



REZONING PETITION Z 01-23: ROCKWELL ETJ RELEASE

Request: Designate county zoning on property anticipated for release from Rockwell ETJ

Parcel IDs: All or part of 17 parcels

Locations: East side of Troxler, Sides, and Johnson Dairy Roads

Lot size: Approximately 53 acres

Owners: See enclosed

Applicant: Rowan County

Watershed: N/A

Floodplain: East side of 11500 Block of US 52

Existing Improvements:
See enclosed

BACKGROUND

Prior to the adoption of countywide zoning in 1998, Rowan County municipalities, with the exception of the Town of Landis, previously established areas of Extra Territorial Jurisdiction (ETJ) whereby municipal development ordinances (e.g. zoning, subdivision) were applied to property beyond their corporate limits. North Carolina General Statutes grant authority (NCGS 160D-202) for municipalities to establish an ETJ in areas the county does not regulate both zoning and subdivision at distances between one (1) and three (3) miles based on municipal population. After countywide zoning was established, any request to extend an ETJ must be approved by the County Commissioners.

Municipalities may choose to relinquish all or a portion of their ETJ area to the county per NCGS 160D-202(h). With this process, municipal development regulations remain valid until: 1. The county adopts such development regulation (i.e. zone the property) or 2. A period of sixty (60) days has elapsed following action to relinquish, whichever is sooner. This has occurred four (4) times since 1998:

1. Salisbury – 1999: Significant acreage on north, west, and eastern portions of their two (2) mile ETJ;
2. Salisbury – 2003: Areas between I-85 / Julian / Heilig Road;
3. Spencer – 2020: Split jurisdiction parcel at Long Ferry / Front Creek Roads;
4. Salisbury – 2022: Mid-Carolinas Regional Airport property.

REQUEST

The Rockwell Town Board has scheduled a public hearing for March 13, 2023 to consider the Rockwell Planning Board's recommendation to release jurisdiction to the county. Released areas are either all or a portion of property generally lying on the eastern side of Troxler, Sides, and Johnson Dairy Roads noted below. Resulting jurisdiction boundaries would run concurrent with these roads in keeping with NCGS 160D-202(e) which specifies *"Boundaries shall be defined, to the extent feasible, in terms of geographical features identifiable on the ground. Boundaries may follow parcel ownership boundaries."* In anticipation of this

release and to ensure zoning placement prior to the sixty (60) day extension limit on May 12th, Planning Staff propose the following zoning (also see enclosed maps):

Parcel ID	Property Owner	Apx. AC	Rockwell Zoning	Proposed County Zoning	Improvements within Rezoning Area
635-005	Jeremy Foster	7.11	RA	RA	None
635-159	Timothy Monroe	1.04	RA	RA	None
635-011	William & Ann Furr	6.48	RA	RA	Farm buildings
635-012	William & Ann Furr	11.29	RA	RA	None
635-123	Robert Burton	3.37	RA	RA	SFD and storage buildings
635-023	Scott & Angela Barringer	2.84	RA	RA	SFD and storage buildings
635-143	Chad & Teresa Rabon	0.74	RA	RA	SFD and storage buildings
366-040	James & Nadine Propost	1.5	RA	RA	Double-wide manufactured home and storage buildings
366-106	E.M. & Frances Goodman	0.51	RA	RA	Single-wide manufactured home
366-107	E.M. & Frances Goodman	0.78	RA	RA	Single-wide manufactured home and storage building
366-034	Guy & Paula Johnson	3.5	RA	RA	None
366-114	Guy & Jean Johnson	0.1	RA	RA	None
370-106	Charles Jones	2.08	RA	RA	SFD
370-107	Charles Jones	0.72	RA	RA	Concrete pad (former storage building possibly for business)
370-070	Brent Kelly	1.96	RA	NB	Two three bay garage; former auto repair.
370-075	Brent Kelly	1.78	RA	NB	Gold Hill Family Medical
370-065	Robbins Real Estate Inc	7.28	RA	IND / RA	Gold Hill Wood Products c/o Robbins Wood Preserver

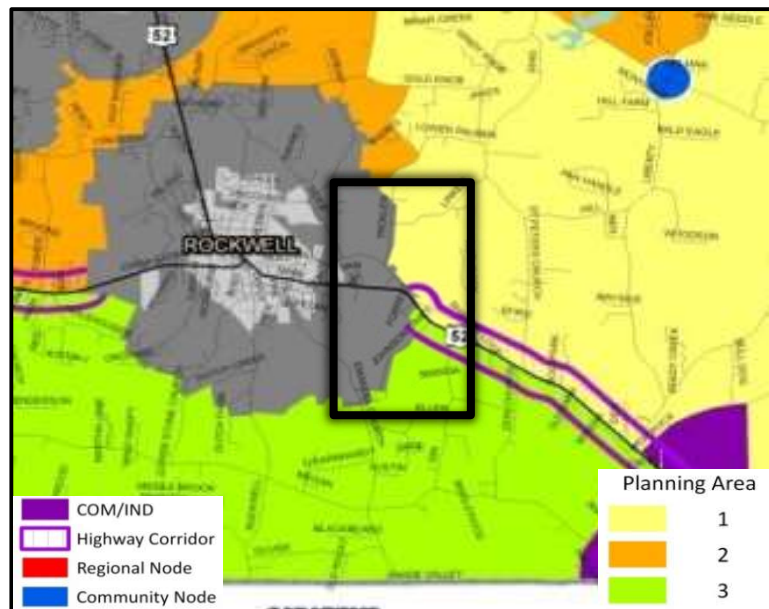
CONFORMITY WITH ADOPTED PLANS / POLICIES

East Area LUP

- Located adjacent to Areas 1 & 3 and portion of Highway Corridor for US 52.

- All RA designations would be consistent with the LUP. Property within the corridor is a residential area with significant areas of floodplain.

- Proposed NB designation does not meet the typical “rural business” guidance. However, plan guidance for Area 3 include, *“Proposals for expansion of existing businesses that minimize conflict with surrounding residential uses and historic properties through design standards or impact mitigation techniques are encouraged in the Planning Area”*, which could be referenced. See below district discussion.



- Area 3 references “Timber and wood related businesses have traditionally operated in this area as well.”

**CONSISTENCY WITH
THE DISTRICTS
PURPOSE / INTENT**

Rural Agricultural (RA) – *This district is developed to provide for a minimum level of land use regulations appropriate for outlying areas of the county. These outlying areas typically consist of rural single-family housing, larger tracts of land used for agricultural purposes, and instances of non-residential uses intermingled. Multifamily uses are discouraged in this district. This district would provide for protection from the most intensive land uses while containing provisions for a variety of home-based business opportunities and other non-residential uses deemed appropriate through a special use permit process. It is the intent of this district to rely upon development standards to protect residences from potential adverse impacts of allowed non-residential uses. The most intensive land uses would not be allowed in this district.*

Proposed RA areas include a mixture of farmland and farm buildings; single family dwellings; manufactured homes; and vacant property.

Neighborhood Business (NB) – *This district is primarily designed to provide rural business opportunities typically in the form of small retail, service, office, and light manufacturing uses to serve the community’s existing and future needs for goods, services, and employment opportunities. Standards within the district are intended to promote context sensitive development appropriately scaled and organized in a manner that would not be detrimental to the surrounding area. Development within this district would contain impacts inherently more intensive than those associated with uses permitted with special requirements in the RA district but significantly less than those in CBI zoned areas. The NB district is generally appropriate in areas identified by an adopted land use plan for rural businesses located on identified minor and major thoroughfares and within community nodes. However, additional consideration may be necessary as some thoroughfare segments would not be conducive to NB designation due to surrounding land use and /or potential negative impacts such as traffic, noise, and visual impacts. Generally, the NB district shall be two (2) acres or larger. However a lot of record, smaller than two (2) acres may be considered for rezoning to NB if the owner of the lot does not own adjacent property which may be included in the rezoning request.*

While Johnson Dairy Road is not a major thoroughfare, the NB district may also be conducive in other areas based on the purpose and intent section. Gold Hill Family Medical, located at 201 Johnson Dairy Road, is a 2,300 sf modular doctor’s office was permitted in 2013 as a use by right in Rockwell’s RA zoning district. Adjacent property at 225 Johnson Dairy Road contains a three bay garage constructed in 1992 and operated as “Big O’s garage” per tax assessor records. It

appears the garage business has not been in operation for at least the past ten (10) years. Currently, the property contains two (2) buildings totaling approximately 5,700 sf (based on GIS) and parking for two (2) transfer truck / trailer. According to the Rockwell Zoning Ordinance, automotive repair is permitted in the RA district subject to a special use permit. Collectively, these two (2) parcels total three (3) acres, which satisfy the NB acreage designation standard.

Industrial (IND) – *This district is intended to provide for industrial activities involving extraction, manufacturing, processing, assembling, storage, and distribution of products. The district is also designed to accommodate other, more intense non-residential uses which generate adverse side effects such as noise, odor or dust. The IND district is generally appropriate in areas identified by an adopted land use plan for industrial corridors, potential development nodes, locations accessible to rail lines and utility infrastructure, and existing industrial areas. These corridors represent significant public and private investment, which should be identified to foster tax base growth and employment opportunities for the citizens. The IND district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.*

Robbins Wood Preserving is a wholesaler of wood products located at 175 Old Mail Road that was established in 1987, according to tax records. The proposed IND area contain several buildings totaling approximately 28,000 sf with most of the remaining area used for product storage on a gravel base. Staff would assume this property would have been zoned IND in 1998 to match the remaining acreage were it not within Rockwell's ETJ.

COMPATIBILITY OF USES

Since this is not a comparison between current county zone and proposed county zone, this section is more about applying the most appropriate general zoning district.

CONDITIONS IN THE VICINITY

See Enclosed Maps –

Troxler Road Area

- Large acre tracts in present use value program; small number of residences.
- Adjacent Utility Scale solar facility at 2939 Sides Rd.

Sides Road Area

- Section exclusively consisting of residences along both sides of the road. Wooded / field area behind the rezoning section to the northeast.
- Dutch Second Creek and associated floodplain area between Sides and Shipton Loop Roads.

Johnson Dairy Road Area

- Residential uses
- Garage, formerly used as automotive repair, and transfer truck parking at 225 Johnson Dairy Rd.
- Medical office at 201 Johnson Dairy Rd.
- Wood related facility wholesaler (Robbins) at 175 Old Mail Rd.
- Dunn Rovin manufactured home park zoned MHP containing 27 spaces.
- Mini-warehouse at 114 Johnson Dairy Rd. on a 4.6 acre CBI-CD zoned area established in 1999 located 1/3 mile north.

POTENTIAL IMPACT ON ROADS

- All three (3) roads are classified as local roads.
- NCDOT have not collected traffic counts on any of the roads.
- This request should have minimal impact on roads.
- Sides Road is identified as a potential segment for the US 52 bypass portion of the roadway project.

POTENTIAL IMPACT ON SCHOOLS

None.

POTENTIAL IMPACT ON UTILITIES

None.

DECISION MAKING

In addition to the above criteria, sec. 21-362 (c) of the Zoning Ordinance indicates the primary question before the Planning Board in a rezoning decision is “whether the proposed change advances the public health, safety, or welfare as well as the intent and spirit of the ordinance.” Additionally, the board “shall not regard as controlling any advantages or disadvantages to the individual requesting the change but shall consider the impact of the proposed zoning change on the public at large.”

PROCEDURES

The Board of Commissioners must develop a statement addressing consistency and reasonableness, which describe whether its action is consistent with any adopted comprehensive plans and indicate why their action is reasonable and in the public interest.

FEBRUARY 27TH PLANNING BOARD MEETING

No citizen comments were given at the meeting. The Planning Board voted unanimously (5-0) to approve the request as presented based on the following statement:

- 1. At the time of adoption of the East Rowan Land Use plan, the parcels in question were part of the Rockwell ETJ;**

2. Based on a comparison of uses between Rowan and Rockwell, the zoning uses are consistent;
3. The boundaries would run concurrent with state roads per NCGS 160D-202(e) and the process and evaluation is consistent with the counties obligation under NCGS 160D-202(h).

STAFF COMMENTS

Establishing ETJ boundaries along roads and waterways greatly reduces ambiguity for local governments and property owners in discerning jurisdiction lines. Staff is of the opinion the RA and IND zoned areas would have been zoned as such during the 1998 countywide rezoning process where these areas not within Rockwell's ETJ. While existing property improvements should not always dictate the underlying zoning district, the proposed NB area contain a local medical office and former automotive garage constructed over 30 years ago. Both uses are permitted (by right or special use) in Rockwell's RA district but would require NB to retain conformity by county zoning. Alternatively, establishing RA zoning for these two (2) tracts would render the uses non-conforming and prohibit any expansions or change of use without a rezoning or special use permit per section 21-135.