

Donovan McLaurin,  
Chair  
Wade, Falcon & Godwin

Lori Epler,  
Vice-Chair  
Cumberland County

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman  
Patricia Hall,  
Town of Hope Mills  
Charles C. Morris,  
Town of Linden



## COUNTY of CUMBERLAND

### *Planning and Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Walter Clark,  
Roy Turner,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

### MINUTES March 17, 2009

#### Members Present

Mr. Donovan McLaurin, Chair  
Mrs. Lori Epler, Vice-Chair  
Mr. Walter Clark  
Mr. Benny Pearce  
Mr. Charles Morris  
Mr. Roy Turner  
Mrs. Sara Piland  
Mr. Harvey Cain, Jr.

#### Others Present

Mr. Tom Lloyd, Director  
Mr. Cecil Combs, Deputy Director  
Mr. Grainger Barrett, County Attorney  
Ms. Patricia Speicher  
Ms. Donna McFayden  
Mrs. Laverne Howard

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Morris delivered the invocation and led those present in the Pledge of Allegiance.

#### II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that Case P09-07 would be moved to contested items.

**Vice-Chair Epler made a motion to approve the agenda with the adjustments, seconded by Mr. Turner. Unanimous approval**

#### III. PUBLIC HEARING DEFERRAL UNTIL APRIL 21, 2009

**P09-02: REZONING OF 2.00+/- ACRES FROM A1 AGRICULTURAL TO A1A AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT LOCATED AT 11519 DUNN ROAD, SUBMITTED AND OWNED BY HELEN AND LUIS LINARES.**

**Mrs. Piland made a motion to accept the deferral, seconded by Vice-Chair Epler. Unanimous approval**

#### IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

#### V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF FEBRUARY 17, 2009

**Mr. Turner made a motion to accept the minutes as submitted, seconded by Mr. Cain. Unanimous approval**

VII. CONSENT PLATS & PLANS

**CASE NO. 09-017:** CONSIDERATION OF THE DAVID LEE PROPERTY, GROUP DEVELOPMENT REVIEW; REQUEST FOR WAIVER FROM SECTION 2303.C, COUNTY SUBDIVISION ORDINANCE, REGARDING 20 FEET OF ROAD FRONTAGE ALONG A PUBLIC OR PRIVATE STREET; ZONING: RR; ACREAGE: 10.01 +/-; LOCATED SOUTH OF SR 1848 (FAIRCLOTH BRIDGE ROAD), EAST OF MCCALL ROAD.

The developer is requesting a waiver from the requirement for actual road frontage for a second dwelling unit on an existing 10.01 acre tract, which uses a 60 foot ingress/egress easement for access. The 60 foot deeded easement is recorded in Plat book 96, page 60 and is known as Arch Jordan Road. The proposed dwelling is a double-wide manufactured home. The existing platted lot is an exempt lot from the definition of subdivision and would not typically be subject to the requirement for road frontage under the terms of Subdivision Ordinance; however, the second dwelling unit proposed qualifies the request as a group development and the standards for actual road frontage for the lot is required.

The Planning and Inspections Staff recommends approval of the waiver request based on the following:

- a. Because of the size of the existing lot of record, 10.01 +/- acres, it would be inequitable not to allow a second unit on such a large tract, and strict compliance with the provisions of the Ordinances would cause a special and unnecessary hardship if the developer were required to upgrade the ingress/egress easement to "street" status given that the majority of the land area in which the easement crosses is not under the current property owners' control;
- b. The purposes of the County's Subdivision and Zoning Ordinances are being served to an equal or greater degree, in that there is an existing platted 60 foot ingress/egress easement, assigned a street name for emergency services purposes that assures access to this lot and adjacent lots within the area;
- c. The property owner is not being afforded a special privilege denied to others since the Planning Board has approved similar requests when there has been comparable facts and circumstances.

**Vice-Chair Epler made a motion, seconded by Mr. Clark to follow the staff recommendation and approve the waiver request. Unanimous approval**

VIII. PUBLIC HEARING CONTESTED ITEMS

- A. **P09-07:** CONSIDERATION OF THE ADOPTION AND ENACTMENT OF THE TOWN OF WADE COMMUNITY STANDARDS ORDINANCE, ESTABLISHING ACCEPTABLE MINIMUM STANDARDS FOR APPEARANCE OF PROPERTIES WITHIN THE CORPORATE LIMITS OF THE TOWN AND ENFORCEMENT OF THE SAME.

Mr. Lloyd reviewed the case information and stated the staff had worked with the Town Board, Mayor, and the Planning Board representative. The Planning & Inspections staff recommends approval of the Town of Wade Community Standards Ordinance as proposed with one exception that the staff recommends the Board consider adding the term “*noxious weeds*” as defined.

There was one person present to speak in opposition.

Mr. Russell McLaurin spoke in opposition. Mr. McLaurin stated that he had some questions as to where the Ordinance came from. Mr. McLaurin stated that it was his understanding that anyone in Cumberland County can come in and ask for certain things to be taken care of. Mr. McLaurin stated that he had requested that information and was told that he needed to ask the Board where this Ordinance originated from. The first time Mr. McLaurin heard anything about this was a draft from October 8, 2008, when it came up in discussion in the Town of Wade Board meeting. There were questions from some citizens that the draft did not address; those items were apparently omitted because as of 4:45 this afternoon Mr. McLaurin was advised by the Planning staff they didn't know anything about those comments. Mr. McLaurin stated that he wasn't sure if this Ordinance wasn't a way for people to back door their way in. He also isn't sure that if this Ordinance is passed what may follow after it. Mr. McLaurin stated that he was reminded about in the past when Mr. Strassenburg told everybody when land started to be zoned in Cumberland County, that property values would not be affected, and that was not the case. Mr. McLaurin stated that he had concerns about some of the items in the draft of the Ordinance. On the website there are no revisions, additions, or deletions to the October 8<sup>th</sup> draft of the Ordinance, with exception to the noxious weeds. In Section 102, it talks about in the legislative finding: emotional stability and general welfare of all citizens. Mr. McLaurin stated he also has concerns about Section C in reference to the right to enter upon premises in any manner authorized by law; used appliances, which is referred to under junk; under nuisances it talks about deteriorated structures shall be removed or repaired within 30 calendar days upon proper notice to the property owner. Mr. McLaurin stated that he understands under the County Ordinance that there is some kind of provision that would not require that property to be repaired or removed within the 30 days as long as it can be secured, there is no indication of that here. Mr. McLaurin is concerned about fences and walls; he wasn't sure what was meant by a subtle color, but feels that his fence should be whatever color he chooses. Mr. McLaurin feels that this is just another way to regulate. Mr. McLaurin feels that as far as fire wood goes, he assumes that is a way to keep business establishments in private residences, but by the same token there are people in the Town of Wade that use wood for their heating. He further stated that “I guess if there was a 100 square foot area stacked not more than 4' above the ground you would probably have a lot of wood, but by the same token that same person might get the chance to get some more wood and he wouldn't be able to store it”. Mr. McLaurin finds it ironic that under this Ordinance, he can't drive to the Town Hall meeting and park beside the Town Hall in the parking space. This Ordinance prevents him from parking on public owned property. As far as open burning, Mr. McLaurin remembers when the burning Ordinance was introduced and people who had burned all their lives, the fire department, which he was a member of back then, couldn't understand how in the world they were going to keep people from burning. But burning still goes on in this County. This Ordinance talks about on-site collected debris, Mr. McLaurin doesn't know of anyone who brings debris from one yard to another to burn, but maybe so, maybe that is needed in the Ordinance. The Ordinance addresses a service member positioning a vehicle so that it's not visible from any public right-of-way and located on the side or in the rear of their property. Mr. McLaurin isn't aware of any properties in Wade where it wouldn't be visible from the public right-of-way if parked on the side

of the yard. Mr. McLaurin addressed noise in the Ordinance, which establishes hours from Sunday 12 pm to 6 pm; this does not address the County's noise Ordinance. Mr. McLaurin stated that that is when he gets the most rest, on a Sunday afternoon. Mr. McLaurin went back to the fence issue and stated that if he is not allowed to have a razor type fence, but it appears that the Town can, he is allowed to make a lot of noise between 12 and 6 pm but the Town is allowed whenever they want to sanction the noise function. Mr. McLaurin is really disturbed that this is the same Ordinance that he saw in October. Mr. McLaurin questions the Board about where this originated from and would request tabling this until staff has a better chance to go over some of these things. Mr. McLaurin stated that he doesn't really understand why this Ordinance is needed if there are noise Ordinances and structural Ordinances in Cumberland County and Wade falls under them, unless this is just another back door entry.

Mr. Turner asked Mr. McLaurin to elaborate on the omissions that were in the first draft of the Ordinance that he saw.

Mr. McLaurin stated that this Ordinance was the same draft that he saw in October. He wasn't aware of any omissions, he saw this prior to any kind of discussion at any board meeting. There were comments made at a Town meeting about things just like the noise Ordinance, the parking on public right-of-way and publicly owned parking, and from his understanding that information never got back to staff.

Vice-Chair Epler asked if the Town of Wade had proposed the draft of the Ordinance with the help of staff.

Mr. Lloyd stated yes, this request to send it on came through the Town Clerk. Generally when a town requests an addition to the Ordinance or some assignment that they would like the staff to take care of, be it planning or land use, either the Planning Board representative can bring it up at a Planning Board meeting or the Town Board along with the Planning Board representative will discuss it and the Town Clerk will call us. Those are two customary ways that we get any assignment. That's how this was, and the staff did work with the Planning Board representative and various members of the Town Board. It's now gone through the legal process of the public hearing where everyone gets a chance to speak and then it will go to the Town of Wade and there will be a public hearing and everybody will be able to address it there.

Vice-Chair Epler asked if we move this on with an approval to the Town of Wade then Mr. McLaurin will have the opportunity to voice his concerns to the Town of Wade about this Ordinance.

Mr. Lloyd stated that was correct. Also, staff was asked to fix the parking issue that Mr. McLaurin was talking about, that was an oversight on the staff's part and was not corrected on this draft.

Mr. Lloyd stated that in order for this to become an Ordinance the Town Board has to adopt it, so there will be another public hearing. So Mr. McLaurin or any other citizen of Wade will have the opportunity to speak for or against it.

Mrs. Piland asked what staff was recommending in regards to parking.

Chair McLaurin stated that on page 5, paragraph G, parking on public rights-of-way should say "parking on any public right-of-way or other publicly owned property except where legally authorized within the Town's corporate limits is prohibited. This provision shall not be construed

to apply to motor vehicle parking for vehicles in need of repair provided they are removed within twenty-four hours”.

Vice-Chair Epler stated that she didn't feel that this addressed one of the things that Mr. McLaurin brought up in his comments. According to this if Town Hall is owned by the Town of Wade he can't even park in the parking lot.

Chair McLaurin stated except where legally authorized. He would be legally authorized to go anywhere about Town business. Chair McLaurin stated that under the fencing section under paragraph b on page three there is a quasi-public use statement, Chair McLaurin stated that this was just a draft, quasi-public use should be defined as: “Institutional, academic, governmental, and community service uses which are government (public) owned or operated, or provides a service to the general public under the authority of a governmental regulatory body”, that's referring to the section on razor wire type fencing.

**Mrs. Piland made a motion to approve case P09-07 with the two changes that were cited and following the staff recommendation, seconded by Mr. Cain. Unanimous approval**

Mr. Morris asked who is going to be responsible for the enforcement of this Ordinance.

Chair McLaurin stated the Cumberland County Inspections Department.

Ms. Speicher stated that the Sheriff's department will enforce it also.

Chair McLaurin stated that the Town of Wade does not feel that this will add no more than two to four cases a year. In the County we only have junk vehicles, minimum housing, and abandoned commercial buildings. When you get into a closer setting like a town that has expenses and relies on property taxes and people live closer than they do in a County, you need a few more rules.

Vice-Chair Epler stated that as a Planning Board member and in consideration of the entire County, she worries about what kind of taxation this Ordinance will be on our County inspectors, because ultimately they will get that initial phone call. They will have to go out and investigate every complaint that comes in and the action will have to be started from that point.

Mrs. Piland stated that she thinks other communities will want to do something similar to this and thinks it raises the issue of enforcement, and that it falls on the governments involved. The town as well as the County should determine how the enforcement is going to occur and if a town is willing to take this kind of responsibility than they might also need to consider the cost involved and they can negotiate that with the proper governmental authorities.

- B. **P09-06:** REZONING OF 99.63+/- ACRES FROM PND PLANNED NEIGHBORHOOD DEVELOPMENT AND R6 RESIDENTIAL TO MXD MIXED USE DEVELOPMENT/CUD CONDITIONAL USE DISTRICT AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT LOCATED ON THE SOUTH SIDE OF SR 1611 (ANDREWS ROAD) AND WEST OF SR 1612 (FARMERS ROAD), SUBMITTED BY ATTORNEY AND GENERAL MANAGER ALFRED E. CLEVELAND, OWNED BY ANDREWS ROAD COMPANY, LLC.

Mr. Lloyd advised the Board that staff did communicate with the school planner and under Plat-Related Items, number 29, the walkway between the office and single family housing; the school would prefer that there be no access to the school through the office of any type. One of the

conditions that staff is recommending is to provide sidewalks along Andrews Road for the children in this development to walk to school.

Mr. Lloyd reviewed the site information and stated the staff recommends approval of the request for MXD Mixed Use Development/CUD Conditional Use District based on the following:

1. Although, the MXD/CUD is inconsistent with the North Fayetteville Land Use Plan, which calls for open space at this location, the recommendation is reasonable because the proposed development is in harmony with the surrounding existing development;
2. Approval of this district will protect the surrounding area from strip non-residential development; and
3. The request is reasonable because the district and uses proposed are in character with the current zoning and land uses of adjacent properties and would allow for development that is consistent within the existing development in the surrounding area.

The PND Planned Neighborhood Development/CUD Conditional Use District & Permit could also be found suitable at this location.

The Planning & Inspections Staff also recommends approval of the Conditional Use Permit, if the developer provides an inter-connecting right-of-way access between the residential portions of this development, based on the following:

Mr. Lloyd went on to explain that staff feels, as in the past, with separation there is only one way into the multi-family and one way into the single family, staff preferred due to emergency vehicles, if something does occur at one of the entrances there would still be another entrance into or out of either one of the properties. This is what staff is recommending.

1. The requested use will not materially endanger the public health and safety if located according to the site plan submitted and recommended;
2. The use will meet all required conditions and specifications if constructed according to the site plan, application and conditions – a copy of the *Ordinance-Related Conditions* pertaining to this site is attached;
3. The use will maintain or enhance the value of adjoining or abutting properties in that the subject property is currently undeveloped thus a quality well-planned development, if developed as submitted, would enhance the value of the general area; and
4. The location and character of the use, if developed according to the site plan as submitted, will be in harmony with the area in which it is to be located.

Mr. Lloyd stated that in an established neighborhood, many times established residences do not want access to apartment complexes located adjacent to them staff also felt, not only would this interconnection be needed for possible emergencies, but also this being an undeveloped property those that do buy into the single family will at this point know that there will be multi-family based on the plan. So it won't be a surprise, it is included in the plan.

There were people signed up to speak in favor and in opposition.

Vice-Chair Epler asked if the new Fire Code required a new multi-family development over 100 units have two means of egress and ingress.

Mr. Lloyd responded that Cumberland County had not adopted that, but we are not sure. But it has been adopted in some places.

Chair McLaurin had all speakers come forward to be sworn in.

Al Cleveland spoke in favor. Mr. Cleveland stated that he was the Managing Partner of Andrews Road Company which is a Limited Partnership formed under the laws of North Carolina in 1970. Mr. Cleveland went on to name the owners of the company. Mr. Cleveland stated that the property was proposed to be sold to Mr. John Koenig and Mr. Walsh and they have been intimately involved with the proposed development of this property. Mr. Cleveland thought it would be better if Mr. Koenig spoke before the Board.

Mr. Barrett asked Mr. Cleveland to elaborate on whether his company was an LLC or Limited Partnership.

Mr. Cleveland stated that he misspoke and his company is an LLC.

Phyllis Owens spoke in favor. Ms. Owens stated that she was present as a member of the Economic Development Growth for the Fayetteville Chamber of Commerce. Ms. Owens stated that her organization has worked for some period of time with the business development applicant. They have been a long term company in our community and they provide numerous jobs in the local community. They are considered to be one of our best defense contractors and of course that leads me to say BRAC. As we approach BRAC one of the needs as a developer is office space, in some cases flex space. As we approach 2011 when Forces Command will open we are seeing, on a daily basis, additional companies coming to our community seeking space, such as what is proposed. Ms. Owens said that she understands that change is a difficult thing, and when it's her backyard she may be on the other side of the fence. But for now Fayetteville and Cumberland County is going to change. It is going to change drastically; it is going to change in large numbers. So having developers like this who study a plan and study a site and come with a reasonable offer is going to be something we will see a lot more of. Ms. Owens hopes that the Board will take the first step and allow this project to move forward so we can begin to put some of the clients she has, in quality office space and bring the community into the 21<sup>st</sup> century.

Chair McLaurin allowed questions from other speakers.

Mr. Alex Rogers asked Ms. Owens what she meant by flex space.

Ms. Owens stated that flex space could actually be office space but it has a large workbench area which is referred to as an office with a warehouse attached to it.

Mr. Rogers stated that that would lead him to believe that is commercial space.

Ms. Owens stated yes, she promoted all the Winn Dixie's in the area as flex space.

Mr. Lloyd said that in the City it can be, but in the County it will not be used as commercial.

Ms. Owens stated that her need was for flex space but this project is not talking about that.

Mr. Rogers asked about the growth in relation to BRAC and asked Ms. Owens to quantify that in numbers.

Ms. Owens stated that there would be 40,000 new residents in this region, it is expected that Cumberland County will get a majority of the 40,000 residents and 19,000 new jobs will be created. The new jobs will be with this project on an 11 County regional basis with BRAC RTF, about 1,200 of those jobs will be at Forces Command Headquarters on Fort Bragg, and a number of the jobs will be in the military business park, some in office buildings on Executive Drive and a number of other office buildings. BRAC 2005 is going to bring new jobs to the community; a development such as this is the beginning of what we are going to see much more of as we move forward in providing the space required by the defense contracting company.

Mr. Rogers asked Ms. Owens which contracting companies she was referring to.

Ms. Owens stated that as an economic developer she couldn't divulge who the clients are, but by taking a look around the community many of them are already here and stated that similar companies would be coming.

Mr. Rogers asked if the proposed area was in the City of Fayetteville.

Chair McLaurin stated that the area is in the County.

Mr. Morris asked Ms. Owens where the data came from for the study that she had referred to.

Ms. Owens stated that the data came from BRACRTF.com, where it talks about transition transformation, TDA did a complete study of an 11 County region, 73 municipalities and each of those is broken down into an individual count. The total in the opening summary says 40,000 new people. The estimate runs from 25,000 – 40,000, but the people running the task force say the number is closer to 40,000.

Richard Braid asked if the property would be annexed into the City.

John Koenig spoke in favor. Mr. Koenig stated that he was asked by Mr. Walsh to join in assisting with developing this piece of property. Mr. Koenig stated that Mr. Walsh is currently a tenant of his and has been there for about ten years. Mr. Koenig said that Mr. Walsh has military contracts from Ft. Knox, Ft. Dix, N.J., Ft. Hood, TX, and Ft. Bragg, N.C. He employs 1100 people and does all the refurbishing for military vehicles. He is a bona-fide defense contractor and he needs office space. Mr. Koenig presented the design of the proposed development and explained how certain areas were designated. Mr. Koenig stated that there was more than ample green space and no problems with a sidewalk. The only problem was the interconnectivity between the residential and multi-family residences. However, Mr. Koenig believes that something can go in, in case of an emergency. Mr. Koenig stated that he didn't know if this area would be annexed into the City. Mr. Koenig stated that public sewer and water is needed, but there is a provision that says that if you sign up you might get annexed.

Mr. Barrett asked Mr. Koenig if he stated that he did not agree with the staff request for access.

Mr. Koenig stated yes and went on to explain connectivity.



Mr. Barrett stated that he understood connectivity, but under the conditions of a Conditional Use Permit the applicant must accept the conditions, so Mr. Barrett just wanted to be clear for the record whether or not Mr. Koenig accepts the conditions.

Mr. Koenig said that when he talked to staff he understood that he could put a gate for passage that is not used.

Mr. Lloyd said that that has been done in the past.

Mr. Barrett asked if that was acceptable to staff.

Mr. Lloyd said that would be acceptable.

Mr. Tony Brill asked Mr. Koenig to clarify what he said about sewer.

Mr. Koenig said that sewer is on the property.

Mr. Brill said there is no sewer on the property.

Mr. Koenig responded that there is not now but there will be.

Mr. Brill asked about all the other areas that were waiting for sewer.

Mr. Koenig said that that is not his responsibility.

Mr. Richard Braid asked Mr. Koenig what the target price range would be for the homes.

Mr. Koenig said that the homes would be at or below two hundred thousand dollars. Mr. Koenig said that when you bring sewer and water and develop infrastructure it's impossible to build a house for one hundred and fifty thousand dollars.

Mr. Braid asked about the apartment sizes.

Mr. Koenig said that would be based on market demands.

Mr. Alex Rogers asked about the size of the single family homes for two hundred thousand dollars.

Mr. Koenig said he couldn't answer that.

Mr. Rogers asked if the multi-family homes would be a subsidiary of Mr. Koenig's organization and only be rented out or will they be available as condominiums.

Mr. Koenig said probably as condominiums.

Mr. Walt Dietrich asked Mr. Koenig if the sidewalk would extend all the way down to the apartments.

Chair McLaurin asked Mr. Lloyd if they would have to extend all the way down to the apartments.

Mr. Lloyd said that they would.

Mr. Koenig said that the staff recommendation was that they be the length of the property.

Mr. Lloyd wanted to clarify that this development was approved for multi-family apartments, not condominiums. Condominiums have a different set of requirements, so we need to clear that up.

Mr. Terry Samperton asked if the neighborhood would be governed by a homeowners association.

Mr. Koenig said that if there is an entrance and anything else that needs to be maintained it's good to have an association. There will be a homeowners association for both the single family and multi-family residences.

Mr. Dwight Utleby asked Mr. Koenig if he was aware that there was a large inventory of homes available just down the road that ranged in price from one hundred and fifty thousand dollars to two hundred thousand dollars.

Mr. Koenig stated that he was aware of that.

Mr. Jimmy Kizer spoke in favor. Mr. Kizer stated that the plan being presented is something that he has worked on with staff over a period of time; initially they were looking at just doing a rezoning for the office building. Staff looked at the overall site and thought this would be a good candidate to do as a Conditional Use Development, to go ahead and put all of the pieces of the puzzle on the table and approve it that way. So that everyone in the area knows what they are getting up front and there are no questions, not all these rumors going around about what's going to happen on site. Working with staff and going over the conditions we've come up with this plan and the percentage of the areas on it to try and hit the targets that are desired for doing a Conditional Use Development. Mr. Kizer feels that they have exceeded the minimums in several cases. Mr. Kizer addressed Vice-Chair Epler's comments about entrance access and stated that what they have found in working with cities and other municipalities is it varies depending on who you work with, if there is a divided entrance, even on a multi-family complex and there is enough width on each side of that divided entrance, both sides will be looked at as having access points. It can be worked around, and even the City of Fayetteville is okay with doing that. So, if there is 25 feet on each side of that entrance aisle coming into a project, by definition there are two access points. It is looked at as highly unlikely that both those entrances will be blocked at any one particular time. The biggest problem that we have with interconnectivity between the two of them is if it's done as a right-of-way, because the traffic flow cannot be controlled from one end to the other. If something is put back there, it can be done in a twenty foot easement or some kind of access alleyway that can be gated or be graveled, but only be used for emergency access. Therefore, there is no undue burden on either of the developments with people going back and forth to the amenities associated with the apartment complex. Mr. Kizer stated as far as water and sewer goes, in the back near the wetlands area, in the apartment part of the complex, gravity sewer already exists. The gravity sewer that goes up to Andrews Road serves Inverness Subdivision, there is a lift station there. The gravity sewer around the lowlands was put in as part of the annexation process. Water is already there along Andrews Road and it is designed to pick up additional flows.

Vice-Chair Epler asked Mr. Kizer if the streets would be public or private.

Mr. Kizer stated that they would be private in the apartment complex only.

Mr. Richard Braid asked Mr. Kizer if the sewer system would be appropriate for the area.

Mr. Kizer stated that it would be appropriate; it would all be gravity sewer.

Mr. Braid asked about the traffic situation as far as traffic lights or stop lights.

Mr. Kizer stated at this point there are comments from the Department of Transportation (DOT). We don't meet their requirement credentials for doing a traffic impact analysis with what we are proposing to do. More than likely at this point he would anticipate at a minimum road widening, a turning lane, and a stop light. Right now they are trying to get away from stop lights, they look at your assets and when there aren't multiple turns or an intersection, they want to offset them.

Mr. Terry Samperton spoke in opposition. Mr. Samperton stated that right now that road cannot handle the increased traffic. There is way too much traffic for a small road. The DOT has marked the road, but Mr. Samperton stated that he isn't aware of what the plan is. Mr. Samperton stated that the road is used as a shortcut to Ft. Bragg and there is heavy traffic there for Pine Forest High School, the road is gridlocked anytime school is open. This plan is way too much for what is there now. Traffic lights will need to be there, when you come out of the entrance at Inverness, there is a hill, the speed limit is forty-five miles an hour and some people are coming over that hill at a high rate of speed. With another entrance directly across from us and one hundred and twenty-six more homes that isn't going to work. Mr. Samperton stated that he is against the apartment complex; there are other apartments in Harbor Oaks that aren't even filled up yet, so we don't need more apartments. There is an office park being built for the people who want to be attached to Ft. Bragg, we don't need this office complex. Mr. Samperton said he didn't have a problem with the planned neighborhood, but something has to be done about the entrances. Mr. Samperton stated that he feels it's way too much for such a small piece of property.

Mr. Richard Braid spoke in opposition. Mr. Braid stated that sixteen acres is quite a bit of space for that area. From the office complex that would be about half the size of the Walmart complex on North Ramsey Street. From there, either side is a mile to any commercial activity going on; it's all single family residences on both sides of the street except for the two schools and the church. Mr. Braid referenced Mr. Samperton's comments about the traffic on that road and agreed that the traffic was terrible. Mr. Braid feels that that amount of traffic will affect the safety of the children walking to and from school even if they are walking on the sidewalks. Mr. Braid said that he was concerned about the value of homes in the area. It would degrade the value of the property that have bought into Inverness. A big issue for Mr. Braid is the water run-off, it is all downhill and there have been problems with the Woodbridge area with water run-off from the Inverness area and people are getting flooded out in their garages from excess run-off because all of the trees are gone and the water wasn't routed properly for drainage. Mr. Braid stated that the Military Business Park will have 215 acres, which is a lot of space dedicated for the contractors, and there are quite a few empty commercial buildings throughout the County and City that could be renovated for commercial space, rather than having to build brand new office space in the middle of residential areas.

Mr. Clark asked if there was a traffic count on the road.

Chair McLaurin said that in 2006 it was 17,500 according to the site profile.

Mr. Braid stated that count didn't include a lot of the traffic coming off of the end of I-295 exit at Ramsey Street. They get off and can cut across, and a lot of trucks come through there. The traffic has increased dramatically since the road had been opened.

Mr. Clark stated that he had addressed this to Mr. Lloyd, but had the water runoff been taken into account.

Mr. Lloyd stated that it was listed as a condition under Permit-Related, but the County falls under Phase II Stormwater regulations which the State reviews and those plans have to be submitted to the state. So the Stormwater has been addressed.

Vice-Chair Epler stated to Mr. Braid when all the rest of the neighborhoods in that area were developed Cumberland County was not under Phase II Stormwater regulations, the County is now. On their site plan they have several areas set aside where they will actually collect their own stormwater on site, it will not leave their site, and it will infiltrate back down into the ground and never leave their property. This development, in that area will have to take precautions that no other development in that area has had to.

Mr. Braid stated that Inverness has collection basins and they don't work.

Vice-Chair Epler stated that Inverness was not regulated by the State, like they are now.

Mr. Lloyd stated that Ms. Speicher advised him that those basins were cited for violations.

Mr. Koenig asked Mr. Braid if he had taken into consideration when I-295 is open how that will alleviate the traffic.

Mr. Braid stated that it wouldn't be completed for five or six years.

Mr. Lloyd stated that if this was developed at PND standards which means the whole lot could be developed at R7.5 you could have 491 units as opposed to what is being proposed now which is 320 units. If this was brought in as a straight residential development there would be 170 units more. Mr. Lloyd went on to say that a Planner did look up the traffic generation of offices and according to what they found, school would already be in and that traffic would already be off the road before most of the people that use the offices would be on the road and school would be out before most of the people who use the offices would be leaving.

Mr. Alex Rogers spoke in opposition and stated that to build a two hundred thousand dollar home in an area where most of the homes are well above that for their assessment value right now, and when we bring I-295 in that will drive the prices of these homes down even more because they are right on the border of an interstate highway. Mr. Rogers stated that he couldn't imagine that the homes would maintain their value. Mr. Rogers also stated that there are people on their way to work at the same time that school children and school buses are on the roads. Fairfield Farms and Greystone Farms at the end of Andrews Road also feed all of their traffic currently down Andrews Road to contribute to the traffic problem. Mr. Rogers stated that he sees that every day because he has to leave early to get to Ft. Bragg. So, Mr. Rogers stated, that as a resident he stands in opposition of this development.

Mr. Tony Brill spoke in opposition and stated that traffic is horrendous, it is almost impossible to turn left or right going in either direction. Mr. Brill also brought up the fact that they had been waiting for sewer for at least fifteen years and nothing has been done. Mr. Brill asked how these new projects can be so far ahead of those who live in the area.

Chair McLaurin stated that the developer pays all the cost.

Mr. Brill stated that he wasn't opposed to the project, but feels that the timing is wrong.

Mr. Dwight Utley spoke in opposition. Mr. Utley stated rezoning the property was unnecessary. When it was first discussed as O&I, he went and drove the area and within one mile of the property, existed five acres along the Ramsey Street corridor that's available for ground up development for either commercial or O&I. Within 2.2 miles of this property there are 7,000 square feet of vacant building space that can be utilized for commercial or O&I purposes, within 3 miles of the property there are seven different office buildings all with available office space. On page 19 of the Ramsey Street Corridor Plan that the City commissioned, it says that there is 253 thousand square feet of commercial space along the Ramsey Street corridor. This is less than five miles from the area that is being discussed tonight. Mr. Utley stated that he stands in opposition to any type of office space for commercial development in the area. Mr. Utley stated that there are 11 apartment complexes within four miles of this property, all with vacancies.

Chair McLaurin asked Mr. Koenig if he wanted to speak in rebuttal. Mr. Koenig declined.

Mr. Morris asked Mr. Koenig what his timetable was.

Mr. Koenig stated that this project would be completed in phases. The office complex will be the first phase.

Mr. Lloyd stated that the ordinance requires at least half of the proposed residential development or some guarantee that the residential be built will have to have a certificate of occupancy issued for half of the residential development prior to the completion of the approved office. By ordinance, if not there has to be a bond or irrevocable letter of credit with the estimated cost of construction being approved by the County Engineer.

Mr. Morris stated that basically half of the residential has to be completed prior to the O&I.

Mr. Walt Dietrich asked once this is approved if the plans could change.

Mr. Barrett stated that there could be minor changes without a process similar to this that requires a public hearing and the opportunity for public comments.

Chair McLaurin closed the Public Hearing.

Mr. Morris stated that he knew PND was dormant, but, if we do nothing and this was developed as PND there would be five acres commercial and density would be at 7.5 which would be 491 units.

Mr. Lloyd stated that the provision is not in PND to build a certain amount of residential, commercial can be built and residential left vacant, it has been done in the past, not by this Board; but what staff was afraid of was once commercial got in there, although it would be in the PND plan, the owner of the property could come back and rezone as a set commercial piece of property, rezone the other residential and come back in the future and strip it down saying that commercial is already there. That has happened on Morganton Road. So staff felt like, in light of all of that, it would be better to have the less intrusive office there along with residential instead of running the risk of future strip of non residential down Andrews Road.

Vice-Chair Epler stated that she was sympathetic to the residents in the area and understands their plight. They are watching the City of Fayetteville get closer everyday it seems, they're seeing houses being built in places where their kids probably used to play and not have to worry about being run over by cars. But, this is also an area where those same kids have been known to get on four-wheelers and take off on those roads near Ft. Bragg and hit trees and hurt themselves. We are living in a time where people are not as responsible as they used to be about their kids, their business, their cars, about a lot of things. In this case, these developers have come before us and they have a plan for almost one hundred acres of land. By using the tools that the County has supplied them in a mixed use development, they are trying to implement uses for this property, which is their right, which will be better for the residents as neighbors. Many of the things that are utilized in a mixed use development are conducive to the neighborhood, and yes they bring more people which thereby brings more cars, and that is probably the biggest downfall. But we can't do the business of the Department of Transportation, once those cars are there it is the Department of Transportation's responsibility to keep them safe, and hopefully as Fayetteville and Cumberland County grows our Department of Transportation will take that responsibility a little heavier than they do now. That takes time, but this area is probably a little more suitable for what we see before us. When I-295 does go through, and it will eventually go through, it is going to relieve a lot of the traffic that is there right now. It will make it better for the schools, make it safer for those kids coming and going. BRAC, whether we like it or not is going to bring more people but it's also going to bring more jobs and Cumberland County really needs that right now. Vice-Chair Epler stated that she doesn't want to be the person to say that we don't want any more jobs or businesses in Fayetteville. This development will make it a little easier than almost five-hundred single family homes and five acres of anything commercial, with no buffers except what was minimal by the landscape ordinance. These developers, by using the mixed use development will have to buffer themselves to an extent, they will have to comply with Phase II Stormwater regulations, which works when done right and is very expensive, and the State will regulate that, not the County, they will also have to comply with watershed regulations, watershed puts them in a whole new category. Vice-Chair Epler said she commends the developers for coming in with a plan where they have made good use of their property without going in and stripping it and doing the maximum that they could in the neighborhood. Vice-Chair Epler went on to say that she felt the developers have done a good job and she would support the rezoning.

**Vice-Chair Epler made a motion, seconded by Mr. Morris, that the Joint Planning Board finds that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that the Conditional Use District with the uses as shown on the plan are approved with the alterations as agreed to by staff. Unanimous approval**

**A motion was made by Vice-Chair Epler and seconded by Mr. Morris to approve the Conditional Use Permit as recommended by the staff for Mixed Use Development and other permitted uses with deletion of item #29 after finding that when completed, the proposal: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 3) will be in harmony with the area in which it is to be located; and 4) will be in conformity with the land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners, and she noted that the applicant had agreed to all recommended conditions. Unanimous approval**

## IX. DISCUSSION

### 1. ARTICLE XI – LOT AND YARD REGULATIONS SEC 1102 G – BUFFER REQUIREMENTS

Mr. Lloyd wanted to discuss the buffer requirements in the Ordinance. Mr. Lloyd stated that the Codes Committee and the Planning Board looked at the requirements as it is in the Ordinance. The way the Ordinance reads now, there has to be a buffer between any non-residential use and a residential district. What the Board decided based on the recommendation from the Codes Committee, was the only non-residential use not to be included would be Government buildings. Mr. Lloyd stated that he had the Inspectors start enforcing the buffer requirements, but didn't specify churches. The Inspectors know how the Ordinance reads, so they went out and cited churches too. Chair McLaurin has gotten a lot of calls on some churches. Mr. Lloyd stated that the Board might want to reconsider whether or not they want churches included as far as being exempt from buffering. Mr. Lloyd feels that the parking lot of a church should be buffered from an adjacent residence.

Vice-Chair Epler stated that that discussion came up in meetings, and it was decided that there was a fine line, because there are so many churches that have daycare centers and schools. If the churches were eliminated than the daycares would have to be eliminated also.

Mrs. Piland asked if the inspector's emphasis was on going in and investigating buffers.

Mr. Lloyd responded yes, and they are looking at junk yards too. But, when they pass an entity and see something that's not buffered they stop.

Chair McLaurin stated that he wants the Land Use Codes Committee, and added Mr. Morris and Mrs. Piland to that Committee, to review the Ordinance and see if something should be done.

### 2. COUNTY MUNICIPAL PLANNING COMMISSION MEETING, MARCH 31, 2009

Mr. Lloyd handed out packets to the Board and advised that the City would be having the joint meeting with the County. Mr. Lloyd stated that he feels that the City should be told about the changes recommended to the 2030 Plan based on input from the small towns.

## X. FOR YOUR INFORMATION

### DIRECTOR'S UPDATE

#### 1. VIOLATIONS

Mr. Lloyd handed out a letter received from a citizen named Candace Dogood about violations that needed to be addressed.

#### 2. COUNTYWIDE WATER

Mr. Lloyd advised the Board that County Management has assigned the Department to work with the Public Utilities Director in trying to expedite a plan to have Countywide water.

Chair McLaurin stated that the Comprehensive Planning Committee met and it's a standing Committee made up of members of the Board, there was a unanimous vote, with five minor changes in the 2030 plan, to move it onto the Planning Board. Chair McLaurin asked for a motion to approve the 2030 with those changes and move it on to a public hearing.

**Mr. Morris made a motion, seconded by Mrs. Piland to approve the 2030 Growth Vision Plan with changes and send it to the Planning Board for a Public Hearing. Unanimous approval**

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 9:45 p.m.