_ (DATE)

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Greg Caison, CSM, Stormwater Manager  
**DATE:** February 25, 2013  
**RE:** **Request to Set Public Hearing for Proposed Revisions to Stormwater Management Ordinance**

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**THE QUESTION:**

Set a public hearing for proposed revisions in performance guarantee (bonding) requirements contained in the Stormwater Management Ordinance, Article III of Chapter 23 of the City Code of Ordinances.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growing City, Livable Neighborhoods; More Efficient Government

**BACKGROUND:**

The Stormwater Management Ordinance was adopted to establish minimum requirements to control the adverse effects of increased stormwater quantity and runoff quality. As the ordinance becomes more familiar to users, procedural changes continue to be identified where efficiencies can be gained.

**ISSUES:**

Performance guarantees, also known as “bonds,” are currently required by the Ordinance to ensure that stormwater BMP’s are built and installed correctly. The Homebuilder’s Association recently approached City Staff concerning the timing of the BMP bonding requirement in residential subdivisions. Specific changes are being proposed to make the performance guarantee process more user-friendly and less burdensome particularly as relates to the timing and amount. The Stormwater Advisory Board has unanimously requested that these ordinance changes be implemented. Performance guarantee requirements on commercial properties are being explored by Staff but changes are not being requested at this time.

**BUDGET IMPACT:**

N/A

**OPTIONS:**

1. Set a public hearing (March 11, 2013 meeting) for proposed revisions in performance guarantee (bonding) requirements contained in the Stormwater Management Ordinance, Article III of Chapter 23 of the City Code of Ordinances. 2. Do not set a public hearing.

**RECOMMENDED ACTION:**

Option 1 – Set a public hearing (March 11, 2013 meeting) for proposed revisions in performance guarantee (bonding) requirements contained in the Stormwater Management Ordinance, Article III of Chapter 23 of the City Code of Ordinances.



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Lisa Smith, Chief Financial Officer  
**DATE:** February 25, 2013  
**RE:** **Special Revenue Fund Project Ordinance 2013-8 (FY13 Juvenile Restitution Program)**

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**THE QUESTION:**

This project ordinance appropriates \$108,839 for the Juvenile Restitution Program for fiscal year 2013.

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal 4: GROWING CITY, LIVABLE NEIGHBORHOODS - A GREAT PLACE TO LIVE  
Objective 1: Consistent improvement in reducing crime rates

**BACKGROUND:**

- The funding sources for this program are a \$83,536 grant awarded by the N.C. Department of Juvenile Justice and Delinquency Prevention, a \$12,152 match from Cumberland County, \$12,151 match from the City of Fayetteville and a \$1,000 in-kind match for insurance.
- The Fayetteville/Cumberland County Juvenile Restitution Program is a sentencing alternative for Fayetteville and Cumberland County youth. The program teaches the juvenile offenders to accept accountability and responsibility for their actions. The City of Fayetteville has participated in the Juvenile Restitution Program since 1991.
- This ordinance will appropriate the funds needed for personnel and operating costs for fiscal year 2013.

**ISSUES:**

None.

**BUDGET IMPACT:**

The City's \$12,151 cash match is included in the General Fund budget. The in-kind match is also included in the General Fund budget.

**OPTIONS:**

- 1) Adopt Special Revenue Fund Project Ordinance 2013-8.
- 2) Do not adopt Special Revenue Fund Project Ordinance 2013-8.

**RECOMMENDED ACTION:**

Staff recommends that Council move to adopt Special Revenue Fund Project Ordinance 2013-8.

**ATTACHMENTS:**

Special Revenue Project Ordinance 2013-8 (FY13 Juvenile Restitution)

SPECIAL REVENUE FUND PROJECT ORDINANCE  
ORD 2013-8

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

Section 1. The authorized project is for the funding for the Fayetteville-Cumberland Juvenile Restitution Program awarded by the N.C. Department of Juvenile Justice and Delinquency Prevention for FY 2013.

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

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

N.C. Department of Juvenile Justice and Delinquency prevention	\$ 83,536
Local Match - Cumberland County	12,152
Local Match - City of Fayetteville	12,151
Local In-Kind Match - City of Fayetteville	1,000
	<u>\$ 108,839</u>

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

Project Expenditures	<u>\$ 108,839</u>
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Section 5. Copies of this special revenue project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 25th day of February, 2013.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, AICP, CZO - Planner II  
**DATE:** February 25, 2013  
**RE:** **Case No. P11-47F. Request for rezoning from SF-10 Single Family Residential to LC Limited Commercial on property located at 1520 Hope Mills Road. Containing 1.59 acres more or less and being the property of Matilda Autry. (Appeal of a Zoning Commission Recommendation)**

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**THE QUESTION:**

The rezoning from SF-10 Single Family Residential to LC Limited Commercial. The Zoning Commission and Staff both recommend a more restrictive OI Office and Institutional district.

**RELATIONSHIP TO STRATEGIC PLAN:**

Growth and Development

**BACKGROUND:**

Owner: Matilda Autry Applicant: Larry Stone Requested Action: SF-10 to LC Property Address: 1520 Hope Mills Rd. Council District: 6 (Crisp) Status of Property: Undeveloped Size: 1.59 acres +/- Existing Land Use: Residential – Single family (SF-10) Letters Mailed: 5/20/10 Land Use Plan: Office and Institutional

SF-10. The Single-Family Residential 10 (SF-10) District is established to accommodate principally single-family detached residential development at low densities, and to accommodate flexibly-designed residential development that provides variable housing types and arrangements that respond to environmental and site conditions. Uses within the district are subject to the design standards in Article 30-5: Development Standards. The district accommodates two- to four-family dwellings designed to appear as single-family detached homes and zero lot line development subject to the requirements of this Ordinance. District regulations discourage any use that substantially interferes with the development of single-family dwellings and that is detrimental to the quiet residential nature of the district. Also allowed are complementary uses usually found in residential zoning districts, such as parks, open space, minor utilities, accessory dwellings of up to 800 square feet in size, schools, and places of worship. LC - The Limited Commercial (LC) District is established and intended to accommodate a wider range of moderate-intensity general retail, business, and service uses that serve groups of neighborhoods instead of just an individual neighborhood—e.g., grocery stores, drugstores, large restaurants, gas stations, and higher order retail uses like specialty stores. The district is not intended to accommodate intensive commercial or other business uses. Residential uses are encouraged on the upper floors of nonresidential establishments. The district is subject to standards intended to ensure development is compatible with surrounding residential neighborhoods.

**ISSUES:**

The applicant is looking to market this property for sale under what they see as the highest and best use, LC - Limited Commercial. The property is bordered by LC on one side and has LC zoning across the street. SF-10 zoning is, however, to the south and west of this property. Under the Hope Mills Road Land Use Plan, adopted in 2006, this property is planned for O&I - Office and Institutional. The LC district adjoining this property to the north was zoned as such prior to the adoption of the Hope Mills Land Use Plan. This property also sits at an intersection that is the entrance to a neighborhood. The Zoning Commission held a public hearing on this case in September of 2011. The Commission recommended that the property be rezoned to OI in keeping with the Hope Mills Road Land Use Plan (5-0). The applicant appealed the Zoning Commission's recommendation of OI and maintains that the LC district is still a better fit. This case was delayed in coming before Council due to negotiations between the property owner and the City for the purchase of this property. The City had interest in this property becoming a new location for the

existing Fire Station on Hope Mills Road. The Zoning Commission and Staff Recommend a more restrictive zoning of O&I based on: 1. This property is at the entrance to a residential development. 2. Hope Mills Land Use Plan calls for Office use. 3. Two sides of this property are zoned for single family residential.

**BUDGET IMPACT:**

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

**OPTIONS:**

- 1) Approval of rezoning as requested by the applicant;
- 2) Approval of rezoning to a more restrictive zoning district as presented by staff (OI recommended);
- 3) Denial of the rezoning request.

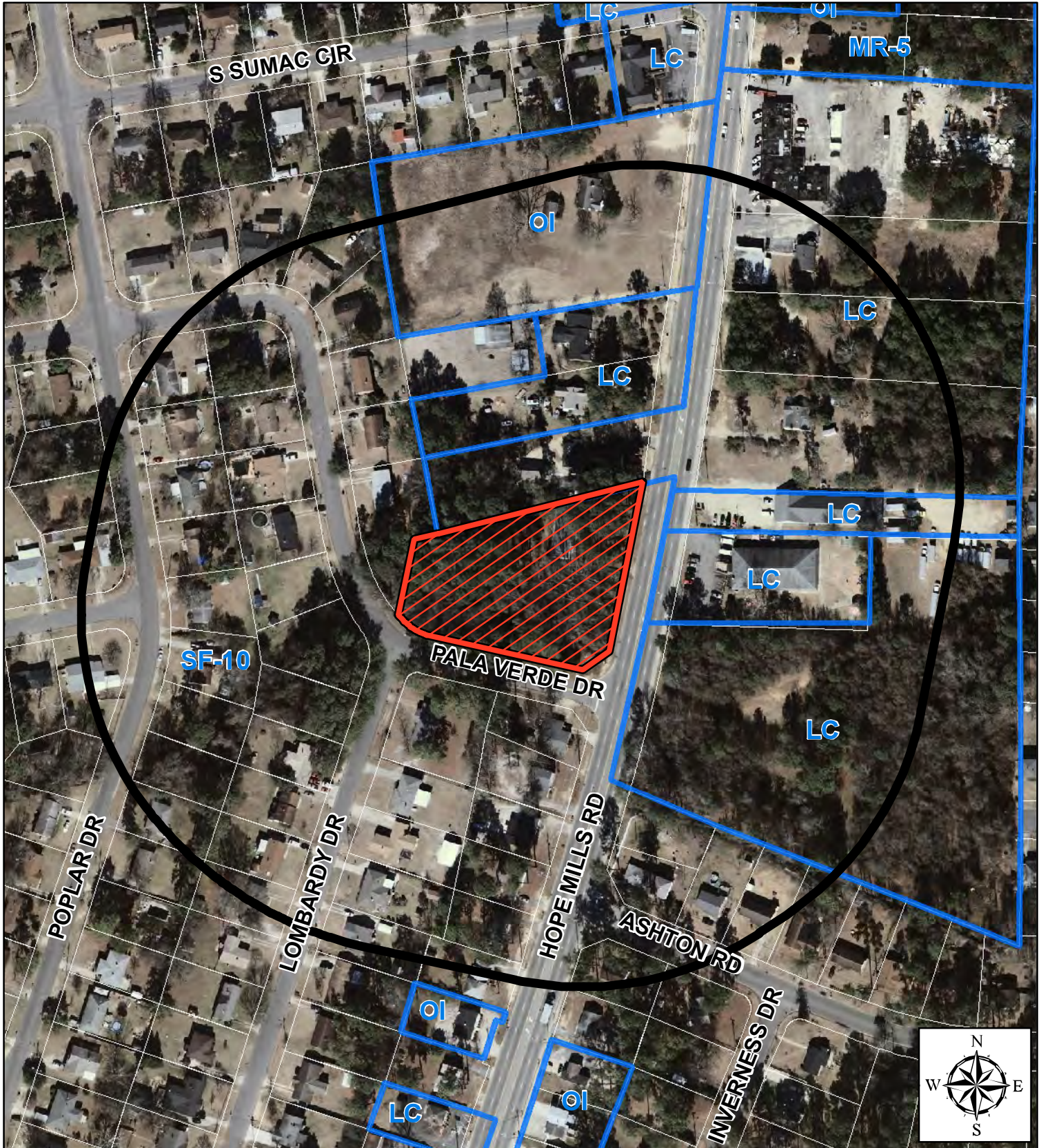
**RECOMMENDED ACTION:**

**Zoning Commission and Staff Recommend:** That the City Council move to APPROVE the rezoning to a more restrictive district of Office and Institutional as presented by staff.

**ATTACHMENTS:**

Zoning Map  
Current Land Use  
Land Use Plan  
PowerPoint Presentation

**ZONING COMMISSION  
CASE NO. P11-47F**



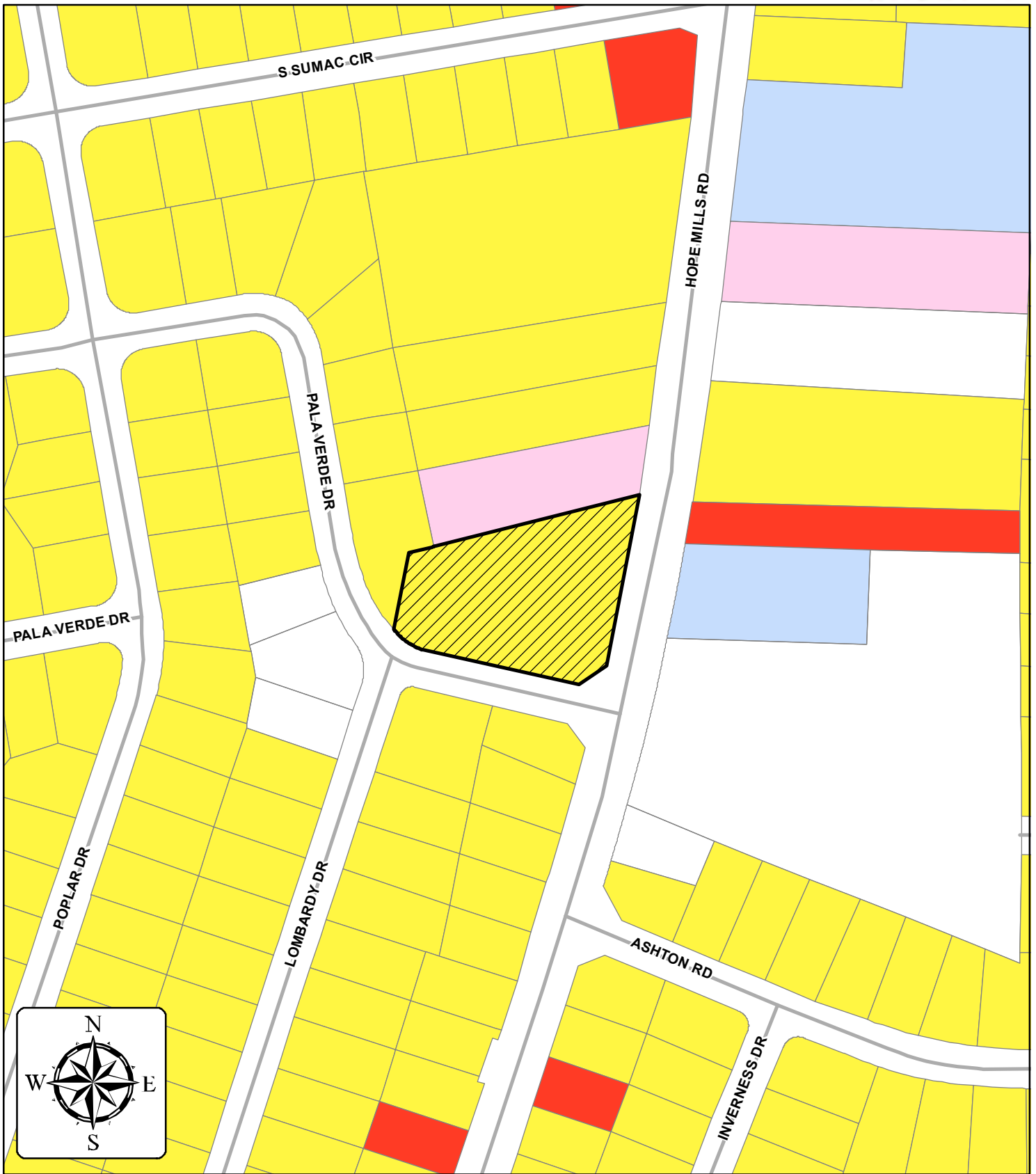
**Request:** Rezoning  
**Location:** West side of Hope Mills Road  
**Acreage:** +/- 1.54 acres

**Zoning Commission:** 09/13/2011    **Recommendation:** \_\_\_\_\_  
**City Council:** \_\_\_\_\_    **Final Action:** \_\_\_\_\_  
**Pin:** 0416-13-2264

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

# Current Land Use

## P11-47F

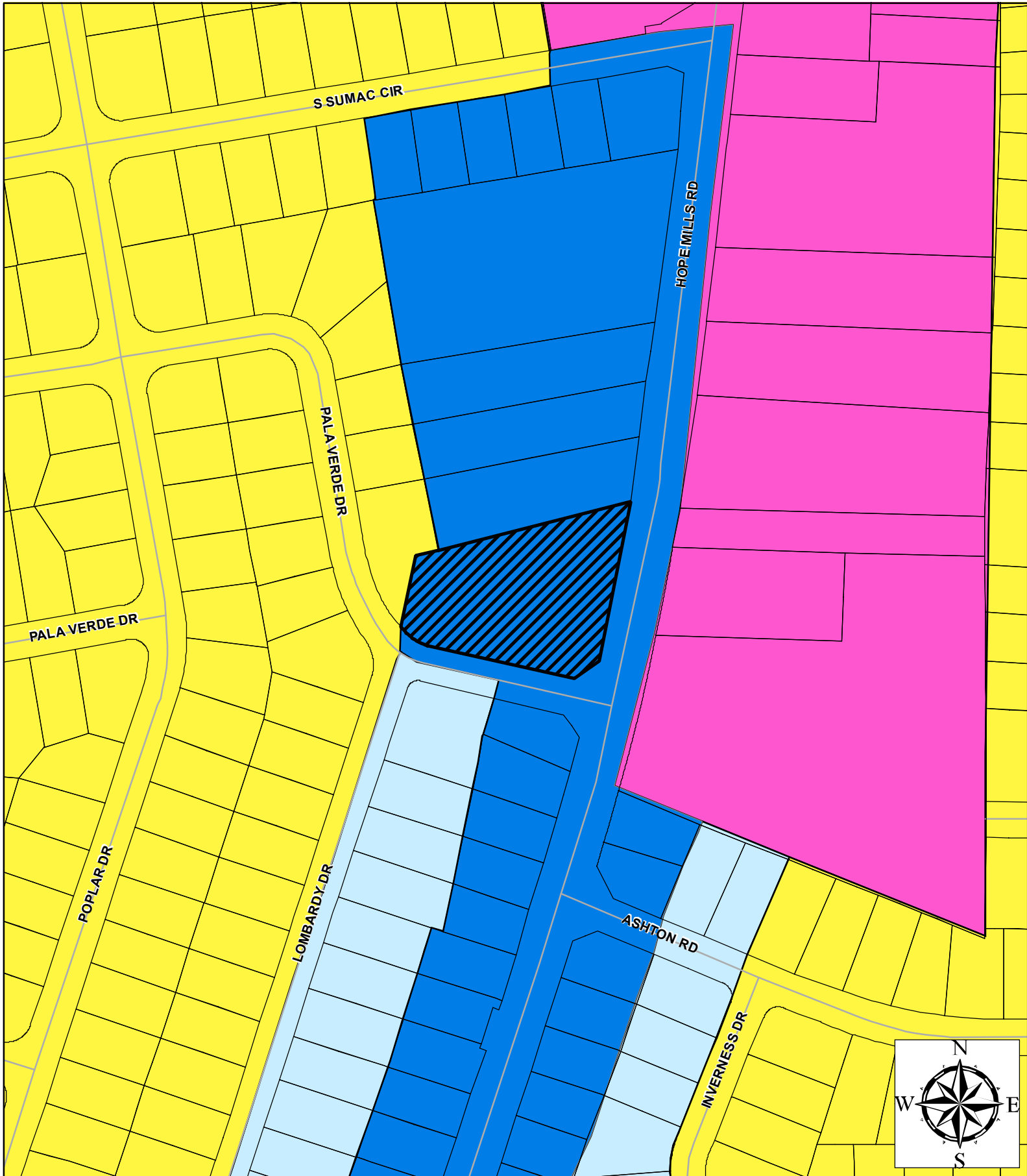


Legend

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

# 2010 Land Use Plan

## Case No. P11-47F



### Legend

- Light Commercial
- Low Density Residential
- Office & Institutional
- Policy Directed Office & Institutional

# CITY COUNCIL MEETING

February 25, 2012  
P11-47F - Public Hearing

433 Hay Street  
Fayetteville, NC 28301  
[www.cityoffayetteville.org](http://www.cityoffayetteville.org)  
[facebook.com/cityoffayetteville](https://www.facebook.com/cityoffayetteville)  
Twitter @CityOfFayNC



City of  
*Fayetteville*  
North Carolina



# CASE NO. P11-47F



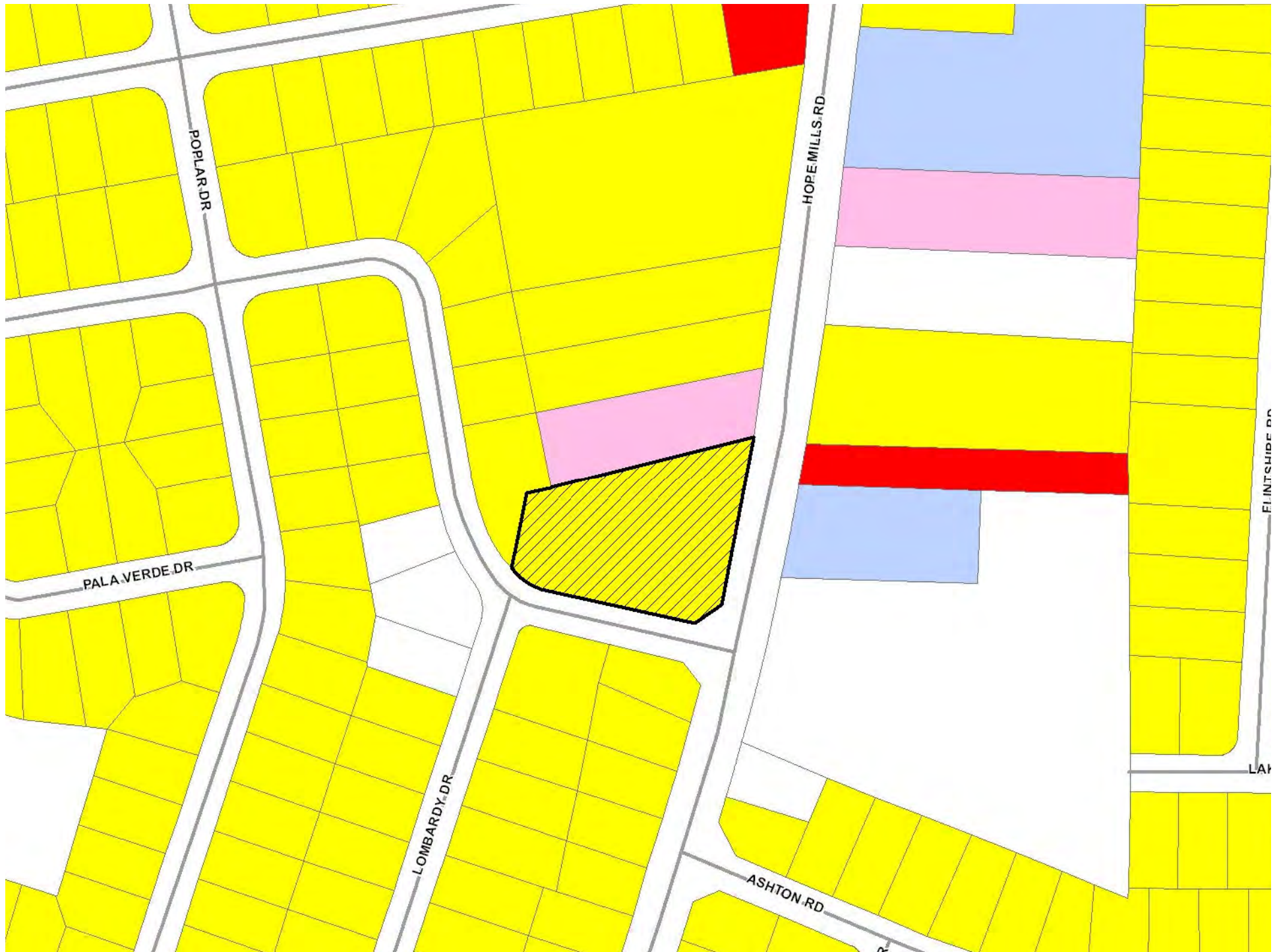
**Requested Action:** SF-10 to LC

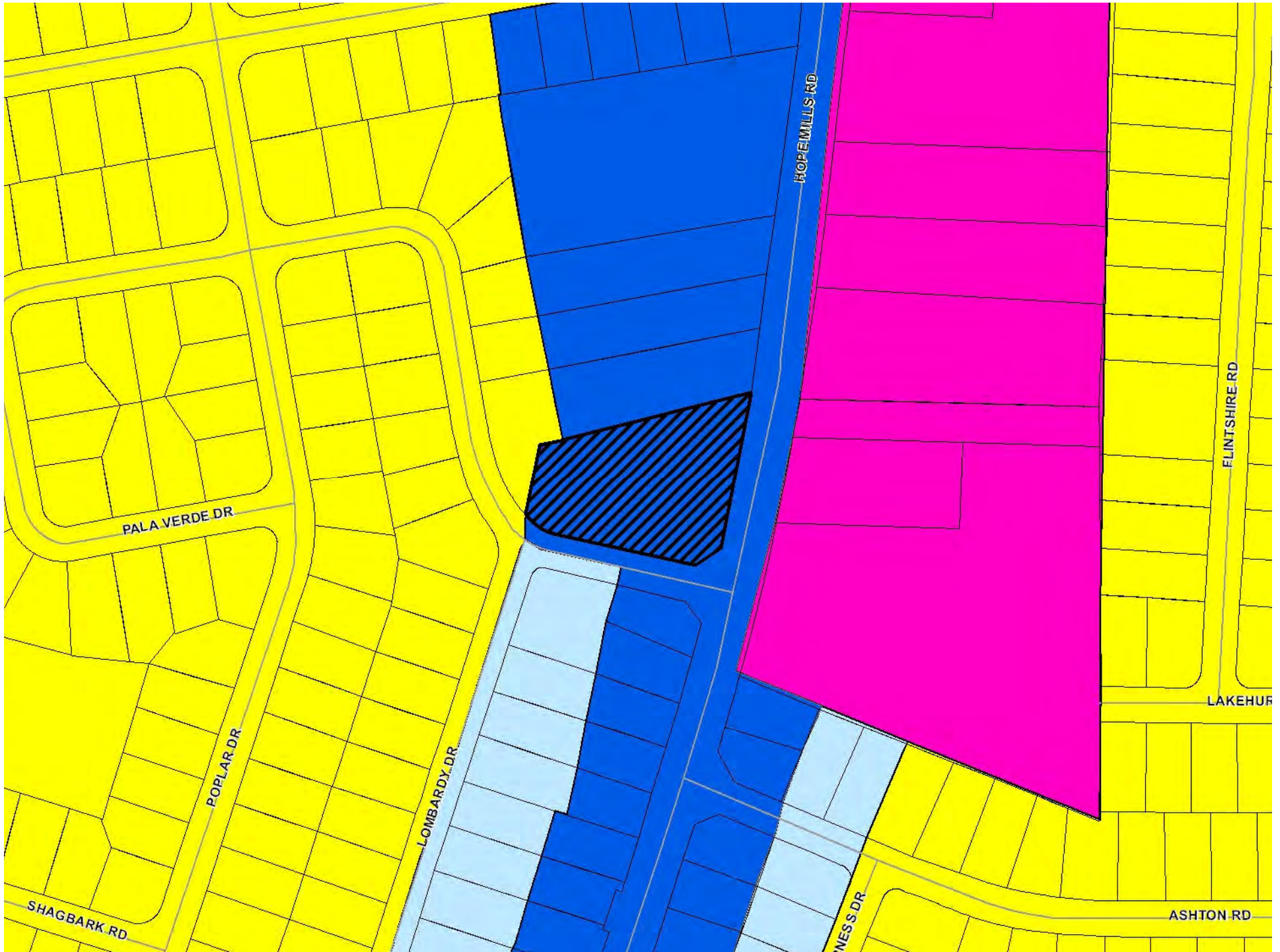
**Property Address:** 1520 Hope Mills Road.

**Size:** 1.59 acres











## The Zoning Commission and Staff Recommend a more restrictive zoning of O&I based on:

1. This property is at the entrance to a residential development.
2. Hope Mills Land Use Plan calls for Office use.
3. Two sides of this property are zoned for single family residential.



## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, AICP, CZO - Planner II  
**DATE:** February 25, 2013  
**RE:** **P13-01F Request for a Special Use Permit for Retail Establishment greater than 2,500 square feet in the NC – Neighborhood Commercial District, located beside 247 Bonanza Dr. containing 1.25 acres more or less and being the property of Par 5 Development.**

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**THE QUESTION:**

Request for a Special Use Permit to allow a retail establishment greater than 2,500 square feet in the NC district.

**RELATIONSHIP TO STRATEGIC PLAN:**

Livable Neighborhoods  
Growth and development

**BACKGROUND:**

Owner: Par 5 Development  
Applicant: Gordon Rose  
Requested Action: SUP for Retail Establishment greater than 2,500 sq. ft. in the NC District  
Property Address: Beside 247 Bonanza Drive  
Council District: 4  
Status of Property: Undeveloped  
Size: 1.25 acres +/-  
Adjoining Land Use & Zoning:  
North - SF-10  
South - O&I (Office & Institutional) and NC (Neighborhood Commercial) - Daycare  
West - SF-10  
East – SF-10  
Letters Mailed: 50  
Land Use Plan: Medium Density Residential

**ISSUES:**

The properties in question are currently undeveloped. While the current land use plan does call for medium density residential, the property is already zoned for Neighborhood Commercial. This property sits beside an existing daycare and is in front of a school and City recreation facility. The applicant has asked for a Special Use Permit to allow the construction of a Dollar General store on this property. The Dollar General would be over 2,500 square feet and thus would require an SUP. General retail, such as this, is already permitted in the NC district.

The purpose of limiting the size and requiring buildings to be closer to the street in the NC district is to encourage a compact, pedestrian oriented less auto-dependent area providing services and goods needed on a frequent basis by the immediately surrounding neighborhoods. Provided that this development continues to meet the objectives of a small front setback and parking placement on the side or rear yards, the larger building size is compatible with the NC district purposes.

The City's Technical Review Committee has preliminarily reviewed the attached site plan and building elevations. The attached Site Plan and Building Elevation Plans meet the City's development standards for commercial buildings in the NC district.

Conditions suggested by staff:

1. Conditioned to the attached Site Plan.

2. Conditioned to the attached Building Design/Elevation.

Zoning Commission and Staff recommend approval of the SUP based on:

1. This property is currently zoned commercial.
2. Three sides of this property has either commercial or educational activity currently on it.
3. A substantial natural buffer exist between this property and the school's entrance.

**BUDGET IMPACT:**

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

**OPTIONS:**

- 1) Approval of the SUP as requested by the applicant;
- 2) Approval of the SUP with conditions (recommended);
- 3) Denial of the rezoning request.

**RECOMMENDED ACTION:**

Zoning Commission and Staff Recommend: That the City Council move to APPROVE the Special Use Permit, as presented by staff based on these eight (8) findings and conditioned upon the development meeting the conditions of approval by the Technical Review Committee.

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

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

**ATTACHMENTS:**

Zoning Map  
Current Land Use  
Land Use Plan  
Building Elevation  
PowerPoint Presentation

**ZONING COMMISSION**  
**CASE NO. P13-01F**



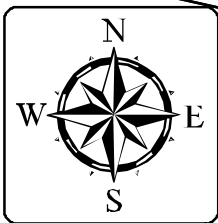
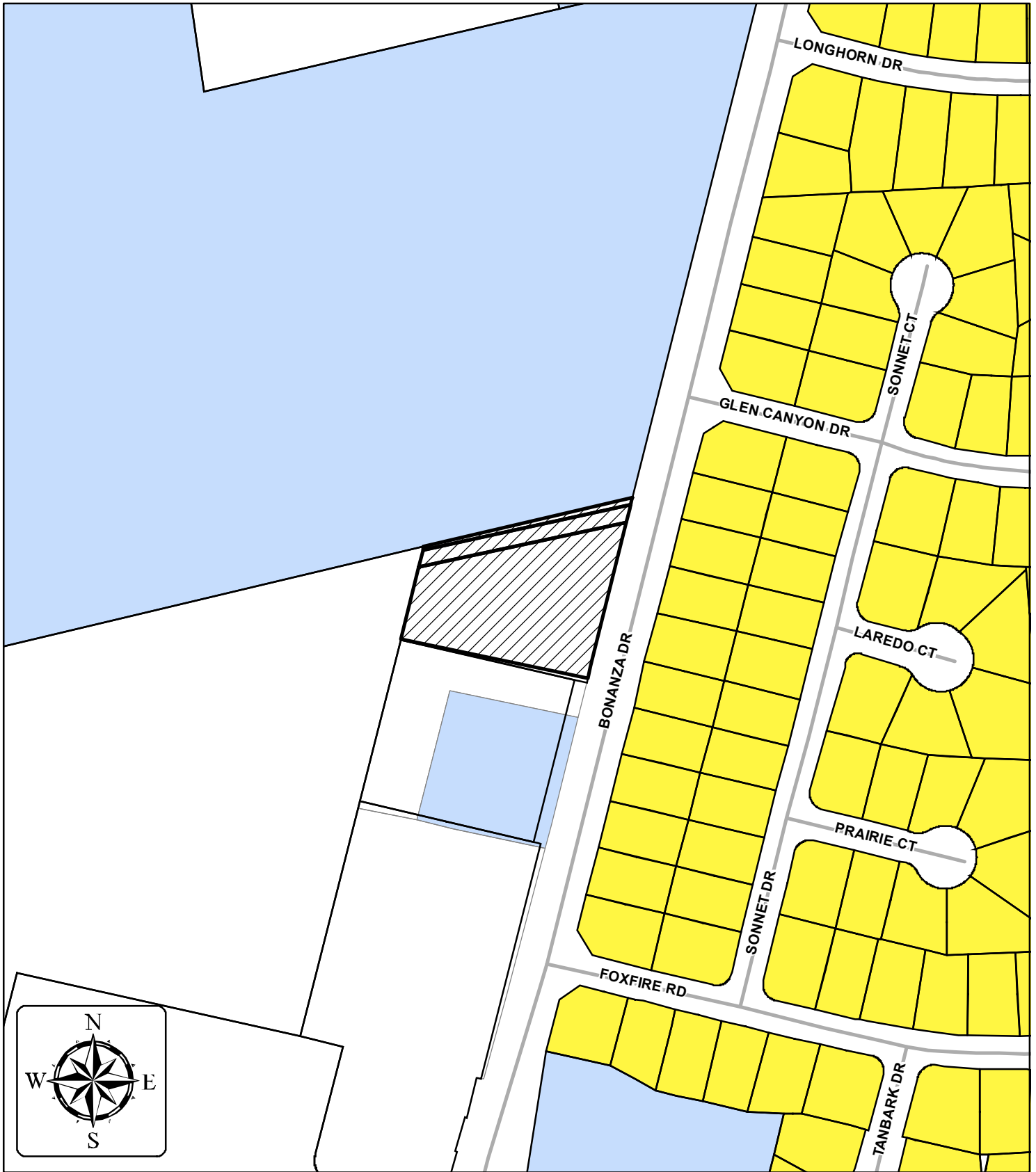
**Request:** SUP 2500 sqft + Retail in NC  
**Location:** Beside 247 Bonanza Dr.  
**Size:** 1.25 acres +/-

**Zoning Commission:** 01/08/2013    **Recommendation:** \_\_\_\_\_  
**City Council:** \_\_\_\_\_    **Final Action:** \_\_\_\_\_  
**Pin:** 0408-35-4296, 0408-35-5254 and 0408-35-5135



# Current Land Use

P13-01F

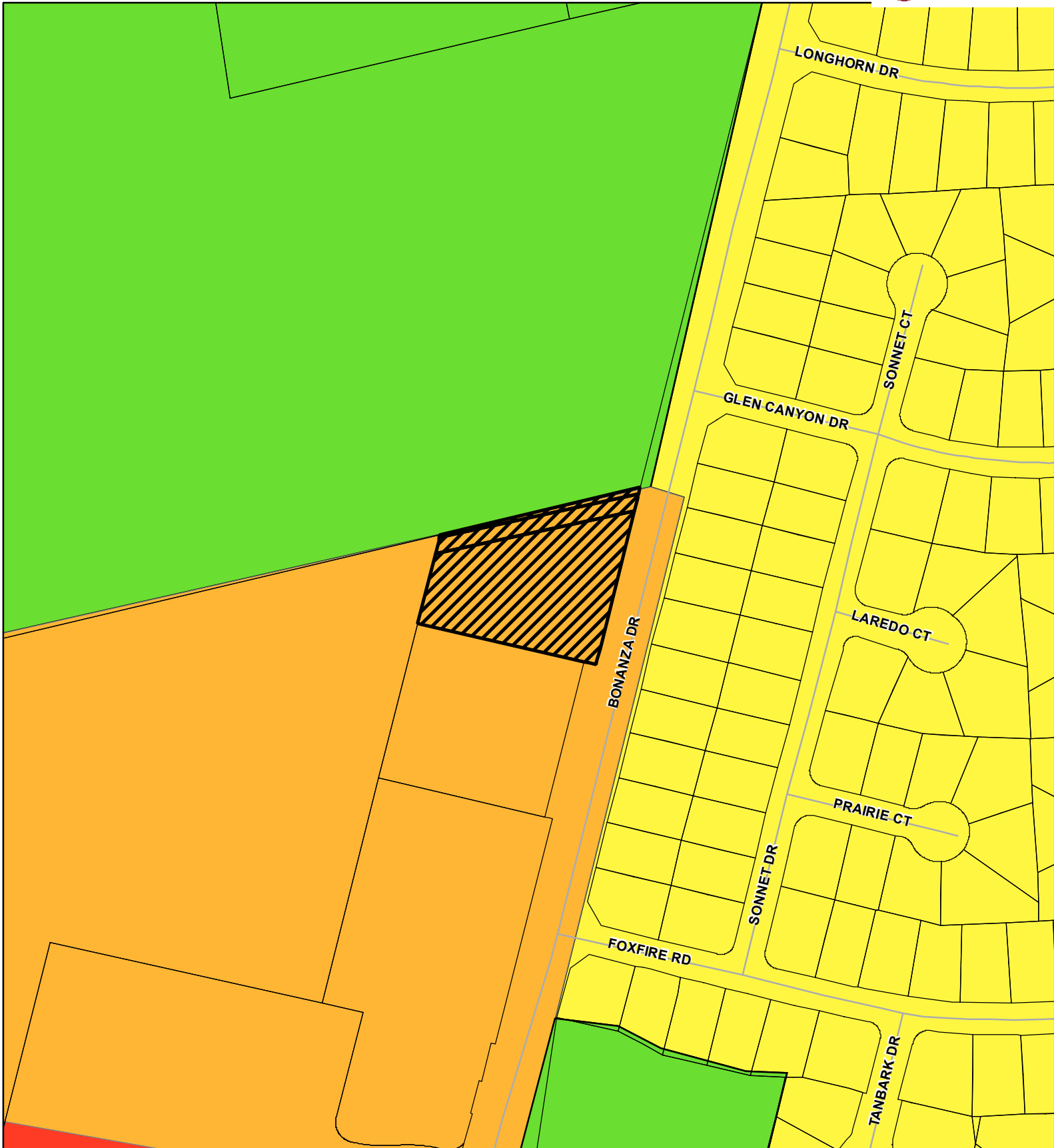


Legend

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

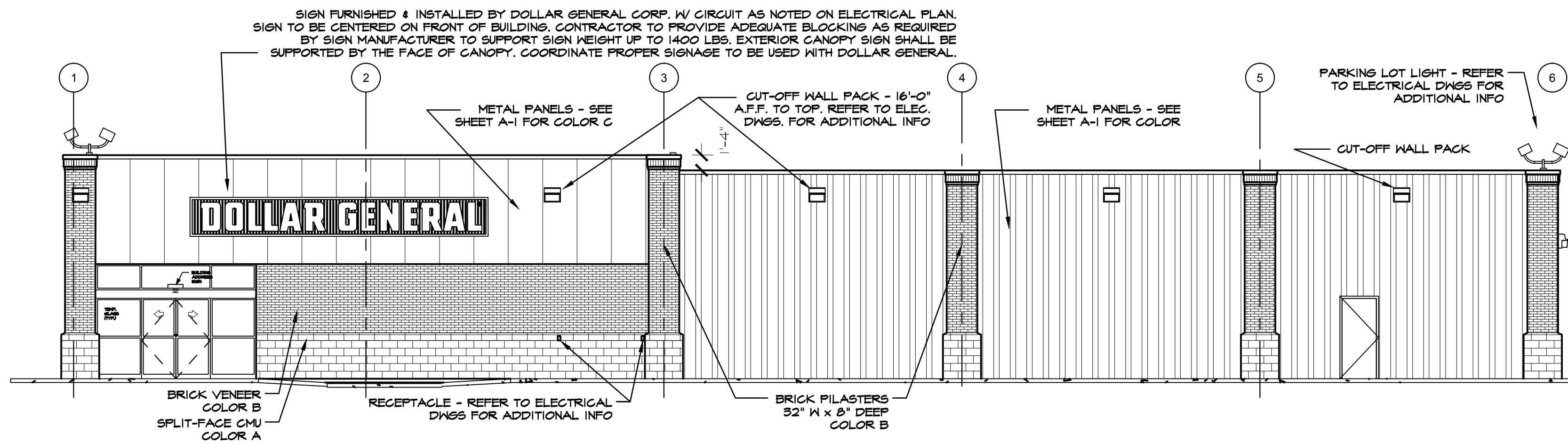
# 2010 Land Use Plan

Case No. P13-01F



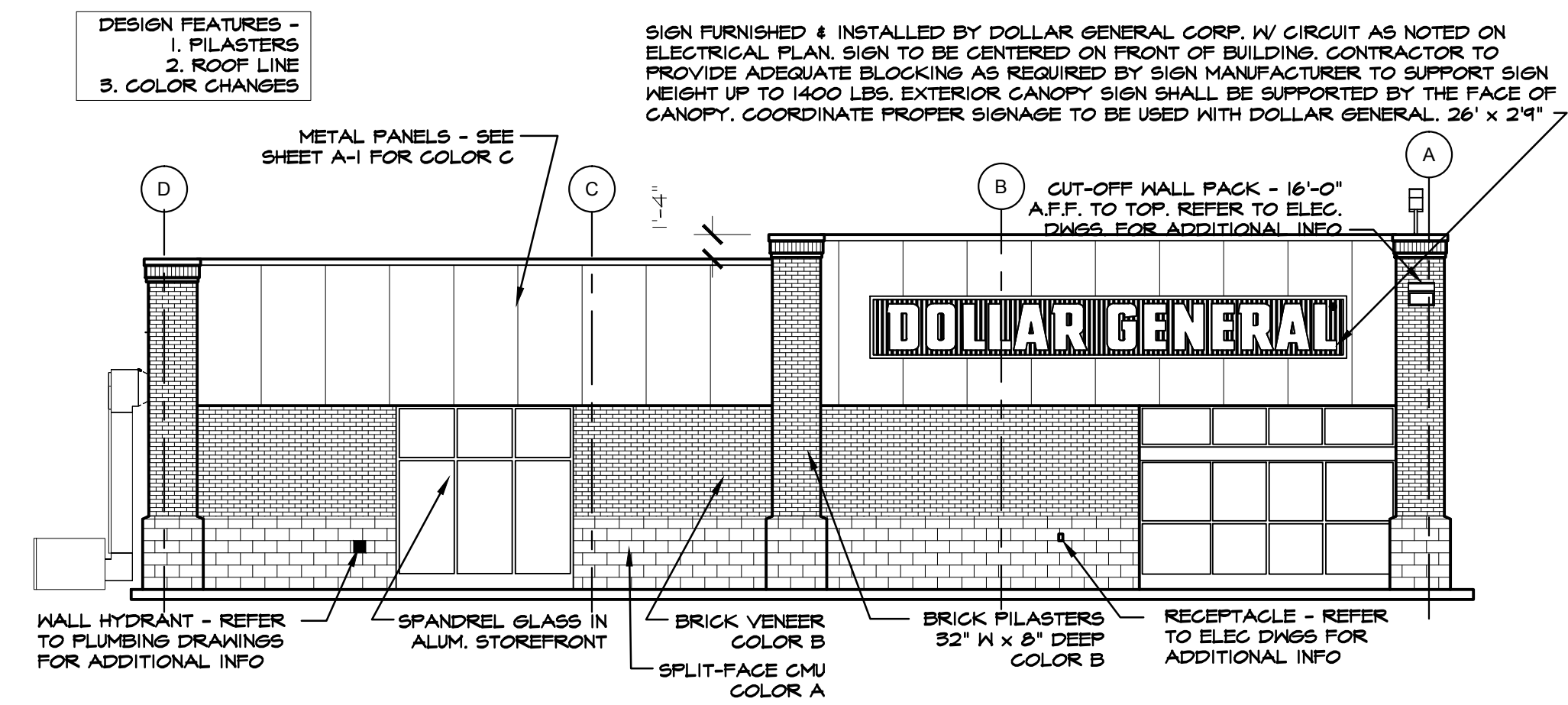
## Legend

Academic Training-Fort Bragg	Farmland	Historical District-Fort Bragg	Neighborhood Activity Node	Policy Directed Light Commercial
Activity Node	Governmental	Light Commercial	Office & Institutional	Policy Directed Office & Institutional
Airfield Operations-Fort Bragg	Heavy Commercial	Light Industrial	One Acre Residential Lots	Range & Training-Fort Bragg
Community Activity Node	Heavy Industrial	Low Density Residential	Open Space	Redevelop/Holding-Fort Bragg
Downtown	High Density Residential	Medium Density Residential	Policy Directed Heavy Commercial	Suburban Density Residential



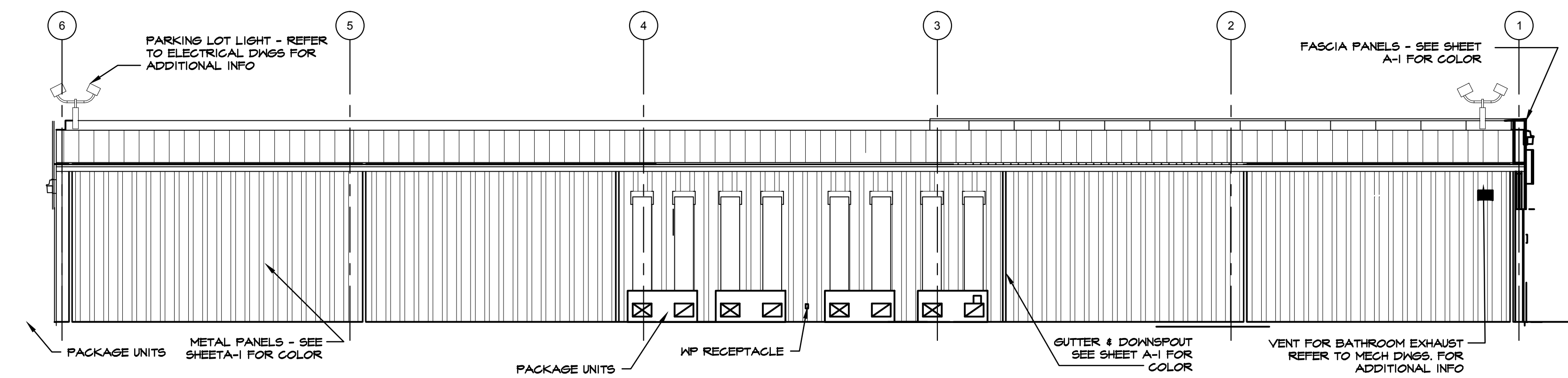
RIGHT SIDE ELEVATION

SCALE: 1/8" = 1'-0"



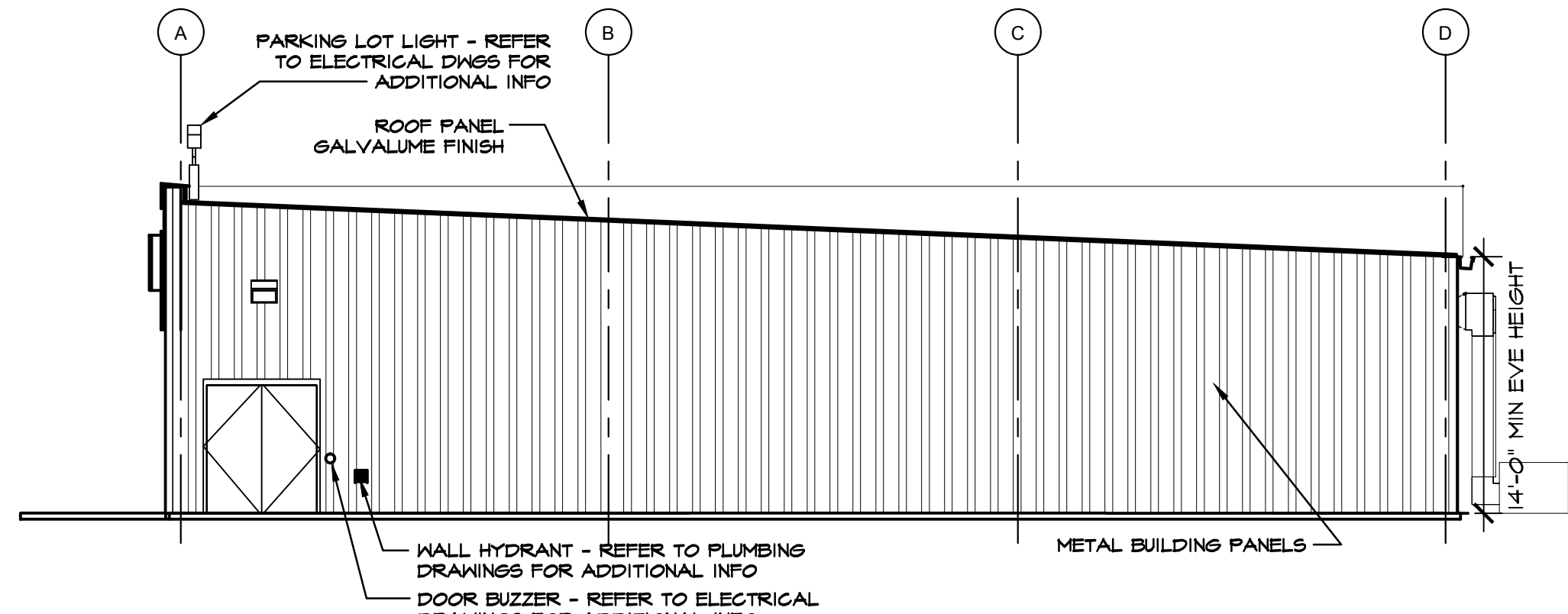
FRONT ELEVATION

SCALE: 1/8" = 1'-0"



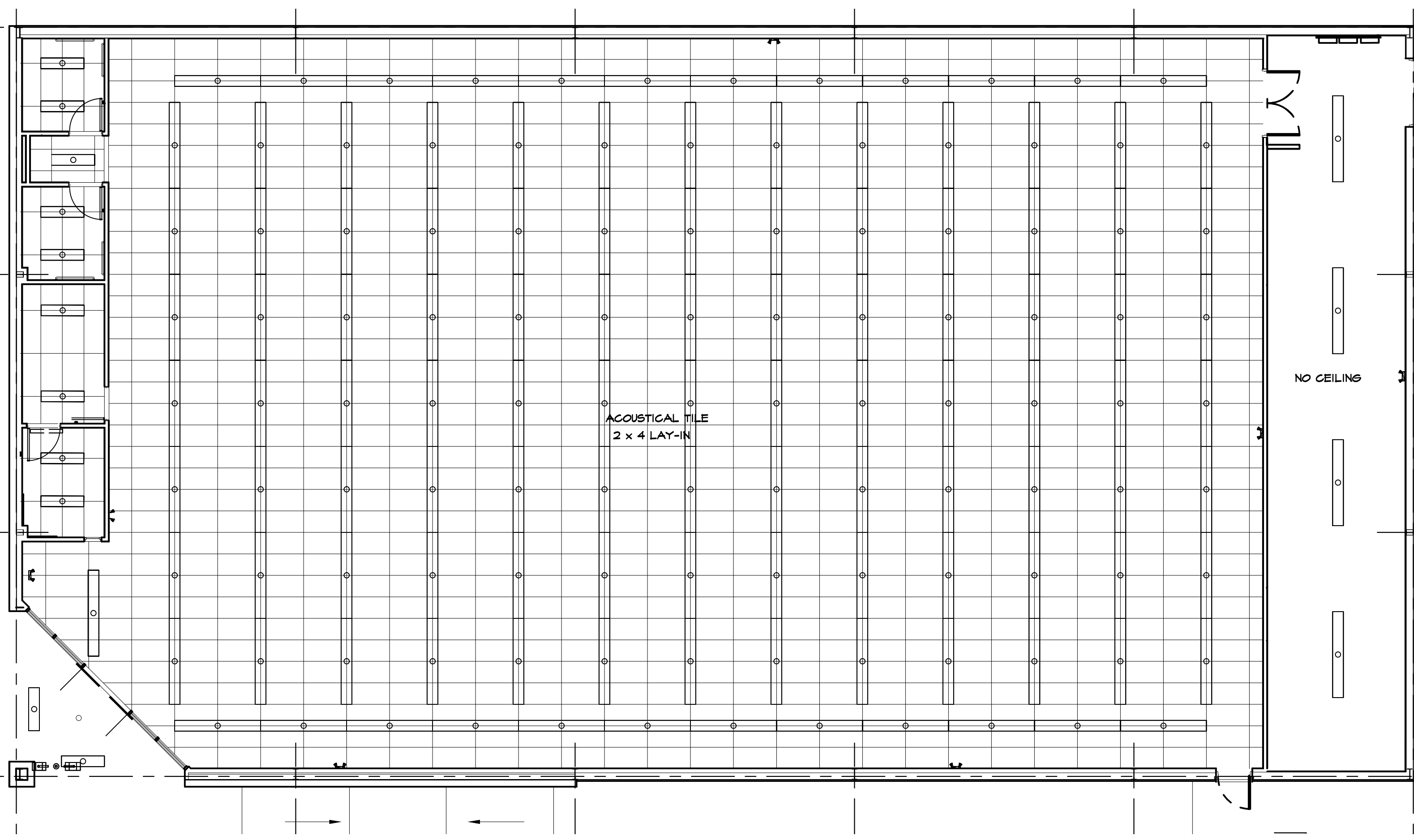
LEFT SIDE ELEVATION

SCALE: 1/8" = 1'-0"



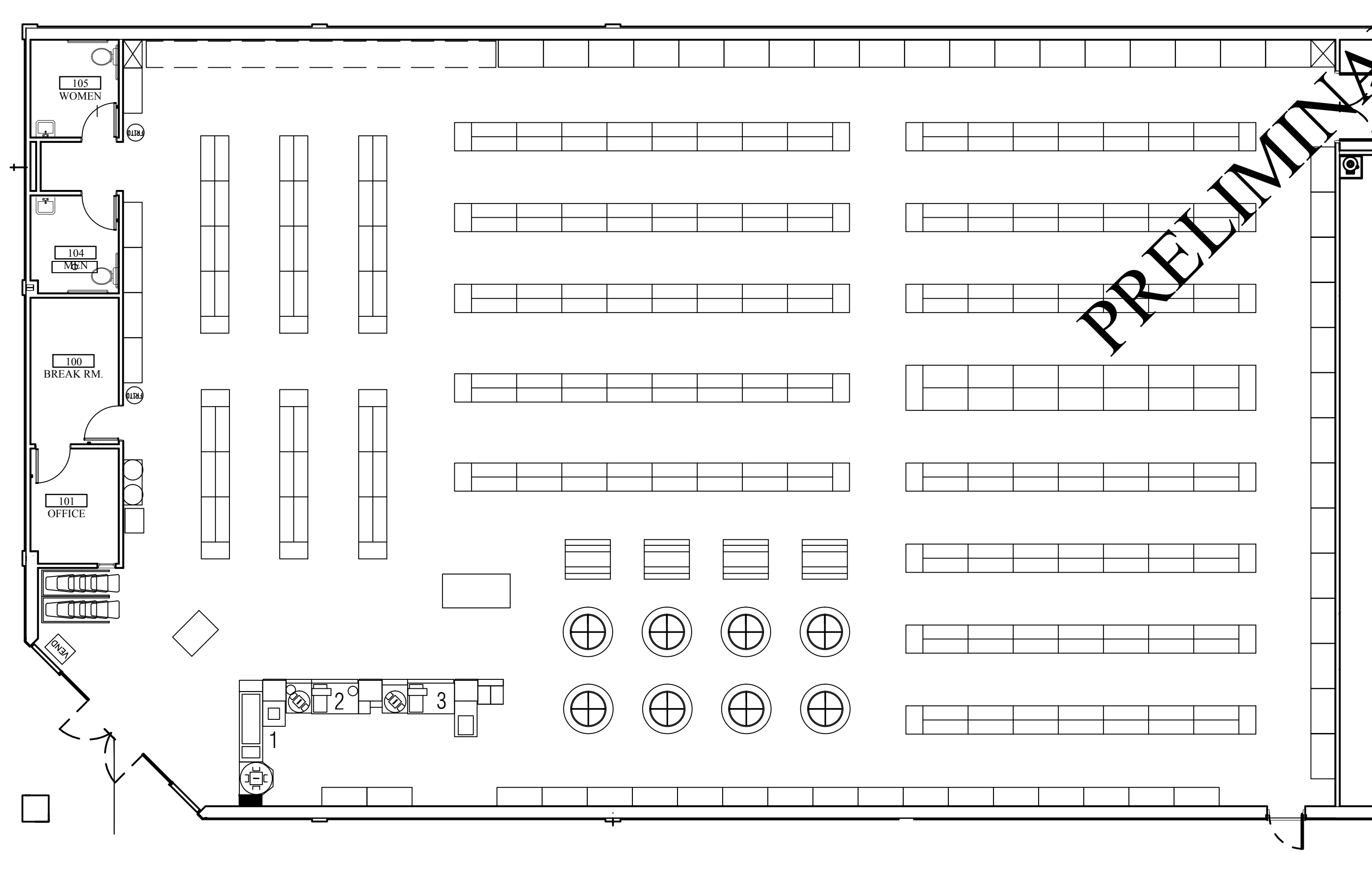
REAR ELEVATION

SCALE: 1/8" = 1'-0"



REFLECTED CEILING PLAN

SCALE: 1/8" = 1'-0"



FIXTURE LAYOUT (CONFIRM W/ DOLLAR GENERAL PLANS)

SCALE: 1/8" = 1'-0"

ISSUED FROM:  
 WILMINGTON OFFICE  
 805 North Fourth Street  
 Wilmington, NC 910.251.8899  
 Phone: 910.251.9889  
 Facsimile: 910.251.9889  
 WILSON OFFICE  
 252.399.2700  
 Phone: 252.399.2701  
 Facsimile: 252.399.2701

**HOOD • HERRING**  
 ARCHITECTURE  
 P.L.L.P.  
 These documents are instruments of service & as such are the property of the Architects. Reproduction without written permission is prohibited.

**DOLLAR GENERAL**  
 STORE # -  
 BONANZA ROAD  
 FAYETTEVILLE, NORTH CAROLINA

JOB NUMBER  
 DRAWN BY  
 JCH  
 DATE  
 01/24/13  
 REVISIONS  
 2/7/13 FASCIA &  
 PILASTER REV

SHEET NUMBER  
**A-2**  
 OF

**PRELIMINARY**

W:\3\hood\herring\COMMERCIAL\DOLLAR GENERAL\Fayetteville\Fayetteville.dwg, 2/7/2013, 2:09:45 PM

# CITY COUNCIL MEETING

February 25, 2013  
P13-01F – Public Hearing

433 Hay Street  
Fayetteville, NC 28301  
[www.cityoffayetteville.org](http://www.cityoffayetteville.org)  
[facebook.com/cityoffayetteville](https://www.facebook.com/cityoffayetteville)  
Twitter @CityOfFayNC



City of  
*Fayetteville*  
North Carolina

**CASE NO. P13-01F**



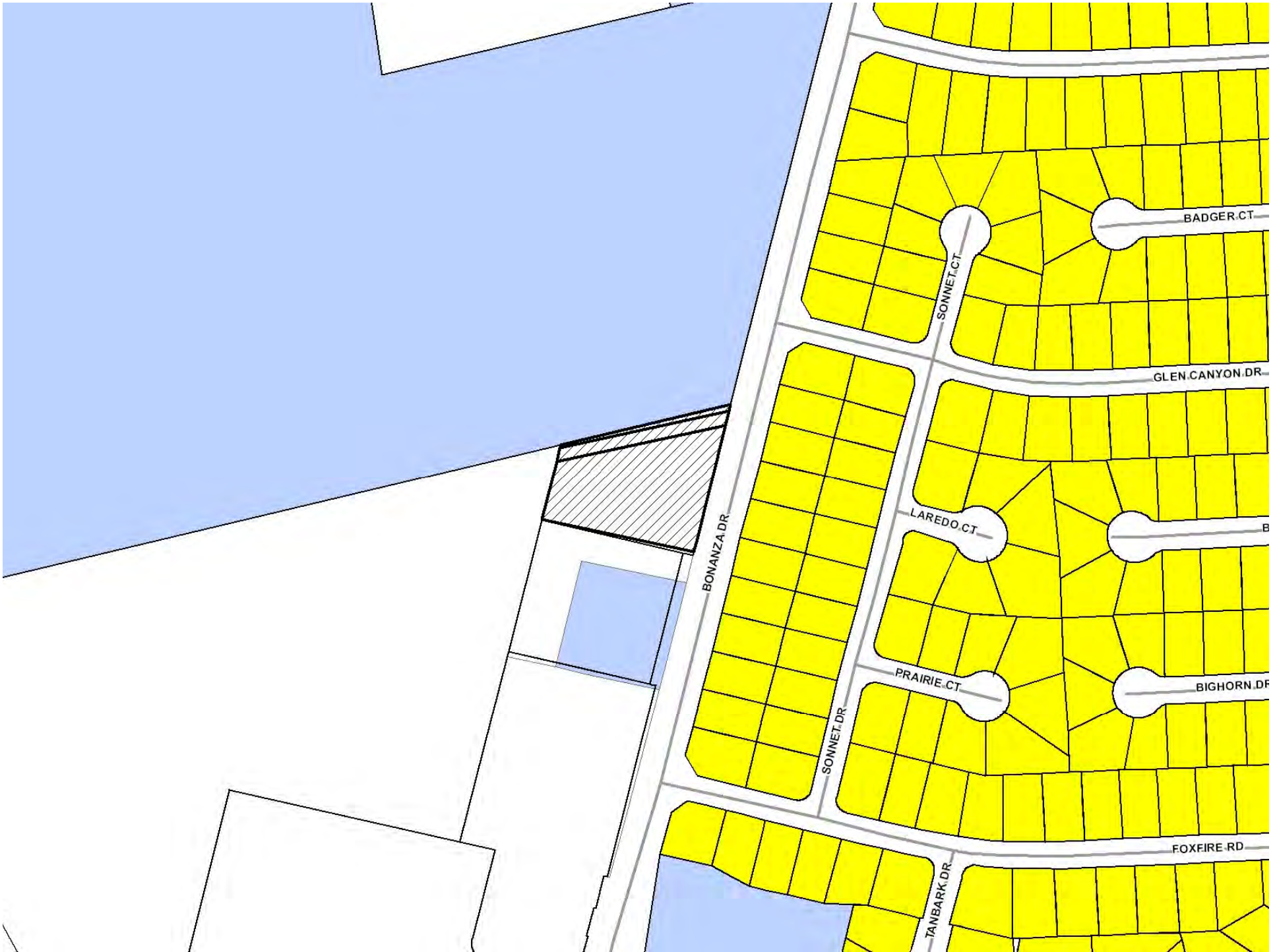
**Requested Action:** SUP for a Retail Establishment greater than 2,500 square feet in the NC District

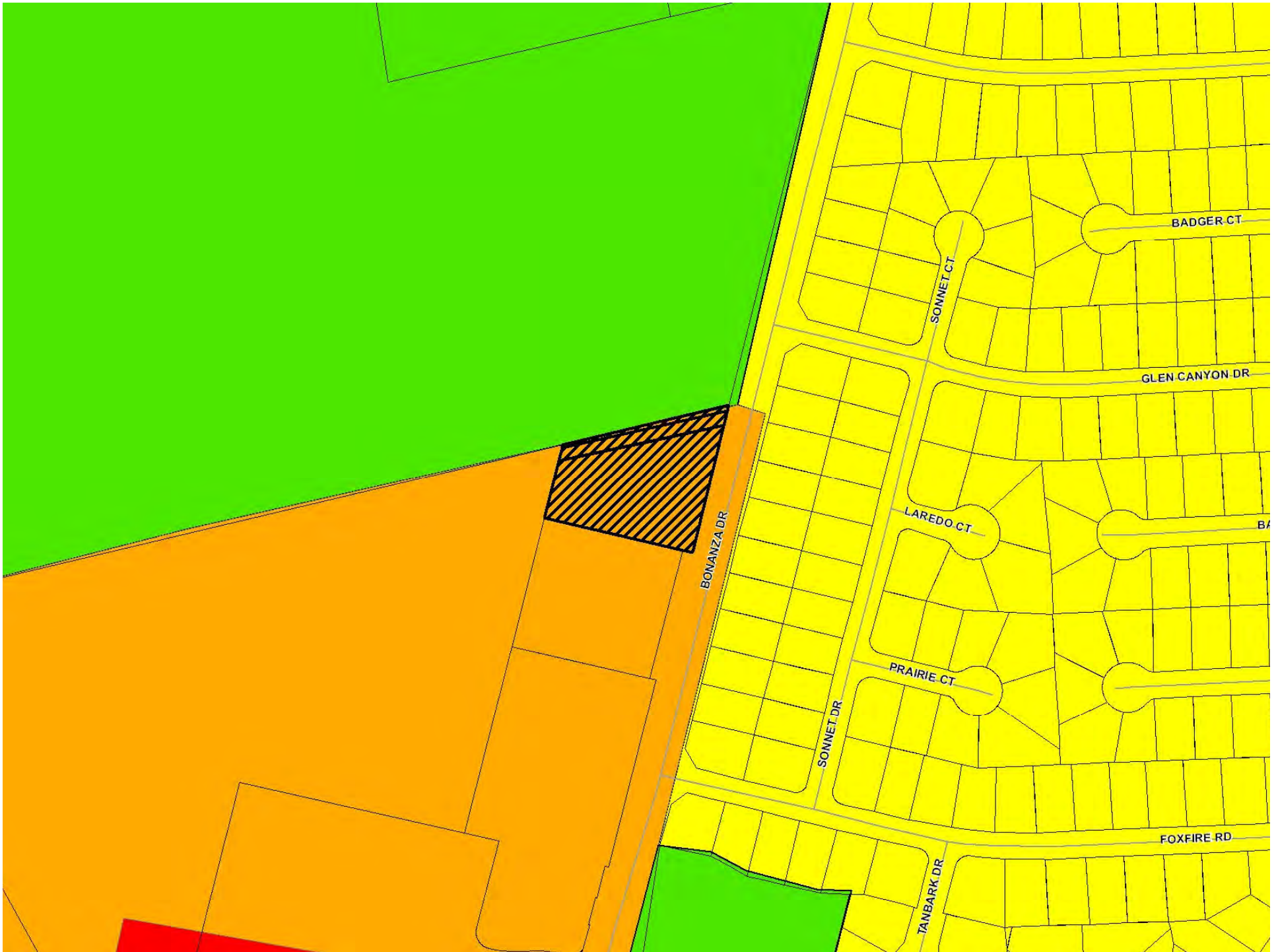
**Property Address:** Bonanza Dr.

**Size:** 1.25 acres +/-















6-2-5-7

NOTES:

1. COORDINATE SITE PLAN WORK WITH OTHER WORK AS SHOWN ON THE OTHER ADDITIONAL PLANS HEREIN, INCLUDING BUT NOT LIMITED TO GRADING, UTILITIES, PLANTINGS, ROADWAY WIDENING AND MARKING, AND CONSTRUCTION SEQUENCING (10-02).
2. WORK SHALL OCCUR WITH THE LIMITS OF CONSTRUCTION AS SHOWN ON THE EROSION CONTROL PLANS (EC-01).
3. CONSTRUCT HANDICAP RAMP AND ASSOCIATED TOP AND BOTTOM LANDINGS IN CONFORMANCE WITH THE STANDARDS AND SPECIFICATIONS OF ICCOBY AND CITY OF FAYETTEVILLE STANDARDS FOR CURB RAMP. SEE GRADING PLAN AND REEOT, STD. DRAWING 040.05.
4. SITE AND BUILDING LIGHTING TO COMPLY WITH THE CITY OF FAYETTEVILLE, NC UNIFIED DEVELOPMENT ORDINANCE (UDO). SEE LOCAL GENERAL BUILDING PLANS, SHEETS A2 & E2, FOR EXTERIOR BUILDING LIGHTING.
5. TOTAL PROPOSED PARCEL AREA = 56740 SF (1.33 ACRES)

SUBDIVISION COUNTY  
 PLAN: 0400-24-2622  
 DB 3826, PG 50

0.94 AC.  
 AREA BY COORDS.  
 CITY OF FAYETTEVILLE  
 PLAN: 0400-24-2624  
 DB 3826, PG 562  
 TRACT 2

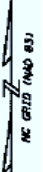
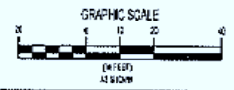
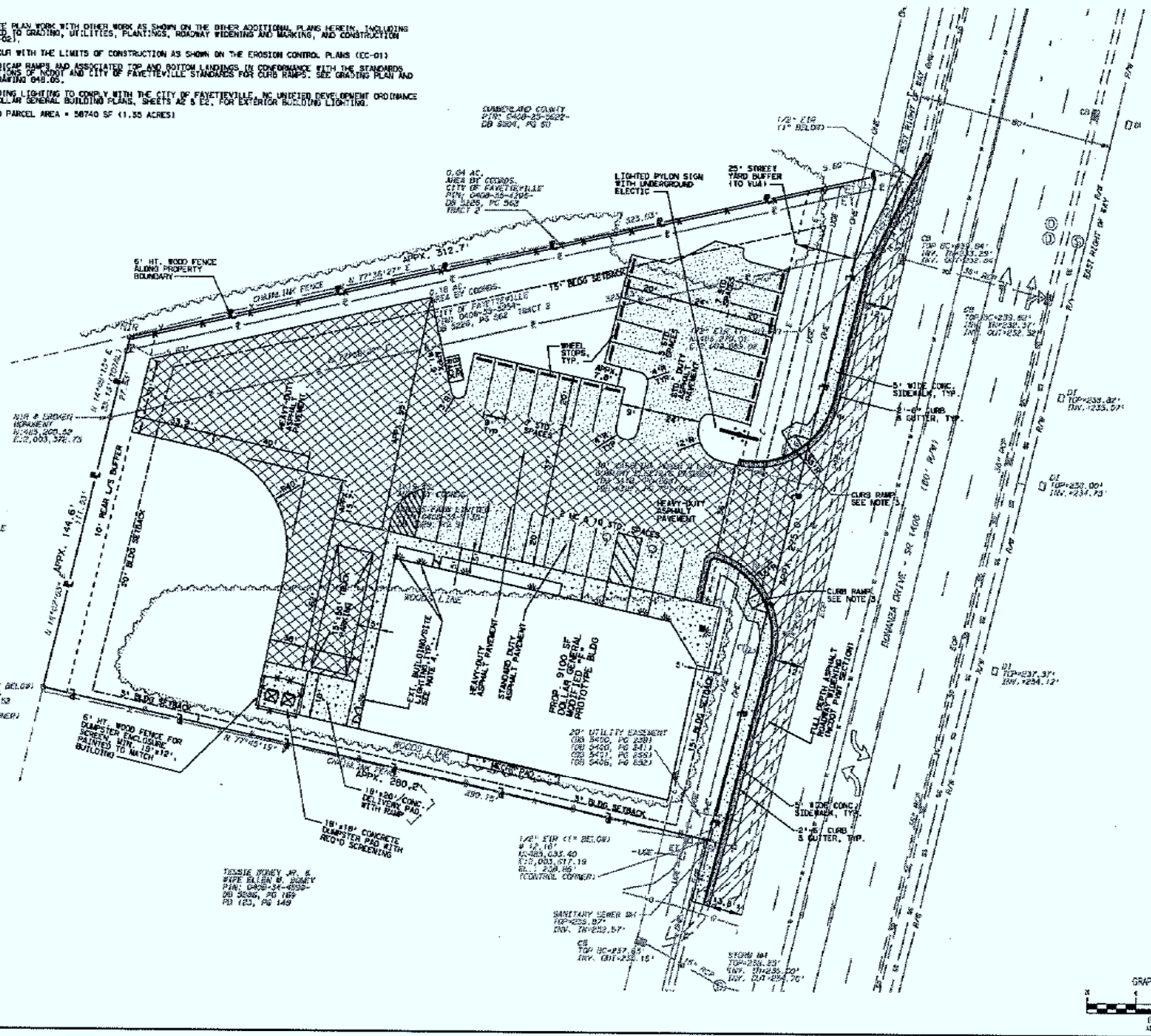
CITY OF FAYETTEVILLE  
 PLAN: 0400-24-7873  
 DB 3826, PG 537

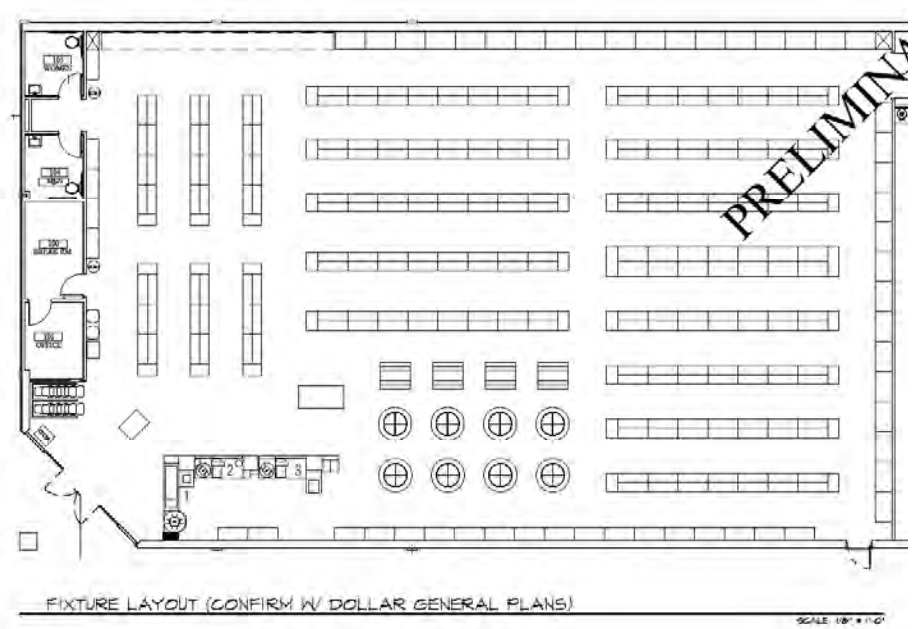
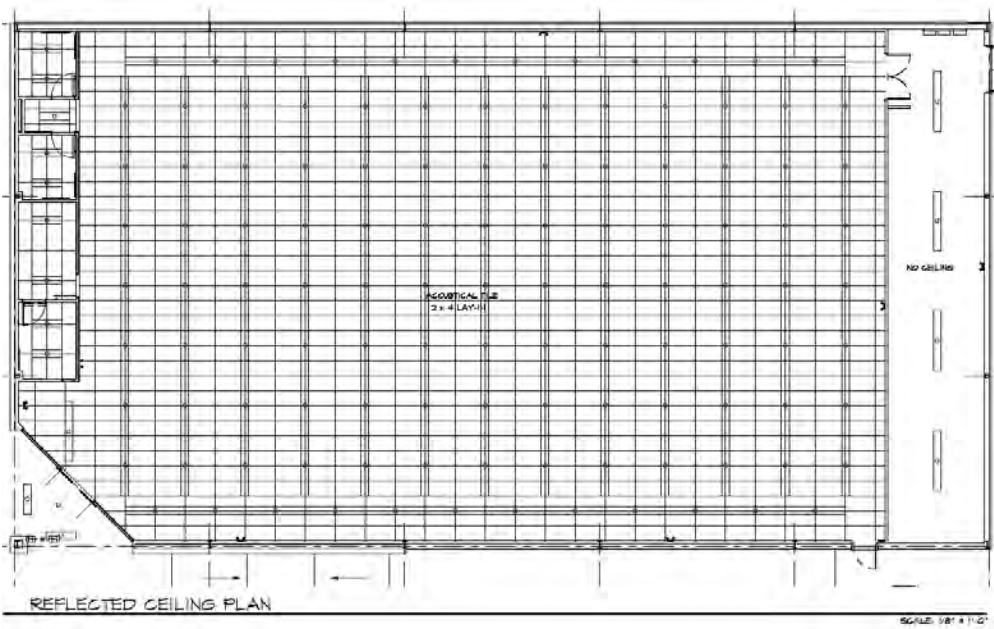
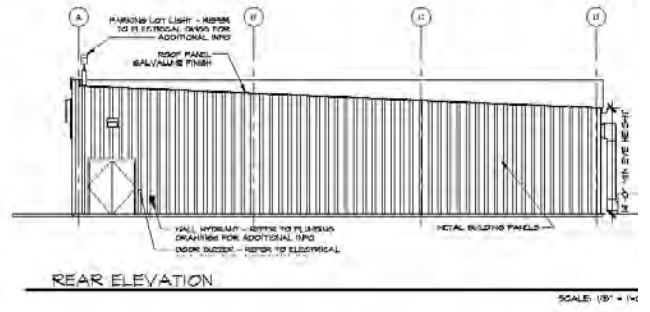
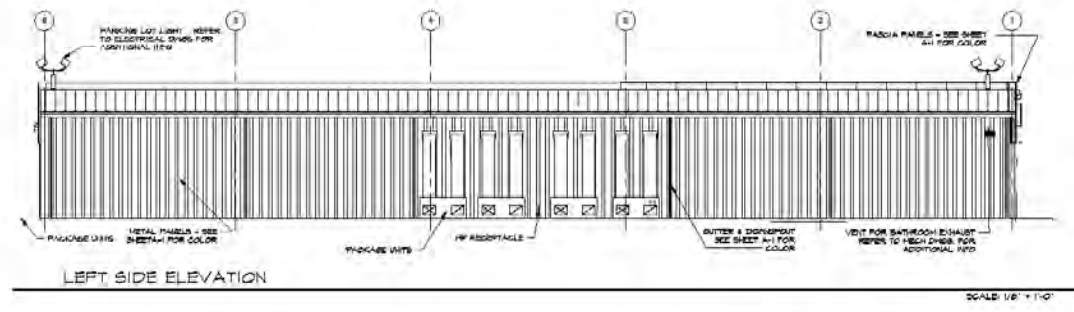
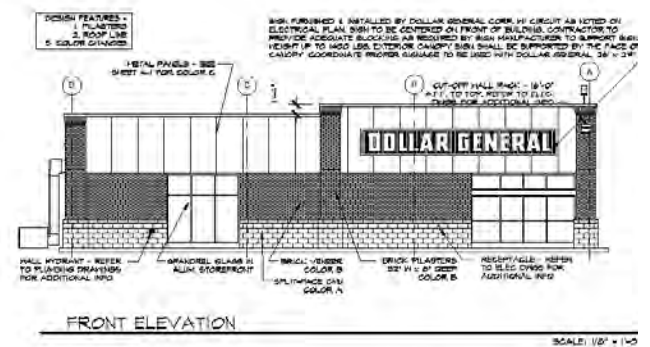
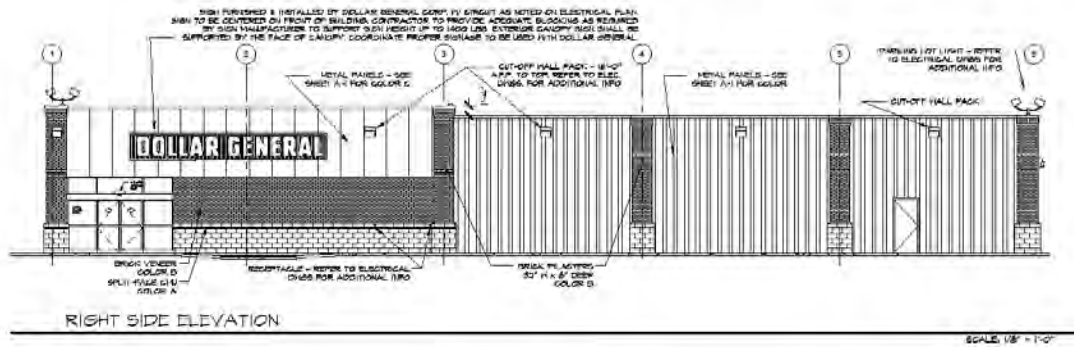
TESSIE JUNEY JR. &  
 WIFE ELBA S. JUNEY  
 PLAN: 0400-24-6333  
 DB 3826, PG 169  
 P3 123, PG 149

1/2" EIR (1" BELOW)  
 # 12, 16"  
 10-283, 031, 40  
 ELEV. 200.27, 19  
 ELEV. 200.62  
 (CENTRAL CORNER)

SANITARY SEWER DN  
 10-283, 031, 57  
 INV. 191-232.57  
 CE  
 TOP DC-257.65  
 INV. 191-232.15

STORM DN  
 TOP DC-258.23  
 INV. 191-235.29  
 INV. 191-235.70







Zoning Commission and Staff recommend approval of the SUP with conditions based on:

1. This property is currently zoned commercial.
2. This property is surrounded on 3 sides by commercial and educational activity.
3. A substantial natural buffer exists between this property and the school's entrance.

Conditions suggested by staff:

1. Conditioned to the attached Site Plan.
2. Conditioned to the attached Building Design/Elevation.





# Findings:

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



**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Craig Harmon, AICP, CZO - Planner II  
**DATE:** February 25, 2013  
**RE:** **P13-04F Request for a Special Use Permit to operate a heavy automotive repair business on property located at 5522 Yadkin Rd., contingent upon rezoning to CC Community commercial zoning district containing 1.07 acres more or less and being the property of JP III Family Limited Partnership.**

---

**THE QUESTION:**

Request for a Special Use Permit to allow for heavy automotive repair.

**RELATIONSHIP TO STRATEGIC PLAN:**

Livable Neighborhoods  
Growth and development

**BACKGROUND:**

Owner: JP III Family Limited Partnership  
Applicant: Joseph P. Riddle, III  
Requested Action: SUP to operate heavy automotive repair  
Property Address: 5522 Yadkin Rd.  
Council District: 4  
Status of Property: Developed  
Size: 1.07 acres +/-  
Adjoining Land Use & Zoning:  
North - SF-10 (Single Family Residential 10 District)  
South - LC (Limited Commercial)  
West - MR-5 (Mixed Residential 5 District)  
East - SF-10 (Single Family Residential 10 District)  
Letters Mailed: 64  
Land Use Plan: Light Commercial

**ISSUES:**

This property is located along Yadkin Road to the south and east of Santa Fe Drive. This property has two businesses on it. Prior to the UDO one of these businesses was a heavy auto repair establishment. The UDO remapping project rendered this property non conforming. The owner of this property has applied for a rezoning to CC-Community Commercial. This property must be rezoned before they can be approved for this SUP. This property is fully developed. The developer has not requested any changes to their current site layout.

Conditions recommended by the Zoning Commission:

1. Retain the vegetated buffer at the back of this property to City standards, to maintain the current separation between this property and the residential lots adjoining it. A minimum of 10 feet wide.

Additional conditions as suggest by staff:

1. Add shrubs spaced three feet apart to the grassed island along Yadkin Road and maintain the existing tree.
2. Maintain the existing vegetation along the rear of the property adjacent to the residential development and enhance it, as needed, to establish the equivalent of a type D buffer.
3. Any outdoor storage of vehicles waiting to be repaired or in some stage of repair must meet all current development standards.

Zoning Commission and Staff recommend approval of the SUP based on:

1. This property has to be rezoned to a CC zoning district to fit with the zoning of this property prior to the UDO.
2. CC zoning fits with the previous uses of this property.
3. This property has commercial zoning on three sides.
4. There is an existing vegetated buffer between this property and the residential lots behind it.

**BUDGET IMPACT:**

This property is already developed and would require no increase in public services.

**OPTIONS:**

- 1) Approval of the SUP as requested by the applicant;
- 2) Approval of the SUP with conditions (recommended);
- 3) Denial of the rezoning request.

**RECOMMENDED ACTION:**

Zoning Commission and Staff Recommend: That the City Council move to APPROVE the Special Use Permit with conditions, as presented by staff based on these eight (8) findings.

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

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

**ATTACHMENTS:**

Zoning Map

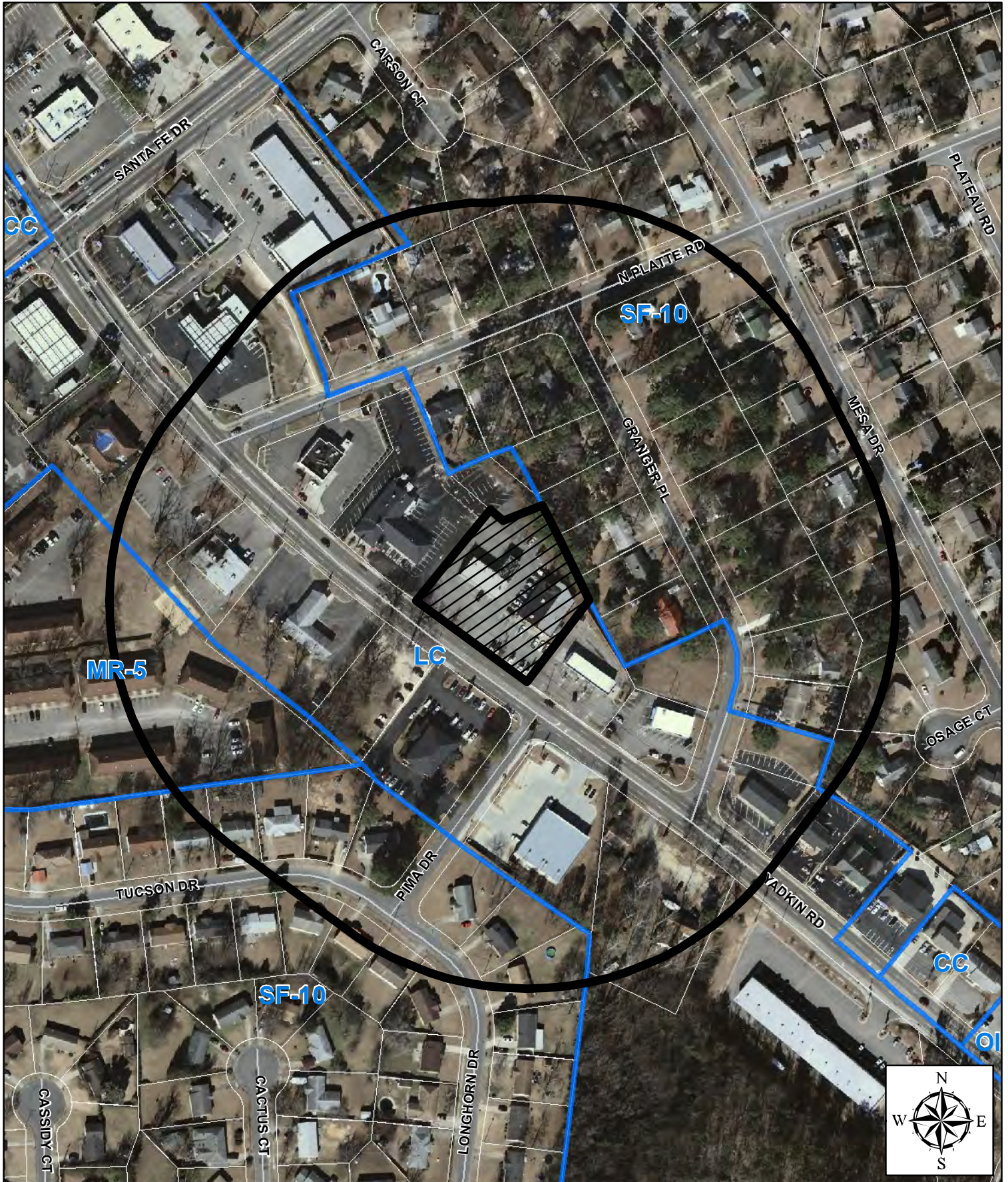
Current Land Use

Land Use Plan

PowerPoint Presentation



**ZONING COMMISSION  
CASE NO. P13-04F**



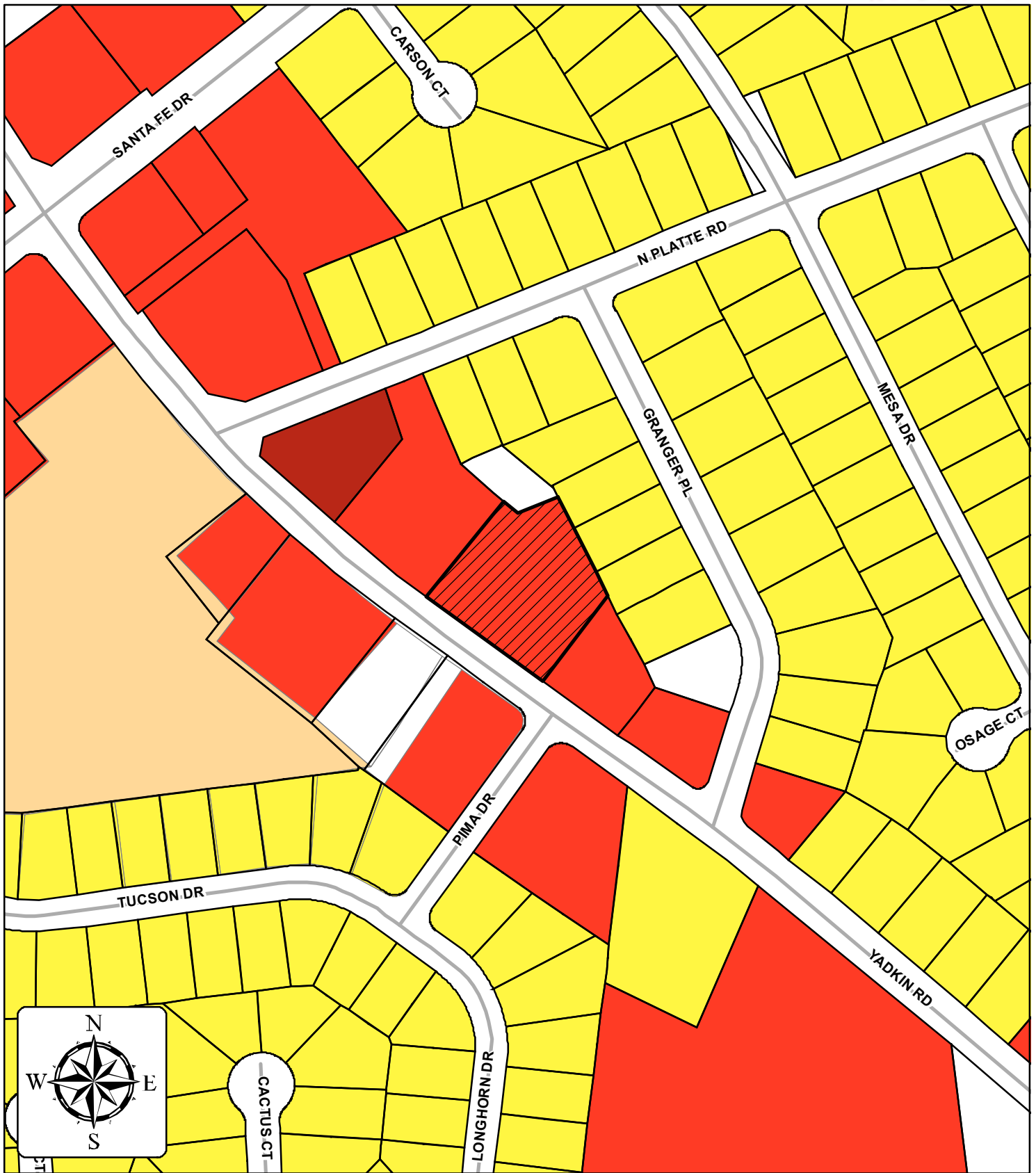
**Request: SUP - Heavy Auto Repair**  
**Location: 5222 Yadkin Rd.**  
**Size: 1.07 acres +/-**

**Zoning Commission: 01/08/2013**    **Recommendation: \_\_\_\_\_**  
**City Council: \_\_\_\_\_**            **Final Action: \_\_\_\_\_**  
**Pin: 9487-56-2185-**

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

# Current Land Use

P13-04F

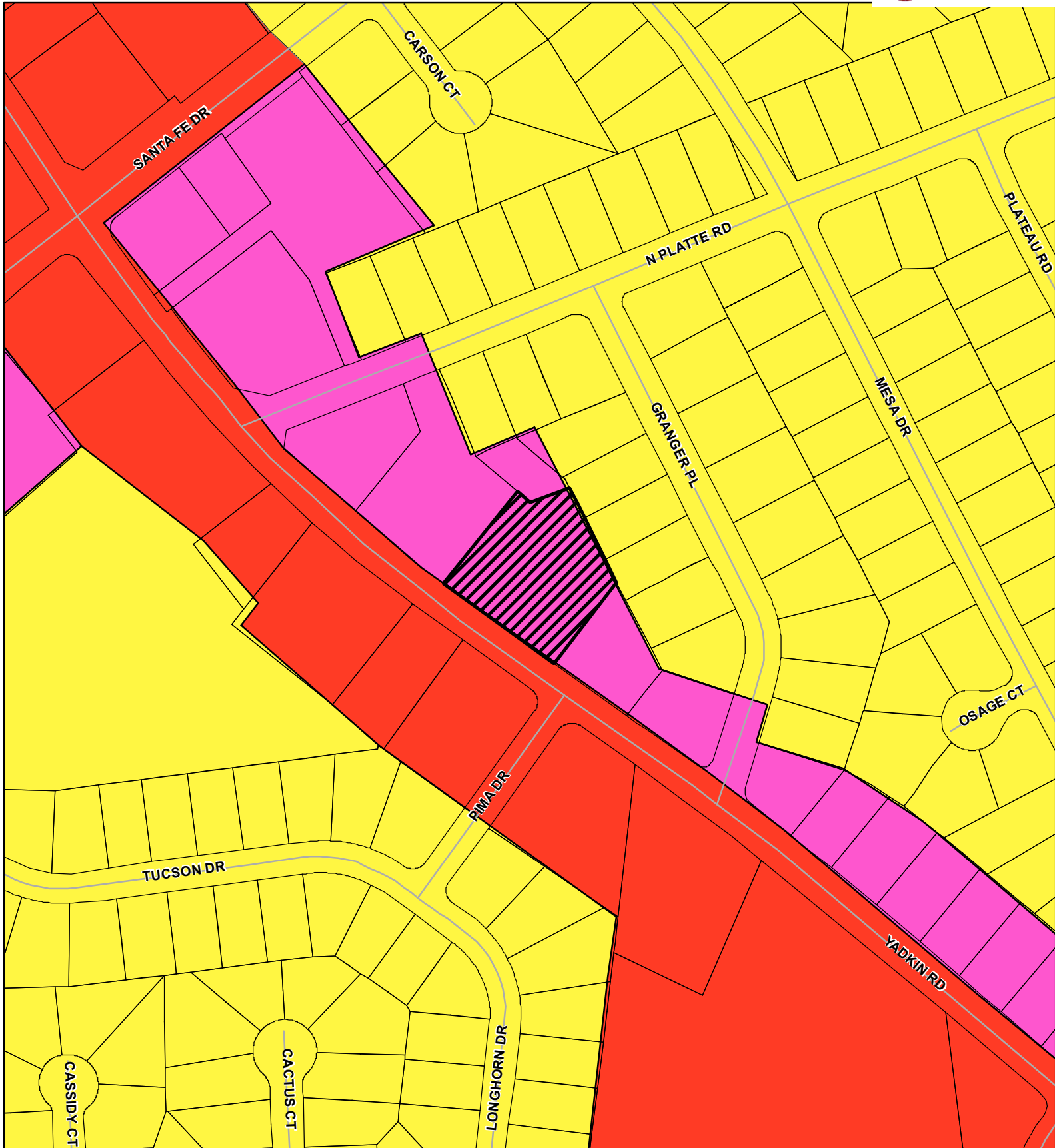


Legend

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

# 2010 Land Use Plan

Case No. P13-04F



## Legend

Academic Training-Fort Bragg	Farmland	Historical District-Fort Bragg	Neighborhood Activity Node	Policy Directed Light Commercial
Activity Node	Governmental	Light Commercial	Office & Institutional	Policy Directed Office & Institutional
Airfield Operations-Fort Bragg	Heavy Commercial	Light Industrial	One Acre Residential Lots	Range & Training-Fort Bragg
Community Activity Node	Heavy Industrial	Low Density Residential	Open Space	Redevelop/Holding-Fort Bragg
Downtown	High Density Residential	Medium Density Residential	Policy Directed Heavy Commercial	Suburban Density Residential

# CITY COUNCIL MEETING

February 25, 2013  
P13-04F – Public Hearing

433 Hay Street  
Fayetteville, NC 28301  
[www.cityoffayetteville.org](http://www.cityoffayetteville.org)  
[facebook.com/cityoffayetteville](https://www.facebook.com/cityoffayetteville)  
Twitter @CityOfFayNC



City of  
*Fayetteville*  
North Carolina

**CASE NO. P13-04F**



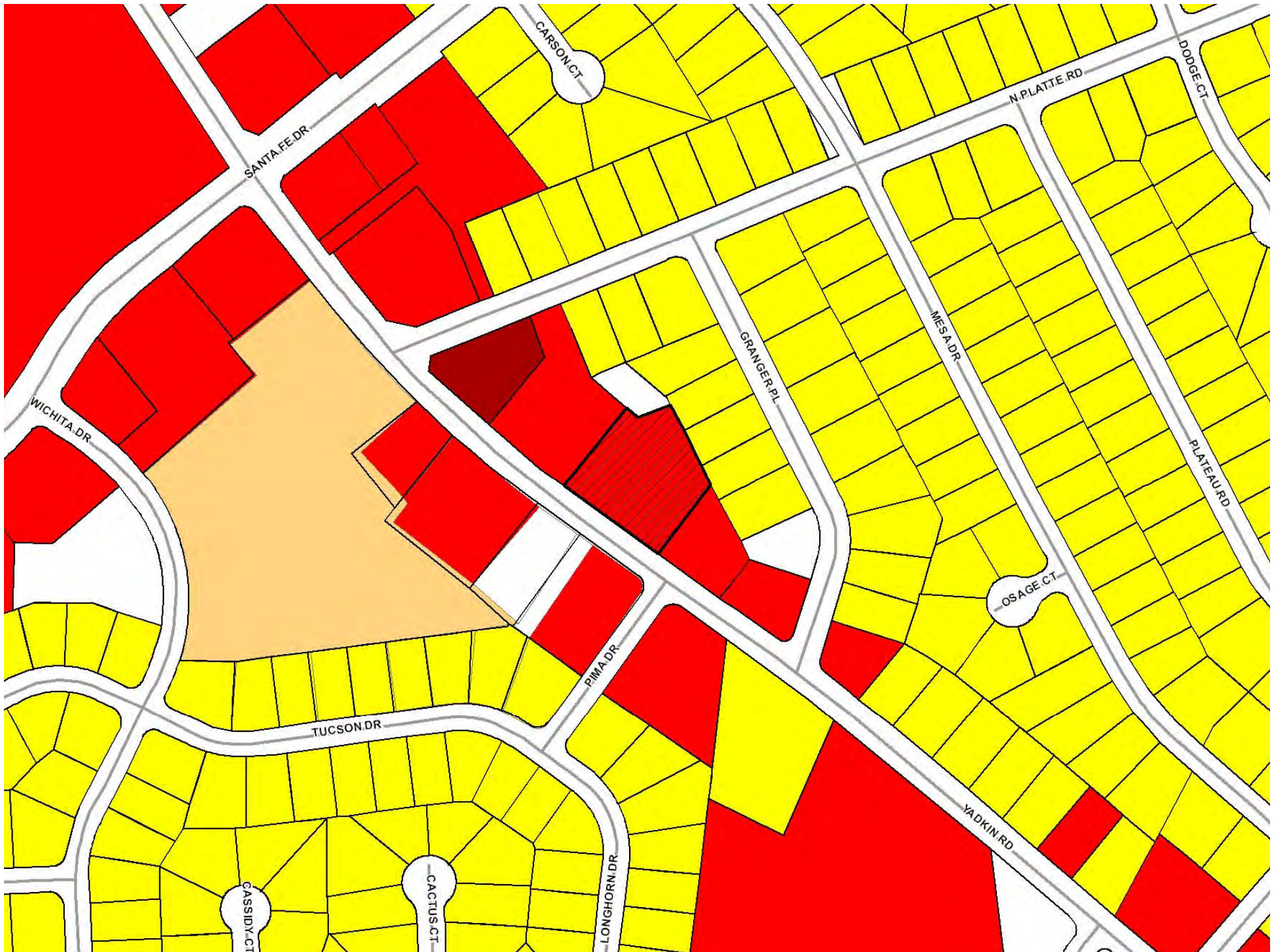
**Requested Action:** Special Use Permit to operate a heavy automotive repair business

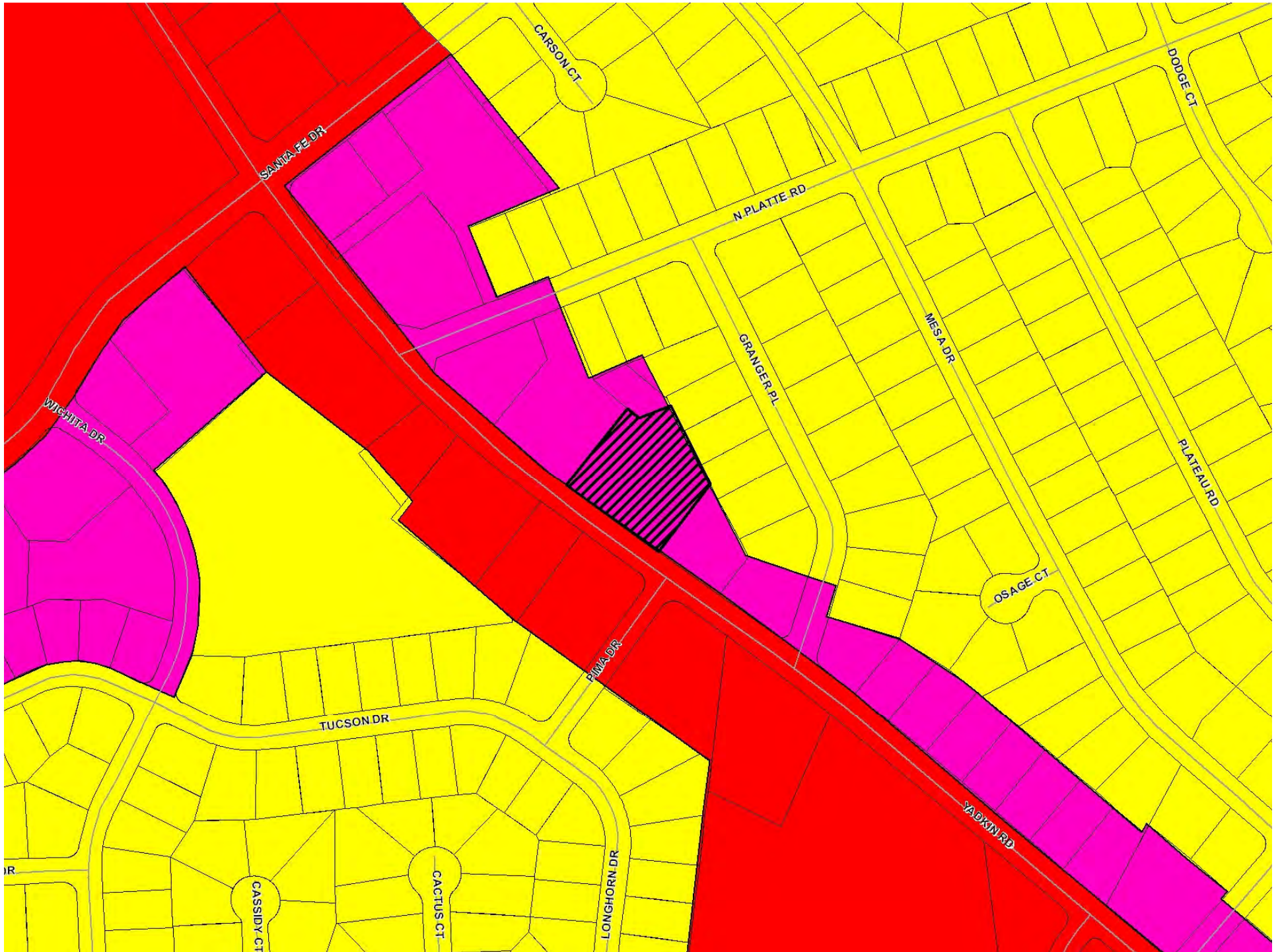
**Property Address:** 5522 Yadkin Road

**Size:** 1.07 acres +/-













6-3-4-6





6-3-4-8





## Conditions recommended by the Zoning Commission:

### Conditions recommended by the Zoning Commission:

1. Retain the vegetated buffer at the back of this property to City standards, to maintain the current separation between this property and the residential lots adjoining it. A minimum of 10 feet wide.

### Additional conditions as suggest by staff:

1. Add shrubs spaced three feet apart to the grassed island along Yadkin Road and maintain the existing tree.
2. Maintain the existing vegetation along the rear of the property adjacent to the residential development and enhance it, as needed, to establish the equivalent of a type D buffer.
3. Any outdoor storage of vehicles waiting to be repaired or in some stage of repair must meet all standards for such under the UDO.





Staff recommends approval of the SUP based on:

1. This property has to be rezoned to a CC zoning district to fit with the zoning of this property prior to the UDO.
2. CC zoning fits with the previous uses of this property.
3. This property has commercial zoning on three sides.
4. There is an existing vegetated buffer between this property and the residential lots behind it.

City of  
*Fayetteville*  
North Carolina



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

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

City of  
*Fayetteville*  
North Carolina

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of the City Council  
**FROM:** Randall J. Hume, Transit Director  
**DATE:** February 25, 2013  
**RE:** **Approval of Lease Agreement between the City of Fayetteville and Megabus**

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**THE QUESTION:**  
Approval of Lease

**RELATIONSHIP TO STRATEGIC PLAN:**  
Goal 4 - A Great Place to Live  
Improve Mobility

**BACKGROUND:**  
FAST provides public transportation services within the City of Fayetteville and is developing its Multimodal Transit Center to provide increased and more convenient mobility options for transit users and access to other transportation modes such as AMTRAK and taxis.

Megabus, which operates express inter-city bus services in various parts the country, contacted transit staff regarding their plans to add Fayetteville to their network. Megabus already provides service between Charlotte and Atlanta, Charlotte and Durham, Durham and Richmond, VA and Washington, DC. The new route would connect Raleigh/Durham, Fayetteville, Columbia, SC, Athens, GA and Atlanta, GA.

Megabus coaches are equipped with free wi-fi, 110v outlets at every seat, restrooms, and are ADA accessible. Their coaches are equipped with GPS systems that monitor all vehicle operations, speed, low clearance, and tire pressure and with alert systems. The vehicles are monitored by Megabus' Paramus, NJ Central Command Operations Center.

Megabus desires to use our current bus transfer center on Old Wilmington Road and then continue at the new MMTC once it begins operating. Megabus would lease the needed space from the City and have access to the Transfer Center property for its scheduled six (6) daily runs (3 each direction). The operation would neither interfere with FAST operations nor require additional staffing or costs of FAST. Megabus ticketing is conducted on-line and would not require any sales or handling by transit staff except for occasional questions such as when is the next bus due.

Megabus would make and pay for some parking lot improvements to ensure safety of passengers and buses. They would also provide security to meet late night and Sunday buses. Their bus operators would be entitled to use the FAST operators lounge during their brief stops. FAST would also provide a bus shelter for passengers at their stop and limited permit short-term parking for dropping-off and picking-up passengers. Daily scheduled departures are: Northbound from Atlanta: 1:55pm/7:40pm/ 2:55am Southbound from Raleigh: 8:15am/5:45pm/11:45pm

Rent paid to the City would be \$900 per month. A lease term-sheet is attached.

**ISSUES:**

**BUDGET IMPACT:**  
Additional transit revenue \$10,800 per year.

**OPTIONS:**  
Approve, disapprove or request modifications



**RECOMMENDED ACTION:**

Staff recommends that Council authorize the City Manager to finalize and execute the Lease Agreement between the City of Fayetteville and Megabus.

**ATTACHMENTS:**

Megabus Lease Agreement

## PRELIMINARY LEASE TERM SHEET

**This notice of intent is used solely and exclusively as a preliminary expression of general intentions. Neither the City of Fayetteville nor Megabus Northeast, LLC shall have any binding contractual obligation to the other with respect to the matters referred to herein unless and until a formal written lease has been prepared with adequate opportunity for review by legal counsel and has been fully executed and delivered by the parties.**

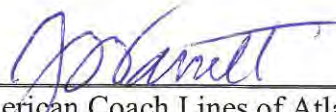
**DATE:** February 15, 2013

1. TENANT/BUSINESS NAME: American Coach Lines of Atlanta, Inc.  
(dba Megabus)
  
2. TENANT/BUSINESS ADDRESS: American Coach Lines of Atlanta, Inc.  
705 Lively Ave.  
Norcross, GA 30071
  
3. PREMISES: 147 Old Wilmington Road  
Fayetteville, NC
  
4. LEASE TERM One year from delivery of fully executed lease agreement and to continue year to year thereafter upon renewal and agreement of the parties.
  
5. MINIMUM RENT: \$900.00 per month  
Increase 2% each year
  
6. USE: Megabus shall use the Premises as a terminal area for passenger waiting, pickup and drop-off for Tenant's Megabus bus service, and activities directly related thereto.
  
7. LANDLORD'S WORK: The City will provide tenant access to site; space for bus-parking and short-term automobile parking; passenger loading area; and bus shelter.

8. TENANT'S WORK: Megabus will provide scheduled inter-city express service; ticketing and information; improvements to premises (paving overlay and striping); lighting enhancements (if needed); and security to meet buses (late night and Sunday, if needed).
9. CONTINGENCIES: This Term Sheet is subject to execution of a formal written lease to be prepared with adequate opportunity for review by legal counsel and full execution by the parties.
10. AMERICANS WITH DISABILITIES ACT: Tenant shall comply with all regulations.

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CITY OF FAYETTEVILLE  
By: Randy Hume, Transit Director



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American Coach Lines of Atlanta, Inc.  
By: John Garrett, President

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of the City Council  
**FROM:** Pamela Megill, City Clerk  
**DATE:** February 25, 2013  
**RE:** **Monthly Statement of Taxes for January 2013**

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**THE QUESTION:**

**RELATIONSHIP TO STRATEGIC PLAN:**

**BACKGROUND:**

**ISSUES:**

**BUDGET IMPACT:**

**OPTIONS:**

**RECOMMENDED ACTION:**

**ATTACHMENTS:**

Tax Statement - January 2013



CUMBERLAND  
★ COUNTY ★  
NORTH CAROLINA

OFFICE OF THE TAX ADMINISTRATOR

117 Dick Street, 5<sup>th</sup> Floor, New Courthouse • PO Box 449 • Fayetteville, North Carolina • 28302  
Phone: 910-678-7507 • Fax: 910-678-7582 • [www.co.cumberland.nc.us](http://www.co.cumberland.nc.us)

MEMORANDUM

To: Pamela Megill, Fayetteville City Clerk  
From: Aaron Donaldson, Tax Administrator *AD*  
Date: February 1, 2013  
Re: Monthly Statement of Taxes

Attached hereto is the report that has been furnished to the Mayor and governing body of ~~your municipality for the month of January 2013. This report separates the distribution of~~ real property and personal property from motor vehicle property taxes, and provides detail for the current and delinquent years.

Should you have questions regarding this report, please contact Catherine Carter at 678-7587.

AD/cc  
Attachment

*Celebrating Our Past...Embracing Our Future*

*EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE*

## FAYETTEVILLE MACC LEDGER

JANUARY 2013

2002-2012

DATE	REPORT #	REMITTED TO FINANCE	2012 CC	2012 VEHICLE	2012 CC REVIT	2012 VEHICLE REVIT	2012 FVT	2012 TRANSIT	2012 STORM WATER	2012 FAY STORM WATER	2012 FAY RECYCLE FEE
01/01/13	2012-132	HOLIDAY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
01/02/13	2012-133	849,110.75	716,553.90	16,272.70	2,560.10	1.98	1,800.00	1,800.00	26,884.59	53,769.14	23,536.49
01/03/13	2012-134	1,540,668.54	1,351,867.37	16,696.68	1,569.62	47.46	1,880.00	1,880.00	41,695.51	83,391.03	36,789.33
01/04/13	2012-135	2,296,024.80	2,065,139.83	14,012.93	10,501.11	33.04	1,705.00	1,705.00	53,155.43	106,358.84	37,047.24
01/07/13	2012-136	4,664,754.01	4,013,838.11	39,395.37	5,447.24	37.75	4,754.57	4,754.57	178,398.81	356,797.65	54,095.57
01/08/13	2012-137	775,858.53	655,287.38	17,048.87	363.29	26.54	2,145.00	2,145.00	25,852.93	51,705.89	17,039.65
01/09/13	2012-138	254,691.95	203,682.66	14,481.57	1,806.53	7.34	1,820.00	1,820.00	6,741.59	13,483.22	6,148.42
01/10/13	2012-139	208,064.54	153,411.15	12,694.73	223.62	0.00	1,485.00	1,485.00	7,007.76	14,015.51	6,763.22
01/11/13	2012-140	194,444.95	136,876.95	23,339.42	875.27	0.00	2,845.00	2,845.00	5,039.27	10,078.54	6,981.25
01/14/13	2012-141	302,903.16	229,423.74	35,308.03	379.86	144.36	4,185.00	4,185.00	5,786.13	11,572.25	4,604.75
01/15/13	2012-142	121,423.26	85,994.74	10,595.99	376.12	19.97	1,245.83	1,245.82	3,658.76	7,317.52	3,800.00
01/16/13	2012-143	94,285.31	67,806.76	8,846.36	0.00	8.85	965.00	965.00	3,041.66	6,083.31	1,537.92
01/17/13	2012-144	149,431.57	108,415.91	14,019.80	967.04	7.80	1,710.00	1,710.00	4,940.81	9,881.63	2,158.19
01/18/13	2012-145	86,027.12	51,243.68	17,025.72	449.97	44.40	1,955.00	1,955.00	1,468.32	2,936.66	3,547.70
01/21/13	2012-146	HOLIDAY	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
01/22/13	2012-147	130,527.31	72,563.00	30,919.82	0.00	5.35	3,139.68	3,139.67	3,630.71	7,261.40	2,863.62
01/23/13	2012-148	46,938.32	28,482.69	8,683.25	543.44	0.00	1,084.06	1,084.07	770.25	1,540.48	1,926.13
01/24/13	2012-149	40,428.15	21,330.55	9,860.49	0.00	0.00	1,145.00	1,145.00	772.25	1,544.51	1,566.46
01/25/13	2012-150	48,344.47	19,017.57	17,206.09	143.28	0.00	1,936.80	1,936.80	769.58	1,539.19	1,774.60
01/28/13	2012-151	113,618.58	65,771.55	28,126.81	0.02	11.58	3,099.48	3,099.49	1,755.33	3,510.67	2,647.42
01/29/13	2012-152	98,628.89	67,862.30	16,311.19	89.26	0.00	1,723.79	1,723.81	1,945.87	3,891.74	1,469.65
01/30/13	2012-153	68,415.89	43,318.82	12,889.37	4.91	2.94	1,516.34	1,516.34	1,139.59	2,279.21	2,012.73
01/31/13	2012-154	152,057.12	96,900.17	23,853.97	39.93	0.00	2,713.17	2,713.17	4,492.70	8,985.42	3,446.07
<b>TOTALS</b>		<b>12,236,647.22</b>	<b>10,254,788.83</b>	<b>387,589.16</b>	<b>26,340.61</b>	<b>399.36</b>	<b>44,853.72</b>	<b>44,853.74</b>	<b>378,947.85</b>	<b>757,943.81</b>	<b>221,756.41</b>

TRUE

MACC: MONTHLY ACCOUNTING (TOTALS COLLECTED FOR MONTH)  
CC: INCLUDES REAL & PERSONAL, LATE LIST, & PUBLIC SERVICE

FVT: FAYETTEVILLE VEHICLE TAX (\$5.00)

FAYETTEVILLE MACC LEDGER

2002-2012

2012 ANNEX	2011 CC	2011 VEHICLE	2011 CC REVIT	2011 VEH REVIT	2011 FVT	2011 TRANSIT	2011 STORM WATER	2011 STORM WATER	2011 FAY STORM WATER	2011 FAY RECYCLE FEE	2011 ANNEX
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	354.93	3,173.50	0.00	0.00	495.00	495.00	12.00	24.00	24.00	38.00	0.00
0.00	358.18	2,946.29	0.00	0.00	380.00	380.00	12.00	24.00	24.00	38.00	0.00
0.00	700.20	3,249.88	0.00	0.00	486.05	486.05	40.53	81.06	81.06	166.34	0.00
0.00	1,209.40	3,496.44	0.00	0.00	525.00	525.00	0.00	0.00	0.00	0.00	0.00
0.00	461.20	1,431.17	0.00	0.00	241.89	241.90	12.00	24.00	24.00	38.00	0.00
0.00	368.57	1,909.39	0.00	0.00	260.00	260.00	0.00	0.00	0.00	0.00	0.00
0.00	3,838.84	1,647.30	0.00	0.00	290.00	290.00	359.22	718.44	225.54	0.00	0.00
0.00	110.22	2,736.60	0.00	0.00	404.45	404.45	7.04	14.08	22.30	0.00	0.00
0.00	646.78	3,135.03	0.00	30.19	461.48	461.47	24.00	48.00	76.00	0.00	0.00
0.00	248.16	4,021.92	0.00	0.00	458.11	458.10	13.15	26.31	38.00	0.00	0.00
0.00	44.62	2,110.78	0.00	0.00	271.41	271.40	(12.00)	(24.00)	(38.00)	0.00	0.00
0.00	964.15	769.59	0.00	0.00	145.00	145.00	0.00	0.00	0.00	0.00	0.00
0.00	619.20	1,997.58	0.00	0.00	312.85	312.86	16.02	32.04	50.73	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	605.72	2,243.32	0.00	3.43	320.78	320.79	21.50	43.00	68.08	0.00	0.00
0.00	376.08	973.79	0.00	0.00	145.00	145.00	12.00	24.00	38.00	0.00	0.00
0.00	510.13	1,176.05	0.00	0.00	150.24	150.24	12.00	24.00	38.00	0.00	0.00
0.00	297.36	1,761.58	0.00	0.00	245.00	245.00	24.00	48.00	76.00	0.00	0.00
0.00	159.71	1,885.04	0.00	0.00	314.05	314.04	0.00	0.00	0.00	0.00	0.00
0.00	193.33	1,140.86	0.00	0.00	170.00	170.00	0.00	0.00	0.00	0.00	0.00
0.00	21.08	1,436.67	0.00	0.00	252.54	252.54	0.00	0.00	0.00	0.00	0.00
0.00	550.19	3,266.36	0.00	0.00	461.78	461.78	24.00	48.00	76.00	0.00	0.00
0.00	12,638.05	46,509.14	0.00	33.62	6,790.63	6,790.62	577.46	1,154.93	950.99	0.00	0.00

FAYETTEVILLE MACC LEDGER

JANUARY 2013

2002-2012

2010 CC	2010 VEHICLE	2010 CC REVIT	2010 VEHICLE REVIT	2010 FVT	2010 TRANSIT	2010 STORM WATER	2010 STORM WATER	2010 FAY STORM WATER	2010 FAY RECYCLE FEE	2010 ANNEX	2009 CC	2009 VEHICLE	2009 CC REVIT
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
63.01	86.16	0.00	0.00	20.00	20.00	0.00	0.00	0.00	0.00	0.00	9.03	5.97	0.00
0.00	(14.38)	0.00	0.00	5.00	5.00	0.00	0.00	0.00	0.00	0.00	0.00	6.36	0.00
55.30	19.23	0.00	0.00	10.00	10.00	0.00	0.00	0.00	0.00	0.00	1.30	58.41	0.00
108.49	48.29	0.00	0.00	30.00	30.00	11.96	23.92	37.87	0.00	0.00	0.00	72.74	0.00
26.94	48.46	0.00	0.00	14.20	14.20	0.00	0.00	0.00	0.00	0.00	0.00	53.04	0.00
34.99	47.15	0.00	0.00	20.00	20.00	0.00	0.00	0.00	0.00	0.00	1.18	20.28	0.00
951.19	(165.02)	0.00	0.00	(0.69)	(0.70)	24.00	48.00	114.00	0.00	0.00	311.26	98.06	0.00
4.17	102.50	0.60	0.00	29.55	29.55	0.00	0.00	0.00	0.00	0.00	0.00	10.38	0.00
39.03	97.54	0.00	0.00	20.00	20.00	0.00	0.00	0.00	0.00	0.00	22.22	32.39	0.00
0.00	23.40	0.00	0.00	10.00	10.00	0.00	0.00	0.00	0.00	0.00	0.00	51.52	0.00
61.80	79.16	0.00	0.00	20.00	20.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4.39	14.41	0.00	0.00	5.00	5.00	4.54	9.08	14.37	0.00	0.00	0.00	37.04	0.00
85.44	68.89	0.00	0.00	17.91	17.91	0.00	0.00	0.00	0.00	0.00	0.00	6.04	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
134.19	17.02	0.00	0.00	15.37	15.37	0.00	0.00	0.00	0.00	0.00	76.38	66.65	0.00
45.81	(59.74)	0.00	0.00	(5.00)	(5.00)	0.00	0.00	0.00	0.00	0.00	0.00	8.43	0.00
5.29	(17.05)	0.00	0.00	5.00	5.00	0.00	0.00	0.00	0.00	0.00	0.00	28.82	0.00
88.07	65.53	0.00	0.00	15.00	15.00	0.00	0.00	0.00	0.00	0.00	21.38	0.00	0.00
1.25	123.30	0.00	0.00	28.29	28.30	0.00	0.00	0.00	0.00	0.00	0.00	77.54	0.00
24.99	(8.03)	0.00	0.00	(5.00)	(5.00)	0.00	0.00	0.00	0.00	0.00	0.00	4.06	0.00
1.78	78.18	0.00	0.00	22.53	22.52	0.00	0.00	0.00	0.00	0.00	0.00	69.75	0.00
233.48	48.56	0.00	0.00	20.00	20.00	24.00	48.00	38.00	0.00	0.00	0.00	40.66	0.00
1,969.61	703.56	0.60	0.00	297.16	297.15	64.50	129.00	204.24	0.00	0.00	442.75	748.14	0.00



FAYETTEVILLE MACC LEDGER

JANUARY 2013

2002-2012

2009 VEH REVIT	2009 FVT	2009 TRANSIT	2009 STORM WATER	2009 FAY STORM WATER	2009 FAY RECYCLE	2009 ANNEX	2008 & PRIOR CC	2008 & PRIOR VEH	2008 & PRIOR CC REVIT	2008 & PRIOR VEH REVIT	2008 & PRIOR FVT	2008 & PRIOR TRANSIT	2008 & PRIOR STORM WATER
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	70.35	141.26	0.00	0.00	30.00	10.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	0.00	65.72	0.00	0.00	5.00	0.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	29.22	68.72	0.00	0.00	30.00	5.00	0.00
0.00	17.08	17.07	0.00	0.00	0.00	0.00	0.00	66.38	0.00	0.00	23.23	10.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	63.41	26.79	0.00	0.00	15.00	0.00	0.00
0.00	10.00	10.00	0.00	0.00	0.00	0.00	0.00	44.47	0.00	0.00	20.00	10.00	3.96
0.00	20.00	20.00	12.00	24.00	76.00	0.00	2.49	(3.01)	0.00	0.00	30.00	5.00	0.00
0.00	10.00	10.00	0.00	0.00	0.00	0.00	0.00	46.41	0.00	0.00	15.00	0.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	11.48	35.51	0.00	0.00	20.00	5.00	0.00
0.00	20.00	20.00	0.00	0.00	0.00	0.00	29.25	30.05	0.00	0.00	5.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	15.00	11.66	0.00	0.00	2.47	2.46	0.00
0.00	17.15	17.15	0.00	0.00	0.00	0.00	0.00	106.35	0.00	0.00	10.00	0.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	0.00	65.21	0.00	0.00	20.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	18.67	18.66	0.00	0.00	0.00	0.00	124.77	113.08	0.00	0.00	15.00	0.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	30.19	30.50	0.00	0.00	15.00	0.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	48.76	0.00	0.00	0.00	0.00	0.00	0.00
0.00	10.00	10.00	0.00	0.00	0.00	0.00	0.00	221.80	0.00	0.00	35.00	5.00	0.00
0.00	5.00	5.00	0.00	0.00	0.00	0.00	22.25	9.94	0.00	0.00	10.30	0.00	12.00
0.00	15.00	15.00	0.00	0.00	0.00	0.00	52.36	56.39	0.00	0.00	10.00	0.00	0.00
0.00	15.00	15.00	0.00	0.00	0.00	0.00	0.00	103.57	0.00	0.00	35.00	0.00	0.00
0.00	197.90	197.88	12.00	24.00	76.00	0.00	499.53	1,240.80	0.00	0.00	346.00	52.46	15.96

FAYETTEVILLE MACC LEDGER

JANUARY 2013

2002-2012

2008 & PRIOR FAY STORM WATER	2008 & PRIOR FAY RECYCLE FEE	2008 & PRIOR ANNEX	INTEREST	REVIT INTEREST	STORM WATER INTEREST	FAY STORM WATER INTEREST	ANNEX INTEREST	FAY RECYCLE INTEREST	FAY TRANSIT INTEREST	TOTAL TAX & INTEREST
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	779.99	0.04	1.36	2.73	0.00	4.32	85.20	849,110.75
0.00	0.00	0.00	562.26	1.39	1.34	2.69	0.00	4.25	58.44	1,540,668.54
0.00	0.00	0.00	748.59	0.20	5.38	10.75	0.00	21.24	72.93	2,296,024.80
0.00	0.00	0.00	871.79	0.17	2.45	4.89	0.00	7.75	94.45	4,664,754.01
0.00	0.00	0.00	1,329.67	0.65	27.96	55.95	0.00	61.22	46.33	775,858.53
0.00	0.00	0.00	1,510.62	0.58	23.80	39.45	0.00	31.30	54.88	254,691.95
0.00	0.00	0.00	1,701.15	0.00	60.29	120.59	0.00	107.43	53.17	208,064.54
0.00	0.00	0.00	1,441.62	2.29	20.38	40.79	0.00	37.22	64.65	194,444.95
0.00	0.00	0.00	1,897.41	2.61	25.19	50.38	0.00	60.00	82.33	302,903.16
0.00	0.00	0.00	1,493.38	16.33	27.36	54.72	0.00	49.12	64.63	121,423.26
0.00	0.00	0.00	1,926.94	0.24	63.26	126.53	0.00	32.38	44.34	94,285.31
0.00	0.00	0.00	2,932.26	19.71	101.43	202.85	0.00	42.04	53.88	149,431.57
0.00	0.00	0.00	1,537.85	9.53	30.44	60.88	0.00	75.10	54.19	86,027.12
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	55.46	2,352.81	0.25	74.67	149.31	2.55	63.14	64.09	130,527.31
0.00	0.00	0.00	909.24	10.87	17.22	34.43	0.00	42.58	25.55	46,938.32
0.00	0.00	0.00	847.08	0.00	17.07	34.14	0.00	37.03	30.85	40,428.15
0.00	0.00	0.00	926.89	2.92	18.78	37.57	0.00	46.57	37.15	48,344.47
0.00	0.00	0.00	2,167.33	0.00	35.34	70.70	0.00	53.42	56.12	113,618.58
0.00	0.00	0.00	1,673.54	7.97	43.88	78.06	0.00	29.74	28.39	98,628.89
0.00	0.00	0.00	1,278.21	0.12	22.82	45.63	0.00	40.33	42.19	68,415.89
0.00	0.00	0.00	2,929.85	3.89	98.39	196.82	0.00	88.55	65.64	152,057.12
0.00	0.00	55.46	31,818.48	79.76	718.81	1,419.86	2.55	934.73	1,179.40	12,236,647.22

**CITY COUNCIL ACTION MEMO**

**TO:** Mayor and Members of City Council  
**FROM:** Lisa Smith, Chief Financial Officer  
**DATE:** February 25, 2013  
**RE:** **Tax Refunds of Less Than \$100**

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**THE QUESTION:**

Information regarding tax refunds for less than \$100 is provided to City Council as information only.

**RELATIONSHIP TO STRATEGIC PLAN:**

Core Value: Stewardship

**BACKGROUND:**

The attached refund was approved by the Cumberland County Special Board of Equalization in January 2013.

**ISSUES:**

None.

**BUDGET IMPACT:**

The budget impact is \$85.27.

**OPTIONS:**

Not applicable. Information only.

**RECOMMENDED ACTION:**

No action required.

**ATTACHMENTS:**

Tax Refunds Less than \$100



February 25, 2013

**MEMORANDUM**

TO: Lisa Smith, Chief Financial Officer *LS*

FROM: Nancy Peters, Accounts Payable *NP*

RE: Tax Refunds of Less than \$100

The tax refunds listed below for less than \$100 were approved by the Cumberland County Special Board of Equalization for the month of January, 2013.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Valasco, James	1946921	2011	Clerical Error	85.27
<b>TOTAL</b>				<b>\$85.27</b>