



**TOWN OF HARRISBURG, NORTH CAROLINA
HARRISBURG TOWN HALL
PLANNING AND ZONING BOARD MEETING**

**February 21, 2023
6:00 PM**

AGENDA

1. CALL TO ORDER

A. PUBLIC PARTICIPATION VIA ZOOM

Harrisburg Town Hall's Council Chambers will be open for the public to attend the meeting in person.

The public has the option to join the meeting virtually via the Zoom platform using the following link:

<https://us02web.zoom.us/j/82922934233?pwd=UUUVbHlWenglYStOUUVmVWdtZXllQT09>

Webinar ID: 829 2293 4233

Passcode: 249745

Or join by phone:

312.626.6799

301.715.8592

B. AGENDA ADOPTION

C. SPECIAL PRESENTATIONS

D. PUBLIC COMMENT - Anyone wishing to address the Board may do so during the Public Comment section. Please state your name and address for the record, be courteous and do not repeat what has already been said. Please keep your comments about the subject and not personal in nature.

2. CONSENT AGENDA

A. Consider adoption of December 20, 2022 minutes

3. OLD BUSINESS

4. NEW BUSINESS

A. H-2022-18-R: Request to rezone approximately 5.559 acres from County CR (Countryside Residential) to RL (Residential Low Density)

B. H-2023-01-TA: Consider UDO text amendment to add a separation requirement for Tobacco Stores, Vapor Shops, and the retail sale of CBD and hemp-based products from each other and certain other uses.

5. STAFF UPDATES/INFORMATION

A. Planning Director Update

6. **ADJOURNMENT**

7. **CALL TO ORDER**

Town of Harrisburg's Vision Statement

Harrisburg will be the best small town in North Carolina based on low density housing, excellent economic opportunities, a safe living environment, and efficient and effective municipal services. Amenities such as excellent recreational programs, adequate open space, attractive shopping opportunities, a diversity of restaurants, and a connected system of roadways, sidewalks, greenways, and bicycle lanes will continue to enhance the quality of life of the Town. These services and amenities will be provided while retaining reasonable tax rates and debt levels.



TOWN OF HARRISBURG

Agenda Item Details

Title:

Consider adoption of December 20, 2022 minutes

Presenting Personnel:

Zac Gordon, Planning Director

Suggested Motion or Action:

Motion to approve minutes from December 20, 2022 Planning Board Meeting.

Description/Background:

Recommendation:

Fiscal Impact:

Attachments:

1. PZ MINS DEC 20 22

**TOWN OF HARRISBURG, NC
MEETING OF PLANNING AND ZONING BOARD
DECEMBER 20, 2022**

MINUTES

1.

CALL TO ORDER

Andy Rathke called the meeting to order.

PRESENT: Kevin Schaffner, Thelma Thorne-Chapman, Monica Long, Andy Rathke, Kevin Hutchins

STAFF: Zac Gordon, Planning Director, Carly Bedgood, Planning Technician

ABSENT: Jacob Carpenter, Craig Thomas, Senior Planner

A.

AGENDA ADOPTION

MOTION

Thelma Thorne-Chapman made a motion to adopt the agenda with a second was made by Kevin Schaffner.

The motion passed 5-0.

B.

SPECIAL PRESENTATIONS

C.

PUBLIC COMMENT

None

2.

CONSENT AGENDA

A. Planning Board meeting minutes of November 15th, 2022, Planning and Zoning Board meeting.

MOTION

Andy Rathke made a motion to approve the Consent Agenda. Second was made by Monica Long. **The motion passed 5-**

0.

3.

OLD BUSINESS

None

4.

NEW BUSINESS

A.

H-2022-3-S Blume Estates Preliminary Plat

The applicant is requesting Preliminary Plat approval for 30 single family lots, for property measuring approximately 65 acres, located on the eastern side of Hickory Ridge Road south of Rocky River Road and connecting to Cornflower Drive (PIN# 5516759310) as shown on the attached plan. Conditional rezoning approval to change the designation of these lots from RE, Rural Estate to CZ-RL, Conditional Zoning Residential Low Density, was granted by the Town Council at their March 14, 2022, meeting (H-2021-01-R). Staff has reviewed the preliminary plat submitted for Blume Estates and found it to be consistent with the conditional zoning site plan approved by the Town Council for case # H-2021-01-R, and applicable standards of the UDO. Staff is therefore recommending approval of the preliminary plat by

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

the Planning and Zoning Board and for the Board to forward a recommendation for approval of this preliminary plat by the Town Council.

1. Applicant agrees to obtain any and all applicable local, state, and federal permits required for development before any development activity can take place.
2. Applicant agrees to restrict cladding materials for all residential buildings to masonry products; vinyl siding will not be used.
3. Applicant agrees that there will be no exposed concrete foundations and that siding must extend to the ground level on all sides of the homes.
4. Applicant agrees to the mitigation or replacement of heritage trees if damaged during construction, in accordance with the Town of Harrisburg Unified Development Ordinance.
5. Applicant agrees that all ponds shall be wet detention ponds with fountains. Ponds shall be designed such that there is a minimum depth of 10' over at least 25% of the permanent pool area.
6. Applicant agrees fence surrounding detention pond shall be vinyl 4-rail farm fence, preferably white.
7. Applicant agrees to construct greenway along Reedy Creek and provide pedestrian connection via pedestrian bridge to the proposed neighborhood.
8. Applicant agrees to bond the subdivision streets in the existing Blume Subdivision and perform any required maintenance due to construction access and heavy vehicle and equipment traffic on the Blume Subdivision streets.
9. Applicant agrees mailbox clusters shall meet ADA Standards at a minimum.
10. All streets should be to the Town of Harrisburg Engineering Design standards; alternate pavement schedule is not allowable. Roadways cross sections will be reviewed and approved at the construction document phase.

Andy Rathke asked the Planning Director about the vinyl fencing that is shown and if that was approved. Zac said yes that is typically what is used around the pond area especially for maintenance reasons. Kevin Schaffner asked if there is any greenway connections planned to connect to anything, Zac said currently connection at this time is limited. Monica Long asked if there is a restriction on the number of side load garages on corner lots? Zac Gordon indicated that currently there is not a specific requirement for side load garages on corner lots.

MOTION:

Kevin Schaffner made a motion to recommend approval of H-2022-3-S with the proposed conditions and send it on to the Town Council for their consideration with a second from Kevin Hutchins. **The motion passed 5-0.**

5.

STAFF UPDATES/INFORMATION

- Our next scheduled meeting will be held on January 17, 2023. Happy New Year.
- We still have a huge interest in Single Family homes here in Harrisburg.
- We will provide the Board with an updated list of the projects that are currently in the pipeline along with updates on projects that have been approved.
- We are still working on getting a new ETJ member for the Board, hope to have someone soon to join, we should be sending out a mailing soon we were able to get addresses for all located in our current ETJ.

6.

ADJOURNMENT

MOTION:

There being no further business, Kevin Schaffner made a motion to adjourn, with a second from Kevin Hutchins. **The motion passed 5-0.**

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

7.

CALL TO ORDER FOR BOARD OF ADJUSTMENT

Thelma Thorne-Chapman called the meeting to order.

PRESENT: Kevin Schaffer, Kevin Hutchins, Andy Rathke, Monica Long, Thelma Thorne-Chapman

STAFF: Zac Gordon, Planning Director, Carly Bedgood, Planning Technician

ABSENT: Jacob Carpenter, Craig Thomas, Senior Planner

AGENDA ADOPTION

Andy Rathke made a motion to approve the agenda with a second from Kevin Hutchins. **The motion passed 5-0.**

All parties who wish to speak on behalf of this project were sworn in.

8.

NEW BUSINESS

A.

H-2022-01-SUP Killian Plaza Tobacco Shop

Planning Director opened this meeting with background information on the proposed use.

Zac Gordon

The request is for a special use permit to conduct business as a retail tobacco shop. The use is allowed with a special use permit from the board. The site is shown with the yellow arrow on the screen, this is the Killian Plaza. The Store front is shown above located in between two other businesses. Across the street is a dental office. This is from the Cabarrus County GIS, the star is the location of where the use is proposed.

Andy Rathke

Is behind this location commercial or residential properties?

Zac Gordon

Behind it is residential. Along 49 is commercial and the road behind it is residential uses. Mr. Gordon noted that there are five (5) criteria for grading a special use permit request. The first criteria is that the use be consistent or in harmony with the area in which it is to be located and in general conformance with the HALUP. In terms of the Harrisburg Land Use plan it is designed for commercial so you are to determine if this special use will be in harmony with what is currently around it. Next if adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads. Mr. Gordon noted that the proposed location is in retail strip center and it has a traffic pattern that has been established for some time. Number three relates to nuisances; the proposed use will not be noxious or offensive by reason of vibration, noise odor, dust, smoke or gas. Number four, is Orderly Development; if this use is established will it impede the orderly development and improvement of surrounding property for uses permitted within the zoning district. Finally, will the proposed use promote the public health, safety and welfare. In other words, will the establishment, maintenance and operation of the proposed use not be detrimental to or endanger the public health, safety or general welfare. Mr. Gordon noted that staff have gone through this proposal and reviewed the request for the special use permit, and that based on my professional opinion the proposed use is not compatible with the surrounding conforming and permitted land uses nor in harmony with the character of the area where the proposed use would be located. Mr. Gordon referred back to ariel map view of the site. He noted that the existing development is a strip mall with a variety of uses, including a furniture store and some other retail uses which generate a fairly low level of traffic. To the right of the site is a snow cone facility, to the left of this site is a restaurant, Mr. Gordon noted that the key issue is whether the proposed use will be in harmony with surrounding uses. The proposed use includes a request for a retail tobacco shop and vape store. Mr. Gordon noted that this use is not in harmony with the surrounding uses. He added that the proposed location is only 126' from the closest residential

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

structure and abuts residentially zoned property to the south. Staff recommendation is for denial of the special use permit. Mr. Gordon noted that in order for the Board to grant the request it would need to make positive findings of fact for each of the five (5) criteria noted. Mr. Gordon concluded by explaining that the Board had three (3) options for taking action: Approval, approval with conditions, or denial. Mr. Gordon stated that he was open to questions from the Board..

Andy Rathke

You mentioned there is residential behind this property, for some reason I thought those properties were zoned commercial.

Thelma Thorne-Chapman

I think there is a combination of residential and commercial there.

Zac Gordon

General Commercial is the zoning along 49, the properties directly behind all the way over to the West is General Commercial. There is one parcel that is zoned OI.

Thelma Thorne-Chapman

Any other questions?

Kevin Schaffer

So based on your evaluation criteria number 1 is your basis for denial and your findings 2-5 were not impacted just number 1.

Zac Gordon

Yes, the harmony factor is the key issue. The others I am taking a neutral position on. In terms of the existing uses, the proposed use would not be harmonious with these uses. If there are no other questions for me, the applicant is here to speak.

Rich Koch

Can the applicant please come forward to address the Board.

Paula Flanagan

I am the applicant's friend and realtor. I helped him find this location and I know for a fact the properties behind it are zoned commercial and residential. The Planning Director said this use would not be harmonious with the existing uses at this location but looking at the map across the street there is a gas station that sells both tobacco and vape products so is that not harmonious too because it's within the same distance?

Zac Gordon

I was referring to the businesses that are touching this proposed use not across the street.

Paula Flanagan

Ok but its still within 300 feet, my questions is what is the main harmonious issues, because the vape products are sold across the street..

Zac Gordon

The issue is whether the proposed use is harmonious with the current abutting uses. Mr. Gordon noted the proposed use is not harmonious with existing uses as they are in a different land use category..

Paula Flanagan

This is just confusing to me because usually two of the same type businesses wouldn't want to open up beside each other.

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Zac Gordon

Is that a question?

Thelma Thorne-Chapman

Any more questions for Zac?

Kevin Hutchins

Zac, do we know what business was in this location before and if they had to have a special use permit?

Andy Rathke

There was computer retail store.

Thelma Thorne-Chapman

Anyone wishing to speak can come up and give their name and address. No time limit.

Kevin Schaffner

Zac, I am guessing the applicant is going to be presenting counter evidence and if they do not speak then we can only go on with what you presented to us.

Applicant- George (what is his full name?)

I am the applicant, I wanted to open a business here in Harrisburg. I am willing to comply with all the rules and regulations. I am trying to open the business. There will be no smoking and I think that's it. This is my first time in a place like this.

Kevin Hutchins

I believe you mentioned you would be able to control the smoking.

Applicant-

You cannot smoke inside or outside.

Andy Rathke

So, you are just selling the product?

Zac Gordon

Can you give us what types of products will be sold?

Applicant

Walk in humidor, cigars, cigarettes, tobacco that comes in a bag.

Andy Rathke

What is a humidor, do you smoke in there?

Applicant

No this is just where you store the cigars and material.

Thelma Thorne-Chapman

So, can I get that again, vape products, cigars, cigarettes.

Applicant

Yes, and loose tobacco to make your own cigarettes.

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Thelma Thorne-Chapman

Thank you. Anyone else coming up to speak?

Rich Koch

Make sure that no one else would like to speak.

Andy Rathke

I think the others in the audience might be here for the other item on the agenda.

Thelma Thorne-Chapman

We can close the public comment now. Any other discussion before a motion is made?

Andy Rathke

I do not understand the negative part of the store front wanting to sell the Tobacco sells. It's a legal thing that you can sell these types of items.

Zac Gordon

I don't know how much more I can add to what I added earlier, but to me it is the specific type of use in the context in relationship to the other uses. This is a primary principle use and I think in my mind that is the difference, its not a accessory use for sales. It is a different type of land use then what all the other uses in that area.

Thelma Thorne-Chapman

Do we have any other vape shops in the area?

Zac Gordon

No, we do not, we had one, but it closed.

Paula Flanagan

His store is going to be a discount smoke shop, you cannot buy CBD or anything like that. Some Food Lions do sell products like that but he is just looking to sell products at a discount. He is even telling the landlords to put restrictions in his lease and if he breaks them you can kick him out. His items are a little cheaper than what you can buy at gas stations or Food Lion.

Kevin Schaffner

Let's roll through the points, I think the harmony is what we have to settle on.

Monica Long

What are the proposed hours for the store?

Applicant

Business hours would be like 9am-9pm at night or maybe 8pm closing.

Kevin Schaffner

Is there limitations on operating hours or sign regulations for this property?

Zac Gordon

No different from any other businesses that are in Harrisburg. General signage regulations would be in place. We don't allow blacking out of windows so you would have to be able to see in the store and all the other requirements from the code would be in place.

Kevin Hutchins

Zac when the Town notified the adjacent owners and businesses was there any push back from anyone?

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Zac Gordon

No, I did not speak to anyone personally.

Monica Long

Zac, under the recommendation it mentioned here the proposed location would be 126' from the residential structure.

Zac Gordon

Yes.

Thelma Thorne-Chapman

Any more questions for Zac?

Monica Long

Is there an official definition anywhere in the Town regulations in regard to harmony because that's where we seem to be stuck.

Zac Gordon

I will look. Mr. Gordon noted that the UDO provides guidance for undefined terms in the Ordinance. All words not defined in Section 148.02 of the UDO shall be given their usual meanings according to the planning director, unless the context clearly is otherwise. If you would like, we can, for example, go to a Weebster's Dictionary to find a definition for "harmony".

Thelma Thorne-Chapman

Let's take a 5-minute brief recess.

Zac Gordon

I have found a definition in Webster's Dictionary for harmony, as follows:: "a pleasing arrangements of parts, agreement, accord in terms of quality or state of agreeing". y.

Andy Rathke

Zac retail is not like I want to put a taco bell and burger king in one place, retail is about mixed uses in the same area. Its not just like one use, the more uses you have the more attraction you have. I am not sure how what you are saying applies.

Kevin Schaffner

Is there any Town Ordinances that prevents smoking in public areas within certain areas?

Zac Gordon

Rich? I think we have ordinances in certain locations.

Rich Koch

No, I don't believe we do.

Andy Rathke

When I am over a Publix or Harris Teeter there are cigarette butts all over the place.

Kevin Schaffner

What limitations do we have for any of the conditions that are proposed as part of this approval?

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Rich Koch

You can make conditions what has been testified to concerning the types of products, you can put time limitations on the business but again it would have to have something to do with one of the standards for granting a Special Use Permit..

Andy Rathke

With it being tobacco products there is a age restriction on that, correct?

Rich Koch

Yes, the applicant indicated you have to be 21 to come in the business.

Zac Gordon

I was just going to say at some point Kevin S started but you will have to go through all 5 of the decision criteria and make findings of fact for each one .

Kevin Schaffner

I believe we have already done that are just down to one.

Rich Koch

I think you are just going to have to make your own judgement of and come to terms with what you think it means. It's how you personally interpret the term.

Thelma Thorne-Chapman

Do we have a motion?

Rich Koch

Yes, you can do a motion and go forward with this.

Andy Rathke

I would like to make motion to recommend approval H-2022-01-SUP for this Tobacco shop with the regulations and conditions that were spoken of.

Kevin Schaffner

Ill second the motion.

VOTE:

Motion passed 5-0

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Prepared by and Return to:

Richard M. Koch
Harrisburg Town Attorney
ROD Box 74

Application Number H2022-01-SUP

PIN: 5507-55-3980

COUNTY OF CABARRUS
STATE OF NORTH CAROLINA

ORDER GRANTING A SPECIAL USE PERMIT

The Board of Adjustment for the Town of Harrisburg, having held a public hearing on December 20, 2022 to consider application number H2022-01-SUP, submitted by Waddah Nagi, Applicant and Killian Plaza LLC, Property Owner, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first Common Decision Criteria listed in Section 145.04.03 of the Town of Harrisburg Unified Development Ordinance ("Ordinance"); namely, that the proposed special use will be in harmony with the area in which it is to be located and in general conformance with the Harrisburg Area Land Use Plan (HALUP).
3. It is the Board's CONCLUSION that the proposed use does satisfy the second Common Decision Criteria listed in the Ordinance; namely, adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.

TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022

4. It is the Board's CONCLUSION that the proposed use does satisfy the third Common Decision Criteria listed in the Ordinance; namely, that the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth Common Decision Criteria listed in the Ordinance; namely, the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
6. It is the Board's CONCLUSION that the proposed use does satisfy the fifth Common Decision Criteria listed in the Ordinance; namely, the establishment, maintenance, and operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare.
7. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a SPECIAL USE PERMIT have been satisfied, it is ORDERED that the application for the issuance of a SPECIAL USE PERMIT be GRANTED, based on the Findings of Fact attached as Exhibit 1 and the Conclusions of Law. This SPECIAL USE PERMIT is limited by the conditions contained in the attached Exhibit 2. The applicant shall fully comply with all the applicable, specific requirements in the Ordinance and must develop the property in accordance with the site plan submitted and approved. If any of the requirements shall be held invalid, this permit shall become void and of no effect.

Ordered this ____ day of January, 2023, *nunc pro tunc* to December 20, 2022.

CHAIR of the TOWN OF HARRISBURG
BOARD OF ADJUSTMENT

I, _____, Notary for Cabarrus County, North Carolina certify that
_____, Chair of the Town of Harrisburg Board of Adjustment appeared before me
on the above day and signed the foregoing document.

_____, Notary Public

My Commission expires : _____

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order.

EXHIBIT 1

FINDINGS OF FACT

SPECIAL USE PERMIT APPLICATION

APPLICANT: WADDAH NAGI and KILLIAN PLAZA LLC, PROPERTY OWNER

4963 NC HIGHWAY 49, HARRISBURG, NC

PIN 5507-55-3980

H2022-01-SUP

FINDINGS OF FACT

1. That the proposed special use will be in harmony with the area in which it is to be located and in general conformance with the Harrisburg Area Land Use Plan (HALUP).

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022

c) The Board specifically finds that this proposed use is compatible with the surrounding uses of the property in that area and is in harmony with the character of that section of Highway 49.

2. Adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

3. The proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

4. The establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

5. The establishment, maintenance, and operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare.

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

EXHIBIT 2

CONDITIONS

SPECIAL USE PERMIT APPLICATION

APPLICANT: WADDAH NAGI and KILLIAN PLAZA LLC, PROPERTY OWNER

4963 NC HIGHWAY 49, HARRISBURG, NC

PIN 5507-55-3980

H2022-01-SUP

1. Applicant will only sell legally available tobacco products (as indicated below) to persons 21 years of age or older.
2. There shall be no smoking on the premises, either inside or outside.
3. The types of tobacco products to be sold consist of cigars, cigarettes, pipe tobacco, chewing tobacco and vapes.
4. Hours of operation are limited to 9am to 9pm daily.

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

B.

H-2022-02-SUP Island Tobacco

Planning Director opened this meeting by providing the Board with background information.

Zac Gordon

Mr. Gordon noted that the next item on the agenda is a Special Use permit request for Island Tobacco to conduct business as a retail tobacco shop. From the aerial map you can see the site location – to the north across the street from the Tobacco and Vape store you just looked at. To the left of the site is Wendy's and to the right is a car wash and Bojangles. You can see the location looking toward the west on the screen. It is located all the way on the end of this shopping center. This is the view looking across the street where the other use is all the way to the right of this picture. Criteria for grading special use permit is the same as was just discussed. Staff has reviewed the request for a Special Use Permit and does not believe the proposed use is compatible with the surrounding conforming and permitted land uses nor in harmony with the character of the area where the proposed use would be located. Therefore, staff is recommending denial of the request for a Special Use Permit. You can approve, deny, or approve with conditions. If there are any questions, I would be glad to answer.

Andy Rathke

Can you go back to the building elevation, looking at that space adjacent to it, how did they get away with the mirror glass.

Zac Gordon

I believe that is a dentist so more than likely for privacy. Typically we do not allow for blackout windows but it depends on the use.

Andy Rathke

Is this business already in operation?

Zac Gordon

No, although there is a sign up. Our Code Enforcement officer Tom Lesser let them know they would need a special use permit before opening. I was out there this afternoon there is a temporary sign but they are not open.

Kevin Schaffner

Can you go into a little more detail about the harmony standpoint.

Zac Gordon

In this strip retail we have a dentist, hair styling place and a vacant space and then this use would be at the end of the building. From a plan view, to the left of the map there is a Wendy's, with a car wash to the right and residential property behind this property. I would say the existing retail uses, are not what you would typically see next to a cigar or vape shop. It is a question of judgment but as a planner I would say the use although it is commercial it is not fast food, car wash, dentist or similar and therefore not in harmony with the area..

Andy Rathke

Having some existing tenants, the sign that was placed at the store have anyone raised any concern about this potential business coming beside them?

Zac Gordon

I have not spoken to any of them.

Monica Long

Are you aware of what use was in this location before?

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Zac Gordon

Most recently it was a church which is no longer there.

Andy Rathke

The back side of this building is looking rough, I believe it is still vacant with some weird activity going on.

Thelma Thorn-Chapman

There isn't anything back there that we are aware of.

Monica Long

Any thoughts about if parking will be ok?

Zac Gordon

I think parking will be fine, this shopping center was already set up and had a parking requirement for commercial.

Thelma Thorne-Chapman

Any more questions for Zac?

Rich Koch

If anyone came for this topic and would like to ask questions to Mr. Gordon please come up.

George Mainly

My questions regarding harmony and permitted uses was if the permitted uses under General Commercial are allowed then those permitted uses wouldn't have to come to a board of adjustment, correct?

Zac Gordon

That is correct, this type of business use must have a special use permit.

George Mainly

The tenants mix that occupy that building would then just form a harmonious mix just based on the permitted uses that are allowed and that would not be determined by Town Council based on who those tenants are, correct?

Andy Rathke

What is your relationship to the tenant?

George Mainly

I own a real estate company; I have known this family for 13 years and I can't speak highly enough about who they are as business people.

Thelma Thorne-Chapman

Any other questions for Zac? If not, I will now open it up to anyone who would like to speak. If you do want to speak, please give us your name and address.

George Blackwell

204 South Street, NC.

We would follow the conditions that are required. We would be open from 9-9, no smoking outdoors, we would agree to any signage required, we would try to sell cigars, cigarettes, vapes, t shirts, snacks, drinks, novelty items. Thank you.

Andy Rathke

No CBD products?

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

George Blackwell

No sir.

Thelma Thorne-Chapman

And what other types of products?

George Blackwell

T shirts, trays, novelty items that would go along with the products.

Rich Koch

What is your relationship to the applicant.

George Blackwell

Friend and I work with them.

Kevin Schaffner

General aroma from the store, do people taste the products before purchasing?

George Blackwell

No, everything would be packaged.

Kevin Schaffner

My concern is more the dentist next door.

George Blackwell

The back of the property is vacant, we would not have anything to do with that.

Zac Gordon

Are you the operator of this business?

George Blackwell

No, just friend.

Mohamed Ali- Applicant

2445 Ridge Oak, Charlotte NC

I would like to answer any questions you have. Everything that we have is going to come packaged to our shop and that is how we will sell it.

Andy Rathke

Do you sell individual cigars or a box of cigars?

Mohamed Ali

If it comes in a package, it will be sold that way.

Thelma Thorne-Chapman

What specifically will you be selling?

Mohamed Ali

Cigars, vapes, rolling tobacco, pipe tobacco, chewing tobacco, novelty items, skateboards, bracelets.

Zac Gordon

Did you say that you will be selling skateboards?

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Mohamed Ali

Yes.

Thelma Thorne-Chapman

This is confusing it says it's a vape shop not novelties. Anyone else going to speak?

Kevin Hutchins

My concern is the town has notified everyone around this business and I have yet to see or hear anyone stand up and speak against this. When I think of harmony, my question is who gets to make that determination?. The first tenant that moves in or the last? Those are just my comments. From a commercial standpoint in Harrisburg, there are not districts set up for certain businesses are there?

Zac Gordon

No, the only place like that in Harrisburg would be Town Center.

Thelma Thorne-Chapman

My questions are the novelty shop, I feel like this can get out of hand.

Mohamed Ali

We are basically the same as the other vape shop, we will just have t shirts, wrist bands, skateboards, just stuff like that but the majority of my sales are vapes and cigarettes.

Thelma Thorne-Chapman

Where are your other shops?

Mohamed Ali

Charlotte, I have two. I can do whatever it takes with what you guys would like me to sell. I started this without getting a permit and I am trying to fix what I have done now that I know better. I am willing to do what it takes to get it up and going. I will sell whatever you guys tell me to sell.

Monica Long

I am looking at the recommendation Zac, and staff does not believe the proposed use is compatible with the surrounding conforming and permitted land use. Is this taking out of the HALUP?

Zac Gordon

Yes.

Andy Rathke

My old location over on Sims was my driving school, an automotive repair place and a chiropractor. Where is the harmony there? My new location I have a hairstylist, mortgage company and a church. It is a hard to determine what is considered in harmony.

Kevin Schaffner

Zac is your judgment based on the residential properties behind it that don't make it harmony or what?

Zac Gordon

When you introduce different land use types and shades of uses, that is where the question of harmony should be determined, based on the facts.

Andy Rathke

That seems like a personal preference there.

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Keving Schaffner made a motion to approve the request for a Special Use Permit based on the discussed conditions with a second from Andy Rathke. **The motion failed 2-3** with Thelma Thorne-Chapman, Monica Long, and Kevin Hutchins voting against. Another motion must be made.

Kevin Hutchins made a motion to approve the Special Use Permit only allowing the sales of vape, tobacco, cigarettes and cigars, no novelty, t shirts or skateboards can be sold. Second from Kevin Schaffner. **Motion passed 3-2** with Monica Long and Thelma Thorne-Chapman voting against.

9.

ADJOURNEMENT

There being no further business, Thelma Thorne-Chapman made a motion to adjourn with a second from Andy Rathke. **The motion passed 5-0.**

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

Prepared by and Return to:

Richard M. Koch
Harrisburg Town Attorney
ROD Box 74

Application Number H2022-02-SUP

PIN: 5507-56-4291

COUNTY OF CABARRUS
STATE OF NORTH CAROLINA

ORDER GRANTING A SPECIAL USE PERMIT

The Board of Adjustment for the Town of Harrisburg, having held a public hearing on December 20, 2022 to consider application number H2022-02-SUP, submitted by Mohamed Ali Alhoobaishy, Applicant and Donald and Sherri McInnis, Property Owners, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

8. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
9. It is the Board's CONCLUSION that the proposed use does satisfy the first Common Decision Criteria listed in Section 145.04.03 of the Town of Harrisburg Unified Development Ordinance ("Ordinance"); namely, that the proposed special use will be in harmony with the area in which it is to be located and in general conformance with the Harrisburg Area Land Use Plan (HALUP).
10. It is the Board's CONCLUSION that the proposed use does satisfy the second Common Decision Criteria listed in the Ordinance; namely, adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.

TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022

11. It is the Board's CONCLUSION that the proposed use does satisfy the third Common Decision Criteria listed in the Ordinance; namely, that the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
12. It is the Board's CONCLUSION that the proposed use does satisfy the fourth Common Decision Criteria listed in the Ordinance; namely, the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
13. It is the Board's CONCLUSION that the proposed use does satisfy the fifth Common Decision Criteria listed in the Ordinance; namely, the establishment, maintenance, and operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare.
14. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a SPECIAL USE PERMIT have been satisfied, it is ORDERED that the application for the issuance of a SPECIAL USE PERMIT be GRANTED, based on the Findings of Fact attached as Exhibit 1 and the Conclusions of Law. This SPECIAL USE PERMIT is limited by the conditions contained in the attached Exhibit 2. The applicant shall fully comply with all the applicable, specific requirements in the Ordinance and must develop the property in accordance with the site plan submitted and approved. If any of the requirements shall be held invalid, this permit shall become void and of no effect.

Ordered this ____ day of January, 2023, *nunc pro tunc* to December 20, 2022.

CHAIR of the TOWN OF HARRISBURG
BOARD OF ADJUSTMENT

I, _____, Notary for Cabarrus County, North Carolina certify that
_____, Chair of the Town of Harrisburg Board of Adjustment appeared before me
on the above day and signed the foregoing document.

**TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022**

_____, Notary Public

My Commission expires: _____

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order.

EXHIBIT 1

FINDINGS OF FACT

SPECIAL USE PERMIT APPLICATION

**APPLICANT: MOHAMED ALI ALHOUBAISHY, DONALD AND SHERRI MCINNIS
PROPERTY OWNERS**

4942 NC HIGHWAY 49, HARRISBURG, NC

PIN 5507-56-4291

H2022-02-SUP

FINDINGS OF FACT

1. That the proposed special use will be in harmony with the area in which it is to be located and in general conformance with the Harrisburg Area Land Use Plan (HALUP).

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

c) The Board specifically finds that this proposed use is compatible with the surrounding uses of the property in that area and is in harmony with the character of that section of Highway 49.

2. Adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.

TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

3. The proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

4. The establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

5. The establishment, maintenance, and operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare.

a) See applicant's response to this requirement in its petition, which is incorporated by reference as a Finding of Fact.

TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING ADVISORY BOARD MEETING MINUTES
Tuesday, December 20, 2022

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

EXHIBIT 2

CONDITIONS

SPECIAL USE PERMIT APPLICATION

**APPLICANT: MOHAMED ALI ALHOUBAISHY, DONALD AND SHERRI MCINNIS
PROPERTY OWNERS**

4942 NC HIGHWAY 49, HARRISBURG, NC

PIN 5507-56-4291

H2022-02-SUP

5. Applicant will only sell legally available tobacco products (as indicated below) to persons 21 years of age or older.
6. There shall be no smoking on the premises, either inside or outside.
7. The types of tobacco products to be sold consist of cigars, cigarettes, pipe tobacco, chewing tobacco and vapes.
8. Hours of operation are limited to 9am to 9pm daily.
9. Tobacco products must be sealed until sold and out the door of the premises.
10. Applicant is not allowed to sell novelties, wristbands, t-shirts, skateboards or other extras.

Thelma Thorne-Chapman, Chairman

Carly Bedgood, Secretary



TOWN OF HARRISBURG

Agenda Item Details

Title:

H-2022-18-R: Request to rezone approximately 5.559 acres from County CR (Countryside Residential) to RL (Residential Low Density)

Presenting Personnel:

Zac Gordon, Planning Director

Suggested Motion or Action:

For a recommendation to the Town Council for approval, the following motion is suggested:

Motion for the Planning and Zoning Board to recommend approval by the Town Council of the applicant's request for rezoning and annexation of property located at 9771 Robinson Church Road - Case # H-2022-18-R.

Consistency Statement:

Based on the staff report and staff presentation, the request for rezoning is consistent with the Harrisburg Area Land Use Plan, and it is reasonable and in the public interest.

For a recommendation of denial to the Town Council, the following motion is suggested:

Motion for the Planning and Zoning Board to recommend denial by the Town Council of the applicant's request for rezoning and annexation of property located at 9771 Robinson Church Road - Case # H-2022-18-R.

Description/Background:

- The applicant proposes to annex one parcel into the Town of Harrisburg town limits to have access to Town sewer services for the parcel. The parcel is currently in Cabarrus County. To achieve this, the applicant is requesting that the property be rezoned from County CR (Countryside Residential) to RL (Residential Low Density).
- The RL district has a maximum density of 1 dwelling unit per acre. At a density of 0.18 dwelling units per acre, the subject parcel meets the RL dimensional requirements of the UDO.
- The property is in the County and the applicant has also submitted a Petition requesting Annexation for the subject property which is non-contiguous to the current Town of Harrisburg primary corporate limits.

Recommendation:

The rezoning request is consistent with the Harrisburg Area Land Use Plan. Therefore, Planning and Zoning Department staff supports approval of the request for rezoning. Staff also recommends that the Planning and Zoning Board recommend approval of the applicant's request for rezoning and annexation.

Fiscal Impact:

None

Attachments:

1. H2022-18-R Staff Report PB
2. H2022-18-R Site Map
3. H2022-18-R Annexation Application
4. H2022-18-R Survey
5. H2022-18-R Legal Description
6. H2022-18-R Rezoning Application



Town of Harrisburg
Planning and Zoning Department
Rezoning Staff Report – Planning and Zoning Board

DATE: February 21, 2023

SUBJECT:

Request H-2022-18-R: To rezone approximately 5.559 acres from County CR (Countryside Residential) to RL (Residential Low Density)

Location: The subject property is located on Robinson Church Road north of the Oak Hollow Lane intersection (PIN 5506-91-1078)

Applicant: Foxx Contracting on behalf of property owner Giuseppe Acito

Staff Report Prepared by: Craig Thomas, Senior Planner

Neighborhood Meeting: N/A

BACKGROUND:

Area: ±5.559 acres Total

Existing Land Use: Vacant/Single-Family Residential

Zoning within 500 feet: North - Countryside Residential (CR), Cabarrus County
South - Countryside Residential (CR), Cabarrus County
East - Countryside Residential (CR), Cabarrus County
West - Countryside Residential (CR), Cabarrus County

Land Uses within 500 feet: North - Single-family Residential and Vacant, County
South - Single-family Residential, County
East - Vacant, County
West - Single-family Residential and Vacant, Town and County

APPLICATION SUMMARY:

- The applicant proposes to annex one parcel into the Town of Harrisburg town limits to have access to Town sewer services for the parcel. The parcel is currently in Cabarrus County. To achieve this, the applicant is requesting that the property be rezoned from County CR (Countryside Residential) to RL (Residential Low Density).
- The RL district has a maximum density of 1 dwelling unit per acre. At a density of 0.18 dwelling units per acre, the subject parcel meets the RL dimensional requirements of the UDO.
- The property is in the County and the applicant has also submitted a Petition requesting Annexation for the subject property which is non-contiguous to the current Town of Harrisburg primary corporate limits.

APPROVAL CRITERIA:

1. The size of the tract in question;

The subject property is approximately 5.559 acres in size.

2. Whether the proposal conforms with and is in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the goals, objectives and policies of the Ordinance;

Per the Unified Development Ordinance, the intent of the proposed district:

RL: *The RL district is established to provide areas for low-density single-family residential uses on moderately-sized lots.*

Per the Harrisburg Area Land Use Plan, the subject property is located in an area designated on the future land use map as **Low Density Residential**. The description of Low Residential is as follows:

“This area characterized by low- to moderate-density residential development (1 to 2 dwelling units per acre). Single-family detached homes are complemented by natural areas as well as formal and informal open space amenities. Conservation design, which includes more open space in exchange for smaller minimum lot sizes, may be recommended in locations with sensitive natural resources.”

Based on the description of the Low Density Residential land use classification, the proposed density would meet the intent that has been set for this area in the Land Use Plan.

With regard to the overall goals of the Land Use Plan, **recommendation LU-5** states that the Town should “Expand Housing Options” to appeal to a broad range of audiences and products to those seeking Harrisburg’s high quality of life. The low density nature of this area and the proposed zoning would allow the property owner to continue to utilize the existing single family home and maintain the rural character of the area.

Recommendation LU-7 of the Plan recommends consistency between the Town’s zoning regulations and the adopted Future Land Use Map. A table included as part of this goal establishes the “appropriate” zoning districts to use when making zoning decisions based on the Future Land Use Map. The map, as previously stated, designates this area as Low Density Residential and the proposed density of 0.18 dwelling units per acre is compatible with the 1 acre lot size standard designated by the RL district.

3. The benefits or detriments for the owner, neighbors and surrounding community;

The benefits to the owners of the properties would be that single-family residential zoning at the proposed density of 0.18 dwelling units per acre could be achieved under the proposed zoning, and annexation allows access to town offered services.

The continuation of one single-family detached home has no detrimental impact to the surrounding community. The rezoning and annexation request is to adopt the Town’s low density zoning and tap into the Town’s water and sewer availability.

4. Whether the proposed request is in compliance with the adequate public facilities criteria;

a. Utilities:

In 2021, due to the need to expand capacity at the Rocky River Regional Wastewater Treatment Plant, the Water and Sewer Authority of Cabarrus County (WSACC) began the process of expanding capacity at the plant to serve new growth and development. In conjunction with this planned expansion, WSACC imposed a limit on the available sewer allocation for customers within its service area. In response, the Town has adopted a “Sewer Allocation Policy” to ensure that the capacity available to the Town is not exceeded. Town staff meets on a quarterly basis to review applications for sewer allocations and either approves or denies allocations, based on the availability of sewer capacity. In accordance with the Town’s Sewer Allocation Policy, a single residential parcel is exempt from this Policy and therefore does not require an allocation of sewer capacity.

Utilities are available in this area and are sufficient to meet the needs of this property. Water is available along Robinson Church Road and sewer access is available to the northeast and northwest of the property on the other side of Robinson Church Road. Any utility line extensions or upgrades necessary to serve this development will be the responsibility of the developer.

Transportation:

Based on the small amount of traffic generated by the existing single family dwelling A TIA was not required. Driveway access will be reviewed and permitted by the Town and NCDOT during the permitting review process.

b. Safety and Sanitation Services:

Adequate police, fire, and sanitation services are available for the proposed use, and will be provided upon annexation.

c. Schools:

As no additional residential units are being created by this rezoning and annexation, no change in the number of students is anticipated.

5. The relationship of the uses envisioned under the new zoning and the uses currently present in adjacent tracts. The Commission shall consider the following:

- a. Whether the proposed zoning is compatible with the surrounding area or whether there will be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or environmental impacts that the new use will generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting or other nuisances;**

At a density of 0.18 dwelling units per acre, the proposed use is compatible with surrounding land uses.

- b. Any change of character in the area due to installation of public facilities, other zoning changes, new growth changes, deterioration, and development;**

Like all other development activity in this area, the development of this land would convert former vacant land into residential lots, while preserving the rural character of the area.

- c. The zoning districts and existing land uses of the surrounding properties;**

The areas around this property are generally zoned for low density residential use. Existing land use patterns in the area typically consist of low density residential lots and vacant forested land.

- d. Whether the subject property is suitable for the uses to which it has been restricted under the existing zoning classification;**

The property is suitable for the uses which it has been restricted to under the existing zoning classification.

- e. Whether the rezoning is compatible with the adjacent neighborhood, especially concerning neighborhood stability and character;**

As previously mentioned, the specific use of the property, single family detached homes, is consistent with surrounding neighborhoods and aligns with Harrisburg Area Land Use Plan (HALUP).

- f. The length of time the subject property has remained vacant as zoned (if applicable);**

This property has been vacant.

- g. Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs;**

Land supply is not a direct issue in this area.

6. Whether the existing zoning was in error at the time of adoption.

The existing zoning was not in error at the time of adoption.

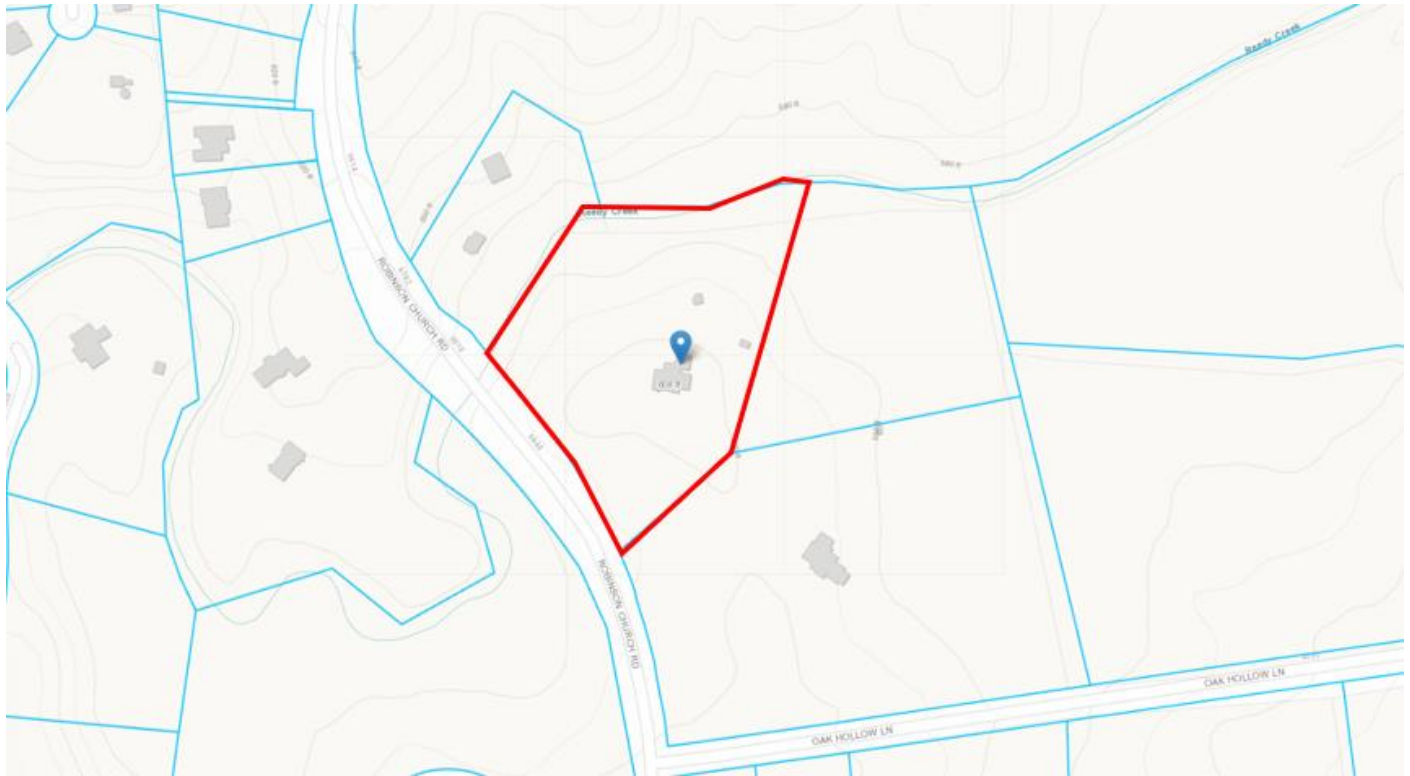
APPROVAL:

The proposal is an annexation request to access Town's sewer, which requires the properties to be rezoned to Town's zoning classification RL (Residential Low Density) and meets dimensional requirements as noted in the Town's UDO.

RECOMMENDATION:

The rezoning request is consistent with the Harrisburg Area Land Use Plan. Therefore, Planning and Zoning Department staff recommends approval of the request for rezoning and that the Planning and Zoning Board also recommend approval of the applicant's request by the Town Council.

H2022-18-R Site Map



Annexation Application

1. Request for Annexation

- ☒ We the undersigned owners of real property respectfully request that the area described in paragraph 2 below be annexed to the Town of Harrisburg.

2. Property Information

- a. Property Location/Address: 9771 ROBINSON CHURCH RD.
- b. Tax Map and Parcel Number (PIN): 55069110780000
- c. Current Zoning: CR
- d. Current Land Use: RESIDENTIAL Single family
- e. Area to be annexed is: ☒ Contiguous ☐ Non-Contiguous
- f. Boundaries of territory to be annexed (attach separate sheet or describe below):

Entirety of Existing Property Ref PWA
 For Access to City Sewer & Right of Way

3. Contact Information

- a. Contact Person: GIUSEPPE AGTU
- Company: _____
- Address: 9771 ROBINSON Church City, State, Zip: HARRISBURG NC 28075
- Phone Number: 704 622 3095 Email Address: gacito@AAtrenching.nc.biz
- b. Applicant Name (if different than above): _____
- Company: _____
- Address: _____ City, State, Zip: _____
- Phone Number: _____ Email Address: _____
- c. Owner Name: _____
- Company: _____
- Address: _____ City, State, Zip: _____
- Phone Number: _____ Email Address: _____

4. Signature of Owner(s)

Owner Name: GIUSEPPE ACITO Address: 9771 ROBINSON CHURCH RD

Owner Signature: *Giuseppe Acito* Date: 10/6/22

Owner Name: _____ Address: _____

Owner Signature: _____ Date: _____

Owner Name: _____ Address: _____

Owner Signature: _____ Date: _____

Owner Name: _____ Address: _____

Owner Signature: _____ Date: _____

Owner Name: _____ Address: _____

Owner Signature: _____ Date: _____

Owner Name: _____ Address: _____

Owner Signature: _____ Date: _____

Owner Name: _____ Address: _____

Owner Signature: _____ Date: _____

5. Affidavit of Completeness and Accuracy (to be completed by the individual submitting the application)

STATEMENT OF COMPLETENESS AND ACCURACY:

I hereby certify all property owners have full knowledge the property they own is the subject of this application. I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related application material and all attachments become official records of the Planning and Zoning Department of Harrisburg, North Carolina, and will not be returned.

I understand that any knowingly false, inaccurate or incomplete information provided by me will result in the denial, revocation or administrative withdrawal of this application, request, approval or permit. I further acknowledge that additional information may be required to process this application. I further consent to the Town of Harrisburg to publish, copy or reproduce any copyrighted documents submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

Applicant Name: GIUSEPPE ACITO Submittal Date: 10/6/22

Applicant Signature: *Giuseppe Acito*

7. Required Attachments

All Annexation Application submittals must be accompanied by:

- Applicable fee(s) (see Master Fee Schedule in Appendix B of the Development Guidebook);
- Sealed survey showing area proposed for annexation in relation to the primary corporate limits of the Town of Harrisburg.

6. Staff Use Only:

Record of Process

Date Received: _____

Application Number: _____

Is Application Complete?

☐

Yes

☐

No

Public Hearing Date(s): _____

Published Notice Date: _____

Mailed Notice Date: _____

Posted Notice Date: _____

Final Action Applicant Notification Mailed Date: _____

Town Staff Signature: _____

Record of Decision

Reviewed By: _____

Recommendation:

☐

Approve

☐

Deny

Final Action:

☐

Approve

☐

Deny

A
PHYSICAL SURVEY
for

Giuseppe Acito

TOWNSHIP 1 - HARRISBURG
CABARRUS COUNTY, NC
SEPTEMBER 19, 2022

PROPERTY INFORMATION:

PARCEL ID: 55069161110000
55069110780000
9771 ROBINSON CH. RD.
HARRISBURG, NC

PLAT NOTES:

1. PLAT NORTH IS BASED ON NAD83(2011)
2. NO GEODETIC MONUMENTS WERE SURVEYED
3. AREA COMPUTED USING COORDINATE METHOD
4. ALL DISTANCES ARE GROUND HORIZONTAL UNLESS OTHERWISE NOTED
5. ANY TRAVERSE ADJUSTMENTS WERE PERFORMED USING THE COMPASS RULE
6. PROPERTY MAY BE SUBJECT TO BURDENS OR BENEFITS NOT SHOWN

HELTON

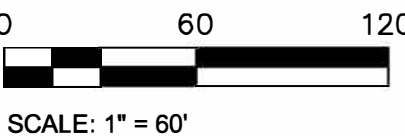
SURVEYING & MAPPING PLLC
(704) 634-9354

FIRM #P-2095

JACOB W. HELTON, PLS, CFS
JACOBH@HELTON.BIZ
3579 ANDERSON MOUNTAIN RD.
MAIDEN, NC 28650

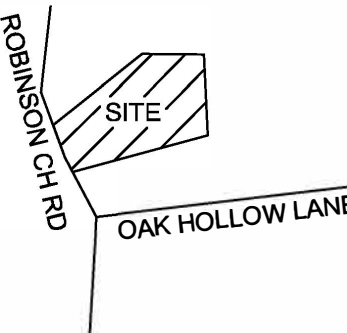
DEED AND PLAT REFERENCES:

DB: 12133 PG: 128
DB: 1169 PG: 100



SURVEY: JWH/BH 9-15-22
DRAWN: JWH 9-19-22
JOB: 22148

VICINITY SKETCH: NO SCALE



PIERCE
DEED T008-091

REEDY CREEK

EURY
DEED 628-010

60' SANITARY SEWER EASEMENT
WATER AND SEWER AUTHORITY OF CABARRUS COUNTY
DEED 7958-253

CALDERWOOD
DEED 5368-248

SMITH
DEED 1169-100
3.840 ACRES

FLOOD ZONE AE

0.2% ANNUAL CHANCE FLOOD HAZARD

SMALL
DEED 8132-83

SMITH
DEED 12133-128
5.559 ACRES TOTAL
0.561 AC. IN PUBLIC R/W

STORAGE
BUILDING

GARAGE

BRICK
HOUSE

LINE	BEARING	DISTANCE
L1	S 49°08'10" W	31.87'
L2	N 37°26'00" E	35.46'
L3	N 26°03'01" W	48.12'
L4	N 34°00'19" W	50.00'
L5	N 41°12'55" W	50.00'
L6	N 48°44'42" W	50.00'
L7	N 54°01'31" W	100.00'
L8	N 42°33'06" W	104.11'
L9	N 20°22'31" W	102.61'
L10	S 11°45'18" E	30.76'

"I certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 12133, page 128 or other reference source (SEE NOTES)); that the boundaries not surveyed are indicated as drawn from information in other reference source (SEE NOTES); that the ratio of precision or positional accuracy is 1:10,000+; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600)." This 19 day of SEPTEMBER, 2022.

Seal
Professional Land Surveyor



- LEGEND**
- RCP REINFORCED CONCRETE PIPE
 - HDPE HIGH DENSITY PLASTIC
 - CMP CORRUGATED METAL PIPE
 - DB PG DEED BOOK & PAGE
 - MB PG MAP/PLAT BOOK & PAGE
 - R/W RIGHT OF WAY
 - AC ACRES
 - C/L CENTERLINE
 - AXLE
 - SURVEY SPIKE SET
 - CONCRETE MONUMENT
 - MAGNETIC/PK NAIL
 - IRON PIPE
 - COMPUTED POINT
 - UNMARKED CORNER IN TREE
 - REBAR FOUND
 - BENCHMARK
 - GEODETIC MONUMENT
 - REBAR SET
 - STONE
 - UTILITY POLE
 - HVAC
 - WATER WELL
 - WATER VALVE
 - HYDRANT

- BOUNDARY LINE (AS SURVEYED)
- TIE LINE (NO SCALE)
- WOODLINE
- FENCE
- EDGE OF GRAVEL
- CURB & GUTTER
- BOUNDARY LINE (BY REFERENCE)
- RIGHT-OF-WAY LINE
- EASEMENT LINE
- TIE LINE
- OVERHEAD POWER LINE
- CENTERLINE OF BRANCH / CREEK
- FEMA 100 YEAR FLOOD LINE

60' PUBLIC R/W - VARIABLE WIDTH
ROBINSON CHURCH RD.
S.R. #1168

Beginning at a capped rebar on the south bank of Reedy Creek; thence S 83°35'03" W a distance of 200.00' to a computed point in said creek; thence S 89°29'05" W a distance of 237.49' to a computed point in said creek; thence S 34°03'44" W a distance of 216.84' to a computed point in said creek; thence S 33°18'21" W a distance of 175.45' to a computed point in said creek; thence S 42°33'06" E a distance of 104.11' to a computed point across Robinson Church Rd; thence S 54°01'31" E a distance of 100.00' to a computed point in Robinson Church Rd; thence S 48°44'42" E a distance of 50.00' to a computed point in Robinson Church Rd; thence S 41°12'55" E a distance of 50.00' to a computed point in Robinson Church Rd; thence S 34°00'19" E a distance of 50.00' to a computed point in Robinson Church Rd; thence S 26°03'01" E a distance of 48.12' to a computed point in Robinson Church Rd; thence N 49°08'10" E a distance of 31.87' to a 1.5" pipe in a stone pile; thence N 49°08'10" E a distance of 287.64' to a 1/2" rebar; thence N 18°06'39" E a distance of 454.94' to a capped rebar; which is the point of beginning, having an area of 5.559 acres



HarrisburgNC

The right side of opportunity

Planning & Zoning Department

4100 Main Street Ste 102, Harrisburg, NC 28075

(704) 455-5614

Legislative Approval Application

1. Application Type (select all that apply)

- ☐ UDO Text Amendment ☒ Zoning Map Amendment (rezoning) ☐ Conditional Zoning Approval
☐ Certificate of Appropriateness

2. Project Information

- a. Project Name: ALITO RESIDENCE
b. Project Location/Address: 9771 ROBINSON CHURCH RD
c. Tax Map and Parcel Number (PIN): 01-025-0034.10 - #55069110780000
d. Zoning: Existing: CR Proposed: ?RL
e. Land Use: Existing: _____ Proposed: _____
g. Description of Request (attach separate sheet if needed):

Request to Annex to TIE IN TO CITY SEWER

- Town of Harrisburg has inspected and deemed Accessible

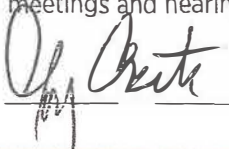
3. Contact Information

- a. Project Manager/Contact Person: GIUSEPPE ALITO
Company: N/A
Address: 9771 ROBINSON CHURCH City, State, Zip: HARRISBURG, NC 28075
Phone Number: 704 622 3095 Email Address: jalito@AA Trenching. biz
b. Applicant Name (if different than above): _____
Company: _____
Address: _____ City, State, Zip: _____
Phone Number: _____ Email Address: _____
c. Owner Name: _____
Company: _____
Address: _____ City, State, Zip: _____
Phone Number: _____ Email Address: _____

4. Owner's Consent

GAUSEPPE ACITO ("Owner") certifies that it is the owner of the property located at 9771 ROBINSON CHURCH RD ("Subject Property") and expressly consents to the use of the Subject Property as described in this application and to all conditions that may be agreed to as a part of the approval of this application, which may be imposed by the decision making board.

Owner hereby authorizes, GREGORY FOX as agent, to file this application and represent Owner at any and all meetings and hearings required for the approval of this application.

Owner's Signature: 

Date: 11/10/22

5. Affidavit of Completeness and Accuracy (to be completed by the individual submitting the application)

Project Name: ACITO RESIDENCE

Submittal Date: 11/10/22

STATEMENT OF COMPLETENESS AND ACCURACY:

I hereby certify all property owners have full knowledge the property they own is the subject of this application. I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related application material and all attachments become official records of the Planning and Zoning Department of Harrisburg, North Carolina, and will not be returned.

I understand that any knowingly false, inaccurate or incomplete information provided by me will result in the denial, revocation or administrative withdrawal of this application, request, approval or permit. I further acknowledge that additional information may be required to process this application. I further consent to the Town of Harrisburg to publish, copy or reproduce any copyrighted documents submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

Applicant Name: GREGORY FOX

Applicant Signature: 



TOWN OF HARRISBURG

Agenda Item Details

Title:

H-2023-01-TA: Consider UDO text amendment to add a separation requirement for Tobacco Stores, Vapor Shops, and the retail sale of CBD and hemp-based products from each other and certain other uses.

Presenting Personnel:

Zac Gordon, Planning Director

Suggested Motion or Action:

For a recommendation to the Town Council for approval, the following motion is suggested:

Motion for the Planning and Zoning Board to recommend approval by the Town Council of Text Amendment H-2023-01-TA to add a separation requirement for Tobacco Stores, Vapor Shops, and the retail sale of CBD and hemp-based products from each other and certain other uses.

Consistency Statement:

Based on the staff report and staff presentation, the proposed text amendment is consistent with the Harrisburg Area Land Use Plan, and it is reasonable and in the public interest.

For a recommendation of denial to the Town Council, the following motion is suggested:

Motion for the Planning and Zoning Board to recommend denial by the Town Council of Text Amendment H-2023-01-TA to add a separation requirement for Tobacco Stores, Vapor Shops, and the retail sale of CBD and hemp-based products from each other and certain other uses.

Description/Background:

Background

Tobacco Store or Vapor Shop

When the new UDO was adopted on August 9, 2021, among the list of permitted Commercial Uses were: "Tobacco Store or Vapor Shop". A Special Use Permit is required for either of these uses. However, there is no separation requirement for these uses; either from each other, or from other uses that may be negatively impacted due to their proximity to these uses. Currently, the UDO does include such separation requirements for "Electronic Gaming Establishments." This separation distance is 1,500 feet. To ensure consistency among these uses (which both require a Special Use Permit) staff is proposing that "Tobacco and Vapor Shop" uses be subject to the same separation distance requirements (1,500 feet) that Electronic Gaming Establishments are currently required to meet; both from other "like" uses and from the following:

- Residentially used property
- Religious institution
- Public or private elementary or secondary school
- Cemetery
- Public park

- Day Care use category

CBD and Hemp Based Products

In addition to the adoption of distance requirements for “Tobacco or Vapor Shop” uses, staff is also proposing that “CBD and Hemp Based Products” be subject to the same requirements and be added to the list of allowed Commercial Uses (subject to the granting of a Special Use Permit).

SEE ATTACHED STAFF REPORT FOR TEXT AMENDMENT DETAILS

Recommendation:

Staff recommends that the Planning and Zoning Board endorse the proposed text amendments and recommend approval of H-2023-01-TA to the Town Council. Staff believes that these text amendments will ensure a uniform standard for similar land uses which require a special use permit from the Planning and Zoning Board. Staff also believes that the proposed amendment is consistent with the Harrisburg Area Land Use Plan - specifically, the objective to “improve the look and image of the town,” as well as recommendation LU-6: Focus on Quality, which encourages the town to improve the appearance of the Hwy 49 corridor.

Fiscal Impact:

None

Attachments:

1. H-2023-01-TA -Staff Report



Town of Harrisburg
Planning and Zoning Department
Text Amendment Staff Report – Planning and Zoning Board

DATE: February 21, 2023

SUBJECT:

H-2023-01-TA: UDO text amendment to add a separation requirement for Tobacco Stores, Vapor Shops, and the retail sale of CBD and hemp-based products from each other and certain other uses.

Applicant: Staff Text Amendment

Staff Report Prepared by: Zac Gordon, Planning Director

Neighborhood Meeting: N/A

BACKGROUND:

Tobacco Store or Vapor Shop

When the new UDO was adopted on August 9, 2021, among the list of permitted Commercial Uses were: “Tobacco Store or Vapor Shop”. A Special Use Permit is required for either of these uses. However, there is no separation requirement for these uses; either from each other, or from other uses that may be negatively impacted due to their proximity to these uses. Currently, the UDO does include such separation requirements for “Electronic Gaming Establishments.” This separation distance is 1,500 feet. To ensure consistency among these uses (which both require a Special Use Permit) staff is proposing that “Tobacco and Vapor Shop” uses be subject to the same separation distance requirements (1,500 feet) that Electronic Gaming Establishments are currently required to meet; both from other “like” uses and from the following:

- Residentially used property
- Religious institution
- Public or private elementary or secondary school
- Cemetery
- Public park
- Day Care use category

CBD and Hemp Based Products

In addition to the adoption of distance requirements for “Tobacco or Vapor Shop” uses, staff is also proposing that “CBD and Hemp Based Products” be subject to the same requirements and be added to the list of allowed Commercial Uses (subject to the granting of a Special Use Permit).

The text for the proposed text amendments (including a definition for CBD and Hemp Based Products) is noted below.

Proposed Text Amendment

140.04.04.U Tobacco Store or Vapor Shop

1. **Applicability.** The provisions of this Section shall apply to principal or accessory uses.
2. **Separation from Other Establishments.** No tobacco store or vapor shop establishment shall be located within 1,500 feet of any other tobacco store or vapor shop establishment, residentially used property, religious institutions, public or private elementary or secondary schools, cemeteries, public parks, or daycare uses.

140.04.04.V CBD and Hemp Based Products

1. **Applicability.** The provisions of this Section shall apply to principal or accessory uses.
2. **Separation from Other Establishments.** No store or establishment that sells CBD products shall be located within 1,500 feet of any other store or establishment that sells CBD products, residentially used property, religious institutions, public or private elementary or secondary schools, cemeteries, public parks, or day care uses.

§ 148.02 Definitions

Retail CBD and Hemp Based Products. A business establishment for which more than 50 percent (50%) of sales are based on the retail sale of products related to or derived from CBD oil (cannabidiol) or hemp. This includes, but is not limited to oils, vitamins, supplements, food, personal care and garments.

Table 140.02.02-2, Permitted Uses by Nonresidential and Mixed-Use Zoning District										
Key	TND - Traditional Neighborhood Development TOD - Transit-Oriented Development	P – Permitted by Right S – Permitted as Special Use				-- – Prohibited Use P(L) – Permitted with Limitations				
Use Category	Specific Use	Zoning Districts and Development Types								Standards
		MU		CC	O-I	NC	GC	CD	EC	
		TND	TOD							
Commercial										
Retail Repair, Sales, and Service Uses	Auction House (General Merchandise)	--	--	--	--	--	P	--	--	N/A
	Cemetery Monument Sales	--	--	--	--	--	P	--	--	N/A
	Funeral Home	--	--	S	P	--	P	P	--	N/A
	Lawn and Garden Supply (without outdoor display or storage)	--	--	P	--	--	P	P	P	N/A
	Lawn and Garden Supply (with outdoor display or storage)	--	--	--	--	--	S	S	S	140.04.06.D
	Liquor Sales (ABC Store)	S	S	--	--	--	P	P	--	140.04.06.D
	Shopping Center	P(L)	P(L)	--	--	P(L)	P(L)	P(L)	--	140.04.04.K
	Pawnshop	--	--	S	--	--	P	--	--	140.04.06.D
	Tobacco Store or Vapor Shop	--	--	--	--	--	S	--	--	140.04.06.D 140.04.04.U
	CBD and Hemp Based Products	--	--	--	--	--	S	--	--	140.04.04.V
	All Other Retail Sales and Service	--	--	P	--	P	P	--	--	N/A

KEY: ~~Strikethrough~~ – Deleted Text; **New Text**

RECOMMENDATION:

Staff recommends that the Planning and Zoning Board endorse the proposed text amendments and recommend approval of H-2023-01-TA to the Town Council. Staff believes that these text amendments will ensure a uniform standard for similar land uses which require a special use permit from the Planning and Zoning Board. Staff also believes that the proposed amendment is consistent with the Harrisburg Area Land Use Plan - specifically, the objective to “improve the look and image of the town,” as well as recommendation LU-6: Focus on Quality, which encourages the town to improve the appearance of the Hwy 49 corridor.