

Clifton McNeill, Jr.
Chair
Cumberland County

Charles C. Morris, Vice-Chair
Town of Linden
David Averette,
Dr. Marion Gillis-Olion
Roy Turner
Cumberland County



COUNTY of CUMBERLAND

Joint Planning Board

TENTATIVE AGENDA
September 7, 2004

Nancy Roy, AICP
Director
Thomas J. Lloyd,
Deputy Director

Joe W. Mullinax,
Town of Spring Lake
Donovan McLaurin,
Wade, Falcon & Godwin
Vacant,
Town of Stedman

- I. INVOCATION AND PLEDGE OF ALLEGIANCE
- II. APPROVAL OF/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 AUGUST 17, 2004
- VII. PUBLIC HEARING ITEMS
 - A. P04-52: REZONING OF 1.02 ACRES FROM RR TO C1/CU OR A MORE RESTRICTIVE ZONING DISTRICT AND A CONDITIONAL USE OVERLAY DISTRICT AND PERMIT FOR A CONVENIENCE STORE, AT 6576 US HIGHWAY 301 SOUTH, SUBMITTED BY YOUNGER S. WOOD.
- VIII. DISCUSSION
 - A. PRESENTATION OF DRAFT ZONING ORDINANCE REWRITE—DAVID AVERETTE
- IX. FOR YOUR INFORMATION
 - A. DIRECTOR'S UPDATE
- X. ADJOURNMENT

Clifton McNeill, Jr.
Chair
Cumberland County



Nancy Roy, AICP
Director
Thomas J. Lloyd,
Deputy Director

Charles C. Morris, Vice-Chair
Town of Linden
David Averette,
Dr. Marion Gillis-Olion
Roy Turner
Cumberland County

Joe W. Mullinax,
Town of Spring Lake
Donovan McLaurin,
Wade, Falcon & Godwin
Vacant
Town of Stedman

COUNTY of CUMBERLAND

Joint Planning Board

MINUTES
August 17, 2004

Members Present

Mr. Clifton McNeill, Chair
Mr. Charles Morris, Vice-Chair
Mr. David Averette
Dr. Marion Gillis-Olion
Mr. Donovan McLaurin
Mr. Joe W. Mullinax
Mr. Roy Turner

Members Absent

Vacant, Stedman Rep

Others Present

Ms. Nancy Roy, Director
Mr. Tom Lloyd, Dep. Dir.
Ms. Donna McFayden
Ms. Barbara Swilley

Mr. Grainger Barrett,
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was delivered by Mr. Averette, and Chair McNeill led those present in the Pledge of Allegiance.

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

A motion was made by Mr. Averette and seconded by Mr. Morris to approve the Agenda as printed. The motion passed unanimously. Dr. Olion was not present for the vote.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board members.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the Board's policy regarding public hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF JULY 20, 2004

A motion was made by Mr. Turner and seconded by Mr. Mullinax to approve the Minutes of July 20, 2004 as submitted. The motion passed unanimously.

REZONING CASES

- A. P04-53: REZONING OF 2.27 ACRES FROM R6A TO C(P), OR A MORE RESTRICTIVE ZONING DISTRICT, AT 2625 GILLESPIE STREET, OWNED BY MANILAL P. PATEL.

The Planning staff recommended approval of the C(P) Planned Commercial District based on the finding that the uses allowed in the C(P) District are compatible with the land use and development in the area.

The Planning staff found that the subject property is also suitable for the C1 District.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Averette and seconded by Mr. Mullinax to follow the staff recommendations and approve the C(P) Planned Commercial District. The motion passed unanimously.

- B. P04-55: REZONING OF 1.02 ACRES FROM C3 TO R6, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 715 WEST MOUNTAIN DRIVE, OWNED BY JAMES AND CYNTHIA MCDUFFIE.

The Planning staff recommended approval of the R6 Residential District based on the finding that the 2010 Land Use Plan calls for medium-density residential development at this location.

The Planning staff found that the subject property is also suitable for the R6A Residential District.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Averette and seconded by Mr. Mullinax to follow the staff recommendations and approve the R6 Residential District. The motion passed unanimously.

- C. P04-57: REZONING OF .96 ACRES FROM C(P) TO R6A, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 2591 CUMBERLAND CREEK DRIVE, SUBMITTED BY JULIAN T. MANN, JR.

The Planning staff recommended approval of the R6A Residential District based on the fact that the 2010 Land Use Plan calls for medium-density residential development at this location.

The Planning staff found that the subject property is also suitable for the R6 Residential and O&I Office and Institutional Districts.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Averette and seconded by Mr. Mullinax to follow the staff recommendations and approve the R6A Residential District. The motion passed unanimously.

VII. PUBLIC HEARING ITEMS

- A. P04-23: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW A CONVENIENCE STORE, CAR WASH, MINI-WAREHOUSING AND OUTDOOR STORAGE ON 5.91 ACRES IN AN A1 DISTRICT AT 3125 CHICKEN FOOT ROAD, SUBMITTED BY ROBERT M. BENNETT.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

The Planning staff recommended approval of the Conditional Use Overlay Permit for all uses except outdoor storage based on the findings that 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 2010 Land Use and Thoroughfare Plans.

The Planning staff found that outdoor storage could substantially injure the value of adjoining or abutting property and is not in harmony with the area in which it is to be located.

The following conditions were recommended by staff:

1. An opaque vegetative six-foot buffer around the perimeter of the proposed fence as shown on the site plan (except the gate) is required. The six-foot height is to be reached within three years.
2. All lighting is to be directed inward and away from surrounding properties.
3. One sign per establishment is allowed, not to exceed 50-square feet. The signs are to meet the locational criteria allowed in the C1 Local Business District.
4. The hours of operation are to be 6:00 a.m. until 12:00 midnight, Monday through Saturday and 12:00 noon until 10:00 p.m. on Sunday.
5. Maximum number of employees is to be eight.
6. Nineteen parking spaces will be provided with one loading space.

The public hearing was opened.

Mr. Robert Bennett, engineer, appeared before the Board and said that he understood the conditions; however, would like consideration to allow the outside storage for boats and recreational vehicles. He said the outside storage would not be detrimental to the neighborhood because the applicant owns the property to the rear, and the area will be buffered from the neighboring properties. He said that no junk vehicles would be stored on the site. Mr. Bennett also asked that a sign be allowed for each business. Mr. Lloyd said that the staff recommended separate signs for each establishment.

Mr. Roger Shah, owner of the subject property, appeared before the Board and said that the clients who would use the mini-storage would like to store boats or recreational vehicles when they go overseas for lengthy periods of time.

Chair McNeill asked if there were water problems. Mr. Bennett said that the site was checked, and a sewage septic system is okay for the site. Chair McNeill said that he was more concerned about the water that collects in the road at the intersection. Mr. Bennett said that water from the site would drain to the rear on Mr. Shah's adjoining property.

The public hearing was closed.

Chair McNeill said that he was concerned because there appears to be nowhere for excess water to drain, and it stands in the road. Mr. Bennett said that the State owns the roads and will have to approve the curb cuts and address the standing water.

Vice-Chair Morris said that he doesn't like overlays. He said if mini-storage is desired, there is a district that allows it.

Chair McNeill said that approval of the request would introduce commercial on the front of a 40-acre tract and also would not work toward farmland preservation. He said that there is a convenience store one mile from the site and other commercial uses about three miles away.

Mr. Averette said that the convenience store is allowed under the current zoning. He said that the mini-warehouses are not allowed in the current zoning and are allowed in the manufacturing districts.

A motion was made by Mr. McLaurin and seconded by Mr. Averette to follow the staff recommendations and approve the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

Dr. Olion asked about outside storage, and Mr. Barrett explained that it is addressed in the Conditional Use Overlay Permit.

Upon a vote on the motion, it failed three to four with Dr. Olion and Messrs. Averette and McLaurin voting in favor and Chair McNeill, Vice-Chair Morris and Messrs. Mullinax and Turner voting in opposition.

A motion was made by Chair McNeill and seconded by Vice-Chair Morris to deny the Conditional Use Overlay District.

Mr. Averette asked if the findings should be listed in the motion. Mr. Barrett said that was only necessary for approval of the permit.

Upon a vote on the motion, it passed four to three with Chair McNeill, Vice-Chair Morris and Messrs. Mullinax and Turner voting in favor and Dr. Olion and Messrs. Averette and McLaurin voting in opposition.

- B. P04-54: REZONING OF FOUR PARCELS TOTALLING 149.01 ACRES FROM A1 TO R10, OR A MORE RESTRICTIVE ZONING DISTRICT, SOUTH OF UNDERWOOD ROAD, EAST OF RIVER ROAD, SUBMITTED BY JOHN KOENIG.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the R10 Residential District and approval of the R20 Residential District based on the following:

1. Water and sewer are proposed to be available to the site; and
2. With the onset of sewer, this area is suitable for higher density development.

Note: The Eastover Land Use Plan recommended one-acre lots for this tract; however, the availability of sewer was not taken into account when the Plan was approved.

The Planning staff found that the subject property is also suitable for the R40, R40A and RR Residential Districts.

The public hearing was opened.

Mr. John Koenig, applicant, appeared before the Board and said he intends to build a quality development on the site with homes at least as large as those in the neighborhood. He said that he will build them himself and not allow outside builders. Mr. Koenig explained that the site is not suitable for development without utilities, and he would bring them to the site. He said that the development will include 3,000 square foot homes with double-car garages, concrete curbs, sidewalks on both sides of the streets and storm drainage for the entire subdivision. He said that there would be no septic tanks or open ditches. Mr. Koenig said that the higher density is requested in order to build enough homes to afford all of the items listed above. He said that he plans an orderly development and does not want to see manufactured homes on the site.

Mr. Richard Wiggins, attorney for John Koenig Developments, appeared before the Board and explained the traffic patterns for the development with ingress and egress along Underwood and Middle Roads. He said that the property has no particular use at the present time and has a very low tax base. He said that the development of 233 homes should generate about \$1,000,000 per year to the tax base. He said that Mr. Koenig has a reputation throughout the County for quality development. Mr. Wiggins added that this type of development is needed in the area.

Vice-Chair Morris asked if they intended to put 233 homes in an R10 District, and Mr. Wiggins said that they agreed to the R20 District.

Mr. Jimmy Kizer, engineer with Moorman, Kizer and Reitzel, appeared before the Board and said that extensive wetland surveys have already been performed and soils identified. He said that there is not a lot of drainage because the area is flat, so Mr. Koenig plans to put detention storage on the site. He said that there would not be an increase in the discharge when the development is completed. Mr. Kizer said that there is an existing canal, a main drainage point, serving Eastover at the present time, but it is not very effective because of the flat land.

Chair McNeill asked if PWC would provide the water and sewer. Mr. Kizer said that Falcon, Godwin and Wade have a provider (Norcross), and there is concern that there wouldn't be enough capacity with the current lift station. He said that PWC would eventually have to upgrade the system and increase capacity to help the entire area. He said that Mr. Koenig is considering proposed development in the area as well as the impact of Highway 13.

Mr. Morgan Johnson, Vice-Chair of the Eastover Sanitary District (ESD), appeared before the Board to discuss the current utilities in the area. He said that other representatives of the ESD Board would have attended, but they had a meeting at the same time. Mr. Johnson said that there are two issues he wanted to clarify for the Board. The first is utility support. He said that PWC is doing some work in the area, but utilities in the ESD are not owned by PWC. He said that the ESD Board has the authority to tax and zone, but they don't want to do either. He said that he has not looked at Mr. Koenig's proposal to see the volume of utilities needed. Mr. Johnson said that Norcross is a separate project, but their main goes through the ESD. He said that the ESD Board can use their main if they need capacity (through an interlocal agreement). He added that the ESD Board owns 60 percent of the line and can purchase capacity. He said that the Board is not opposed to development, but they would prefer that the Planning Board delay voting on the project until their civil engineers can review it. Mr. Johnson's second issue was as elected officials of the ESD, the Board members felt they must voice the concerns of their constituency. He said that the citizens of Eastover want to maintain an upbeat and upscale community and keep the rural character of the area. He said that the subject area is proposed for limited development, and the citizenry supports one house per acre. Mr. Johnson concluded that his two concerns are utilities and density.

Chair McNeill said that the staff is recommending one-half acre lots. Mr. Johnson said that one-half acre lots aren't conducive to a rural atmosphere, and the residents want one-acre lots so as not to lose the rural setting. He said that the residents want further development that is controlled by the residents—not developers.

Ms. Liz Reeser appeared before the Board in opposition and said that she served on the Eastover Citizen Committee that assisted with the development of the Eastover Land Use Plan. She said that she lives on Middle Road at the bottom of the hill. She said there is a drainage ditch on the north side of her property, there is a great deal of runoff in the area, and it has flooded as much as six inches. Ms. Reeser said that she had grave concerns about drainage as well as density.

Ms. Kim Fisher appeared before the Board in opposition and said that she lives in Eastover, and it is a great place to raise a family. She said that there are good schools and a rural lifestyle. She said that growth must be controlled in order to maintain the character of the community. She said that the number of homes proposed would create problems for the schools, and she questioned whether parks would be included. She said that the development would bring about 200 new students to the schools that are already at capacity. She asked if the tax base would increase enough to maintain the roads, build new schools and guaranty the continued safety of the residents.

Mr. Lawrence Buffaloe appeared before the Board in opposition and said that he lives in Eastover and wants to protect and preserve the rural farm area. He said that the area is zoned mostly A1 with some RR and R40. He said that the Eastover Land Use Plan approved in 1999 recommends low-density development on the site, and that's what the residents want to maintain. He commended Mr. Koenig for his plan, but said that the residents want to keep the area rural with one-acre lots. Mr. Buffaloe submitted a petition with signatures in opposition to the request.

Mr. Tom Grubb appeared before the Board in opposition and said that the Board will be confronted with development requests for this area from now on because this is a prime part of the County. He said that the Board members are caretakers of the land. Mr. Grubb said that he attended planning meetings for Eastover, which resulted in a plan for one-acre lots for this area, and the Board should consider the recommendations of the citizen group. He added that just because the land can generate tax money isn't a reason to approve the rezoning, and the beauty of the land can't be bought back. Mr. Grubb said that one-acre lots follow the wishes of the community.

In rebuttal, Mr. Wiggins said that one-acre lots are a wonderful concept, but much too costly for a planned community and economically unfeasible. He said that a development without sidewalks or curbs and using septic tanks would be feasible on one-acre lots. Mr. Wiggins said that Mr. Koenig's proposal would be one and three-fourths homes per acre, an upscale development with concerns for the community and ecology. He added that 20 homes per year would be built, so the schools and infrastructure could assimilate this in an orderly manner.

Mr. McLaurin said that most quality developments are on golf courses or contain a lot of green space. He asked Mr. Koenig if children would have a place to play in this development. In response, he was told that Mr. Koenig has given a lot of land for soccer fields, playgrounds and fire stations and has a history of promoting open space. Mr. Koenig said that he put in a soccer field and gave another 17 acres for park property to the community in one of his developments. He said with 150 acres and 233 homes, there will be ample open space. He said that he didn't have a site plan at this stage. Mr. Koenig added that he met with PWC and the ESD was never mentioned. He said that this meeting was the first he heard of the utility, and he wants to do what is right. He said that he is proposing a quality project that will only increase the property values of the surrounding landowners.

Mr. McLaurin said he was interested in areas for children to play—not necessarily organized play like soccer fields. He asked what size lot Mr. Koenig's son lives on in Eastover. Mr. Koenig, Jr. said that his lot is 2.1 acres. He then asked Mr. Koenig what size his lot is, and he said that he lives on a 78-acre farm.

Mr. Barrett said that he reviewed the interlocal agreement between PWC and ESD, and PWC provides sewer, but Eastover has the option to own the capacity.

Mr. Claude Capps was recognized for a question. He said that he owns property that joins the subject property, and it is a rural area with one-acre lots. He said that the residents want restrictions on the type of homes allowed to control double wide mobile homes, etc. He added that more schools are also needed.

Chair McNeill asked if Mr. Koenig needed to meet with the ESD folks. Mr. Kizer said that there appeared to be a turf war between PWC and ESD. He said from a sanitary sewer perspective, the development would tie directly into the PWC lift station, so sewer wouldn't impact the ESD capacity in any way.

Mr. Barrett said that there is an assertion by the ESD that they have a right to the customers, and this is a separate issue from capacity.

Mr. Ken Koskinen was recognized for a question. He asked what would be offered for support for schools, fire or police.

The public hearing was closed.

Mr. Averette said that the A1 District allows many other uses that the other residential districts don't allow, and lot sizes are an issue. He said that a zero lot line development eliminates lot size requirements, so the R40 District could contain one-fourth acre lots. He said that the issue is all about density, and this is an agricultural area that is surrounded by agricultural land that he was concerned about preserving.

Chair McNeill said that the petitioner has agreed to the R20 District, so this is what the Board should consider.

Mr. McLaurin said that he agreed with preserving the agricultural land, and he added that more time may be needed for Mr. Koenig to meet with the residents of Eastover.

A motion was made by Mr. McLaurin and seconded by Mr. Turner to defer action on this case for 180 days in order for the petitioner to meet with the residents of Eastover and the ESD.

Mr. Averette added that the staff and Board are working on changes to the Ordinance that may serve the petitioner.

Chair McNeill asked Mr. Koenig if a 180-day delay would suit him. Mr. Koenig said that 90 days would be enough time for him to meet with the residents and do whatever else was needed. He said that he doesn't need R10 zoning, but R40 wouldn't allow him to provide the needed infrastructure.

Mr. Averette asked if 90 days was enough time to implement the recommended changes to the Ordinance. Ms. Roy said that the Zoning Ordinance rewrite couldn't be implemented without a rewrite of the Subdivision Ordinance to address the new proposals in the Zoning Ordinance.

Chair McNeill explained the process for adopting the new Zoning Ordinance and its applicability to this project.

Mr. Barrett explained that the new Ordinance contains a concept that would allow greater density in turn for preserving green space in the natural state.

Vice-Chair Morris said that he respected the motion, but he was concerned about deferring a case on the chance that the Ordinance would be adopted. Chair McNeill said that there are other considerations in the motion.

Mr. Averette said that possibly deferring for 90 days might be better, and then if an additional 90 days was needed, it could be deferred again.

Mr. McLaurin said that time is needed to make sure that the best possible development is built on the land.

Upon a vote on the motion to defer the case until February 15, 2005, it passed unanimously.

C. P04-56: REZONING OF 1.64 ACRES FROM A1 TO RR, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 1542 CLIFTON MCNEIL ROAD, OWNED BY GERALD N. MINNICH.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the RR Rural Residential District and approval of the R40A Residential District based on the following:

1. The 2010 Land Use Plan calls for low-density residential development at this location;
2. The uses allowed in the R40A District are compatible with the land use and development in the area; and
3. Rezoning to the R40A District will allow a second structure as a group development, but will not allow the creation of a second lot.

The Planning staff found that the subject property is also suitable for the R40 Residential District.

The public hearing was opened.

Mr. Gerald Minnich appeared before the Board and said that he purchased the land and built a home. He said that there are 200 feet on the side of his home that lend nicely to a second lot, and the site perks for a second septic tank and well. He said across from him 2,000 homes are proposed to be developed on one-fourth acre lots. Mr. Minnich said that there are two mobile homes across from his property, but he would like to build a second stick-built home.

Chair McNeill pointed out that the staff recommended the R40A District, which allows mobile homes. Mr. Minnich said that he wouldn't want a mobile home and preferred the R40 District.

Mr. Barrett said that Mr. Minnich wants two lots, but doesn't have enough acreage for two R40 lots, so he requested RR, which would allow three lots.

Mr. McLaurin asked Mr. Minnich if he wanted two dwellings on 1.64 acres, and Mr. Minnich said that he did. Mr. McLaurin asked if there is a creek on the lot, and Mr.

Minnich said that there is. Mr. McLaurin said that two dwellings would require two wells and septic tanks, and the land is low. Mr. Minnich said that the land drains to the rear. He added that he was told he'd need RR in order to get the two lots.

Ms. Mary Jo Canady appeared before the Board in opposition. She said that many of her questions had been answered. She said that the neighbors didn't want the R40A District because it allows mobile homes. She said that the deed [restrictive covenants] doesn't allow mobile homes, so she didn't understand why R40A was recommended. She asked if the R40A would nullify the deed. Mr. Barrett said that it would not, but it would have to be enforced privately. Ms. Canady said that most of the neighbors have two-acre lots with one home, and Mr. Minnich has only 1.6 acres, and he wants two homes. She said that the main concern of the neighbors was the R40A District.

Mr. Lloyd pointed out that manufactured homes are allowed in the A1 District as the property is presently zoned. Mr. Barrett said that the restrictive covenants would have to be enforced by going through the courts. He said that the County doesn't recognize restrictive covenants.

In rebuttal, Mr. Minnich asked in order to ease the residents' minds if it would be possible for the Board to restrict the land so that manufactured homes could not be built. Chair McNeill said that the Board could not do that, but they could approve R40, which does not allow manufactured homes. Mr. Lloyd pointed out that RR would be needed to have two lots. He said that the R40 would allow two homes, but only one lot.

Mr. Turner asked how large a parcel Mr. Minnich intended to have for each home. Mr. Minnich said that the lots would be about equal at .81 and .83 of an acre each.

The public hearing was closed.

Mr. Averette said that the issue is density. He said that the 2010 Land Use Plan calls for low density—R10 to R40. He said that the uses aren't as compatible with the A1 as is the RR. He said that the RR, R20 or R30 should be considered because of the allowed uses. He added that there are mobile homes all around the property. Mr. Averette said that he preferred the R20 District.

A motion was made by Mr. Averette to deny the RR District and approve the R20 District. The motion died for lack of a second.

Chair McNeill expressed concern about safety because the property is located on a severe curve in the road. He said that Celebration Drive has 200 plus home sites to be built and additional school traffic that will make this an even more hazardous area. He said that adding any more driveways would only add to the problem.

Mr. Lloyd said that the reason that the staff recommended a group development was not to add to the traffic hazard. He said that adding another home, but not allowing an additional lot may mean an extra curb cut wouldn't be needed.

Mr. Averette said that the problem is not this lot and an extra curb cut, but the fact that Celebration Drive is to intersect with this road, and that should not have been allowed.

Mr. McLaurin agreed that the extra driveway isn't the problem, and Celebration Drive is. He said that his concern was that the land is wet, and adding the second well and septic tank could create additional problems for the applicant.

A motion was made by Mr. McLaurin and seconded by Mr. Turner to deny the request.

Mr. Averette said Mr. Minnich has built a nice home, and there is more than sufficient land for two wells and two septic tanks.

Mr. Lloyd said that he wasn't sure where Celebration Drive is to be brought in because the plat has not been finalized. Chair McNeill said if it joins Clifton McNeill Road, there is only a small area where it could be joined. Mr. Averette said it may not cut in at all.

Mr. McLaurin said that there is still a good deal of wetland on a small lot. He said if the County park is built where it is proposed, more traffic will be added to the area and probably require that the road be widened. He said if Clifton McNeill Road is widened, it would cut into Mr. Minnich's septic area and create even more problems for him.

Vice-Chair Morris asked if the R30 District would allow two lots. Mr. Lloyd said that it would. Vice-Chair Morris said that two lots would satisfy the request.

A substitute motion was offered by Vice-Chair Morris and seconded by Mr. Averette to deny the RR District and approve the R30 District.

Mr. McLaurin said if they widen the road, Mr. Minnich can't make more land, and the back is wet.

Upon a vote on the substitute motion, it failed three to four with Vice-Chair Morris, Dr. Olion and Mr. Averette voting in favor and Chair McNeill and Messrs. McLaurin, Mullinax and Turner voting in opposition.

Mr. Averette said if the land is rezoned and works with two houses, then widening the road will require compensation for taking Mr. Minnich's land. He said that this Board shouldn't make him sit in limbo, and the members should be concerned about the best use for the property.

Mr. McLaurin withdrew his motion. Mr. Turner agreed.

A motion was made by Mr. McLaurin to defer action on the case for 90 days in order for Mr. Minnich to get a soil evaluation to see if the property could support two wells and two septic tanks.

Mr. Barrett said that the Health Department has already approved the site for a second well and septic tank.

Mr. McLaurin withdrew his motion.

A motion was made by Chair McNeill and seconded by Mr. McLaurin to deny the request and leave the property zoned A1. The motion failed three to four with Chair McNeill and Messrs McLaurin and Turner voting in favor and Vice-Chair Morris, Dr. Olion and Messrs. Averette and Mullinax voting in opposition.

A motion was made by Mr. McLaurin and seconded by Mr. Mullinax to deny the RR District and approve the R40 District.

Mr. Averette said that this rezoning doesn't give the petitioner the opportunity to have two lots.

Upon a vote on the motion, it passed four to three with Dr. Olion and Messrs. McLaurin, Mullinax and Turner voting in favor and Chair McNeill, Vice-Chair Morris and Mr. Averette voting in opposition.

VIII. DISCUSSION

A. REPORT FROM LAND USE CODES COMMITTEE—DAVID AVERETTE

Mr. Averette reported that at the last meeting, the members agreed to meet when the last draft was finished. He scheduled a meeting of the Land Use Codes Committee for September 7, 2004 at 5:00 p.m. to review the corrected draft of the County Zoning Ordinance prior to taking it before the full Board that evening.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Ms. Roy reported that the following dates have been scheduled for meetings:

- August 31, 2004 joint meeting with City of Fayetteville and Town of Hope Mills – City Hall at 7:00 p.m.
- September 7, 2004 Land Use Codes Committee presentation of Zoning Ordinance proposal to the full Planning Board – Historic Courthouse at 7:00 p.m.
- September 20, 2004 joint work session with County Commissioners to review the proposed Zoning Ordinance – New Courthouse at 5:30 p.m.
- September 21, 2004 public hearing for the proposed Zoning Ordinance – Historic Courthouse at 7:00 p.m.

Mr. Lloyd said that Mr. Reitzel called him and said that he and Mr. Kizer had some questions and/or suggestions for the Zoning Ordinance proposal. Mr. Averette said that they would be invited to the Land Use Codes Committee meeting on September 7 to receive their input.

Ms. Roy said that the Commissioners sent a case back to the Planning Board to consider a Conditional Use Overlay District. She said it would be scheduled for hearing on September 7, 2004.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:50 p.m.

Clifton McNeill, Jr.
Chair
Cumberland County

Charles C. Morris, Vice-Chair
Town of Linden
David Averette,
Dr. Marion Gillis-Olison
Roy Turner
Cumberland County



COUNTY of CUMBERLAND

Planning and Inspections Department

Nancy Roy, AICP
Director
Thomas J. Lloyd,
Deputy Director

Joe W. Mullinax,
Town of Spring Lake
Donovan McLaurin,
Wade, Falcon & Godwin
Vacant
Town of Stedman

September 2, 2004

MEMO TO: PLANNING BOARD
FROM: PLANNING STAFF
SUBJECT: STAFF RECOMMENDATIONS FOR
SEPTEMBER 7, 2004 MEETING

P04-52: REZONING OF 1.02 ACRES FROM RR TO C1/CU OR A MORE RESTRICTIVE ZONING DISTRICT AND A CONDITIONAL USE OVERLAY DISTRICT AND PERMIT FOR A CONVENIENCE STORE AND RESTAURANT AT 6576 US HIGHWAY 301 SOUTH, SUBMITTED BY YOUNGER S. WOOD.

The Planning staff recommends approval of the C1 Local Business District based on the site following the purpose and intent statement of the C1 District, which states that the district is designed to cater to the ordinary shopping needs of the immediate neighborhood with an emphasis on convenience goods, adjacent to an arterial street and generally surrounded by residential areas.

The Planning staff recommends approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

The Planning staff recommends approval of the Conditional Use Overlay Permit based on the findings that 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 2010 Land Use and Thoroughfare Plans.

The Planning staff recommends the following conditions be added to the Conditional Use Overlay Permit:

1. The tract is to be buffered on each side from 15 feet from the road right-of-way to the rear and the entire rear of the property; and
2. One 50-square foot sign per establishment is allowed.

SITE PROFILE

P04-52

REZONING OF 1.02 ACRES FROM RR TO C1/CU OR TO A MORE RESTRICTIVE ZONING DISTRICT AND A CONDITIONAL USE OVERLAY DISTRICT AND PERMIT FOR A CONVENIENCE STORE AND RESTAURANT, AT 6576 US HIGHWAY 301 SOUTH, SUBMITTED BY YOUNGER S. WOOD.

Applicant/Owner: YOUNGER S. WOOD

Area: 1.02 acres

Frontage & Location: 200 feet on US Highway 301 South

Depth: 171 feet

Jurisdiction: County

Adjacent Property: No

Current Use: Commercial

Initial Zoning: February 3, 1977 (Area 3)

Previous Zoning Action(s): None

Surrounding Zoning: Primarily RR with CD and A1 to the southeast

Surrounding Land Use: Church, vacant commercial buildings (2), thrift store, single wide

2010 Land Use Plan: Low Density Residential

Designated 100-Year Floodplain or Floodway: No Flood

Within Area Considered for Annexation: No

Street Designation: None

Proposed Interchange or Activity Node: No

Urban Services Area: Yes

Water/Sewer Availability: Well / Septic Tank

Schools, Capacity/Enrollment: Galberry Farms Elementary 901/930, South View Middle 743/947, Grays Creek High 1000/824

Thoroughfare Plan: US 301 South is identified as a Major Thoroughfare. It has a current adequate 100-foot right-of-way. Road improvements are not included in the 04-10 MTIP.

Average Daily Traffic Count (2000): 8,000 on US Highway 301 South

Notes:

1. Hours of operation: Monday thru Sunday, 24 hours a day.
2. Employees: 5
3. Drive will be paved after gas tanks are placed in the ground.
4. Signage IAW the Zoning Ordinance.

APPLICATION FOR
CONDITIONAL USE OVERLAY DISTRICT

1. Proposed uses(s):

- A. List the uses proposed for the Conditional Use Overlay District. (Use of the underlying district will continue to be legal, unless otherwise restricted.)

To open Convenience Store to
SALE Miscellaneous Goods, and Future
CAS SALES.

- B. Justification in terms of need and benefit to the community. Include a statement regarding how the uses will be compatible. The community is in need of a convenience store. We will supply jobs for the community, revenue for the community, and we will stop two buildings from being abandoned.

- C. Density: (If the project is to include residential units, state the number of dwelling units proposed for the project and the gross number of acres to be used.)

N/A

2. Dimensional Requirements:

- A. Reference either the dimensional requirements of district as shown in Section 7.3 or list proposed setbacks.

Same as

- B. Off-street parking and loading.

see site plan

3. Sign Requirements:

A. Reference district sign regulations proposed from Section 9.4.

CI ~~regulations~~ ~~regulations~~ regulations

ATTACHED SIGNS
PROPOSED

B. List any variance proposed from those regulations.

4. Miscellaneous:

Set forth other information regarding the proposed use(s), such as days and hours of operation, number of employees, exterior lighting, and noise, odor and smoke emission controls, etc., which are considered to determine whether the proposed use of the property will be compatible with surrounding areas and uses allowed therein.

Monday Thru Sunday
24 hrs.

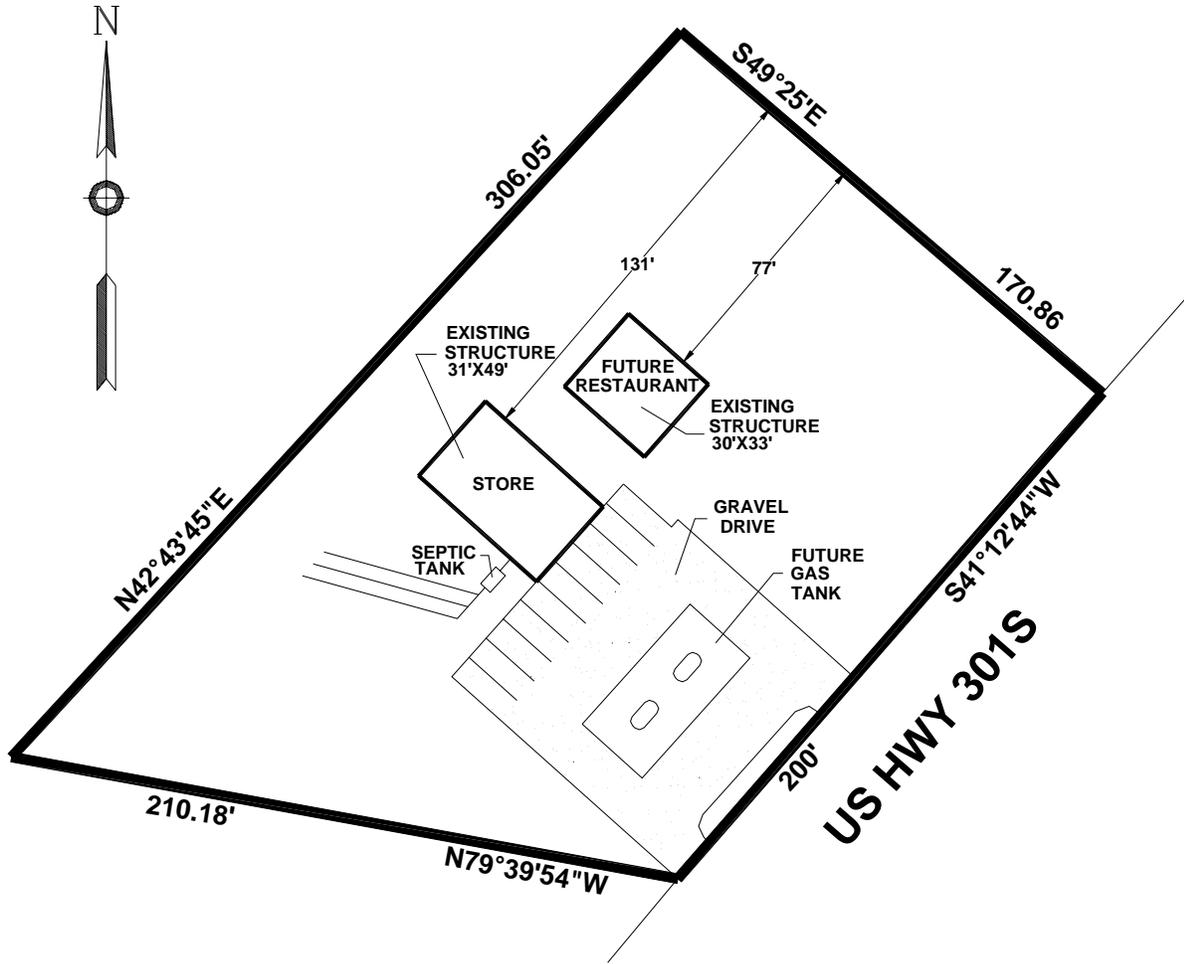
5 employees

5. Site Plan Requirements:

Attach a site plan drawn to scale. If the proposed uses involve development subject to Cumberland County subdivision regulations, the site plan required hereunder may be general in nature, showing a generalized street pattern, if applicable and the location of proposed structures. If the proposed uses involve development not subject to subdivision regulations, the site plan shall include sufficient detail to allow the Planning Department and Planning Board to analyze the proposed use(s) and arrangement of use(s) on the site. Outline all buildings to be placed on the site, the proposed number of stories, the location and number of off-street parking spaces, proposed points of access to existing streets and internal circulation patterns, and the location of all proposed buffers and fences.

6. Acknowledgement:

It is understood and agreed that upon review by the Planning Board and action by the Board of Commissioners, the uses proposed in the petition may be modified and conditions and limitations placed upon them to insure compatibility of the uses with land use plans, studies or policies and/or existing uses in the surrounding area or community.



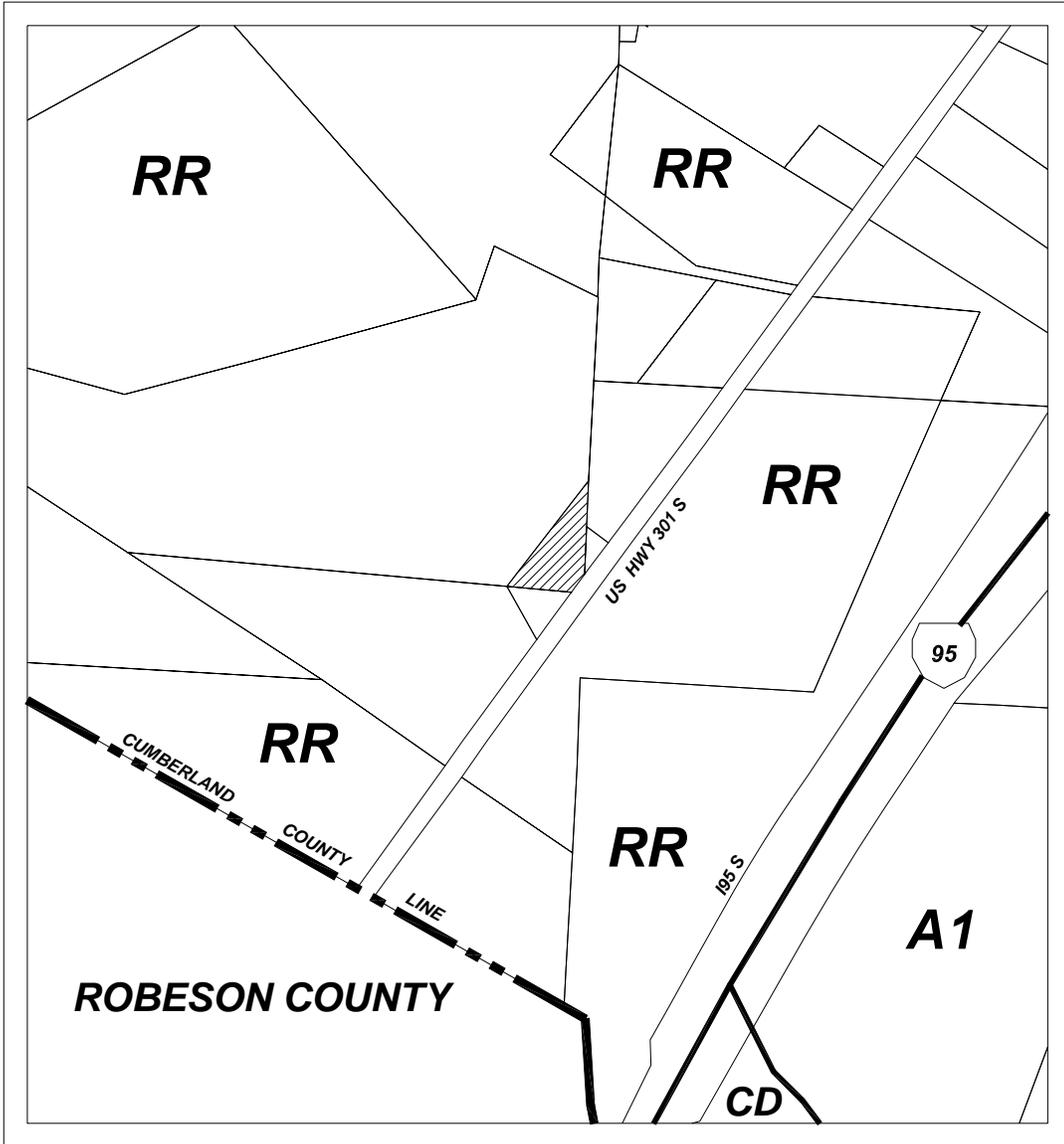
CONDITIONAL USE OVERLAY

REQUEST: CONVENIENCE STORE

CASE: P04-52 SCALE: 1"=50"

ACREAGE: 1.02± ZONED: RR

PARKING: 10 SPACES SHOWN



NORTH



SCALE IN FEET

**REQUESTED REZONING:
RR TO C1/CU**

ACREAGE: 1.02 AC.±

HEARING NO: P04-52

ORDINANCE: COUNTY

HEARING DATE

ACTION

PLANNING BOARD

GOVERNING BOARD

PIN: 0412-34-4846

AF