

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

NASH COUNTY

10 CVS _____

MARIE ALBRIGHT and MAURICE)
ALBRIGHT, as co-trustees on behalf of the)
Marie Albright Trust; JEAN BISSETTE;)
KEVIN BRIGHT; SANDRA BRIGHT;)
DAVID BYERLY; ELIZABETH BYERLY;))
DANIEL CANTU; NANCY CANTU;)
FAYE DANIEL; STEPHEN DANIEL;)
GEORGE DESANTO; MICHELINE)
DESANTO; VANISE HARDEE;)
DEBORAH HARDEE; JOHN LEPOSA;)
TAMMY LEPOSA; JOSEPH LYBRAND;)
AMY LYBRAND; DAVIS MILLER a/k/a)
THOMAS DAVIS MILLER; JEANEEN)
MILLER; ADA MORGAN; RAY)
MORGAN; JUDITH SCULL a/ka/ JUDITH)
THOMPSON SCULL; DAVID SCULL;)
MELINDA MOSELEY a/k/a MELINDA)
SCHMITZ; RAYMOND SCHMITZ; GAIL)
SULLIVAN; LAWRENCE SULLIVAN)
a/k/a LARRY SULLIVAN; BERNARD)
WHITE; TONI WHITE; KATHY)
WILLIAMSON; THOMAS WILLIAMSON;))
ROGER PARKER a/k/a BILLY ROGER)
PARKER, Jr.; and the CITY OF WILSON,)
a North Carolina municipal corporation,)

COMPLAINT

Plaintiffs,)

v.)

NASH COUNTY,)

Defendant.)

Plaintiffs, complaining of the Defendant, state as follows:

1. In this action, Plaintiffs seek a declaratory judgment under N.C. Gen. Stat. Chapter 1, Article 26 that the rezoning ordinance adopted by the Nash County Board of

Commissioners (hereafter the “Board of Commissioners”) on November 1, 2010 and described herein is void and of no effect.

2. Defendant, Nash County (hereafter the “County”), is a body politic and corporate organized pursuant to the laws of the State of North Carolina. The County has adopted and enforces the Nash County Unified Development Ordinance (hereafter the “UDO”) which regulates the use of land within the parts of Nash County located outside municipal corporate limits.

3. The land at issue in this matter (hereafter the “Property”) is approximately 150.6 acres in size and located in the southeastern portion of the County on NC Highway 97 near the intersection Highway 97 and Interstate 95. The Property has the Nash County Parid # 028899 and street addresses of 3025 and 3279 E. NC Highway 97. The Property does not include any land located north of Highway 97. Upon information and belief, the Property is approximately 3,000 feet from the boundary line between Nash County and Wilson County.

4. On September 28, 2010, Mr. Samuel Johnson, on behalf of Coastal Plain Land, LLC, submitted a zoning map amendment application (hereafter, the “Rezoning Application”) to the Nash County Planning Department, which included a check in the amount of \$200.00 to pay the rezoning application fee.

5. The Rezoning Application asked that the Property be rezoned from the R-40 zoning district to the GI zoning district (hereafter the “Rezoning”).

6. On October 1, 2010, Mr. Johnson submitted an additional \$100.00 check to the Nash County Planning Department to complete his payment of the Rezoning Application fee.

7. Upon information and belief, the application fee established by the Nash County fee schedule for rezoning applications, including the Rezoning Application for the Property, is \$300.00.

8. Coastal Plain Land, LLC does not own the Property. Mr. Cecil and Mrs. Bertine Williams own the Property.

9. On October 18, 2010, the Nash County Planning Board (hereafter, the "Planning Board") considered the proposed Rezoning and unanimously voted to recommend its approval to the Board of Commissioners.

10. Upon information and belief as of November 1, 2010, the Planning Board had not adopted a written recommendation regarding the proposed Rezoning.

11. On November 1, 2010, the Board of Commissioners held a public hearing on the proposed Rezoning. That same evening immediately after the hearing was closed, the Board of Commissioners voted to approve the Rezoning by a four to three vote.

12. Plaintiff Ada Morgan owns land adjacent to the western and eastern boundaries of the Property. These properties have the Nash County PINs 370500495713U and 370600809298U. Further, Plaintiff Ada Morgan owns land directly to the north of the Property, separated only by Highway 97. This property has the Nash County PIN 370600712632U.

13. Plaintiff Ray Morgan is the son of Ada Morgan, and having a power-of-attorney on her behalf, he serves as her representative and attorney-in-fact in most matters.

14. Plaintiff Judith Scull is one of the Thompson Family Heirs who inherited and now own the property located 9546 Sugar Hill Rd. (Nash County PIN 370500488030U). The Thompson Heirs property is adjacent to the western and southern boundaries of the Property. Upon information and belief, Judith Scull is also known as Judith Thompson Scull.

15. Plaintiff David Scull is married to Plaintiff Judith Scull, and both live at 4705 St. Georges Dr., Wilson, NC 27896.

16. Plaintiff Roger Parker owns the property located at 3206 E. NC 97, which is directly across Highway 97 from the Property. Roger Parker is also known as Billy Roger Parker, Jr. The Parker property has the Nash County PIN 370600609878.

17. Plaintiffs Marie and Maurice Albright are co-trustees for the Marie Albright Trust, which owns the land located at 4530, 4554 and 4572 Edgewater Road, Elm City, NC 27822 in Nash County.

18. Upon information and belief, Plaintiff Jean Bisette resides at 10873 South NC 58, Elm City, NC 27822.

19. Plaintiffs Kevin Bright and Sandra Bright own and/or reside at the property located at 5245 Overlook Dr., Elm City, NC 27822.

20. Plaintiffs David Byerly and Elizabeth Byerly own and/or reside at the property located at 8676 Carter Grove Dr., Elm City, NC 27822.

21. Plaintiffs Daniel Cantu and Nancy Cantu own and/or reside at the property located at 8575 Forest Cove Rd., Elm City, NC 27822.

22. Plaintiff Faye Daniel owns and/or resides at the property located at 4338 NC 97 E., Elm City, NC 27822.

23. Plaintiff Stephen Daniel lives at 4338 NC 97 E., Elm City, NC 27822, and is the son of Plaintiff Faye Daniel.

24. Plaintiffs George DeSanto and Micheline DeSanto own and/or reside at the property located at 4434 Edgewater Rd., Elm City, NC 27822.

25. Plaintiffs Vanise Hardee and Deborah Hardee own and reside at the property located 5952 Hornes Church Rd., Wilson, NC 27896.

26. Plaintiffs John Leposa and Tammy Leposa own and/or reside at the property located at 4343 River Lake Rd., Elm City, NC 27822.

27. Plaintiffs Joseph Lybrand and Amy Lybrand own and/or reside at the property located at 4343 Edgewater Rd., Elm City, NC 27822.

28. Plaintiff Davis Miller owns and/or resides at 4901, 4903, 4905, 4906 and 4924 Overlook Dr., Elm City, NC 27822. Plaintiff Davis Miller is also known as Thomas Davis Miller.

29. Plaintiff Jeaneen Miller is married to Plaintiff Davis Miller.

30. Plaintiffs Raymond Schmitz and Melinda Moseley own and/or reside at the property located at 8492 Lake Ridge Ct., Elm City, NC 27822. Upon information and belief, Plaintiff Melinda Moseley is also known as Melinda Schmitz.

31. Plaintiffs Lawrence Sullivan and Gail Sullivan own and/or reside at the property located at 4455 Edgewater Rd., Elm City, NC 27822. Upon information and belief, Plaintiff Lawrence Sullivan is also known as Larry Sullivan.

32. Plaintiffs Bernard White and Toni White own the property located at 4350 Edgewater Rd., Elm City, NC 27822.

33. Plaintiffs Kathy Williamson and Thomas Williamson own and/or reside at the property located at 4378 Edgewater Rd., Elm City, NC 27822.

34. If the Rezoning is upheld it will adversely affect the use and enjoyment by the individual Plaintiffs¹ of their properties, and will thereby adversely affect their property values. Accordingly each of the individual Plaintiffs have a specific personal and legal interest in the

¹ The standing for the City of Wilson is discussed in paragraph 36, below.

subject matter affected by the Rezoning and are directly and adversely affected thereby. Further, the individual Plaintiffs will suffer special damages distinct from the rest of the community. Further if the Rezoning is upheld, the Rezoning and future uses of the Property will be an invasion of a legally protected interest that is concrete, particularized, actual and imminent. Said injuries are fairly traceable to the Rezoning, and it is likely as opposed to merely speculative that these injuries will be redressed by a decision in this case that is favorable to the Plaintiffs. In support of the foregoing, the Plaintiffs allege the following:

- a. At least two of the Plaintiffs, Ada Morgan and Judith Scull, own land that is adjacent to the Rezoned Property. Further, a third Plaintiff, Roger Parker, owns land directly across Highway 97 from the Rezoned Property;
- b. Prior to the Rezoning, the Property was zoned R-40 and RC. The R-40 zoning district “is primarily intended to accommodate low density single-family detached dwelling and Class A manufactured homes on large lots without access to public water and sewer services and in areas where soil characteristics necessitate low density development.” UDO Sec. 9-1.2(B). The RC zoning district “is primarily intended to accommodate limited retail, office, service, and medium density residential uses.” UDO Sec. 9-1.4(A). In contrast, the GI zoning district “is primarily intended to accommodate a wide range of assembling, fabricating, and manufacturing uses. The GI District is established for the purpose of providing appropriate locations and development regulations for uses which may require special measures to ensure compatibility with adjoining uses.” UDO Sec. 9-1.5(B). The extreme difference between the R-40 and RC

zoning districts and the GI zoning district means that it is likely that any use permitted within the GI zoning district will adversely affect Plaintiffs Ada Morgan's, Judith Scull's and Roger Parker's use and enjoyment of their properties;

- c. Further, many if not all of the uses permitted in the GI zoning district would likely create excessive noise, odor and light pollution that will adversely affect Plaintiffs Ada Morgan's, Judith Scull's and Roger Parker's use and enjoyment of their properties;
- d. Further, many if not all of the uses permitted in the GI zoning district are so generally incompatible with the surrounding area that they will likely lower the values of Plaintiffs Ada Morgan's, Judith Scull's and Roger Parker's land;
- e. The rezoning of the Property to the GI zoning district, means that the Property is now zoned for a wide variety of general industrial uses. The sole ingress and egress for the rezoned Property is via NC Highway 97, which is a narrow two-lane secondary highway. Many of the Plaintiffs live on small local roads that have access to the wider road network solely through Highway 97. Upon information and belief, many or all of the uses permitted in the GI zoning district have the potential to create heavy truck traffic that will impair the road network for miles around. Moreover upon information and belief, neither a traffic analysis nor a traffic impact study were conducted as part of the Rezoning process;

- f. Assuming the proposed Sanderson Farms poultry slaughtering plant is built (see, Third Claim, below), the traffic impacts on the rural road network would likely be devastating. An August 23, 2010 article on the Web site worldpoultry.net states that Sanderson Farms intends to “process” (i.e. slaughter) 1.2 million chickens per week at the new facility. Upon information and belief, this will require that between 100 and 150 farms and approximately 500 chicken houses, sometimes referred to as “grower houses” be established in the area surrounding the facility. Upon information and belief, these operations and the slaughtering facility combined will generate heavy truck traffic that will overwhelm the rural road network surrounding the Property, thereby impairing the use and enjoyment of all of Plaintiffs’ properties;
- g. Assuming the proposed Sanderson Farms poultry slaughtering plant is built, the noise, odor, particulate matter and lights from the two daily chicken processing shifts would likely severely damage Plaintiffs’ Ada Morgan, Judith Scull and Roger Parker use and enjoyment of their land;
- h. Many of the individual Plaintiffs reside on land adjacent to the Tar River which is locally prized for affording beautiful scenery, a quiet environment and recreation opportunities. Upon information and belief, proximity to any industrial facility, but especially the proposed Sanderson Farms poultry slaughtering plant, would lower property values for these homes;

- i. Upon information and belief, the proximity of all the individual Plaintiffs' properties to any industrial use on the Property, but especially the proposed Sanderson Farms poultry slaughtering plant, will lower all of the Plaintiffs' property values; and
- j. Coastal Plain Land, LLC has secured an option agreement for land at the intersection Highway 58 and Highway 97, including land that is part of the property having the Nash County PIN 371600543132. Upon information and belief, Coastal Plain Land, LLC has secured this option in furtherance of the Sanderson Farms poultry slaughtering plant project.

35. For the foregoing reasons, the individual Plaintiffs have standing to challenge the adoption of the Rezoning through this declaratory judgment action.

36. The City of Wilson has standing to challenge the adoption of the Rezoning through this declaratory judgment action because the proposed Sanderson Farms facility would likely have a significant negative impact both on the City's water supply and on the general quality of life for the residents of the City of Wilson. Accordingly the City has specific personal and legal interest in the subject matter affected by the Rezoning and is directly and adversely affected thereby. Further if the Rezoning is upheld, the Rezoning and future uses of the Property will be an invasion of a legally protected interest that is concrete, particularized, actual and imminent. Said injuries are fairly traceable to the Rezoning, and it is likely as opposed to merely speculative that these injuries will be redressed by a decision in this case that is favorable to the Plaintiff City. In support of the foregoing, the Plaintiff city alleges the following:

- a. The City of Wilson is much closer to the Property than either Rocky Mount or Nashville, with parts of Wilson being less than three miles from

the Property. In contrast, Rocky Mount is about seven miles away, and Nashville is about seven and half miles away. Therefore, traffic from any industry, but especially the Sanderson Farms project, would disproportionately affect the road network of the City of Wilson;

- b. On November 10, 2010 the City of Wilson City Council adopted a resolution opposing the proposed Sanderson Farms poultry slaughtering plant;
- c. The resolution states that the City has invested over \$50,000,000.00, “without financial assistance from any state or federal resources, in order to acquire, construct and maintain a high quality and abundant public water supply”;
- d. The resolution states that, “[T]he Nash County Commissioners have rezoned certain property [i.e. the Property at issue in this case] to accommodate the construction of a chicken slaughterhouse operation in Nash County and in close proximity to the border with Wilson County, near the city limits of the City of Wilson”;
- e. The resolution states that the proposed slaughterhouse will require lands, which have already been “covertly” optioned by a third party, within the City of Wilson’s watershed for the “purpose of spraying chicken waste on the ground.” Said waste will be generated from the numerous chicken hatcheries that will be required to support the plant;
- f. The resolution states that “the waste generated from the slaughterhouse is proposed to be piped from the slaughterhouse to the optioned lands

located within the City of Wilson's water supply watershed where it will then be sprayed on the ground”;

- g. The resolution states that “the proposed slaughterhouse operation and its accompanying waste disposal requirements will cause problems with odor, flies, respiratory issues, and adverse impacts to the City’s water quality, thus negatively impacting the quality of life of the citizens of the City of Wilson”;
- h. The resolution states that “the City of Wilson is opposed to extensive sprayfield operations within its public water supply watershed and is opposed to any land uses that would potentially have an adverse impact on the City’s public water supply or quality of life”;
- i. The resolution states that, “[N]o notice was provided by Nash County to the City of Wilson regarding the County’s plans to support a chicken slaughterhouse operation in close proximity to the Wilson and Nash County line”;
- j. The resolution states that, “[N]o notice was provided by Nash County to the City of Wilson regarding the County’s plans to support grant funding for the chicken slaughterhouse to construct a pipeline to allow the slaughterhouse company to transfer its waste stream over 6 miles away from the City of Rocky Mount’s public water supply watershed for the purpose of spraying and discharging its waste stream into the City of Wilson public water supply watershed”; and

- k. Finally, the resolution states that “the City of Wilson has requested that Nash County delay the chicken slaughterhouse project to allow time for the City to study the potential impacts to its water supply and water quality, air quality, social and other environmental impacts,” but that said request was denied.

FIRST CLAIM

(Failure To comply With the Requirements of the UDO)

37. In adopting the Rezoning, the County failed to comply with requirements of the UDO including the following:

- a. UDO Sec. 8-2(A)(1) requires that a rezoning application – which the UDO refers to as a “petition” – include the “name, address, and phone number of the applicant.” The Rezoning Application lists the address for the Rezoning applicant, Coastal Plain Land, LLC, as P.O. Box 353, Rocky Mount, NC 27802, but the North Carolina Secretary of State Web Site lists both the office and mailing addresses of Coastal Plain Land, LLC as 130 South Franklin St., Rocky Mount, NC 27804;
- b. UDO Sec. 8-2(A)(2) requires that a rezoning applicant submit a “scaled map of the land affected by the amendment if a change in zoning district classification is proposed.” Upon information and belief, the Rezoning Application includes no such map;
- c. UDO Sec. 8-2(A)(3) requires “a description of the proposed map change” The Rezoning Application indicates that the it seeks to have the Property rezoned from the R-40 zoning district to the GI zoning district, but upon

information and belief, the Property was actually rezoned from the R-40 and RC zoning districts to the GI zoning district;

d. UDO Sec. 8-2(B) requires that, “Petitions for [map and text] amendments shall be submitted to the Zoning Administrator 25 days prior to the date of the Planning Board meeting at which the petition will be reviewed.” The final application fee was not submitted, and hence the Rezoning Application was not complete, until October 1, 2010, which was only seventeen days before the October 18, 2010 Planning Board meeting. Even assuming *arguendo* that the Rezoning Application was complete on September 28, 2010, even though the correct application fee had not been paid or received by that date, it was still submitted to the Zoning Administrator, i.e. the Nash County Planning Director, only twenty days prior to the October 18, 2010 Planning Board meeting;

e. UDO Sec. 8-5 describes the public notice requirements for rezoning public hearings. UDO Sec. 8-5(C) requires that the Zoning Administrator mail first class notice of the a public hearing to all properties within 600 feet of the property that would be rezoned by the proposed amendment, and the UDO Sec. 8-5(C) requires that the Zoning Administrator post notice of the public hearing in the vicinity of the affected property. UDO Sec. 8-5 (E) requires that,

The notice required or authorized by this Section shall:

- (1) State the date, time, and place of the public hearing;
- (2) Summarize the nature and character of the proposed change;

- (3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
- (4) State that the full text of the amendment can be obtained from the Clerk to the Board; and
- (5) State that substantial changes in the proposed amendment may be made following the public hearing.

Although UDO Sec. 8-5(C) includes posted notice among the types of notice governed by UDO Sec. 8-5, upon information and belief, the posted notices used to advertise the November 1, 2010 public hearing fail to include the information required by UDO Sec. 8-5(E)(3)(4) and (5); and

- f. UDO Sec. 8-5(F) requires that, "The person or persons mailing notices to adjoining property owners, as defined in NCGS 153A-343, shall certify to the Board of Commissioners that fact." Upon information and belief, no such certification has ever been made.

38. Because the County failed to follow the requirements of the UDO, the Rezoning is void and of no effect.

SECOND CLAIM
(Failure to Comply With Statutory Requirements)

39. G.S. § 153A-341 requires that, "The planning board shall provide a written recommendation to the board of county commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board." Upon information and belief, the Planning Board did not adopt a written recommendation that addresses plan consistency for the proposed Rezoning.

40. G.S. § 153A-341 also requires that, "Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the

action taken to be reasonable and in the public interest.” Upon information and belief, the Board of Commissioners did not adopt such a statement prior to voting to approve the Rezoning.

41. G.S. § 153A-343(a) requires that, “The person or persons required to provide [mailed] notice [of the public hearing on a proposed rezoning] shall certify to the board of commissioners that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.” Upon information and belief, no such certification has been submitted to the Board of Commissioners.

42. G.S. § 153A-343(a) also requires that,

Except for a county-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the board of commissioners that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing.

Further, G.S. § 153A-343(b1) provides that,

Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a county-initiated zoning map amendment.

43. The Rezoning Application was submitted by neither Nash County nor the owners of the Property. Instead, a third party, Coastal Plain Land, LLC, submitted the Rezoning Application. Accordingly, G.S. § 153A-343(a) obligates Coastal Plain Land, LLC to provide the Property owners “actual notice,” as that term is used in G.S. § 153A-343(a), and certify the same

to the Board of Commissioners. Upon information and belief, Coastal Plain Land, LLC did neither.

44. Because the County failed to follow all statutory requirements, the Rezoning is void and of no effect.

THIRD CLAIM

(Failure to Consider All Permissible Uses Allowed by the GI Zoning District)

45. The Property has been rezoned to the GI zoning district which is a general use zoning district that includes a variety of uses permitted of right.

46. Upon information and belief, the Board of Commissioners, through its individual commissioners and/or the County staff, has been actively seeking to entice Sanderson Farms to establish a poultry processing facility on the Property. Specific examples of this recruitment include the following:

- a. An August 19, 2010 *Rocky Mount Telegram* article quotes Board of Commissioners Chairman Robbie Davis as describing the process of luring Sanderson Farms to Nash County as an “industrial recruitment process.” A November 15, 2010 *Rocky Mount Telegram* article confirmed that, “County officials have been courting Sanderson Farms since the summer, and Nash County is considered a finalist for the new plant.”;
- b. Upon information and belief, in recent months at least two Nash County Commissioners have visited the Sanderson Farms processing facility in Moultrie, GA, which the Sanderson Farms Web site lists as having opened in 2005 and being capable of processing approximately 1,250,000 heads of chicken per week.

See, <http://www.sandersonfarms.com/partners/locations/>.

- c. An October 20, 2010 *Rocky Mount Telegram* article states that, “[P]roperty owners in the area [near the Property] say they have been approached by Nash County officials who have asked them to consider an option to sell their land for a spray field and chicken hatchery.” The same newspaper article states that,

Bob Billingsley, director of development and engineering for Sanderson Farms, said the site that is slated to be rezoned [i.e. the Property] is one that the company *and the county* have evaluated and has an excellent road network with Interstate 95 . . . Nash County officials have been working hard to entice Sanderson Farms to open the new plant here Billingsley said (Emphasis added);

- d. A November 15, 2010 *Rocky Mount Telegram* article stated that on November 15, 2010 the Board of Commissioners, “convened for a special meeting to discuss the recruitment of Sanderson Farms to a site near Interstate 95 and NC 97.” The article goes on to state that, “Board Chairman Robbie Davis said commissioners will sponsor two question-and-answer sessions next Tuesday [November 23, 2010] between Sanderson Farms officials and select opponents of the poultry processing plant”; and

- e. On November 11, 2010 Board of Commissioners Chairman Robbie Davis gave an interview with the local radio station WZAX 99.3, during which he discussed the proposed Sanderson Farms project at length. Among the comments made, Chairman Davis stated that the City of Wilson had requested a “90-day hold on the process” and that Nash County could not grant the request because the schedule for the project was set by chicken processing industry and Sanderson Farms. He also noted that even though

he and the other commissioners were constrained with regard to what they could say about the project while they were “recruiting industry,” “early on” they had visited the Sanderson Farms plant in Moultrie, GA.

47. Upon information and belief, the Sanderson Farms poultry plant is the only use that the members of the Board of Commissioners who voted in favor of the Rezoning have considered for the Property, and upon information and belief, these same commissioners approved the Rezoning without determining that the Property is suitable for all uses permitted in the GI zoning district.

48. Therefore, the Rezoning is void and of no effect under the doctrine established in *Allred v. City of Raleigh*, 277 N.C. 530, 178 S.E.2d 432 (1971) and most recently articulated in *Hall v. City of Durham*, 323 N.C. 293, 372 S.E.2d 564 (1988), which is sometimes referred to as “contract zoning.”

WHEREFORE, Plaintiffs respectfully pray the Court to:

1. Grant a trial by jury in this matter;
2. Declare the Rezoning adopted by the Nash County Board of Commissioners on November 1, 2010 and pertaining to the Property described in paragraph 3, above, to be void and of no effect;
3. Tax the costs of this action to the Defendant; and
4. Grant such other and further relief as the Court deems appropriate.

This the 19th day of November, 2010.

CONNER, BUNN, ROGERSON & WOODARD, PLLC

By: James F. Rogerson

James F. Rogerson
N.C. State Bar No. 5817
2514 Nash Street North
P.O. Drawer 3299
Wilson, NC 27895-3299
(252) 243-3136

Attorneys for the Individual Plaintiffs
THE BROUGH LAW FIRM

By: Robert E. Hornik, Jr.

Robert E. Hornik, Jr.
N.C. State Bar No. 23728

By: T.C. Morphis, Jr.

T.C. Morphis, Jr.
N.C. State Bar No. 28699
Ste. 800-A, 1829 E. Franklin Street
Chapel Hill, North Carolina 27514
morphis@broughlawfirm.com
hornik@broughlawfirm.com
(919) 929-3905

Attorneys for Plaintiff, the City of Wilson