

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

MINUTES
October 20, 2022
6:00 PM

Members Present

GREGORY PARKS, CHAIR
LINDA AMOS, VICE-CHAIR
MARVA LUCAS-MOORE
ROBERT DAVIS

Absent Members

KENNETH TURNER- ALT
VICKIE MULLINS

Staff/Others Present

DAVID MOON
LATASHA JOHNSON
ROBERT HASTY (ASST
COUNTY ATTORNEY)
CHRIS PORTMAN
SABRINA GREER

Alternate Members in Attendance

GARY SILVERMAN-ALT

Chair Parks called the meeting to order at 6:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

1. INVOCATION

Robert Davis read the invocation.

PLEDGE OF ALLEGIANCE

Recited by all.

Chair Parks stated the procedural matters are to turn off all cell phones or to place them on silent. Chair Parks requested to limit time per speaker to 5 minutes. If any Board member wishes to speak, please ask to be recognized by the Chair.

2. ROLL CALL

Mr. Moon called the roll. Mr. Moon made note of the absence of Mrs. Vickie Mullins and Mr. Kenneth Turner. Mr. Moon stated we do have a quorum.

SWEAR IN OF STAFF

David Moon announced the swearing in of new Board of Adjustment alternate member, Gary Silverman. Charlene Lee, with the Central Permitting Division of Planning and Inspections, a notary public, commenced the swear in procedure of Gary Silverman in accordance with requirements of stature.

Chair Parks swore in staff Christopher Portman, Sabrina Greer and David Moon.

3. ADJUSTMENTS TO THE AGENDA

There were none.

4. APPROVAL OF THE AUGUST 18, 2022, MINUTES

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Mrs. Marva Lucas-Moore made a motion to approve the minutes from the August 18, 2022, meeting as written, seconded by Mrs. Linda Amos. The motion was passed unanimously.

CHAIR PARKS:

All in favor say Aye/All opposed?

	IN FAVOR
PARKS	YES
AMOS	YES
LUCAS-MOORE	YES
DAVIS	YES
SILVERMAN	YES

5. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

6. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

7. POLICY STATEMENT REGARDING APPEAL PROCESS:

Mr. Moon read the policy statement.

8. PUBLIC HEARING(S)

Chair Parks read:

MOD-0019-22: Modification to Special Use Permit Case P01-07-C and associated Site Plan, to expand floor area of a daycare business and adding parking on 0.92 +/- acres in an R10 zoning district, located at 4820 Camden Road and an abutting parcel; submitted by George Rose (applicant) on behalf of Angela and William Wright (owner).

DAVID MOON:

Chair and Board, Chris Portman, Planner with Current Planning will be presenting the case for staff this evening.

CHRIS PORTMAN:

Thank you, David. My name is Chris Portman, I'm with the Current Planning Department. This property is located within the Southwestern portion of the County, just outside Hope Mills Town limits. Agent George Rose on Behalf of Angela and William Wright request to modify a Special Use Permit from number P01 to 07C to increase the site area, building floor area, and parking area for an existing day care facility. On March 15, 2001, the Board of Adjustments approved this Special Use Permit, P01-07, to allow a daycare facility on .073 acres. Per section 403 in the County Ordinance use matrix a daycare facility within this R7.5 zoning district requires a Special Use Permit. This is located within R10 which is now dormant and defaults to R7.5. As you can tell the surrounding zonings are R10, you have some CP on the Southwestern portion as well as some RR to the East. This is the subject property illustrating the existing daycare facility that was currently on a property with the two buildings that were approved. This is the Special Use Permit that was approved back in 2001 associated with case P01-07-C. It shows the existing building and garage comprising of 4,050 ft² total. It also shows the amount of parking spaces provided at the time. This is a comparison of the existing Special Use Permit site plan as well as the proposed modifications to that existing plan. They're wanting to increase the land use covered by the Special Use from 0.73 acres to a total of .92. They want to increase the floor area of the buildings from the two buildings with the combined 4,050 sq ft. to approximately 3 buildings with 5,600 sq ft. They want to increase the number of parking spaces from 12 to 18 as well as install a new septic tank and drain field located behind the new building. This is the most

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recent site plan that was submitted. This is the modification site plan, it shows the new proposed facility in the eastern portion of the property, additional parking spaces being provided out front as well as a septic tank being proposed on the corner of Midland Court. Per section 906, day care facilities, for them to be located within a residential area or agricultural zoning district they need to have a minimum lot size of 20,000 sq ft. Their front yard setback needs to be 30 ft from any public or private street. Their rear yard setback is 35 ft, and their side is 20 ft. Anything on a corner lot should have a minimum of 30 ft from both streets. The subject property must abut and have direct access to a major or minor thoroughfare. This property is located at the corner of Owen and Camden Rd. Day care facilities in the zoning districts other than residential shall comply with the district's dimensional provisions and requirements. Two off street parking spaces plus one-off street parking space for each employee shall be proposed. There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any off-street parking. All children play area shall be enclosed with at least a four-foot-high fence.

DAVID MOON:

Mr. Portman, based on staff's review of the proposed modification to the Special Use Permit site plan, does it comply with section 906: Day Care Facilities?

CHRIS PORTMAN:

I believe it does. The lot size is greater than 20,000 sq ft. It follows all front yard, rear yard, and side yard setbacks as proposed. It looks like it is complying with the residential district dimensional requirements. The parking is provided as well as sufficient driveways. In order to make a motion this is the section you have to base your findings of facts off of. Per section 1606 C. Special Use Permits: The first one is the use will not materially endanger the public health or safety if located according to the plans submitted and recommended. Staff finds that this does not endanger the public health or safety. Two, the use meets all required conditions and specifications per the site plan submitted. It does appear to meet all of the classifications. Three, the use will maintain or enhance the value of adjoining or abutting properties or that the use is a public necessity. Staff cannot make that recommendation. Four, the location and character of the use if developed according to the plan as submitted and recommended will be in harmony with the area in which it is to be located and in general conformity with the Cumberland County's most recent comprehensive land use plan. It does follow land use plans. As you can tell, this is an aerial image of some surrounding residential neighborhoods, some wooded lands to the South, and then the commercial property to the West. No hydric or hydric inclusion soils are present on the property. There is a water line running along Camden Rd but no sewer so a septic permit will have to be acquired before installation. This does fall within the Southwest Cumberland County land use plan which calls for low density residential.

DAVID MOON:

The proposed use is consistent with the future land use plan.

CHRIS PORTMAN:

This is the subject property of the two existing structures that were approved per the 2001 Special Use Permit. This is the abutting property to the East in which they are wanting to expand their day care facility onto. This is the northeast view looking on Camden Rd on the opposite side of the property. And this is on the property looking across the street southeast. And this is the southwest view looking on Camden Rd going toward Owen Dr. That concludes my presentation, but the applicant is here to speak on his behalf.

CHAIR PARKS:

Mr. Rose.

GEORGE ROSE:

Good evening, my name is.

CHAIR PARKS:

Before we begin, I need to swear you in.

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GEORGE ROSE:

Ok.

CHAIR PARKS:

Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?

GEORGE ROSE:

I do. George Rose, 1206 Longleaf Dr here in Fayetteville. I'm the engineer for the applicant Angela and William Wright. Let me just say the owner is trying to meet a community need by expanding her current day care facility. We're proposing an additional 1600 sq ft building, we're meeting all of the setbacks and buffer requirements and all the things we're required under the ordinance. I do have written responses to each of the various criteria that Chris just listed which I can read my responses if that's appropriate for me to do. If you need me to do that, I have it here in front of me. David, is that something I need to do?

DAVID MOON:

It's submitted as part of the staff report as exhibit "I", so it's already part of the record for the hearing.

GEORGE ROSE:

Ok. Really, that was all I was going to present but I'm available for questions.

GARY SILVERMAN:

In your letter, Mr. Rose, on October 12th where you addressed criteria number three which the use will maintain or enhance the value of adjoining or abutting properties or that the use is a public necessity. Your response talks about the continuation of the existing property but it doesn't mention anything about maintaining or enhancing the value of adjoining or abutting properties which I assume are properties that have in the area so could you comment on that? Whereas your answer didn't address the criteria.

GEORGE ROSE:

Ok. I'm not exactly sure, exactly, what you're looking for. It is a new building. The facility that's there now an older facility. It will provide new construction, new parking facilities, additional parking facilities and again, it does meet a community need. The day care business is expanding. There are neighborhoods nearby that need and want that service. Again, we've met all the fencing and buffer requirements to protect the surrounding residential neighborhoods. And I think the fact that no one is here to speak in opposition, speaks to the fact that it is supported by the local community.

DAVID MOON:

Mr. Rose, all the buildings are one story, correct?

GEORGE ROSE:

That's right.

DAVID MOON:

There will not be a second or third floor overlooking residential yards or into the residential homes?

CHAIR PARKS:

Mr. Rose is it a stick-built building or metal built.

GEORGE ROSE:

Its stick built.

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CHAIR PARKS:

What else you got David? It looks like we got all the information.

DAVID MOON:

The staff has completed its presentation and the applicant has completed their presentation. You would ask if there is anyone else that wants to speak. There is no one else that has signed up to speak.

CHAIR PARKS:

Anybody in the audience speaking against this particular Special Use Permit?

DAVID MOON:

Then you would close the public hearing and the Board would make a motion.

CHAIR PARKS

It's my understanding they met all the facts that we need to do, and the only stipulation is that they need another septic tank when they do this.

DAVID MOON:

Correct, there are conditions of approval that associate with this Special Use Permit. Many were carried over with the approval of the first Special Use; with this modification there are some adjustments to those conditions. Your motion this evening, if you find that it meets those four criteria, would include the site plan and the conditions of approval.

MARVA LUCAS-MOORE:

I'll make a motion to approve the Special Use case MOD-0019-22 with the following conditions. Number one, stated Exhibit C. Do I need to state them all?

DAVID MOON:

On that, page three of the staff report there's the findings of facts. So, your motion will need to address all four special use criteria.

MARVA LUCAS-MOORE:

Okay.

DAVID MOON:

So, based on the information presented to the board this evening and your motion is to approve, you would be basing that on staff's report. And the applicant's response to these four special use criteria.

MARVA LUCAS-MOORE:

Yes, that's correct. So, do you want me to repeat that?

ROBERT HASTY:

You can; Exhibit I set forth. The applicant set forth his criteria. If you agree with those then you can incorporate or say I incorporate Exhibit I into the motion.

MARVA LUCAS-MOORE:

I want to incorporate Exhibit I into the motion. And the staff has presented their findings and the applicant's response that we're all we're in agreement to what's been presented tonight, by staff and the respondent.

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DAVID MOON:

So, the motion would be to approve Special Use Permit MOD-0019-2022, finding that those four special use criteria are satisfied by the applicant's response presented in Exhibit I and by the staff report, subject to the special use permit, site plan and the conditions of approval.

MARVA LUCAS-MOORE:

Correct.

DAVID MOON:

That's the motion.

CHAIR PARKS

Do I have a second?

LINDA AMOS

Second.

CHAIR PARKS

All in favor, Aye/All opposed. It Carries.

Marva Lucas-Moore made a motion to approve the special use permit MOD-0019-22, seconded by Linda Amos. The motion was passed unanimously.

	IN FAVOR
PARKS	YES
AMOS	YES
LUCAS-MOORE	YES
DAVIS	YES
SILVERMAN	YES

Chair Parks read:

WSD-0080-22: Watershed Protection-High Density Area Permit and Site Plan for the Eagle Bluff residential subdivision located in the Town of Wade, East of Main Street and north of Wade Stedman Road, comprising four parcels covering a total of 26.73 +/- acres; submitted by William Wellons, Jr. (applicant) on behalf of Laketree Inc.

DAVID MOON

Would you like staff to commence the presentation?

CHAIR PARKS

Sure.

DAVID MOON

Very good. David Moon, Deputy Director of Planning Inspections. I'll be presenting this case on behalf of staff. The applicant is present, and just in case I miss it, at the end of the presentation, there are two people that would like to speak in favor and one in opposition. So, I'll begin my presentation. This application, WSD-008-22, is for a watershed high density development plan and permit. About 1992-93, the Board of County Commission adopted a watershed protection and supply ordinance. Its intent was to protect the water quality and water quantity that was flowing into the

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groundwater system and the river and lake system within Cumberland County. There are particular areas of the County that were more sensitive and supporting the water percolation water flow. Those are designated as watershed protection areas. This property is reviewing tonight. The subdivision plan is located within the town of Waves. It is located within a watershed protection area. And you'll see a map of the boundaries of the watershed protection area shortly. This is the subject site. It contains 26.73 acres. The owner applicant is Scott Brown, and the request is for a watershed protection high density permit.

CHAIR PARKS

In here it says the owner is William S. Wellons Jr.

DAVID MOON:

We'll make that correction then. Got the owner's, Lake Tree Incorporated. And the representative is William S. Wellens. There's an air on the slideshow. This site is located between Main Street and the Wade Steadman roads. In June of 2021, the town of Wade approved a preliminary subdivision plan for 74 residential lots. Prior to submitting the final plat for recording, they were required to submit an application for a watershed protection permit. And the reason for that, as shown on this map here the star identifying the location of the property there on the right side of the map. The property is located within a watershed protection area, and thus they have to satisfy the conditions of the watershed protection ordinance. What does this mean? The watershed protection ordinance. Basically, it requires that a property, when it's developed, have a maximum no more than 24% of the site area covered with development, meaning impervious area in the ordinance called a built-up area. So, when all the buildings, swimming pools, sidewalks and driveways are constructed, no more than 24% of the land area should be impervious built up. However, if a plan proposes to have greater than 24%, then it falls under a high-density site plan requirement. That is the application before the board this evening. The subdivision plan called Eagles Bluff has 28 98% of the land area covered with impervious area proposed to be covered. Under a high-density site plan that typically requires a stormwater plan with stormwater control features. The residential lots are assigned a maximum buildup area per lot, meaning the house and the driveway they can't go above a certain land area of the lot. In terms of coverage, there's a requirement that the stormwater control features have to be maintained and there must be a maintenance plan in place, and it's required to have this watershed protection high density permit and site plan which you see tonight. And then there are conditions approval that if approved, the development of the site must comply with those conditions. The 74-lot subdivision is located in area that is zoned R 15 and R six A within the town of Wade. The question you may have is, why is the Board of adjustment reviewing a watershed high density site plan in the town of Way? There was a resolution adopted by the border County Commission and the city commission, town Commission for Wade that assigned responsibility the review for the watershed permit applications by the Board of Adjustments for the County. So, you're assigned that responsibility. The property is located in an area that generally has good soils. There aren't any substantial hydric soils or hydric inclusion soils. There may be a small area at the northwest corner that has some hydric soils, but the majority of the soils in the property meet the development standards. There is water and sewer lines that are close to the property making it feasible for the connection to water and sewer. Based on the way the land use plan, this proposed residential subdivision is consistent with the future land use plan and its policies. This is a view of the subject site. This is a view along Wade Stedman Road looking the south view of Wade Stedman Road. This is the west view of Wade Stedman Road. Again, this is the subject property, the southwest view, the northwest view, and this is a church abutting to the south of the subject site. In terms of character, the surrounding area primarily single family residential or farmlands or woodlands.

GARY SILVERMAN

Is the blue, is that the Cape Fear River?

CHAIR PARKS

Yes, sir. I'll take us back to what's called the watershed high density site plan. On this site plan, you'll see stormwater retention ponds located at the northeast edge of the property and at the southwest corner of the property. The original

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plan approved by the town did not have stormwater features within it to comply with the high-density requirements of the watershed ordinance. The project engineer designed this site to comply with those standards at your dais the table in front of you is a certified letter from the project engineer stating that this project meets the requirements of the watershed ordinance for design and engineering purposes. There are also conditions of approval that are part of the watershed permit that you would approve this tonight if you find in compliance with the ordinance. As I mentioned earlier, one of the requirements is the maintenance of those stormwater ponds. The homeowner's association will be responsible for maintaining the stormwater control features according to the requirements of the watershed protection ordinance. And the conditions of approval contain a statement that they are responsible, that will be included in the HOA docs, that they are responsible for maintaining the ponds and that the maintenance must meet certain standards. I won't get into the detail, but it's included as the conditions of approval. Now staff was contacted by the town of Wade. This is a project of interest to them. They approved the original subdivision plan. The stormwater features caused changes to the plans. Staff considers that a planning staff here at the county consider that a substantial change to the original approval. Thus, the applicant, the developer will have to return to the town of Wade to approve the modified preliminary subdivision plan. In other words, the preliminary subdivision plan; the approved preliminary subdivision plan must be modified to be consistent with the watershed high density site plan.

CHAIR PARKS

So, if we approve this, it's got to be back away from them to approve it?

DAVID MOON:

The watershed protection permit will be considered approved. They'll need to modify the preliminary subdivision plan;

CHAIR PARKS

Which they've done.

DAVID MOON

To make it consistent with this site plan you see on the screen. Take that back to the town for their approval. One of the concerns the town has raised is that there are performance bonds and liability insurance that are placed on those bonds to assure that they're completed, they're constructed completely, and they're maintained. Town of Wade has the authority to require those maintenance bonds at the time of the review of the modified subdivision plan. So, we do not, staff did not include conditions for the bonding and the conditions of approval because we believe that the County and the Board does not have authority to approve bonds to protect the maintenance and design and construction of the ponds. Thus, the condition set forth on the condition of approval sheet states that prior to recording a plat for this project, the modified preliminary subdivision plan must be approved by the town of Wade.

CHAIR PARKS

My only question is it sounds like it's backwards. It sounds like to me that they should have all that information and then bring it to us and let us approve or disapprove. I'm just making a comment. I'm just following what you're saying.

DAVID MOON

It's a common routine in development business in North Carolina and other places. Other stages of development require the department environmental quality to review the plan. The Department of transportation has to review it for the public roads. They may require changes of the plan that then have to come back to county staff to review those revisions and then take it back to the town of Wade. So, this is just part of the review process.

CHAIR PARKS

I understand.

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DAVID MOON

In summary, based on the letter submitted by the engineer, the certified letter qualifying that the plan complies with the design and engineering requirements of the watershed protection ordinance. Based on staff review of their application, we feel that it meets the intent of the watershed protection ordinance. Your motion would tonight include, if it's a motion to improve, to approve the watershed protection site plan and the conditions of approval. That completes my presentation. I'll address any questions that you may have, and then the applicant would be next to speak, Chair.

CHAIR PARKS

Bring up the applicant.

DAVID MOON:

Here's Jeff Nobles.

CHAIR PARKS

Good evening, Mr. Nobles. Raise your right hand. You swear to help truth, the whole truth, and nothing but truth, so help you God?

JEFF NOBLES

I do.

CHAIR PARKS

Thank you. State your name and address.

JEFF NOBLES

Sure thing. Good evening. My name is Jeff Nobles. I work with Larry King and Associates. We're the engineers for the project. You'll hear from Kenneth Smith Jr. As well. He's working for us as a consultant on the project as well. Mr. Wellons is out of town. He couldn't make the night. He asked us if we'd be coming in his place. First of all, I just want to reiterate or expand on a little bit of this discussion about when these plans are submitted. It's not uncommon for us to submit a site plan with extra lots, knowing that down the road we'll have to pull some of those lots back to fit stormwater ponds and things like that and adjust. Mr. Moon hit the nail in the head. We go through reviews with multiple agencies. Things change on a weekly basis, and so we kind of address these things as we can as we go along and let everybody else know about the process. Also, from a stormwater standpoint, we're not only bound to the water supply watershed ordinance, we're also bound to phase two stormwater requirements which follow similar guidelines, similar requirements for the stormwater. We're required to treat the first one inch of runoff off the development based on a development that's limited impervious area, which we have each lot limited to, I believe, 3,000 sq ft of impervious area for lots, which is not a lot. It's about enough to get a house and a driveway on. It's not allowed. I mean, it's not given a lot of area for patios and other kind of outbuildings and things like that. But we have to go through reviews, and I mentioned this in the letter that you have in front of you. We have to go through reviews with the state they review those stormwater ponds and the calculations and the requirements for those much more in depth than you would, or the town of Wade would, or Cumberland County would. So, we have to meet those certain requirements that are very similar, if not exactly the same, as what the water spa watershed ordinance requires. As far as the bonding, that's not an uncommon thing, but we deal with that with multiple jurisdictions around the state and the owner developers prepared to take care of those bonds at the time that they're required. So that's all I have. If you've got any questions for me, I don't know if you can hear from Kenneth first. We can both answer questions if we need to. Kenneth was more involved in the direct design of it. I'm kind of overseeing some of the sites. Thank you.

DAVID MOON

Kenneth Smith.

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CHAIR PARKS

Kenneth Smith, can you raise your right hand? Do you swear to tell the truth the whole truth and nothing but the truth so help you God?

KENNETH SMITH

Yes sir

CHAIR PARKS

State your name and your address.

KENNETH SMITH

Kenneth Smith Jr. 121 Dolittle Dr Linden, North Carolina.

CHAIR PARKS

Thank you.

KENNETH SMITH

So, to kind of expand upon what Mr. Nobles touched on, this isn't a watershed, of course, but the other aspect that we probably need to look at here is that you're not going for a traditional low-density design within watershed. Low density, normally, does not require stormwater control measures. That being said, you would not be technically treating just that first one inch. This one would be a high-density design with two stormwater control measures. You would be treating that runoff in two different ponds. The intent here is to not only try to control the water quality, but the quantity as well. The ponds have been sized in a manner as such that you don't overwhelm any of the adjoining neighbors. If you were going below density, it's technically going to be instantly released, if that makes sense. With these ponds, you're looking to try to release it over a two-to-five-day drawdown period for the one-inch water quality volume. That being said, once you get past the one in ten years storms, they're meant to try to prorate this such that you don't overwhelm anybody adjacent to you with more impervious area. You're also only going to expand between the low density and high-density threshold by five additional percent, if that makes sense, from 24% to 29%. If you guys have any other questions, I'd be happy to try to elaborate on that.

GARY SILVERMAN

Are you part of the firm?

KENNETH SMITH

I'm assisting them. Yes, sir.

CHAIR PARKS

Any other questions for Mr. Smith? Thank you.

KENNETH SMITH

Yes, sir, thank you.

DAVID MOON

Chair, I received a letter from the Town of Wade's attorney that I'm going to enter into the record. And the letter basically states that the town of Wade would want to review the revisions to the approved preliminary subdivision plan that is revised to comply with the watershed protection permit. And I am just notifying the applicant that at that point they will require a surety bond and adequate liability insurance. So, I will give this letter to our meeting clerk, to put into the record. We have one speaker in opposition to the project, to this application, and that is Huell Aekins.

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CHAIR PARKS:

Mr. Aekins, can you raise your right hand please? Do you swear to tell the truth, the whole truth and nothing but the truth, so help you, God?

HUELL AEKINS:

Yes, sir.

CHAIR PARKS

State your name and address.

HUELL AEKINS:

My name is Huell Aekins, 7188 Bowden St Wade, NC.

CHAIR PARKS

Yes, sir.

HUELL AEKINS

I am a lifetime resident of Wade. Hope to be there another 20 years. I have read through this information and if some have been explained and have heard about what this would take place, what homeowners would do, and my question is that I'm not against progress and this sounds like progress, but at the same time, I have property adjacent, this property in back. And I've heard the word pond, and I've seen many ponds. And they either do two things when you're on the low side, they either overflow or they dry up and it's an eye sore either way. When I go back to my property with my sons, grandsons, we see now what we have seen before. Any homes are there is land that's been there for years, will always be. So now it's getting ready to change the word pond. I don't want to go back there and be looking at a pond. With the future none of us in this room know what's going to happen, but it's going to be a pond and eyes is going to view it. It'll be me and my family and the people that's living in the homes, they own the property will see it also. Ain't no telling what liable to be dumped in it. None of us know, but they always got a way of putting stuff where it shouldn't be because it's not mine. Mr. Wellons will probably not live in either one of these homes. And I've been known in that family for a long time, for years. We just want whatever is done in Wade should be done right. There are other properties there where we got grants. In '86 I was a board member, became a former Mayor, and there was ditches. And you can see signs of them now that people worked hard, cleaned them up, but over the years they drew up. But it's drainage there now. When I look at the proposal and I've been told it's going to be closed up, that drained that property, even help drain where it is not even shown on the plats from other streets, run into that drainage line. But my thing is I don't like the idea of a pond that I'm going to have to look at. Don't know what my family is going to do later on, two boys and three, grandsons, don't know what they allowed to do. But I don't want to sit in a situation where they all have to come down here and be told you can't do this and you can't do that. If you, do it, do it right. That's for anyone. My last thing is we all in Cumberland County and I got property, and this doesn't pertain to you all. That where someone buys stuff and haul it out to Wade and it's nothing, but an eye sore ought not to be. I thank you and wish that you would not deny it and just delay it until further view.

CHAIR PARKS

Thank you very much. I appreciate your opinion. Mr. Moon, anything else?

DAVID MOON

That completes the list of those wishing to speak this evening.

GARY SILVERMAN

I have a question, Mr. Moon.

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

DAVID MOON

Yes, sir.

GARY SILVERMAN

In your packet, in the staff report here, it says the staff finds the site plan is consistent with the watershed protection ordinance and the subject of conditions approval as part of the staff process to determine that the site plan is consistent. Do you look at the effects on adjacent and abutting properties within that process?

DAVID MOON

Here we focus on whether the proposed development complies with the requirements and standards of the watershed protection ordinance. The compatibility issue that you're referring to is more of an issue that comes up with special use permits or rezoning applications. So, we're looking at the proposed development and whether it complies with the watershed protection standards. That reference means that staff, based on the information presented to us and the certified letter from the attorney, that this plan meets those standards.

CHAIR PARKS

All right, I'm going to close the public hearing on this case. The engineers have done what we're supposed to do, to do the high-density situation.

ROBERT DAVIS

When the engineer designed those two ponds, do they take into consideration any kind of boundaries that kids can fall into.

KENNETH SMITH

Around those ponds will be fences.

ROBERT DAVIS

So, this will be in the plan?

CHAIR PARKS

I assume, Mr. Smith, am I correct in that?

DAVID MOON

Could you come to the podium, Mr. Smith?

KENNETH SMITH

To address your concerns. Essentially, when County planning approves a site plan, that is one of the conditions normally for any stormwater control measure that they do prefer fencing to be around these stormwater control measures ponds essentially adjoining.

ROBERT DAVIS

Adjoined to a wooded area?

KENNETH SMITH

Which one are you talking about exactly?

ROBERT DAVIS

Either the north or the south. Which one or you, north or the south pond?

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County Manager

Tracy Jackson
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KENNETH SMITH

The north side. The north side is the one up top, but yes, sir. The intent there would be to fence it in. And I believe the northern boundary is a field up there.

CHAIR PARKS

Is that correct, sir? Field? Agriculture field?

KENNETH SMITH

Correct.

CHAIR PARKS

Okay.

ROBERT DAVIS

Ok, so it'll be fenced in around it.

KENNETH SMITH

Yes, sir. It'll be fenced around the pond.

ROBERT DAVIS

Above eyesight? Unless you're up two or three stories? In other words, walking around, driving, you won't be able to see into the fence or get into it to get into the pond?

KENNETH SMITH

Yes, sir. I believe County planning requires a four-foot fence typically, Mr. Moon, is that correct?

DAVID MOON

Yes, but it also may depend on the slope on the edge of the stormwater pond. But this will go to the town of Wade, and it'll follow their standards. So, at the time of the modified preliminary subdivision plan, they'll take that into consideration as well as the design of the pond, meaning it's shaped at the boundaries of the pond.

CHAIR PARKS

That's correct. Basically, that's correct.

ROBERT DAVIS

We vote on whether or not it changes from the 24% to the high-density permit and all the requirements being met? That's what we're voting on?

CHAIR PARKS

That's correct and looks like they've done everything, and now they're going to go back to the Town of Wade for them to give the proper stamp on. Which, and I'm not going to beat this dead horse but do you Rob, do you think that Wade should handle everything that's brought up to us?

ROBERT HASTY

That's probably a best practice.

GARY SILVERMAN

I have one more issue.

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CHAIR PARKS

Ok, do you want to ask Mr. Smith something?

GARY SILVERMAN

I don't know if he might be able to answer, but it's in the conditions here, and it's been mentioned here. Now, ponds as a stormwater and permanent structure, the success of the pond depends upon the maintenance of it. And it says here, the homeowners' association shall be responsible for maintenance updates of stormwater control structures and facilities. I've had some experience with homeowners' associations. The issue is homeowners' association, forgive me if you already know this already, frequently don't carry out what they're supposed to do. They assess annual dues to the individual lot owners, and sometimes they can't even collect from the lot owners. And membership in the homeowner's association are usually supposed to be written into the titles and real estate documents with a lot of home purchases. But I know this personally, that homeowners' associations, many times cannot even collect sufficient dues to do even minimal upkeep of common areas. So, my question is, I'm not sure who's the right person to even address this at this point. Is it in the condition here. But who would be responsible for ensuring that the homeowners association can actually take on this responsibility?

CHAIR PARKS

Well, that's not your call. Okay. That's not your call. The homeowners' association is going to be in charge of it. If there's a violation, then the city of Wade needs to sue the homeowners' association to handle the problem.

GARY SILVERMAN

Yeah.

CHAIR PARKS

So that's the way they're going to handle that if the homeowners' association does not perform the work. That's what I would say in that area. And I agree with you. I know all about HOAs. I know all about them. So that's what will happen in that case. Yes, sir. Mr. Smith. Yes, sir.

KENNETH SMITH

To address that concern, I do realize HOAs might not always be the most responsible, but that being said, the North Carolina Department of Environmental Quality normally does assessments on all these stormwater control measures. If they find it not to be in compliance, they will typically write what's called a notice of violation to the entity that owns and operates and maintains said stormwater control measure. That being said, the notice of violation can come in the form of hefty fines. So, yes, somebody will hold the HOA responsible for that. Now, some HOAs do choose to opt to let a management company take care of those things, but that's outside, I guess, of the scope of tonight's watershed permit, so to speak. I can't really speak to what will happen potentially with the HOA in their actions.

GARY SILVERMAN

No, I understand. It's just too far down the line to address.

DAVID MOON

There are no further questions.

CHAIR PARKS

Have I got anybody else that wants to speak? All right.

DAVID MOON

Chair you would officially need to close the public hearing.

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

CHAIR PARKS

I'm officially closing the public hearing.

DAVID MOON

Chair, the board would consider whether they find the application site plan that was presented to you consistent with the watershed protection ordinance. So, if you, that is, the board chooses to find it consistent with the watershed protection ordinance, your motion would be to approve the watershed protection permit WSD-0080-2022, its conditions of approval, and the high-density watershed development site plan. And find the permit and site plan consistent with the watershed protection ordinance, based on the staff report and the supporting documents provided by the owner's professional engineer, which include that certified letter presented this evening.

CHAIR PARKS

All right, I can't make a motion.

LINDA AMOS

I will make a motion

CHAIR PARKS

Let me say something right now, David. The jargon that you use and whatnot to be official, Mr. Attorney, how can we, when David lists everything? I'm just trying to make it easier that we're up here kind of floundering around to be able to use the correct word. You follow me? Think about that in the future on how we can make that a little plainer, a little easier.

ROBERT HASTY

I think staff did put the sample motion in writing.

CHAIR PARKS

Oh, they did; and where might that be?

ROBERT HASTY

The third page of the staff report at the bottom under motion.

CHAIR PARKS

Okay, well, we want to get it correct. Here we go. Thank you very much. Do you all do that every time?

DAVID MOON

Based on the complexity of the watershed protection ordinance, I felt it was appropriate to provide a motion statement that you could follow. You'd follow the same statement if you would choose to deny the application by putting the word not in front of approval or the word denial.

LINDA AMOS

Yes, I would like to make a motion to approve the watershed protection permit WSD-0080-22, its conditions of approval and a high-density watershed development site plan and find the permit and site plan consistent with a worksheet protection ordinance based on the staff report and the reporting documents provided by the owners' professional engineers.

CHAIR PARKS

No special events? That's good.

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

ROBERT DAVIS

Second the motion.

CHAIR PARKS

We have a second on that motion. All in favor, Aye. All opposed? It passes.

Mrs. Linda Amos made a motion to approve the special use permit WSD-0080-22, seconded by Mr. Robert Davis. The motion was passed unanimously.

	IN FAVOR
PARKS	YES
AMOS	YES
LUCAS-MOORE	YES
DAVIS	YES
SILVERMAN	YES

DAVID MOON

Chair, that completes the public hearing portion of the meeting. Now we move down to discussion items. And if you choose to discuss this evening, we have the BOA alternate membership. There are currently three vacant seats for the alternates on the Board of Adjustment. The board previously recommended three candidates, eligible candidates for the Board of Adjustments. The Board of County Commissioners accepted all three, including Mr. Silverman. There are two others, but unfortunately, after the Board of County Commissioners accepted them as Board of Adjustment alternates, they moved out of the Cumberland County area. So, we still currently have three vacant seats. I provided a list of candidates provided by the County Clerk's office.

CHAIR PARKS

All right, I see one with two names on it.

DAVID MOON

No, you should have a sheet that has.

LATASHA JOHNSON

Should be front and back.

DAVID MOON

Is that front and back?

CHAIR PARKS

Oh, I'm sorry. Thank you

DAVID MOON

I also have extra copies that are stapled, that are single sided, if you'd like that.

CHAIR PARKS

All right, the last time we selected Mr. Silverman and whoever else, they moved out of town.

DAVID MOON

They're off the list.

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



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Director

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Deputy Director

Board of Adjustment

CHAIR PARKS

Right.

MARVA LUCAS-MOORE

I think that Jamie Walters would be good because she was a senior planner for Moore County.

CHAIR PARKS

We can discuss that. Just look over this. Maybe we'll talk about it. We don't need to discuss this tonight, right David?

DAVID MOON

You don't have to. That's your choice. We do have two alternates. Sometimes it's difficult to have all regular members attend. We're thankful that Mr. Silverman could attend tonight to fill that vacant seat.

CHAIR PARKS

But we still have Ken and Vick?

DAVID MOON

Vicky's a regular member. Ken is an alternate.

CHAIR PARKS

He's still an alternate?

DAVID MOON

He is still an alternate, yes.

CHAIR PARKS

Well, I think we're okay. Can we defer this decision until next week and give us a chance to talk a little bit by ourselves?

DAVID MOON

Well, I'll defer to the attorney's office.

ROBERT HASTY

Anytime that you get together for a meeting, it has to be public.

CHAIR PARKS

I understand.

DAVID MOON

If it's a consensus of the board to delay this matter to the next BOA meeting, that's what we'll do.

CHAIR PARKS

Alright, let's do that. What do we need, two or three?

DAVID MOON

Three, we have three vacant seats. That moves us on to the other end of discussions. I just wanted to quickly bring up the training session last night and have any feedback from the board regarding last evening. How do you think the presentation went last night? Was it educational? Did you find it helpful?

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CHAIR PARKS

Right. I thought it was good. I enjoyed listening to him. I thought he was going to; making motions up here is a job for us layman, you see? Yeah. And that's why if every case you would put something down there that we can plagiarize. I hate to use that word but plagiarize because we're laymen. We're not an attorney that knows how to order and have all these eloquent vocabularies that would help us tremendously. The only thing that we, and you struggle with it unless you're on the board for three or four years and kind of get the gist of the situation.

DAVID MOON

It depends on the type of application. The Watershed Protection Ordinance has clear standards that staff can review and determine if it's consistent or not with the Watershed Ordinance. We get to a variance and the applicants trying to demonstrate a hardship, then you're serving as the judicial body to listen to their concerns, information that staff submits for your review and then you weigh that decision. That would be similar to a court case where the judge is receiving a recommendation from the public attorney as to what action he should take. That's typically not the case.

ROBERT DAVIS

What we're saying now, now we're recording?

DAVID MOON

Yes, sir. We're still under the regular meeting.

ROBERT DAVIS

I'll say something anyway. The way the young man, can I have your name again young man?

CHRIS PORTMAN

Chris.

ROBERT DAVIS

Chris, the way he presented his information tonight, he presented and said this was covering the first element. This was covering the second element. I can't cover that. They have to cover that. And this is the information for the fourth. So, we knew we already had three of the four that we needed. So, all we wanted to hear and wait for the fourth one and you know what, we had what we needed to vote. I like the way you did that. I'm looking for a third thing to come in, and once we had the third thing, I felt good about it. Thank you very much for doing that.

ROBERT HASTY

Mr. Chairman, staff does ask the applicant, they let them know they need to meet these requirements. And like Mr. Rose had that pretty well organized. Not everybody's going to do that. That's the problem, but you know when they come in it should be helpful that they can answer those questions. You may not always agree with what they put on the paper, but they have to still present their evidence.

DAVID MOON

Ultimately, on quasi-judicial cases, the burden of proof is on the applicant. So, they're there to demonstrate their case.

ROBERT DAVIS

Yes, sir

DAVID MOON

Staff's role is to make sure that you're receiving competent information. And so, when they submit their application, their site plan accurate. Are the setbacks, the measurements that they're showing on their plan, the request for the variance, the information, the application, is that accurate? If it's not, then our role is to let you know it's not consistent. It's not accurate, it's not consistent with certain codes. Or it is consistent.

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CHAIR PARKS

Any other discussion?

DAVID MOON

That completes the agenda for tonight.

CHAIR PARKS

Then I adjourn.

DAVID MOON

Is that a motion to adjourn?

CHAIR PARKS

Motion to adjourn.

LINDA AMOS

Second

CHAIR PARKS

All in favor, aye/all opposed?

Meeting adjourned at 7:11 p.m.

Gregory Parks, Vice- Chairman

LaTasha Johnson, Sen. Admin Support Spec.