

Lori Epler,
Chair
Cumberland County

Roy Turner,
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,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

MINUTES October 19, 2010

Members Present

Mrs. Lori Epler, Chair
Mr. Roy Turner, Vice-Chair
Mr. Garland Hostetter
Mr. Benny Pearce
Mr. Walter Clark
Ms. Patricia Hall
Mr. Harvey Cain, Jr.
Mr. Donovan McLaurin
Mrs. Sara Piland

Members Absent

Mr. Charles Morris

Others Present

Mr. Tom Lloyd
Mrs. Laverne Howard
Ms. Donna McFayden
Ms. Patricia Speicher
Mr. Rick Moorefield
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that Cases P10-42 and P10-43 would be moved from Consent Items to Contested Items.

Ms. Hall made a motion to approve the agenda with the adjustments, seconded by Ms. Piland. Unanimous approval.

III. PUBLIC HEARING DEFERRAL / WITHDRAWAL

There were none.

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 SEPTEMBER 21, 2010

Chair Epler stated that a statement she made on Page 10 Paragraph 15 was wrong and asked that it be changed.

Ms. Hall made a motion to accept the minutes with adjustments, seconded by Mr. Pearce. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENT

- A. **P10-46:** CONSIDERATION OF A TEXT AMENDMENT TO THE TOWN OF HOPE MILLS SUBDIVISION ORDINANCE BY AMENDING ARTICLE IV DEVELOPMENT IMPROVEMENT AND DESIGN STANDARDS: SECTION 86A-403 MINIMUM LOT STANDARDS SUB-SECTION (e)(2), SECTION 86A-404 (b) PUBLIC STREETS (3) CURBS AND GUTTERS, AND SECTION 86A-407 OTHER REQUIREMENTS SUB-SECTION (a) REQUIRED DRAINAGE; AMENDING ARTICLE V SPECIAL DEVELOPMENTS SECTION 86A-504 MANUFACTURED HOME PARKS SUB-SECTION (g) IMPROVEMENTS (3) DRAINAGE; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE; SUBMITTED BY THE TOWN OF HOPE MILLS.

The Planning & Inspections Staff recommends approval of the text amendment, based on the following:

1. If approved, the amendment will ensure the language of the Hope Mills Subdivision Ordinance is consistent with the recently adopted provisions of the Hope Mills Stormwater Regulations; and
2. The request was submitted by the Town of Hope Mills.

A motion was made by Mr. McLaurin, seconded by Mrs. Piland, to follow the staff recommendation and approve case P10-46 as submitted. Unanimous approval.

REZONING CASES

- B. **P10-45:** REZONING OF 13.30+/- ACRES FROM M(P) PLANNED INDUSTRIAL TO O&I(P) PLANNED OFFICE AND INSTITUTIONAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3130 GILLESPIE STREET; SUBMITTED BY F. STUART CLARKE, ATTORNEY, ON BEHALF OF TECHNIMARK, INC. (OWNER) AND R. HALL POWERS, JR.

The County Planning Staff recommends approval of the O&I(P) Planned Office and Institutional district for this request based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "urban area" at this location, as well as meeting all of the listed location criteria for office and institutional development as listed in the Land Use Policies Plan;
2. Public utilities are available to the subject property; and
3. The subject property is located on a major thoroughfare.

There are no other districts considered suitable for this request.

A motion was made by Mr. McLaurin, seconded by Mrs. Piland, to follow the staff recommendation and approve case P10-45 as submitted. Unanimous approval.

VIII. PUBLIC HEARING CONTESTED ITEMS

REZONING CASE

- A. **P10-42:** REZONING OF 1.67+/- ACRES FROM A1 AGRICULTURAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH SIDE OF SR 2238 (SAND HILL ROAD) AND EAST OF TIMBER GROVE DRIVE, SUBMITTED BY CHARLES AND EVELYN E. IRELAND (OWNERS).

Mr. Lloyd presented land use and photos of the site and stated the Planning & Inspections Staff recommends approval of the R20 Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban area” at this location, as well as meeting the location criteria for suburban density residential development as listed in the Land Use Policies Plan; and
2. The request is consistent with surrounding zoning and land uses.

The R30 and R40 Residential districts could also be considered suitable for this request.

Mr. Lloyd stated there were people present to speak in favor and in opposition.

Robert Bennett spoke in favor and started off by giving some background information on the subject property. Mr. Bennett stated that the owners live out of town in Pennsylvania, and have owned the property for several years and a second generation is interested in either living on the property or developing it. They would like to get money from the land to build a house on it, so have asked for zoning as recommended by staff, in keeping with the property abutting the land. They realize they will lose some of the land by widening of Sand Hill Road, which will probably reduce their ability by one lot on this tract. They believe the planning staff has come up with a very reasonable recommendation in keeping with good planning for this tract of land. Mr. Bennett asked that the Board note the amount of R20 that is already in the neighborhood, and some adjoining land and some across the street is more dense than what the applicants' are asking for.

Alex Lujan spoke in opposition. Mr. Lujan read a statement from another neighbor, Mr. Joel Ebobo, who could not be present but was also in opposition to the request. Mr. Lujan went on to state his comments, Mr. Lujan doesn't feel that the second generation of the family who owns the land needs to have the subject property rezoned in order to put a house on it. While the request is in line with adjacent areas both to the north and south of the subject property, several people in the area like living in a rural setting.

Mr. McLaurin asked Mr. Lujan if either one of the homes (his or Mr. Ebobo's) back up to the subject property.

Mr. Lujan stated that his does, his property is adjacent.

Chair Epler stated that there was a 20' buffer in between the properties.

Mr. Lujan stated that was correct.

Mr. McLaurin asked Mr. Lujan what size his lot was.

Mr. Lujan said his lot was just over ½ acre, .6.

Mr. Stuart Williams spoke in opposition. Mr. Williams stated that he and his wife have lived in Sand Hill Preserve since April 2008. It is Mr. Williams' opinion that rezoning from A1 to R20 would adversely affect the peaceful enjoyment of the neighborhood, due to the increase in congestion at the entrance to the Sand Hill Preserve. Additionally, Mr. Williams believes that the lot cannot be developed without compromising the guidelines of the Cumberland County 2010 Land Use Plan, which he understands has been revised to a 2030 Plan. Mr. Williams went on to state what the 2010 Plan called for as far as buffering and easements. He doesn't feel the subject property could be fully utilized without some kind of connection to the flag lot adjacent to the property entering on Pristine Lane, which is part of the Sand Hill Preserve, and connection to the Sand Hill Preserve clearly would be a violation of the covenant. Mr. Williams feels that approval of the request could compromise his right to peaceful enjoyment of his home and neighborhood.

Jim and Sheila Stevenson spoke in opposition. Mr. Stevenson stated that he didn't understand the rezoning for 20,000 sq ft lots.

Chair Epler clarified that if this was a conditional use district then the board could put restrictions on the zoning, but it is not, it's a straight rezoning.

Mr. Stevenson stated that there are homes in the area that are in excess of \$190,000 - \$200,000 in the subdivision. That's more or less what we are concerned about, he has been a taxpayer in the County for many years and is trying to protect his investment. Mr. Stevenson stated that he is trying to make sure that they are not sitting back in there with \$125,000 homes abutted up to \$250,000 homes.

Public hearing closed.

Mr. McLaurin asked Mr. Bennett about the statement he made about the highway being widened and how it would take away from some of the lot and only allow room for two houses as far as the land area.

Mr. Bennett stated that he wouldn't anticipate it to reduce the number of lots that could be obtained with a subdivision. It might cause one to be lost.

Mr. McLaurin asked if instead of having three, the highway coming through would cut it to two lots.

Mr. Bennett said he would anticipate three lots with the highway right-of-way being granted and four without it.

Mr. McLaurin asked what type of drive Mr. Bennett was planning on using.

Mr. Bennett said he would use flag lots so each one would have access. Mr. Bennett pointed out that some of the people that spoke in opposition live in R20 zoned areas.

Mr. McLaurin stated that Mr. Bennett was saying that he would need four lots, four drives.

Mr. Bennett said that one could face onto the highway and two flag lots.

Mr. Lloyd stated that recently Department of Transportation (DOT) has been allowing just one cut as a joint drive on flag lots. As opposed to two or three curb cuts.

Chair Epler stated that the board couldn't base their vote on what they think DOT is going to do, but lately, that's what they've done.

Mr. Lloyd stated that that's what they want them to do also.

A motion was made by Mr. Clark, seconded by Ms. Hall, to follow the staff recommendation and approve case P10-42 for R20 as submitted. The motion passed with Vice-Chair Turner voting in opposition.

- B. **P10-43:** REZONING OF 3.90+/- ACRES FROM A1 AGRICULTURAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH SIDE OF SR 2238 (SAND HILL ROAD) AND EAST OF TIMBER GROVE DRIVE, SUBMITTED BY CHARLES AND EVELYN E. IRELAND (OWNERS).

Mr. Lloyd presented land use and photos of the site and stated the Planning & Inspections Staff recommends approval of the R20 Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "urban area" at this location, as well as meeting the location criteria for suburban density residential development as listed in the Land Use Policies Plan; and
2. The request is consistent with surrounding zoning and land uses.

The R30 and R40 Residential districts could also be considered suitable for this request.

Mr. Lloyd stated there were people present to speak in opposition.

Chair Epler asked Mr. Bennett if there was anything that he wanted to add for this case that wasn't heard in the last case.

Mr. Bennett made one point about the widening of Sand Hill Road, this tract being 3.9 acres and they are anticipating having to have not just flag lots, but an entrance street off of Sand Hill Road, which the right-of-way for that entrance street would take up more property than the other arrangement. This tract would probably yield seven lots with a street entrance.

Chair Epler asked Mr. Bennett if they put a street in, would they put in a private street.

Mr. Bennett stated that had not been covered. He was engaged by the applicant to present the rezoning case; they have not come forward with what exactly they want to do.

Chair Epler asked Mr. Lloyd if a class "B" private street was allowed in this part of the County.

Mr. Lloyd said it's not in an MIA so yes they could do a class "B" private street.

Alex Lujan spoke in opposition. Mr. Lujan said his feelings are the same as they were for the previous case. Having seen how the last case went he finds it interesting that the

board has decided to side with people who own the subject property and live out of the State.

Chair Epler said that they are property owners in Cumberland County and do pay Cumberland County taxes though.

Mr. Lujan said as we all do and they are not here to represent themselves.

Stuart Williams spoke in opposition and stated that his reasons are the same as for the previous case.

Public hearing closed.

A motion was made by Mr. Clark, seconded by Mr. Hostetter, to follow the staff recommendation and approve case P10-43 for R20 as submitted. The motion passed with Vice-Chair Turner voting in opposition.

CONDITIONAL USE DISTRICT AND PERMIT

- C. **P10-32:** REZONING OF 20.87+/- ACRES FROM RR RURAL RESIDENTIAL, R10 RESIDENTIAL AND R6A RESIDENTIAL TO RR RURAL RESIDENTIAL/CUD CONDITIONAL USE DISTRICT FOR A RV PARK/CAMPGROUND AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHEAST SIDE OF SR 1003 (CAMDEN ROAD), SOUTHWEST OF NC HWY 162 (ELK ROAD); SUBMITTED BY ROY L. AND CHOM CHU DEAN (OWNERS).

Mr. Lloyd explained that the property owner and the agent for the above referenced case have requested to reappear before the Planning Board concerning the mandatory requirement for sidewalk installation along SR 1003 (Camden Road). Following is a brief synopsis of the outcome of the previous board meeting:

At the September 21, 2010 meeting, the board voted to recommend approval of the RR Rural Residential/Conditional Use District and Permit with the added condition that the owner remove all existing manufactured homes on the "street side" of the power line easement within six months from the date of the County Commissioners' approval, if granted. The manufactured homes are to be removed from the area on the "lake side" of the power line easement within one year from date of approval. The property owner agreed to add this condition.

Regarding the waiver/variance requests that were considered, the property owner stated that the Public Works Commission (PWC) or the NC Department of Transportation (NCDOT) was installing a fire hydrant at the entrance to the park as a part of the road improvement project in this area that is currently underway. On September 22, 2010 it was confirmed by Heidi Maly, PWC, to this staff that PWC was installing the hydrant; therefore, a waiver for this improvement is not necessary.

The property owner also agreed to ensuring the recombination plat was properly prepared and recorded and that installation of the sidewalk would be accomplished, thus withdrawing the waiver requests for these items. The staff amended their recommendation relating to the on-site buffer at the meeting and the board agreed that an on-site buffer should not be required, except where shown on the site plan, due to the nature of the surrounding area.

Included in the Planning Board's recommendation, the board members also recommended that any changes to the application, site plan, or conditions of the Permit are to be reconsidered by the Planning Board before the Commissioners issued a final ruling on the request. Since the September 21, 2010 board meeting, the applicant has requested that the sidewalk installation along Camden Road be readdressed.

This request for consideration of a sidewalk waiver has been placed on the Hope Mills Board of Commissioners agenda for their consideration of offering a recommendation. Because the town meeting is the night before your Planning Board hearing, the Hope Mills' recommendation will be verbally presented to you at the meeting. The property owners' representative submitted a letter to the town – see the last page of the attachments to this letter.

Mr. Lloyd reminded the Board that this application is in the Hope Mills MIA which means that the applicant first had to go and get approval of the waiver from the Town of Hope Mills. The result of that was the Town Board denied the request for the waiver.

Chair Epler asked if there were any disclosures in regard to the case. There were no disclosures.

Mr. Lloyd said that with the inter-local agreements and the whole MIA concept the County has agreed with these development standards, that the town's requests would be met within their MIA, unless the town granted a waiver.

David Averette (Sworn in by Chair Epler) spoke in favor. Mr. Averette stated that he appreciated everyone's patience with this case and hoped that they were getting close to an end, but needed to remember a lot of lives would be affected by this, and that they are doing something, that as far as he knew hadn't been done anywhere else especially in Cumberland County. They are trying to do this in an orderly manner and would satisfy all the requirements of the County, while trying to take care of the people in the park. We were talking about doing this in 90 days and doing it in two phases, it's come to the point that it will have to be done in six months, by State law. Mr. Averette went on to talk about sidewalks. He stated that he submitted a letter to Mike Bailey showing their position, which he forwarded to the Hope Mills Commissioners. At the commissioner's meeting Mr. Ed Byrne presented the request for waiver, which came as a surprise to Mr. Averette, none of the reasons for the request were presented at the meeting. The Mayor asked if the Hope Mills sidewalk was being extended to the Hope Mills Town limits and Mr. Byrne said it was, the mayor also asked if sidewalks were being placed on the bridge by DOT and Mr. Byrne said they were which is correct. Mr. Averette said he wanted to set the record straight and admitted to making a mistake when he presented the case at the last meeting as far as sidewalks were concerned. He said the sidewalks did not go to the town limits as he thought the town limit line was Little Rockfish Creek and the sidewalks were short of that, it goes to the town limits, but the town limits do not go to Little Rockfish Creek which would be the normal boundary, it's a good physical boundary for them to run the town limits to. The reason they didn't take it in, coming from Hope Mills Road towards the property is nothing but swamp after the town limits, so they didn't want to annex something that would not help them any. On the right hand side between the town limits and Mr. Dean's property is the same thing; it's a low area that cannot be developed. He also said that there were sidewalks that would not be on the bridges themselves, the

plans do not show that on there. But he did check with DOT and they are putting sidewalks on the bridges.

Mr. Averette went on to say that staff had this information that Mr. Byrne gave about the sidewalks and going across the bridge and going out to the town limits, why was it not brought out earlier? Mr. Averette stated his concerns about how Hope Mills Commissioner's were not made aware of the fact that the land between Mr. Dean's property and the bridge over Little Rockfish Creek was in the hundred year flood and a lot of it is in the floodway. The Hope Mills Commissioner that made the motion said when this property is developed they would have to add sidewalks then there would be a connection to Mr. Dean's property and Mr. Dean would be happy. That was his recommendation; it had nothing to do with our concerns about the sidewalks never being there.

Mr. Averette presented Exhibit 1, Statement of items they are asking for assistance with from the County. Mr. Averette stated that what they did at the last meeting was say that they can do the conversion in sections and that would be okay. But the problem he is having is that he can't get the plat recorded until he makes the improvements, he can't make the improvements without a permit, and he can't get the permit until the plat is recorded.

Mr. Lloyd said that Mr. Averette can do a guarantee of improvements, a bond, or an irrevocable letter of credit, like what has been used for 30 years. This is for the sidewalk.

Chair Epler asked Mr. Averette what improvements are hanging on this.

Mr. Averette said that he talked to Mr. Byrne about this and he said the improvements were mainly the landscaped area and the sidewalks, but there are a lot of other improvements on the map, one of them being a swimming pool.

Chair Epler stated that did not classify as an improvement required by the ordinance before the plat can be recorded. Chair Epler stated she believed the sidewalk was the main issue, at the last meeting they advised Mr. Averette that the landscaped buffer that is there now would suffice for the buffer requirement except.....

Mr. Averette said he was talking about the landscape buffer, not the landscape plan out on Camden Road. Landscape trees out on Camden Road, he had trees in there before but DOT has taken them out, he had shrubbery there. The problem with putting the landscaping plan in right now, DOT has a thirty foot construction easement behind the right-of-way Mr. Dean has already dedicated to them. They can't put landscaping in there, if they do DOT will tear it out, and this won't happen until 2012. This is why he is asking for help. If someone can make sure that staff doesn't think that because we said there is going to be a swimming pool in there and we have to put that in before we can get a plat, because that's part of the improvement. If he can be assured of that he won't have that much of a problem.

Chair Epler told Mr. Averette that the pool is not ordinance required, so that won't hold him up from recording his plat and asked Mr. Lloyd if she was correct.

Mr. Lloyd stated that she was correct. The guarantee that Mr. Averette has is in the record in this hearing that we can work with a CO (certificate of occupancy) on the buffer. He can submit a bond or irrevocable letter of credit for the sidewalk, if he constructs a sidewalk.

Chair Epler said that would help Mr. Averette in the sense that while the DOT is in there doing their work, as long as the County has that bond in force, they will let him continue to record his plat, work, pull permits, do whatever he needs to do as long as they have that bond in force. After the DOT comes in and does their improvements, if they put your sidewalk in then that part of his requirements will be fulfilled, if they don't at that time then he will have to put that sidewalk in, if that's how this board and the County Commissioner's carry this forward.

Mr. Averette said he understood what Chair Epler was saying, but he is concerned about whatever is on the site plan, those are the improvements he has to make. Mr. Averette went on to say that they would like the areas to be amended to four areas instead of two, because it makes it more manageable. It will be a cross and the main road going into the park would be the center cross and the power line would be the other and make it start at the office to make four areas. It's more manageable if there are less people in there. We agreed that we won't put any RV's in there until all the mobile homes in area 1 are gone and the same with the rest of the other areas.

Mr. McLaurin asked Mr. Averette what his time frame with dividing the sections into four instead of two areas.

Mr. Averette said he would have to do six months and would start with area 1 which is where the office will be, those people will have to be out in 30 days if possible but they don't have to move out for 6 months, Mr. Dean can't make them move out before that.

Mr. Turner asked if everyone would be out by December 31, 2011 at that rate.

Mr. Averette said he thought they would be able to do it by then. By State law they would have to be out by 6 months so in 12 months it will have to be clear. The only concern Mr. Averette has is that there are school children in the park and he would like to let them stay until June 2012. But he would be happy with December 2011 to give them time to clear the four areas.

Ms. Hall stated that at the last meeting they talked about the middle of 2011 and extended until the end of 2011, now Mr. Averett is suggesting going to into 2012.

Mr. Averette said that the way it was written, it's 6 months from the time to get area 1 and 6 months from the time of approval from the County Commissioner's and another 6 months for area 2 if you do it January 1 it will be December 31, that's what was approved.

Ms. Hall said that they spent a lot of time on that at the last meeting.

Mr. Averette asked if the Board wanted them to give the residents less time to move out.

Ms. Hall said that December 2011 would be 12 months. That's what was agreed on at the last meeting.

Mr. McLaurin asked when the road was supposed to be done.

Mr. Averette said sometime in 2012.

Mr. McLaurin asked Mr. Averette if he had a problem posting bond on the sidewalks.

Mr. Averette we would have to do that on the sidewalks. Mr. Averette stated he would like to enter into an agreement with Cumberland County's help with DOT and the contractor doing the sidewalks.

Chair Epler stated for clarification, if this board does not give you a waiver from the sidewalk and if the County Commissioner's do not give you a waiver from the sidewalk, we know what your intent is, to either put in the sidewalk after DOT does their work or to have the DOT contractor put it in. In the meantime, while DOT has that torn apart are you willing to either post a bond or a letter of credit to the County for that sidewalk?

Mr. Averette we could work that out, yes.

Mr. Moorefield said that the way things have been with the credit market for about a year now, it's nearly impossible to get a letter of credit, so that's probably not an option.

Mr. Lloyd said a certified check would be okay, that can be worked out.

Chair Epler said that she just wanted to make sure that Mr. Averette was willing to provide some kind of guarantee that that will be done.

Mr. Averette said that we don't want to put sidewalks in because of the reasons that we've given, but if we have to, if that's what is required by the County Commissioner's then we will put up something.

Mr. Lloyd reiterated that the whole MIA Agreement, the interlocal agreement, implicit in the 2030 plan in establishing MIA's, and stated that he wasn't trying to get anyone on the board upset, this board has the authority to grant a waiver when the town has already said that they are not going to waive it. We as a board here and the Commissioner's have said we're granting them this MIA in which the development standards will be met unless that Town Board grants the waiver. The Town Board voted last night not to grant the waiver.

Chair Epler asked if the Town board was told that the Department of Transportation has a project with plans in that area that would tear that sidewalk up if these people put it in.

Mr. Lloyd said that he couldn't say. If not then the answer would be that the applicant would have to go back to the board again and make it clear, but not this board.

Chair Epler said if DOT tears that sidewalk out when they come in to do their improvements to Camden Road are they responsible to put it back in?

Ms. Speicher said with an ongoing project DOT will not let them put a sidewalk in a position that where knowing it would just be torn out. If all else fails he could put it on his own property and do a public access easement to the Town of Hope Mills.

Mr. Moorefield said that Mr. Averette stated that DOT has a 30' construction easement beyond the driveway, if those are the facts he can't put that sidewalk in right now.

Chair Epler asked Mr. Lloyd if the statement he made about the board granting the waiver was directed at her.

Mr. Lloyd said it was directed to the entire board.

Chair Epler asked if he agrees to do the bond route or the certified check route, we have protected our integrity with the MIA status.

Mr. Lloyd said yes. The bond says that if he doesn't do it we will do it.

Mr. McLaurin said so that leaves us at the four areas and about six more months' time.

Mr. Averette said no more time than what has already given for two areas.

Mr. Moorefield said that the six month and one year on the two areas before, that is consistent with the state statute, by state law a mobile home park owner has got six months, it doesn't matter what kind of time limit he says he's going to give them, an individual mobile home owner has six months to move that mobile home, so he wanted the least amount of time possible. By law, the least amount of time we can give him is six months. I thought that we had accommodated him to the greatest extent possible by giving him six months for each section. If he hasn't given notice to the first section that he wants to move out before the Commissioner's meeting he's not going to be able to meet the six months anyway. If you're talking about expanding from two areas to four areas within the same time period, in order for him to stay in compliance with the State law we'd be talking about twenty four months. They could give everyone in the park notice tomorrow and that would start the six months running.

Mr. Lloyd reminded the board the reason for staff's denial was the intermingling of RV's with the stability of the neighborhood and talking to the staff, we were going to work with the applicant in that one year period, so if you're talking two years than you're still talking about mixing RV's with the manufactured home park. Speaking for the rest of the staff, the recommendation would be the same; we would be against that long of a period of intermingling.

Mr. Averette stated that in each area there would not be RV's and mobile homes in the areas at the same time. Before we can put an RV in we know we have to get the mobile homes out, and they have to be out of there in twelve months.

Chair Epler asked Mr. Averette about condition #38 which is dedication of right-of-way.

Mr. Averette said that DOT has already got right-of-way. There is nothing to be dedicated and there is nothing to be set aside.

Chair Epler asked if they had their 5' reservation.

Mr. Averette said this is for future widening of streets and this type of thing that we can't put on there, but DOT has already got whatever they want.

Chair Epler asked if the 15' of right-of-way that they're saying that the DOT needs to get, and needs to be recorded on a plat, has that 15' of right-of-way been dedicated and deeded to the DOT.

Mr. Averette said they took it.

Mr. Moorefield asked Mr. Averette if they posted money.

Mr. Averette said money has been posted but everything hasn't been finalized.

Chair Epler asked Mr. Lloyd if the DOT had to sign off on the plat before it could be recorded.

Mr. Lloyd said yes.

Chair Epler said that they wouldn't let the applicant record the plat until it's like they want it.

Mr. Averette said that was one of the conditions they would comply with.

Mr. McLaurin stated for clarification that Mr. Averette agreed to do the bond for the sidewalks.

Mr. Averette said, "or something similar to it."

Mr. McLaurin said that the only change Mr. Averette wanted was to do four sections instead of two.

Mr. Averette said that it would be a matter of record that he doesn't have to put in a swimming pool or office before he could get the plat recorded or before he could get the permit.

Chair Epler asked if that was in accordance with the ordinance.

Ms. Speicher said it was in accordance with the ordinance, but he does have to have the plat recorded to get the permit.

Mr. Averette pointed out that this was a no approval required plat, but before he can get the no approval plat approved, I've got to do certain things that's not required on a no approval plat.

Public hearing closed.

Chair Epler asked if the Conditional Use District and Permit needed to be voted on.

Mr. Lloyd said this was just permit related.

Mr. McLaurin asked if the applicant was just asking to not show the swimming pool on the plat.

Chair Epler said that he didn't want to have to put the swimming pool and the office in before he can record the plat or pull permits.

Mr. Lloyd stated that the only improvement is the sidewalk.

Mr. Moorefield asked for clarification that the swimming pool and office is not a permit condition.

Chair Epler said this was a Conditional Use District so its site specific which means it's on the site plan. So he has to develop it according to the site plan.

Mr. Moorefield said the ordinance requirements for recording the plat, that's clearly not a requirement.

Chair Epler said it's not an improvement as required by the ordinance for him to record his plat.

A motion was made by Mr. McLaurin and seconded by Vice-Chair Turner that the Joint Planning Board finds that this Conditional Use District Permit application if completed as proposed and subject to the conditions recommended by the Planning Board altered as agreed upon in Condition #11 to 4 quadrants instead of 2 in the same timeframe 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 as officially adopted by the Board of Commissioners. Unanimous approval.

IX. PUBLIC HEARING WAIVER REQUEST

- A. **CASE NO. 06-086.** CONSIDERATION OF THE CARGILL, INC. PROPERTY, REQUEST FOR ALTERNATE FRONT YARD SETBACK OF 20.3 FEET WHERE 100 FEET IS REQUIRED; COUNTY ZONING ORDINANCE, SECTION 1404 PLANNING BOARD CONSIDERATION OF SECTION 1104 DISTRICT DIMENSIONAL PROVISIONS; ZONING: M(P); TOTAL ACREAGE: 16.15+/-; LOCATED AT 1650 AND 1754 RIVER ROAD (SR 1714); SUBMITTED BY R. JOHN BIGELOW ON BEHALF OF CARGILL, INC (OWNER).

Mr. Lloyd stated that this was a request for a front yard setback of 20.3 feet where 100 feet are required. This shelter is legal non-conforming as of somewhere around 1979.

Chair Epler asked if the applicants have and maintain a landscape buffer along Underwood Road.

Ms. Speicher stated that they don't, but at the time that Cargill was constructed we didn't have landscape standards.

Chair Epler asked if the waiver is granted and they request permits to put these structures there, will they be required to put a landscape buffer?

Ms. Speicher said for the building that they are proposing only, not for the entire site. That was an amendment last year by the County Commissioner's.

Ms. Speicher advised the board that condition 1E addresses landscaping.

Mr. Joshua Small spoke in favor (Chair Epler swore in Mr. Small). Mr. Small addressed the buffer issue and stated that there is a line of trees there that were put up a number of years ago. None of the structures discussed will impact those; they won't be on the plant side of those trees. Mr. Small stated the reasons for the waiver, one, they have a number of different structures on the site that are within the 100' barrier, secondly, it's a more

logical development for the site. There are actually temporary modular offices to allow them to have more; they have outgrown the existing offices.

Public hearing closed.

Chair Epler asked what temporary means.

Ms. Speicher stated that the reason for the review is because temporary by the zoning ordinance is 30 days and this is longer than 30 days.

Chair Epler said they have agreed and it will be a condition that after 3 years these will be moved or.....

Ms. Speicher stated that it hadn't been addressed; it has been treated as a permanent structure.

Chair Epler said if we approve this waiver they can stay there forever.

Mr. Lloyd said yes.

Vice-Chair Turner asked if there were any way to make a stipulation that would be mandatory that they would have to move it in a 3 year period.

Mr. Lloyd said he didn't think that could be done.

Mr. Moorefield said that since it's a waiver we don't have any parameters on how we make waivers.

Mrs. Piland made a motion to approve the request, seconded by Mr. Pearce, that the Joint Planning Board for the County of Cumberland having held a public hearing to consider the waiver request for Case No. 06-086 requesting alternate front yard setback of 20.3 ft where 100 feet is required, based on unusual physical conditions including the structures currently on the property and the fact that the waiver would allow for more logical development on the property. Unanimous approval.

- B. CASE NO. 10-087. CONSIDERATION OF THE BAYWOOD POINT SUBDIVISION, REQUEST FOR A WAIVER FOR STREET RIGHTS-OF-WAY WIDTH, CONCRETE CURBS & GUTTERS AND SIDEWALKS; COUNTY SUBDIVISION ORDINANCE, SECTION 2302.A MUNICIPAL INFLUENCE AREAS, INCLUDING EXHIBIT 5 - MIA DEVELOPMENT STANDARDS; ZONING: RR; TOTAL ACREAGE: 16.70+/-; LOCATED AT THE SOUTHWEST INTERSECTION OF SR 1831 (BAYWOOD ROAD) AND NC HWY 24; SUBMITTED BY WESLEY MEREDITH ON BEHALF OF BAYWOOD POINT, LLC (OWNER). (FAYETTEVILLE MIA/COUNTY JURISDICTION)**

Mr. Lloyd stated that the applicant, Wesley Meredith is asking for a waiver from curb & gutter requirements, sidewalks, and street rights-of-way, he is asking for 45' as opposed to 50 ft. The City Council voted to grant the waiver for curb & gutter, they voted to grant the waiver for sidewalks, but recommended denial of the waiver for the 45' instead of the required 50'.

There was no one present to speak in favor or opposition.

Vice-Chair Turner made a motion to follow the City of Fayetteville's action on this case, seconded by Mrs. Piland. The motion passed with Mr. McLaurin voting in opposition.

X. DISCUSSION

- Mr. Lloyd said that it is up to the towns to waiver, this board shouldn't have to hear waiver requests in the MIA's. It is really up to the municipalities as to whether they are granted or not. They shouldn't have to come back to this board after the town board's have already said yes or no.
- Mr. Lloyd will start handing out monthly what the sections of the Planning Department are currently working on.

XI. FOR YOUR INFORMATION

DIRECTORS UPDATE

XII. ADJOURNMENT

There being no further business, the meeting adjourned at 8:40 p.m.