

Charles C. Morris  
Chair  
Town of Linden  
Donovan McLaurin  
Vice-Chair  
Wade, Falcon & Godwin

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman



# COUNTY of CUMBERLAND

*Planning and Inspections Department*

Thomas J. Lloyd,  
Director

Clifton McNeill, Jr.,  
Roy Turner,  
Lori Epler,  
Sara E. Piland,  
Cumberland County

## AGENDA

APRIL 4, 2006  
7:00 P.M.

- I. INVOCATION AND PLEDGE OF ALLEGIANCE
- II. ADJUSTMENTS TO AGENDA
- III. PUBLIC HEARING DEFERRALS
- IV. ABSTENTIONS BY BOARD MEMBERS
- V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS
- VI. CONSENT ITEMS
  - A. APPROVAL OF THE MINUTES OF MARCH 21, 2006
- VII. PUBLIC HEARING ITEMS

### PLAT & PLAN

- A. CASE 06-039: CONSIDERATION OF CLEO COGDELL ESTATE DIVISION, SUBDIVISION REVIEW, REQUEST FOR A WAIVER FROM SECTION 3.20 "LOT STANDARDS", CUMBERLAND COUNTY SUBDIVISION ORDINANCE, LOCATED ON THE NORTH SIDE OF SR 1734 (HATCHER LANE), WEST OF SR 1838 (DUNN ROAD)
- VIII. DISCUSSION
- IX. FOR YOUR INFORMATION
  - A. DIRECTOR'S UPDATE
- X. ADJOURNMENT

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### MINUTES MARCH 21, 2006

#### Members Present

Mr. Clifton McNeill, Jr., Acting Chair  
Mr. Donovan McLaurin, Vice-Chair  
Mr. Harvey Cain, Jr.  
Ms. Lori Epler  
Mr. Garland Hostetter  
Mr. Roy Turner

#### Others Present

Mr. Tom Lloyd, Director  
Ms. Patricia Speicher  
Ms. Donna McFayden  
Mrs. Annette Nunnery  
Mrs. Mary Ann Steinmetz

- I. INVOCATION AND PLEDGE OF ALLEGIANCE - Mr. Cain delivered the invocation and led those present in the Pledge of Allegiance.
- II. ADJUSTMENTS TO AGENDA – No adjustments to the agenda.
- III. PUBLIC HEARING DEFERRALS – No deferrals.
- IV. ABSTENTIONS BY BOARD MEMBERS CONSENT ITEMS – No abstentions.
- V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS – Ms. Speicher read the policy statement.
- VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF MARCH 7, 2006

**A motion was made by Mr. Turner and seconded by Ms. Epler to approve the minutes of March 7, 2006 as written. Unanimous approval.**

- B. P06-17: REVISION & AMENDMENTS TO THE STEDMAN ZONING ORDINANCE, BY CREATING SECTION 9.2.1. SIGNS EXEMPT FROM REGULATION & AFFECTING SECTION 10.2. (STEDMAN)

- C. P06-20: REVISION & AMENDMENT TO SPRING LAKE CODE OF ORDINANCES, CH 153, MOBILE HOMES & MOBILE HOME PARKS CODE & CH 156, ZONING CODE, § 156.035, DISTRICT USE REGULATIONS, REGARDING MANUFACTURED/MOBILE HOMES & RELATED SECTIONS AS APPLICABLE. (SPRING LAKE)

**A motion was made by Ms. Epler and seconded by Mr. Cain to approve Cases P06-17 and P06-20 as written. Unanimous approval.**

- VII. PUBLIC HEARING ITEMS

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## REZONING CASES

- A. P06-08: REZONING OF 12 PARCELS TOTALING 59 AC FROM A1 TO R40A OR A MORE RESTRICTIVE ZONING DISTRICT, E OF SANDEROSA RD ON BEN MCNATT RD, SUBMITTED BY ROBERT MCNATT, OWNED BY BEN MCNATT HEIRS.

The Public Hearing opened at 7:03 p.m. Ms. Speicher reviewed the site information and stated that the Staff had recommended at the February 21<sup>st</sup> Board meeting to approve the R40A Residential District based on the facts that the request was consistent with the Eastover Area Detailed Land Use Plan and with the zoning and uses within the general area. At that meeting, the Planning Board requested that all of the property owners of the subject property meet with the Staff and discuss possible alternatives to this request. The property owners, members of the McNatt family, did meet with Staff on or about February 24, 2006 and after discussion decided they wished for their case to proceed as they had originally submitted it.

Ms. Joanna McNatt Rogers spoke in favor of the request and stated that the purpose of the rezoning was to allow each family member to have their own manufactured home and lot.

Mr. Robert McNatt spoke in favor of the request and noted that his interest was with lots 9 through 12.

Ms. Iola Kelly, owner of lots 5, 6, and 7, spoke in favor of the request.

Ms. Speicher read a faxed statement from Morgan Johnson, opposing the request on behalf of the Eastover Sanitary District and the Progress Eastover Community Group. They are vigorously opposed to an R40A rezoning but would support R40 with no zero lot line development.

Ms. Rogers was informed that the major difference between R40 and R40A was that R40A would allow manufactured homes and R40 would not. She stated that the family did want manufactured homes and wanted to pursue the R40A.

The Public Hearing closed at 7:14 p.m. Mr. McLaurin stated that there was no new construction with affordable housing occurring in the area and that this area was traditionally a low income area. The McNatt family had been there for generations and were interested in keeping their family in the area. **Mr. McLaurin made a motion, seconded by Mr. Hostetter, to approve the R40A Residential District. Motion carried unanimously.**

- B. P06-16: REZONING OF 2 PARCELS TOTALING 4.67 AC FROM A1 & C(P) TO R40 OR MORE RESTRICTIVE ZONING DISTRICT S OF CLINTON RD W OF THE COUNTY LINE OWNED BY ROBERT L NUNNERY JR.

Ms. Speicher reviewed the case information and stated that the Staff recommends denial of the R40 Residential District but approval of A1A Agricultural District based on the facts that: the A1A district is more suitable for this tract because this district is designed to allow for residential use of single-family dwellings within predominantly agricultural areas for tracts of land less than ten acres; the recommendation is consistent with the 2010 Land Use Plan; and the recommendation is more consistent with the uses and lot sizes within the general area.

Robert Nunnery, Sr. spoke in favor of the request. His son owns the property and they plan to work it as a family project, building five homes on separate lots to offset the purchase price of the property.

Robert Nunnery, Jr. detailed the proposed lot sizes and stated that all lots would front Highway 24.

The Public Hearing closed at 7:27 p.m. Ms. Speicher cautioned the petitioner to coordinate with the Department of Transportation, as they may not allow 5 driveways at that location. Discussion followed on alternatives if NCDOT would not allow the driveways, and on differences in R40 and A1A and total number of lots allowed.

Ms. Epler stated that she knew the reputation of the family and that they had a vested interest in the development. **Ms. Epler made a motion, seconded by Mr. Cain to approve the R40 Residential District. Motion carried unanimously.**

C. P06-19: REZONING OF .61 AC FROM RR TO C1(P) OR MORE RESTRICTIVE ZONING DISTRICT AT 6630 WALDOS BEACH RD OWNED BY MARVIN C & LILLIE M WILKINS.

Public Hearing opened at 7:33 p.m.

Ms. Speicher reviewed the case information and stated that the Staff recommended denial of the C1(P) Planned Local Business District based on the facts that the request is not consistent with the 2010 Land Use Plan and is not compatible with the existing zoning and development within the immediate area.

Ms. Lillie Wilkins, owner, spoke in favor of the request. She stated that she wanted to open a small convenience store to serve the community. Many residents in the area are retired and have no transportation.

Mr. Bill Johnson spoke in favor of the request. He lives directly across from the site and has absolutely no opposition to the Wilkins' proposal. He noted that the reopening of Waldo's Beach and the new construction of a large subdivision would increase traffic in the immediate area, but that he had spoken with the Wilkins about his concerns and feels they are sufficiently prepared for the increased volume of traffic and visitors.

Mr. Marvin Wilkins, owner, stated that he and his wife just wanted to fill the needs of the area residents.

Public Hearing closed at 7:50 p.m. The Wilkins were asked about their plans for the building and if they understood that with a rezoning, the building would be nonconforming. The Wilkins stated that they understood what that meant regarding repair of the building. Mr. Wilkins stated that they wanted to sell convenience items only and would not sell gasoline.

Discussion followed on setbacks and nonconforming status of the structure if it was rezoned to C1(P).

Ms. Speicher reminded the Board that they must consider all permitted uses in the district. Discussion followed on the options available to the Wilkins with recombining their lots and/or rezoning to A1. Mr. McLaurin advised the Wilkins that if they could recombine 2 of their three lots and rezone it to A1 they could operate a convenience store without the objectionable uses allowed in a C1(P) District. He further stated that the Staff was trying to allow the petitioners to proceed with their intended use while also protecting the future of the neighborhood.

Mr. McNeill clarified for the Wilkins that the Board's objection was not to their planned use of the property but to future allowable uses in a C1(P) District. The Wilkins stated that they understood the concerns and also shared them. They stated that they would be agreeable to a 30-day deferral to allow them time to speak with Staff about their options and then return their revised request to the Board.

**Mr. McLaurin made a motion, seconded by Ms. Epler, to defer Case P06-19 for a period of 30 days. Unanimous approval.**

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## CONDITIONAL USE DISTRICT & PERMIT

### D. P06-10: REZONING OF .72 AC FROM RR TO C(P)/CONDITIONAL USE DISTRICT & PERMIT TO ALLOW MOTOR VEHICLE SALES AT 8229 KING RD SUBMITTED BY ROBERT M BENNETT OWNED BY SHERMAN & MARY S DAVIS.

The Public Hearing opened at 8:07 p.m. Ms. Speicher reviewed the case information and stated that the Staff recommended denial of the request for C(P) Planned Commercial District at the Board's February 21, 2006, meeting based on the findings that the request was not consistent with the Land Use Plan, which calls for "Low Density Residential" at this location, and the request was not compatible with the existing zoning in the area. Ms. Speicher reminded the Board that at the February 21<sup>st</sup> meeting, the Planning Board requested the applicant consider an application for a Conditional Use District and Permit on the property and deferred the case for thirty days. She noted that the applicant/property owner submitted the conditional use application in a timely manner. Ms. Speicher stated that Staff has detailed basic ordinance requirements which will have to be met if the Board favorably considers the request for the C(P) Planned Commercial/ Conditional Use District and Permit. In addition, she requested that the staff be allowed to approve a revised site plan for compliance with Condition 15. The applicant has agreed to those requirements.

The applicant, Sherman Davis, was sworn in. He stated that he had no problems with any of the conditions set forth by the Staff and would follow them willingly.

Mr. Bob Bennett was sworn in and spoke in favor of the request. He stated that the car sale business would be family operated and that under the Conditional Use Permit, it would cease to exist if the property were sold. He noted that there were like businesses in the area. He stated that he saw no problems with Mr. Davis being able to comply with all of the conditions.

Ms. Epler questioned the access path that area residents were using and noted that the applicant's proposed use would prohibit that access. The applicant stated that there was other usable legal access to area resident's property.

Mr. Lloyd noted that the major concern of previous opposition in this case was the access point to adjoining property. He encouraged the applicant to work with those homeowners to find another access route and to allow ample time for them to do so. Discussion followed on cart path laws and rights-of-way.

Mr. Bennett suggested that the residents using Juniors Street for access to their properties be given 60 days to arrange usable alternate access.

Mr. Rodney Culbreth was sworn in and spoke in opposition. He stated that he would find alternate access to his property within the next two weeks. His concern was more with the declining value of his property if the Board chose to approve the request. He stated that his property abuts the site in question and that rezoning of that parcel would not be in the best interest of the community. He stated that there were already numerous car lots in the area and this request, if approved, would bring more traffic, more business, and lower his property value as a residential lot.

Mr. Turner stated that he did not see that 5 or 6 cars being allowed on this lot would be detrimental to the community.

Mr. Davis spoke in rebuttal and stated that he had no problem with access being used on the left end of his property. He further stated that he would abide by any condition that the Board applied.

The Public Hearing closed at 7:37 p.m. Discussion followed on whether residents could access their property by the flag lots or if a new road would be required. It was determined that no new street would be required. The Staff was instructed to add a condition allowing area residents 60 days to secure alternate usable access to their properties. Mr. Davis stated that he was in agreement with that condition and would comply with it.

**Mr. McLaurin made a motion, seconded by Ms. Epler, to find that the Conditional Use District application is neither arbitrary nor unduly discriminatory, in the public interest and that the Conditional Use District application be approved. Unanimous approval.**

**Mr. McLaurin made a motion, seconded by Ms. Epler, to find that the Conditional Use District Permit application, if developed as proposed and voluntarily agreed to, will not materially endanger the public health and safety, will not substantially injure the value of adjoining or abutting property, will be harmony with the area in which it is to be located, will be in conformity with the Land Use Plan, Highway Plan or other plan officially adopted by the Board of Commissioners, and that it be approved according to the conditions listed. Unanimous approval.**

#### VIII. DISCUSSION

Mr. McNeill advised the Board that Mr. Tom Lloyd was the new Director of Planning & Inspections. He congratulated Mr. Lloyd and asked that the Interim Director's Update on the agenda be amended to reflect his new title.

Mr. McLaurin advised the Board that Mr. Tim Fisher was organizing a canoe trip down the Rockfish Creek. All members are invited to attend and should notify Ms. Nunnery by the 28<sup>th</sup> of March if they are interested in participating. The trip is scheduled for 12:30 p.m. on March 30<sup>th</sup> and will initiate at Mr. Fisher's home on Butler Nursery Road and end in Hope Mills. The tour should take about 3 hours.

#### IX. FOR YOUR INFORMATION

##### B. DIRECTOR'S UPDATE

Mr. Lloyd updated the Board on the Sewer Extension Policy meeting he had attended prior to joining the Planning Board meeting. He stated that a summary of the suggestions and comments would be compiled and distributed at a later date.

Mr. Lloyd briefed the Board members on the Commissioner's meeting and reviewed the cases.

Mr. McNeill thanked Mr. Lloyd and Mr. McLaurin for attending the Sewer Extension Policy meeting and then joining the Planning Board meeting. He further noted that Mr. Morris and Ms. Piland had also attended the Sewer Extension Policy meeting but had other priorities that prohibited them from joining the Planning Board meeting.

Mr. McNeil also commended Ms. Speicher for her patience and help when she resolved a problem for a friend of his.

#### XI. ADJOURNMENT

**Mr. McLaurin made a motion, seconded by Ms. Epler, to adjourn at 8:56 p.m. Unanimous approval.**

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Reconsideration by the Cumberland County Joint Board

March 28, 2006

TO: County Joint Planning Board

FROM: Edward M. Byrne, Planner II

SUBJECT: Case No. 06-039  
Cleo H. Cogdell Estate  
(Zero Lot Line Subdivision Review)

The Cumberland County Joint Planning Board reviewed and denied this case on March 7, 2006. The Board gave the developer a chance to come back for reconsideration since they were not notified by the surveyor of the time and date of the Board meeting. The developer submitted a letter requesting reconsideration.

The developer has submitted a request for a waiver from Section 3.20 "Lot Standards", County Subdivision Ordinance, regarding the road frontage provisions for new lots. The Subdivision Ordinance requires that all newly created lots have a minimum 20-foot of road frontage off a public street or approved private street. There are two existing dwelling units located on the subject property. The two dwellings would be located on "lot 1". The proposed subdivision contains three lots on 2.88 acres with each lot being 0.96 acres and is zoned RR Rural Residential.

The developer is requesting a waiver to create three lots using the existing easement as access for the proposed lots. The developer states the intent is to divide property as stated in a will.

**In accordance with Section 6.1, Waivers, of the Cumberland County Subdivision Ordinance, the Planning Board may waive the requirements of this Ordinance, where it finds by resolution that:**

- a. **Because of the size of the tract to be subdivided, its topography, the condition or nature of the adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause a special hardship to the property owner and be inequitable, and**
- b. **The public purposes of the Subdivision Ordinance and the Zoning Ordinance would be served to an equal or greater degree, and**
- c. **The property owner would not be afforded a special privilege denied to others.**

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The Planning & Inspections Staff recommends denial of the waiver based the following:

1. Because of the nature of the adjoining area, non-compliance with the ordinances will only set the stage for future access issues within the immediate area. The subject property does not have direct access to a public street or an approved private street – this is a minimum requirement of the ordinances – and there are currently many tracts within this area not having adequate access;
2. The Planning & Inspections Staff does not support the creation of new land-locked lots, as this will intensify the traffic across other property owners' lands. Creating new lots without adequate road frontage is generally not allowed under the ordinances and the probability of future conflict over access matters would be greatly increased if this request were approved. Approval of any subdivision of the subject property would allow for an increase in the number of dwelling units by at least two since the proposed "Lot 1" will contain two existing structures and "Lot 2" and "Lot 3" would be vacant lots;
3. The property owner(s) are not being denied use of the land since the property is currently served by an ingress/egress easement that provides access to the existing dwellings on the property.

The Staff suggests the property owner(s) contact the owners of the adjacent properties, and with their agreement submit a preliminary plan providing a Class "B" or higher level street. This recommendation would allow the adjacent property owner(s) to signify their consent to the increased use of the easement by their signatures on the final plat.

Attachments

cc: Thelma C. Jones, Developer  
Sammy Cain, Surveyor  
Grainger Barrett, County Attorney



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PLANNING STAFF DECISION: 3-1-06      PLANNING BOARD DECISION: 4-4-06      COUNTY OR COUNCIL MEETING: N/A

CASE NO: 06-039      NAME OF DEVELOPMENT: CLEO H. COGDELL ESTATE  
(ZERO LOT LINE SUBDIVISION REVIEW)

OFF OF THE NORTH SIDE OF SR 1734 (HATCHER LANE),      LOCATION: ZONING: RR

WEST OF SR 1838 (DUNN ROAD)      PIN: 0468-17-8369-  
OWNER OR ENGINEER OR  
DEVELOPER: CLEO H. COGDELL      DESIGNER: SAMMY CAIN

COUNTY ORDINANCE     GODWIN ORDINANCE     STEDMAN ORDINANCE     SPRING LAKE ORDINANCE     FALCON ORDINANCE

PLANNING DEPARTMENT ACTION TOWN BOARD	PLANNING BOARD	ACTION
<input checked="" type="checkbox"/> PRELIMINARY <input checked="" type="checkbox"/>	PRELIMINARY <input type="checkbox"/>	PRELIMINARY
<input type="checkbox"/> FINAL		
<input type="checkbox"/> EXTENSION <input type="checkbox"/> REVISION	<input type="checkbox"/> EXTENSION <input type="checkbox"/> REVISION	<input type="checkbox"/> EXTENSION
<input type="checkbox"/> REVISION		
<input type="checkbox"/> APPROVED CONDITIONALLY	<input type="checkbox"/> APPROVED CONDITIONALLY	<input type="checkbox"/> APPROVED
CONDITIONALLY		
<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> DENIED	<input type="checkbox"/> DENIED

**The Planning & Inspections Staff is recommending denial of the subdivision plat you submitted for review based on the following:**

- Because of the nature of the adjoining area, non-compliance with the ordinances will only set the stage for future access issues within the immediate area. The subject property does not

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have direct access to a public street or an approved private street – this is a minimum requirement of the ordinances – and there are currently many tracts within this area not having adequate access;

5. The Planning & Inspections Staff does not support the creation of new land-locked lots, as this will intensify the traffic across other property owners' lands. Creating new lots without adequate road frontage is generally not allowed under the ordinances and the probability of future conflict over access matters would be greatly increased if this request were approved. Approval of any subdivision of the subject property would allow for an increase in the number of dwelling units by at least two since the proposed "Lot 1" will contain two existing structures and "Lot 2" and "Lot 3" would be vacant lots;
6. The property owner(s) are not being denied use of the land since the property is currently served by an ingress/egress easement that provides access to the existing dwellings on the property.

**The Staff suggests the property owner(s) contact the owners of the adjacent properties, and with their agreement submit a preliminary plan providing a Class "B" or higher level street. This recommendation would allow the adjacent property owner(s) to signify their consent to the increased use of the easement by their signatures on the final plat.**

**For additional information and/or questions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605.**

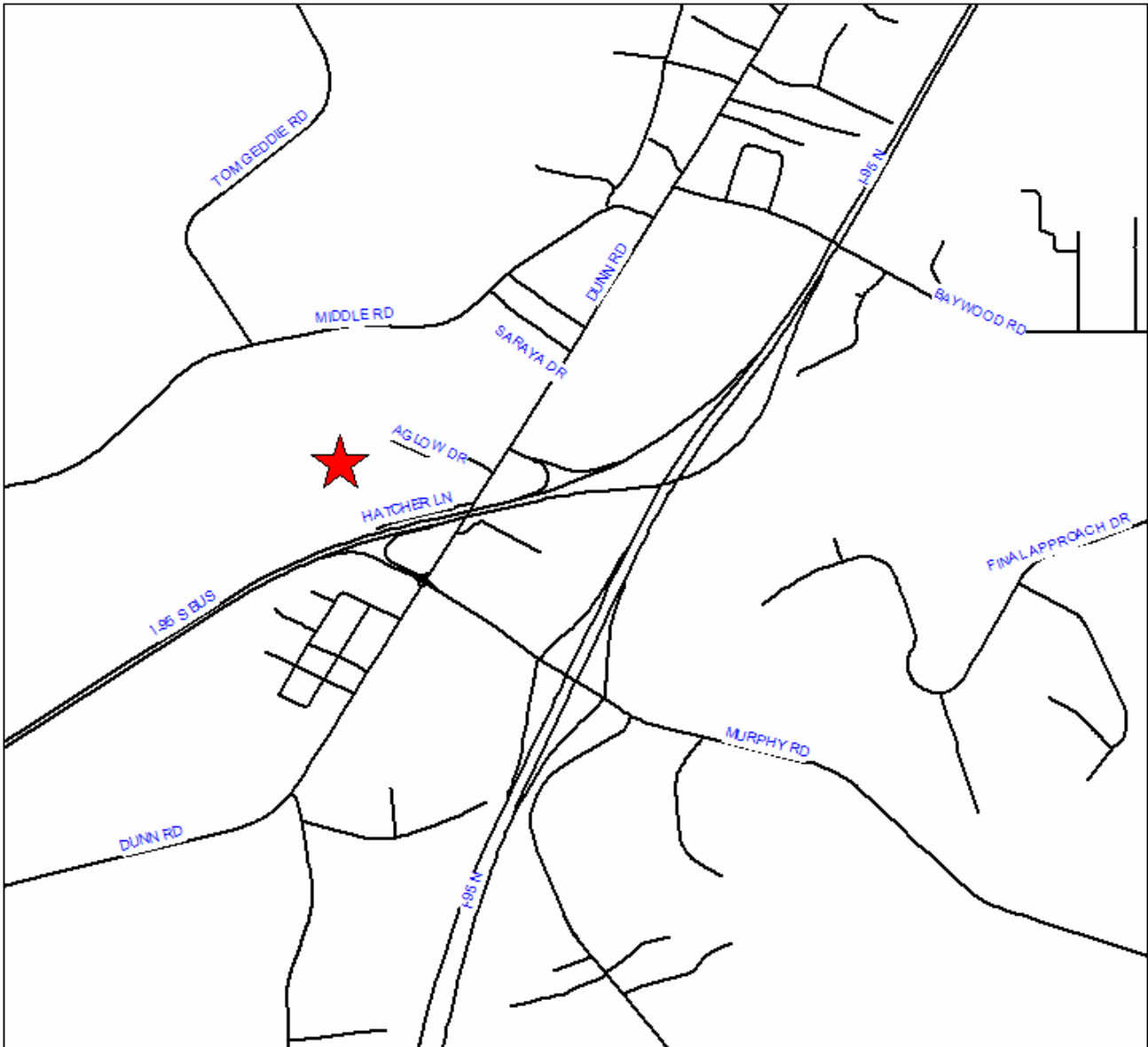
Contact Information (Area Code is 910 unless otherwise stated):

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement:	Ken Sykes	321-6654
Eastover Sanitary District:	Morgan Johnson	323-3973
NORCRESS:	Tom Cooney	678-7682
Corp of Engineers (wetlands):	Lynette Grenade	(910) 251-4829
County Health Department:	Jane Stevens	433-3660
NCDENR (E&S)	Wendy Dunaway	486-1541
E911 Site-Specific Address:	Ron Gonzales	678-7616
E911 Street Naming	Diane Shelton	678-7665
Tax Parcel Numbers:	David Ivey	678-7647
NCDOT (driveways/curb-cuts)	Gary Burton	486-1496

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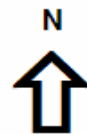
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**CLEO H. CODGELL ESTATE  
SUBDIVISION REVIEW  
CASE NO. 06-039**



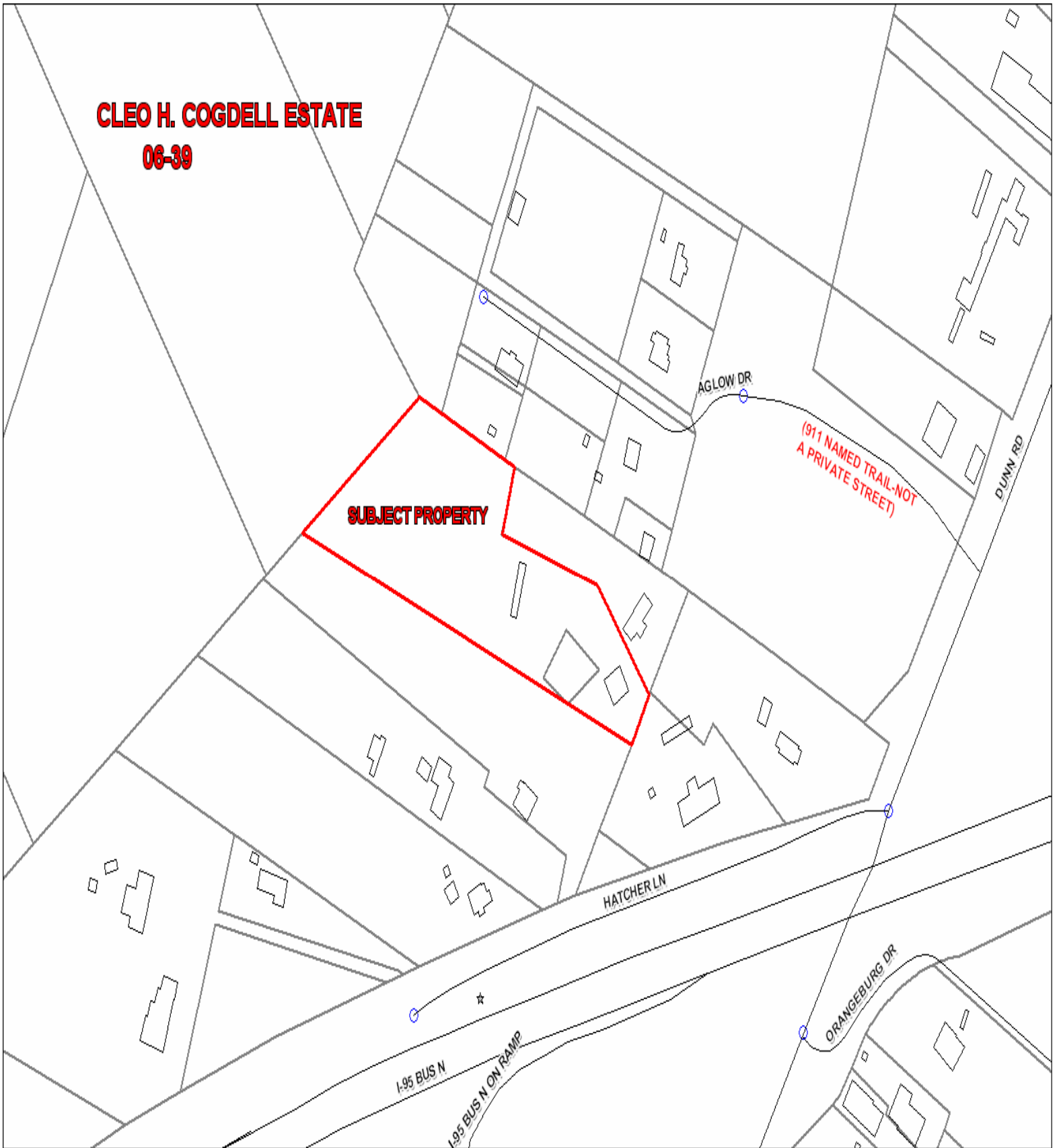
PINS:0468-17-8369-  
PREPARED BY MAS - CCJPB  
FEBRUARY 23, 2006

Map not to scale



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**CLEO H. COGDELL ESTATE**  
**06-39**



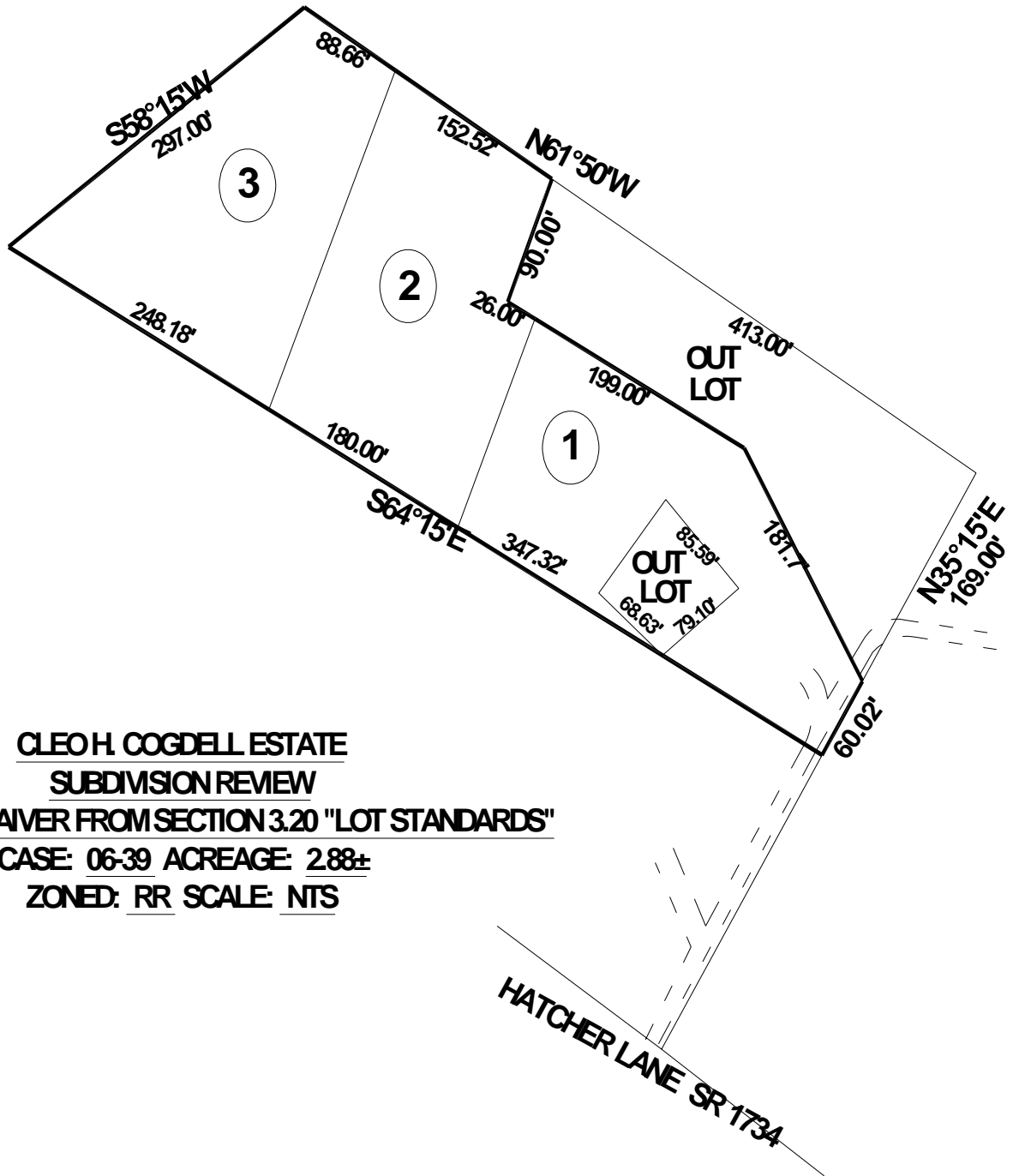
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**06-39**



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**CLEO H. COGDELL ESTATE  
SUBDIVISION REVIEW**

**REQUEST: A WAIVER FROM SECTION 3.20 "LOT STANDARDS"**

**CASE: 06-39 ACREAGE: 2.88±**

**ZONED: RR SCALE: NTS**