

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 & 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 March 16, 2010

#### Members Present

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

#### Members Absent

None

#### Others Present

Mr. Tom Lloyd, Director  
Ms. Patricia Speicher  
Ms. Donna McFayden  
Ms. Melodie Robinson  
Mr. Rick Moorefield  
(County Attorney)

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

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

Mr. Lloyd advised the board that cases P10-09 and P07-32 would be moved from Public Hearing Consent Items to Public Hearing Contested Items.

**Mr. Morris made a motion to approve the adjustments to the agenda, seconded by Mr. Hostetter. Unanimous approval.**

#### III. PUBLIC HEARING DEFERAL/WITHDRAWAL

There were none.

#### IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. APPROVAL OF THE MINUTES OF FEBRUARY 16, 2010.

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

VI. PUBLIC HEARING CONSENT ITEMS

CONDITIONAL USE DISTRICT AND PERMIT

- A. **P10-07:** REZONING OF 2.93+/- ACRES FROM R6A RESIDENTIAL AND R10 RESIDENTIAL TO M1(P) PLANNED LIGHT INDUSTRIAL/CUD CONDITIONAL USE DISTRICT FOR MINI-WAREHOUSING AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED BETWEEN NC HWY 210 (LILLINGTON HWY) AND SR 1601 (CHAPEL HILL ROAD), NORTH OF SAMUEL DRIVE; SUBMITTED BY WILLIE SMITH, RUBIN AND JULIETTE MCCOY AND PARMOUNT INVESTMENTS, LLC (OWNERS) AND TIMOTHY B. EVANS. (COUNTY & SPRING LAKE)

The Planning & Inspections Staff recommends approval of the requested rezoning to M1(P) Planned Light Industrial/Conditional Use District [M1(P)/CUD] for mini-warehousing based on the following:

1. The area in which the subject property is located is consistent with the location criteria as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan;
2. NC HWY 210 (Lillington HWY) is a major thoroughfare; and
3. Spring Lake water and sewer is available to this site.

The Planning & Inspections Staff also recommends approval of the Conditional Use Permit based on the following:

1. The use will not materially endanger the public health or safety if located according to the plan submitted, the proposed site layout is designed in such a manner that at a minimum the development standards of the ordinances will be met or exceeded;
2. The use and the proposed development will meet all required conditions and specifications if developed according to the site plan, application and the attached Ordinance Related Conditions;
3. The use will maintain or enhance the value of adjoining or abutting properties if developed as proposed in that the developer and property owners are proposing a high quality development that is not typical of the standard metal building with roll up doors as normally seen used for mini-warehousing; and

4. 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 will be developed in conformance with the development ordinances and adopted planning policies.

There are no other suitable zoning districts to be considered for this site.

**Mr. McLaurin made a motion, seconded by Mr. Morris, that the Joint Planning Board finds that this Conditional Use District is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that the Conditional Use District with the use as recommended by the staff.**

**A motion was made by Mr. McLaurin and seconded by Mr. Hostetter to approve the Conditional Use Permit as recommended by the staff after finding that when completed, the proposal: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 3) will be in harmony with the area in which it is to be located; and 4) will be in conformity with the land use plan, thoroughfare plan or other plan as officially adopted by the Board of Commissioners. Unanimous approval.**

- B. **P10-10:** REZONING OF 1.30+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 149 WEST MANCHESTER ROAD AND WEST OF NORTH BRAGG BOULEVARD(NC HWY 87), SOUTH OF SR 1451 (WEST MANCHESTER ROAD); SUBMITTED BY SOON KU AND YOUNG HUI YUN (OWNERS) AND DON TYSON.

The Planning & Inspections Staff recommends approval of the request for C2(P) Planned Service and Retail District based on the following:

1. The request is both consistent with the location criteria for “urban area” as listed in the recently adopted Land Use Policies Plan as well as with the Spring Lake Area Detailed Land Use Plan which calls for “planned commercial”;
2. Public utilities are available to the subject property; and
3. The Town of Spring Lake supports this request.

There are no other districts considered suitable for this request.

**A motion was made by Mr. McLaurin, seconded by Mr. Hostetter, to follow the staff recommendation and approve case P10-10 as submitted. Unanimous approval.**

- C. **P10-11:** REZONING OF 2.00+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS AND R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3163 CAMDEN ROAD; SUBMITTED BY GAYLE S. LANIER FOR PROGRESS ENERGY CAROLINAS, INC. (OWNER) AND ALICE S. WANN.

The Planning & Inspections Staff recommends approval of the request for C(P) Planned Commercial District based on the following:

1. Although the district requested is not entirely consistent with the location criteria for planned commercial as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan because public sewer is required, but is not available and this area is predominantly surrounded by commercial and industrial;
2. The request is reasonable due to the immediate area transitioning to primarily non-residential uses at this location; 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 Mr. Hostetter, to follow the staff recommendation and approve case P10-11 as submitted. Unanimous approval.**

**D. P10-13: REZONING OF 3.59+/- ACRES FROM R6A RESIDENTIAL TO R6 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 600-745 BALSAWOOD CIRCLE, SUBMITTED BY KINGDOM COMMUNITY DEVELOPMENT CORP (OWNER) AND CARL MANNING. (SPRING LAKE)**

The Planning & Inspections Staff recommends approval of the R6 Residential district based on the following:

1. The request is consistent with the Spring Lake Area Detailed Land Use Plan, which calls for “medium density residential” at this location and the request is consistent with the location criteria for “medium density residential” as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan;
2. Public water and sewer is available to the subject property; and
3. The Town of Spring Lake supports this request.

There are no other districts considered suitable for this request.

**A motion was made by Mr. McLaurin, seconded by Mr. Hostetter, to follow the staff recommendation and approve case P10-13 as submitted. Unanimous approval.**

Chair Epler: If you are here for Case P10-07, P10-10, P10-11, P10-13, this board has recommended approval on these items. Case P10-07 will go to the Cumberland County Commissioners on April 19, 2010, at the Main County House on the first floor, that meeting begins at 6:45 pm. It will then go to Spring Lake on April 26, 2010, and held at the Spring Lake Town Hall. Cases P10-10 and P10-11 will both go to the Cumberland County Commissioners on April 19, 2010, at the Main Courthouse, 1<sup>st</sup> floor. That meeting begins at 6:45 pm. Case P10-13 will go to Spring Lake on April 26, 2010, and begins at 7:00 pm. If you are here for any of those four cases and would like to be excused at this time, you may do so.

## VII. PUBLIC HEARING CONTESTED ITEMS

- A. **P10-09:** REZONING OF 147.3+/- ACRES FROM A1 AGRICULTURAL AND RR RURAL RESIDENTIAL TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 1915 AND 1919 TOM STARLING ROAD; SUBMITTED BY LINDA S. JOHNSON, BARBARA SMITH, MAE S. PARSONS, TOMMY WOODSELL AND PAMELA DOMONSKI (OWNERS) AND JOHN KOENIG FOR KAS, LLC.

Mr. Lloyd: Presented site information, surrounding zoning, land use and photos for the case. They are asking for 312 lots as shown on the detailed site plan, a CD conservancy district to run along Rockfish Creek and it follows the special flood hazard line, that is to service a minimum 50 ft. buffer and we will see another slide to see just how much buffer there is going to be when you count the CD conservancy rezoning with the planned open space. The total open space in this proposal is approximately 30 percent of the 147 acre tract. Currently the A1 allows single and double wide manufactured homes. The breakdown is in your site profile of how many you could get at straight R15 on this subject property. You could put 364 lots and this proposal is for 52 less at 312. Again, PWC water and sewer runs through the subject property. The proposed CD does follow the 100 year flood line and there is a total of 45+/- acres of open space. This slide shows the buffer along Rockfish Creek if you count not just the CD conservancy, but the proposed open space. It ranges from here at 830 feet, 370 feet, 80 feet, and 70 feet, but for the most part the buffer will be over 100 feet along most of this proposed development. As you may recall when this was brought to us a month ago, one of the key concerns the staff and the board is the buffer along Rockfish Creek. I also want to point out that there is a mistake in the packet under the other relevant conditions and there is a misstatement under condition #51 and it reads "A section 404 permit will be required if the applicant needs to fill wetlands for the construction of the convenience store and/or development of the remaining parcel." There is no convenience store, somehow that got in there, it should read "A Section 404 permit will be required if the applicant needs to fill wetlands for construction of the subdivision". So for the record, delete "of the convenience store and/or development of the remaining parent tract" and just put "subdivision". Just to refresh your memories a previous proposal on this tract did come before us in January 17, 2006, that proposal was initially for 542 lots and the developer at that time finally settled on 400 and again this is for 312 lots. The Planning Board at that time did approve the 400 proposal, but the commissioners turned that down.

The Planning & Inspections Staff recommends approval of the requested rezoning to R15 Residential/ Conditional Use District (R15/CUD) and CD Conservancy/Conditional Use District (CD/CUD) based on the following:

1. The amended request is consistent with the 2030 Growth Vision Plan, which calls for "urban area" at this location and is reasonable because it accounts for protective and conservation measures for the land area immediately adjacent to Rockfish Creek as included on the 2030 Growth Strategy Map;
2. The subject property meets or exceeds the location criteria for "low density residential" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan – the location criteria supports approval of up to 727 residential lots or units for this tract; and

3. The request for CD/CUD along Rockfish Creek is compatible with the provision of greenways along scenic waterways within the County – a stated goal of the Fayetteville-Cumberland Parks and Recreation Master Plan received by the Commissioners in April 2006, and in a consultant’s report prepared by Environmental Defense (2003), urban buffers are recommended throughout the floodplain, while acknowledging this is not always feasible or equitable because of the balancing of private and public interests, it was found that modest buffers of 50 – 100 feet would be effective to sequester and treat most nonpoint contaminants.

The Planning & Inspections Staff also recommends approval of the Conditional Use Permit based on the following:

1. The use will not materially endanger the public health or safety if located according to the plan submitted, the proposed site layout is designed in such a manner that at a minimum the development standards of the ordinances are met or exceeded;
2. With the exception of the required sidewalk along NC HWY 87 South, the use and proposed development will meet all required conditions and specifications if developed according to the site plan, application and the attached Ordinance Related Conditions;
3. The use will maintain or enhance the value of adjoining or abutting properties if developed as proposed, this will be a high quality development that on land that is currently vacant; and
4. 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 will be developed in conformance with the development ordinances and adopted planning policies.

The staff further recommends approval of a waiver for the sidewalk required along NC HWY 87 South because of the topography of the subject property immediately adjacent to NC HWY 87 South, strict compliance with the provisions of the ordinance would cause a special hardship to the property owner and be inequitable; the public purposes of the ordinances will be served to an equal or greater degree with the sidewalk installation along Tom Starling Road; and the property owner will not be afforded a special privilege denied to others since approval of this waiver will enable the developer to further ensure that minimal disturbance of land will occur within the Special Flood Hazard Area (SFHA).

There are no other suitable zoning districts to be considered for this site.

Chair Epler: Having gone through staff’s presentation, this item is for a conditional use district and permit and the hearing on the conditional use district is legislative while the permit is judicial in nature and will be conducted in accordance with special due process safeguards. At this time I would like for all persons who have signed up as a proponent, in favor of this Conditional Use District and Permit, to come up to the podium and be sworn in, please.

(There were three people present to speak in favor.)

Chair Epler swore in: Boyd Parsons, John Koenig, Jim Kizer

Chair Epler: Are there any board members who need to reveal any possible conflict and the need to withdraw from these proceedings if necessary? Is there any person on the board who feels that they need to withdraw from these proceedings? Hearing none, staff has given their presentation. We will hear from the applicant and their witnesses at this time.

Mr. Boyd Parsons stated he was asked to speak in favor on behalf of the Smith Family land owners. I urge you to favorably consider this rezoning. The rezoning would be good for the county at a time of economic hardship. The planned use of this land has more of a protection buffer for the creek than any other previously approved development on the creek that we have seen. It is also time to convert this farmland to other uses. The rental income that we receive from farming has barely been sufficient to pay the county taxes. Recent tax increases made that impossible from here on. The family receives no income from the farm rental to live off of and frankly the land is the only 401K some of the family members have, so we ask you not to deny them the use of that, particularly in their senior years. The people who are here to speak out against this proposal will offer up several things for you to consider. Some here that I've seen don't even live in the area that I'm aware of, so I suggest you ask each one of them to point out where they live. I would also point out that none of the other folks in the area have been willing to buy the land themselves. Some also argue that building new houses on the land will spoil the neighborhood while continuing to favor what they call a rural environment, which really consist of dilapidated barns, sheds, trailers and other unused structures. Our own barn on this property is falling down and is unsafe for use so it is no longer used. The board really should understand there are only three farms left on Tom Starling Road so the remainder of the area is not used for agricultural area. Lastly, some will tell you the road is too congested, but I can personally attest, since most of the wrecks in that particular stretch of the road end up on my land, which is right at that bend in the curve. But, in every case to include a fatality that they may even mention or single car accidents that were not caused by any congestion on the road. In every accident it's been caused predominately by excessive speed on a country road or its' been alcohol related. I urge you to favorably consider the proposed rezoning so the family can get on with their lives and I point out that time is of the essence. Thank you very much.

Chair Epler: Thank you Mr. Parsons

Mr. John Koenig spoke in favor. I am requesting the zoning and conditional use as I wish to develop it and make a nice subdivision out of it like I have of many others in and around the county and other counties. I do not rape land, want to do what Ms. Speicher requested, not cut down any trees in the protected area, the conservation district, except for utilities. The sewer line is in the top right corner in the green area. You cannot go around trees with sewer lines. The sewer line has to go in a straight line and what isn't in that area is 20 feet wide; we have to remove the trees so PWC can service the line but that is all I will cut down. In fact, if you look at my other developments that I have done in and around the county, you will see that I do not rape the land. Any questions?

Chair Epler: Not at this time, thank you sir.

Mr. Jim Kizer spoke in favor. Mr. Kizer stated he is an Engineer and present on behalf of Mr. Koenig. I know in developing this plan and also with the planning staff's review, Mr. Koenig has accepted all 52 conditions that are on this condition sheet and we believe we have prepared a plan that makes us good stewards of the land itself. This is a plan that can be built with R15 zoning and it's certainly better than leaving it in such a manner that it could be developed with mobile homes and double wide trailers. We have as the staff have pointed out, provided adequate buffering along the creek with maintaining of the 100 year floodplain as a conservation area, but there's also another facet on this plan that is like the new kid on the block and that is the stormwater retention ponds that we are now required to do which will ensure there will not be overland water discharged directly into the creek themselves, they must be treated within these stormwater ponds. That is shown on this plan up here. The green space is close to 30% when you count the conservation areas and other areas that we have that where homes are not to be build. I would encourage your review of the plan and your approval. I'd appreciate any questions you might have. Thank you.

Chair Epler: Does anyone have any questions for Mr. Kizer? No questions were asked. We will now hear from anyone that is here tonight in opposition of this case. Before we ask you to come up and take this oath, I just want to remind you that whatever evidence you give in this proceeding tonight has to be fact. If you are going to provide us with any maps, those have to be official documents and they have to go through Mr. Lloyd before we can as a board can even see them. We cannot listen to hearsay evidence, if you tell us that your property value is going to be lowered then you need to provide us an appraisal to prove that. here are a lot of people here tonight to speak on this case and another one. Keeping that in mind, I would also ask that if you are here to speak and you hear the person before you say something that you have planned to say, please do not repeat it. We're going to ask you if you have any new material to do so. If someone else stole all of your material, just let us know that and we will thank you for coming, but let's try and let this go as smoothly as possible. All of those here tonight to speak in opposition of this case, please come forward to take your oath and be sworn in.

There were seven people to speak in opposition.

Attorney Moorefield: Madam Epler, when you do the oaths for the proponents and just to maintain the integrity of the record, would you have each of the proponents, since their names are listed, acknowledge that they were duly sworn before today's testimony and ask that each witness do that for the record.

Chair Epler: Speakers were sworn in according to the guidance of Attorney Moorefield. The speakers were: Janet Carter, George Maughan, Rosie Bunnells, Mickey Jackson, Donald Schneiders, Ken Bowers

Janet Carter spoke in opposition. I first want to say that I am not opposed to people selling their land for profit. I know that is the kind of thing people want to do when they are acquiring wealth, so I am not opposed to that and I am speaking for myself and my husband, Max Carter, tonight. Two things, basically, I noticed that we do not have the boundary line dispute listed as the rezoning. So, that is still not resolved, so I think they are just chopping off a section that is not

going to be part of the rezoning. Hopefully, I hope that will be resolved soon, we've been working on that for 3-4 years so let's hope that takes place. I also have some questions for the board. Less than 3-4 years ago when we were here, a different developer, but similar story, the County Commissioners actually turned down the zoning request that the board recommended and gave their reasoning for them. I just want to state those and maybe you can comment later when you have your discussion on how things have changed because the County Commissioners said that they felt there was a lack of infrastructure in the area to accommodate the 400+ homes that they were actually trying to build. They said the schools were already having huts, they were overcrowded and they also mentioned the 2010 [sic, 2030] Cumberland County Plan that was underway and not completed yet and they felt it would be irresponsible to rezone land when they were trying to come up with a growth plan for Cumberland County and that it was underway. I guess my question tonight to the board is has that 2010 [sic, 2030] Plan been completed, how does this property fit into that, what changes have been made in the infrastructure with the school systems? I know that one of the things that came up was the roads and the plans to widen it, I wondered if it was five years off or ten years off, that sort of thing. That's all I have to say.

Chair Epler: Ms. Carter just to answer one of your questions, I think the study you are talking about was the Land Use Study that was in progress at that time or it was the 2030 Growth Vision Plan that was in process at that time. Both of those have come in completed and adopted by the County Commissioners and this project in its entirety complies with both of those studies.

Mr. Lloyd: I would like to add for the record, according to the commissioners' minutes from that meeting, there may have been comment, but after hearing speakers, the County Board of Commissioners with no discussion, voted unanimously to deny that, so they gave no reason, no discussion, they just voted to deny it.

Chair Epler: OK. Thank you for that clarification.

George P. Maughan: I live on Rockfish Creek. Basically, my wife and I have lived out there for 16 years now and we've seen a lot of growth as it's moved, and we've got a couple of housing developments that have gone up along Tom Starling Road but what we've also seen, I work at Ft. Bragg, I'm retired military, I just retired, so I've been out at Ft. Bragg and worked Civil Service out at Ft. Bragg and have seen a lot of traffic, truck traffic pick up along Tom Starling Road and I'm not sure what the daily usage is but when you figure in 340 homes, you figure two cars per household. Then if they have school children, then possible another car or household, so your adding about another 1000 cars on a two lane road where as they've said before there have been fatalities but with the wind and the sharp bends in the road and additional trucks because we get a lot of 18 wheelers because we've got the Wal-Mart Distribution Plant out there and the other plants out there, so the truck traffic is fairly high almost continuously all day long. So when you throw in additional cars, I think it's going to make that area unsafe and it's just, I wouldn't mind seeing larger lots, like one acre, I sit on two and a half acres. I don't mind them selling, but why not make houses one acres lots or two acre lots where it's a little bit less dense for everybody and the family that is selling gets their money and we don't have the density that we're going to be getting right now. That is all I've got, any questions.

Chair Epler: Any questions for Mr. Maughan? No sir, not this time, thank you.

Rosie Bunnells: We know this is farmland, but just because we don't live on Tom Starling Road, doesn't mean that we don't have land that we farm. There's other farmers besides Tom Starling Road, and I don't know about the Smith's, but I rent my land and I get enough money from rent to pay my taxes, obviously they rent to the wrong person.

Chair Epler: Ms. Bunnells, I need to caution you, anything that you say in this proceeding has to be fact. You have to know it to be fact, continue please.

Rosie Bunnells: Rockfish Creek has a rare plant and aquatic life. We feel it will be too much congestion, too many homes on too little land. In 2006, it was over 2500 cars a day and we know that's a lot more now, can you imagine all the problems that will be created with the size lots and number of homes the Smith family and Mr. Koenig are proposing? High density housing can and will overtax the local resources and will create a burden on everyone including the Sheriff's Dept., the Fire Dept. and the people that purchase the houses. The only ones benefitting here are the sellers and the developer. Tom Starling Road is identified in the Highway Plan as a major thoroughfare. The proposal calls for multi lane road improvements and they are not included in the 2009 – 2015 Metropolitan Transit Improvement Program. It's a Priority #1 to be enlarged in the long range transit local program, but the question is where is the money coming from? As you know the state of North Carolina is already in a lot of trouble as it is. If you are getting a tax refund and you don't have it in your hand or in the bank, you may not even get it this year so therefore, they don't have the money for the roads and we'd like to have quality over quantity. The school systems, they say it doesn't affect some of the people in here, it affects everyone, for the middle school, the elementary and high school, all of them have room for 52 students, the middle school has room for 39, the high school only has room for 51. That's 142 students, where are these parents going to send their children to school when all of these houses are built? Where's the money coming from to build the schools for the teachers, the staff, the workers, the school bus drivers? You know it's going to raise the taxes with all of this. We want to know is he going to do the building or is he going to sell the lots off to someone else to do it? Madam Chairman, I request permissions for the individuals that are opposing to be able to stand.

Chair Epler: We can grant that.

Approximately 20 people stand up in the audience who oppose.

Rosie Bunnells: We all understand that Mr. Parsons is retired military, I don't think he farms, I think he's retired. So therefore, the traffic is not going to bother him, he can stay home during the peak times of the day.

Chair Epler: Is that all of your comments?

Ms. Bunnells: Yes.

Chair Epler: Does anyone on the Board have any questions for Ms. Bunnells?

Ms. Bunnells: I forgot, I do have one more, if you notice in the plan, he had some of the open land that was supposed to go along with the creek, if you notice on the map he dips into it where

it says 370° [referring to a staff slide], he's dipped either into three or four lots and then over on the left I think in the 70 or 170, the lots go into what he was supposed to have reserved for the open space.

Chair Epler: Thank you.

Chair Epler swears in Mr. Jackson.

Mickey Jackson: I previously lived in the Gray's Creek area. I have property on Gainey Road, I lived there since 1970 up until four years ago and I moved to Rockfish, but my main concerns are basically what everyone else is speaking of, the high density of people and personnel. I don't have any facts, it is agriculture land and its high density which is not common in the area, most of the lots, land is being sold, the land that we developed, the land that I own or my parents owned was rezoned and changed from A1 into one acre lots and most of the subdivisions around the area are about the same in lot size which minimizes one house per one acre and that's worked out pretty good, it's not a high rate of people but my concern is the high density of people, personnel and traffic and basically all of what the other people have said. That's basically, all I have to say.

Chair Epler: Thank you, Mr. Jackson. Does anyone have any questions for Mr. Jackson?

NOTE: Fran Primeau was signed up to speak but was not present when called to the podium to speak.

Donald Schneiders: I'm here on behalf of the home owner, Mr. Dave Boling who cannot be with us being that he is overseas.

Chair Epler: Mr. Schneiders, I need to ask you, did Mr. Boling give you a notarized statement for what you are getting ready to say?

Mr. Schneiders: No, I just got an e-mail from him asking me to read this for him.

Chair Epler: I need to ask our County Attorney if we can hear that evidence?

Mr. Moorefield: Can you describe the relationship? Is he a tenant of Mr. Boling?

Mr. Schneiders: Yes, I am his roommate actually.

Mr. Moorefield: It would be alright for us to hear it depending on the fact that he told you what it is.

Mr. Schneiders continues reading the e-mailed letter he received from Mr. Dave Boling.

Esteemed members of this County Rezoning Board, my name is David Boling, I am the owner of 1993 Tom Starling Road. At present I am working as a private contractor in the kingdom of Kuwait providing the force protection classes to our military men and women as they deploy

through here on their way into Iraq and Afghanistan. This person is reading my thoughts to you because I cannot be here to do so myself. Please understand that they are doing this for me at my request. I served my country for 23 plus years in the U.S. Army. After the time I decided I wanted to retire, so I chose Fayetteville, NC as my retirement place. In 2003 I moved here from Okinawa, Japan with the intention that I would buy a home in the country because I wanted to get away from the busy and noisy city living. I bought this house on 2.5 acres in August 2003 and so far have enjoyed my dreams of living in the country. A couple of years ago the owners of this land along with Clark Real Estate tried to do the exact same thing, except then they were asking for R10 and we were asking that they settle for R15 even when we really wanted R25. At this hearing in this same place, a bunch of us that would have been affected by this sale all came to protest what can only be described as a purely selfish and greedy move on the parts of the parties involved to put 850 houses on the property. The decision at this time to rezone was declined and I hope the decision this time remains the same. Think about it for a minute, what goes to a place five miles out of town and builds a neighborhood so packed together with residents all stacked up on top of each other and shoe horned in next to each other? This would be the only R7.5 neighborhood in the area. These kinds of neighborhoods are usually seen as inner-city neighborhoods and frequently associated with and referred to as slums. Now, I am all for people making money and getting what they want, but at what cost; the cost to me if this previous rezoning had happened is the same as this rezoning happens? I am probably affected by this move more than anyone else in Grays Creek. I would like to point out that I am potentially affected on all three sides by this rezoning decision. On the northerly side of my property, I have my neighbor, Rodney Ward, he is with the Hope Mills Fire Dept. and a respected member of this community, he is also probably in attendance at this meeting and I would like to say "hi" and send my regards. Behind my property to the west is the land in question as well as my section of the creek that runs through my property. What is to happen to it if they build a congested neighborhood there? Besides my property to the south is also the land in question so I'm affected on that side as well. In front of my property to the east is Tom Starling Road. This is already dangerous because the amount of traffic seen on any given day as many other residents on the road will attest, the traffic on Tom Starling Road is both heavy and as well as constantly in excess of the posted speed limit. As it stands, a lot of residents that live down Tom Starling Road tend to throw their trash out the window and onto my property as they drive by. I deal with that as a land owner and will because I have no choice over the control of the lack of consideration. As I understand it this housing unit will have to build their community entrance and exit on Tom Starling Road because the County/ State has repeatedly denied them permission to build the access roads to this land onto Hwy 87. If this happens, in addition to, the vehicles associated with the community will effectively increase the traffic on Tom Starling Road to ten times its present amount with only two lanes. I predict a massive increase in accidents on this already infamous road. There is also the effect that this community would have to the wetlands next to Rockfish Creek to be considered as well as the creek running through my property. I also have the well on my land that would also be adversely affected by this and I doubt that I am the only one that has a well. Now, everyone should have the right to sell their property and make a profit in doing so, with that in mind I would like to point out that to my knowledge, many people have already offered to buy some of the land, not all of it in question, Mr. Ward and myself included. Before she passed away, I had personally asked the previous owner for the option to buy at least ten acres of land that surrounds my property for the purpose of farming. I actually wanted a lot more but don't know if I could afford it. Although the use and previous events would indicate that the

present owners do want to sell this property for some reason none of us yet to be given the chance to accommodate them, and if all need to rise, please feel free to get in contact with me through the bearer of this letter myself. Sincerely, David Boling.

Mr. Schneiders: One thing I would like to put out. I'm always out there and I've seen ten deer out there on that property this year. If this were to go on, what's going to happen to that wildlife? I don't know, I love it out there, nice, quiet country land. It's where I want to be, it's where Mr. Boling wants to be so we just hope this does not go through. Thank you.

Chair Epler: Mr. Schneiders, I would like for you to do us a favor. As a Board, I would like for you to thank Mr. Boling for so eloquently making his thoughts known and please give him our regards and tell him to be safe.

Mr. Lloyd: If you could, would you point out where you live?

Mr. Schneiders pointed to the on screen map and identified where he lives and where Mr. Ward's property is located.

Mr. Lloyd: You stated the creek runs through your property?

Mr. Schneiders: Yes, there are actually two creeks, one that runs down between Mr. Wards and my property that kind of looks like a drainage ditch but it's running with at least one to two feet of water all the time and then there is also one that runs from the back corner of our property all the way through to that drive way that looks like a drainage ditch, but it always has a foot or two of water in it. It's one of the things he likes out there and does not want to get rid of. Mr. Boling was also talking about putting a pond out there.

Chair Epler: Does any of the Board members have any questions for Mr. Schneiders? Thank you.

Ken Bowers: I ask that you not approved this development as it's designed. The reason why I'm opposed to it is because I would like to preserve the way of life that I have built up at Tom Starling Road and that the other folks here that are opposed to it have developed on Tom Starling Road. I'm not opposed to the Smith family developing their land to sell, but at this price, they make money, Mr. Koenig makes a whole bunch more money and all of us that live there are left with increased traffic that cannot be sustained as it currently is and it won't be done for the next ten to fifteen years. You can look at Rockfish Road, Camden Road, those developments have gone up there for over twenty years and it's still two lanes. The congestion builds and the infrastructure lags decades behind from what it should be. This is essentially going to plunk down a small town in a rural setting. Even though its within those 52 points that the Zoning Dept. has directed him to meet, it doesn't mean we should do it that way. I would propose that you approve it at a much smaller density, say half of 312, so they can preserve the environment as it is, allow Mr. Koenig to develop it, and the Smith family to sell their property at a profit. I think that's reasonable because that's what we're all here about, what's reasonable. I don't believe that 312 houses or more than that is reasonable. I was opposed to Mr. Clark's development when he came in here in 2006 for the same reasons. Just because you can do it doesn't mean you should. That's all for my remarks.

Chair Epler: Does anyone have any questions for this witness? Thank you.

At this time, we will close the public hearing and ask for discussion from the Board.

Chair Epler: We've been through a lot on this piece of property since I've been on the Planning Board, for five years. The last time this piece of property came up before us we toiled, toiled and toiled, developer compromised, Board compromised, we thought we had reached an agreement, but the County Commissioners didn't see it the same way and that's their job, we respect them for that. This is a different kind of neighborhood, a different kind of use on this property and while I'm sure the people who live in this area, I can sympathize with how you feel, I grew up in Beaver Dam, out in the country and I know I would have had people who I grew up with who would have been upset if we had had 312 houses moving into our neighborhood, but I also know this is a different day and time from when we were growing up. These people own this property, they don't want to farm it, they want to sell it. Mr. Koenig wants to buy it and it is on Rockfish Creek which is a beautiful advantage for us in Cumberland County. They've gone to great lengths over and beyond what they needed to try and preserve that creek and we appreciate that. We know there are traffic problems on Tom Sterling Road, but at the same time this developer is going to have to adhere to whatever stipulations the DOT puts on him to handle the traffic going and coming from his subdivision. Whatever they deem necessary to make sure they get onto and off of Tom Starling Road safely. We've got a lot of strict thorough stormwater regulations today than we had three years ago which is going to be tough for Mr. Koenig to adhere to, but it is a lot better for Rockfish Creek and a lot better for people who live in Grays Creek. While it is a county setting, there are people who want to live in the country and who want to share your neighborhood, they want to be your neighbors. Excellent school districts, things like that, when you work that hard to have that good of a school down there, people are going to come and flock to you. It can be a good thing. Staff has worked with Mr. Koenig, and when we see that if left alone, this property could have how many single wide mobile homes Mr. Lloyd?

Mr. Lloyd: Seventy-five.

Chair Epler: Seventy-five single wide mobile homes, double wide mobile homes, you could do a lot of things with this piece of property. Not that there is anything bad about single wide or double wide mobile homes, but when you put seventy-five of them in one place, that's a mobile home park and I don't think we want a mobile home park in Gray's Creek either. I'm sure of my fellow Board members will have things to say in the opposite direction, but I think with all we know about this piece of property it complies with the 2030 Land Use Plan, still low density in that area, I'm inclined to support it.

Mr. Morris: There's nine lots that are part of the conservation district in the course of the site plan, are all those lots conforming in buildable lots as they are proposed. This was the sketch. He is going to come through; he can address this and pull those lots.

Mr. Morris: Tonight we will approve the sight plan, will we not?

Mr. Lloyd: Yes.

Chair Epler: Mr. Morris, I need clarification, what area do we find nine lots? I'm looking at what's in my package and what's on the screen and I don't see an over-lappage.

Mr. Morris: On the cul-de-sac where the "830 feet" is, there's one, two, three, four, five.

Chair Epler: The back side of those lots is in the conservation district.

Mr. Morris: That is correct.

Chair Epler: The building pad would not be. I would assume that is the plan. Mr. Kizer might be able to answer that question for us.

Mr. Morris: Is this the final site plan?

Mr. Lloyd: It's the final site plan with the number of lots and how they will be laid out. Any change to those lots can be done administratively, it doesn't have to come back through you. If he's going to pull the street back and redraw those lots and not change the number of lots which he doesn't plan on doing, it can be done administratively. So with respect to the figures, if that's what your questioning, then yes, he can do this. Your approving this, yes, but he can come through and if he can't build on the lot, he can come through and readjust that lot so that he can meet the setbacks.

Mr. Morris: So these lots are part of the final site plan. Mr. Kizer, if you want to step forward. I'm asking if the nine lots are platted within the conservation district?

Mr. Kizer: Portions of them are.

Mr. Morris: Are they still buildable?

Mr. Kizer: Yes. It's got a small area off the back, but as far as putting the building pad there, there is plenty of room there for the building pad

Mr. Morris: That was my question. Thank you, sir.

Mr. Lloyd: I would like to address one issue that has come up and that is schools and road improvements. If we went by the sheer numbers of the schools we wouldn't allow much more development at all in the county. With respect to school, the staff looks at it from the point that there is no more room essentially in these schools. You may have fifty in one school, and thirty in another be it middle school or high school.

Chair Epler: Most of the residential developments that we see come before us, there are no capacity in the schools, so the fact that there is sixty percent capacity to take care of this neighborhood now is better than we have in most cases, but like you said the Board of Education is not going to fund more schools until the people are there to fill them.

Mr. Lloyd: The County.

Mr. Turner: Mr. Koenig, if this development was to pass, how long would it take to fill that development up?

Mr. Koenig: I don't think I'm qualified to answer that accurately, but it would be a number of years, especially in today's housing market. You know what happened in banks and lending people money to buy houses. You have builders now that buy five lots and the banks loans them money to buy one house and after that sells, come back and borrow money for a second house.

Mr. Turner: The reason I ask that is because we don't have plans for any road construction over there until at least past 2015 and I was just curious as to how long it would take to accommodate all the traffic that we're hearing that might come over.

Mr. Koenig: It would be slow growing and take a number of years to do that. The phase calls for four phases of development, 37 acres at a time. It would take a while to do it. Especially to get it approved by the County.

Mr. Turner: I would like to make a comment, I don't know how many people ever go to the Western part of Cumberland County, out in the 71<sup>st</sup> area, I live out there and years ago, it's been nothing but a hodgepodge of development, a hit and miss proposition and since I've been on this board, I noticed there's more consistent planning and more work involved in what's going on than what we've got out there. You talk about another city, go out past 71<sup>st</sup> High School and see what it looks like, it's an astronomical mess. Where we used to have farm land, it's all built up, but I think what you've got here is more of a planned development and frankly with the amount of people coming into this county, we're going to see development somewhere in this county. Whether it's your area, Hoke County, Robeson County, or wherever, but we may as well get used to the fact that it's going to come. I think right now, the way things look, I think this is a very concise development and I'm going to have to say that I support it. Thank you.

Mr. Morris: Mr. Lloyd, on the setbacks, the minimum setback that we've looking at utilizing the 100 year flood plan is basically 70 foot if minimum, the greatest being 830?

Mr. Lloyd: From the creek.

Mr. Morris: From the creek and we're utilizing the 100 year flood to delineate the conservation district, correct?

Mr. Lloyd: yes

Chair Epler: I think that conservation district extends beyond the 100 year flood in most of this drawing, am I correct?

Mr. Lloyd: Yes, but not in the one showing.

Mr. Morris: I know we don't have any county guidelines, but are there any adjacent county guidelines or state guidelines regarding setbacks from these major streams and rivers.

Mr. Lloyd: The most we could find is 50 feet. Harnett has self-imposed 500 feet. In the states statues, the most found is 50 feet. along the river. Harnett County has 500 feet setback from the Cape Fear River, but with respect to the statues and what's not local 50 ft. is the most we could find. There are self imposed grades in other counties, depending on where it's located.

Mr. Morris: Well, is our's self imposed on the 100 year flood?

Mr. Lloyd: On this particular case?

Mr. Morris: Generally.

Chair Epler: It's not written anywhere.

Mr. Lloyd: It's on a case by case basis.

Mr. McLaurin: You can build in the 100 year flood but you have to have the elevation of your dwelling at a certain height. If you go down the Cape Fear River there are relatively new cabins all along the river.

Mr. Lloyd: We try on the Planning side of it, that's enforced by the County Engineering Dept. and yes they can build 2 ft. above the 100 year flood, but we try in our plan development to get the CD line to follow the 100 year flood. Traditionally, we've tried to do that.

Mr. Hostetter: I just read in the paper last week where they are laying off 200 teachers and closing schools, the government doesn't have money to build schools and support the teachers. With all these people moving into the area up there and they don't have the schools, I'm so worried about where they are going to go to school at.

Mr. Lloyd: My answer to that is what comes first, the chicken or the egg? You can't build schools without the tax base. You can't have the tax base or the sales tax without the people. You can't have the ad valorem tax without the commercial. This would definitely dictate that more commercial come sooner or later. The only answer I have is you need the tax base for the county to find the money to fund the school system. From our standpoint we have to look at it, otherwise we would probably allow no more development in Cumberland County based on that.

Ms. Hall: One of the speakers referred to a small creek behind his property, I noticed these two creeks, will they remain undisturbed?

Mr. Kizer: Yes, they are protected.

M. McLaurin: We're dealing with a zoning case here tonight and the ordinance is set up to protect the public health, safety, general welfare; encourage orderly development and protect the quality of environment. Several of the people have eluded to these facts one at the time in what they've said on the board and this is certainly an orderly development; you know what's going to be there, your protecting the environment, with good setback along the creek, I've been down that creek in a canoe, I've seen dog pens, people with garages, probably changing their oil, everything

else right up along the edge of the bank, following along the edge of the creek. I would say that some of these larger lots along the creek were probably put up there with no water, no sewer and they had to sit back a little way to accommodate all of that. I know on Gainey Road, the gentleman referred to that as one acre lots, that's a low area, water stands out there about 200 acres pretty close to Gainey Road. Without sewer and water you couldn't develop on a small tract out there, you have to have at least one acre. You've got farmland here, one gentleman tried to get it rezoned a while back, somebody said he wanted about 800 lots to start with, came down to 542, then 400. Now you have Mr. Koenig here at 312 which is less than what is in R15. One gentleman stated tonight that when he came up with the other firm, that R15 would have been acceptable, now we're here with R15 and we've actually got less houses that you could put on R15. If this land is just left out there, people have talked about things that could be out there, convenience stores, funeral homes, group homes, manufactured homes, garages, saw mills, I used to have two sawmills. I've got a friend that disposes of septic waste he could spread that out there. That surely would not be protecting the environment, spreading that out there. It just seems like there is no end to objections to what could go on there. We live in the U.S. of America, we've got property, property rights and to protect everybody's rights we have amendments, and to protect the neighbors we have zoning and this certainly protects the neighbors from some of these things I have talked about and the people who own this property certainly have the right to sell their property. If they make money that is their right, that is the way this country operates, a capitalistic society. You go to these countries that are not capitalistic and everybody lives in poverty. I'm all for capitalism and for saving land and saving the environment and one way is this new method the staff has devised in this county; a development just like this, you put more houses on a piece of land and that way instead of riding down the highway and seeing a house on every two or three or four acres, you should see open space. The fastest way to develop all the land in the county is put every house on two acres and you'll fill the county right up. This thing is properly buffered and I don't see how we could do it any better. As far as the traffic out there, Baywood Subdivision has about 600 houses on Baywood Rd, a two-lane Rd. It's a good stretch from Baywood to old 301 which is a two lane road or over to 24 which is a two lane road. The one good thing about this place is there is a two lane road, Tom Starling and right down the road is a nice wide four lane highway and I believe it's a traffic light there and with putting about 300 more houses there, Baywood would come out with their 600 houses at the traffic light. They survive out there in Eastover and I think this would be a good thing for Grays Creek. I would like to make that in the form of a motion.

Chair Epler: Asked do we need to handle the sidewalk waiver as a separate issue? Is that in the staff's recommendation? If we say, per staff's recommendation, is that covered? Ok, go ahead.

**Mr. McLaurin made a motion, seconded by Mr. Morris, that the Joint Planning board finds that this Conditional Use district is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that the Conditional Use District with the use as recommended by the staff. Unanimous approval.**

**A motion was made by Mr. McLaurin and seconded by Mr. Morris to approve the Conditional Use Permit as recommended by the staff that after finding that when completed, the proposal: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 3) will be in**

**harmony with the area in which it is to be located; and 4) will be in conformity with the land use plan, thoroughfare plan or other plan as officially adopted by the Joint Planning Board. Unanimous approval.**

- B. **P07-32:** Modification of the Permit for an approved MXD Mixed Use Development/CUD Conditional Use District, with the Permit allowing for interconnection with Thornsby Lane of the Traemoor Subdivision; consisting of 59.71+/- acres; located on the north side of SR 1112 (Rockfish Road), east side of SR 1108 (Lakewood Drive); submitted by Jackie Hairr for HCC Investments, LLC (owner).

Chair Epler: Just for the board's reference, if and when the motion is made, we just need to make the motion for the permit itself. We will follow the same procedure for this case as we did for the last one. If you've signed up on the condition sheet, you will be allowed to speak. I'm going to stress again, if someone before you has said what you want to say, please do not repeat it. Before opening these hearings, I want to give any Board member the opportunity to withdraw from these proceeding to avoid any possible conflict of interest. Any board member who has information or special knowledge about this case that may not come out at the hearing tonight, please describe that info for the record so that interested persons can know and respond. We will first hear from the Planning Staff, applicant and witnesses and then the opponents to the request.

Chair Epler: We will now open the public hearing and ask for a presentation from the Planning Staff.

Mr. Lloyd presented the site information, surrounding zoning, land use and photos for the case, stated we are presenting a modification to the permit.

Mr. Morris requested the minutes be pulled to clarify comments made by him and Mr. McClaurin from the previous meeting.

The Planning & Inspections Staff recommends approval of the requested modification to the previously approved Permit allowing the extension of and connection to Thornsby Lane with the adjacent Mixed Use Development/ Conditional Use District (MXD/CUD) based on the following:

1. The modification of the Permit will not materially endanger the public health or safety if located according to the plan submitted and recommended – the standards of the County development regulations will be complied with to ensure public health and safety are protected;
2. The modification will meet all required conditions and specifications, is reasonable and meets or exceeds the minimum standards for mixed use developments within the County;
3. The modification will maintain or enhance the value of adjoining or abutting properties especially because the property owner/developer has a vested interest in the area, specifically the Traemoor Subdivision he developed and still owns lots within Traemoor; and
4. The location and character of the use with the modification, 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 Cumberland County's most recent Land Use Plan and adopted planning polices – interconnectivity where feasible provides alternate routes for emergency services, supports the County's Air Quality initiatives and in this instance, would eliminate excessive curb-cuts on a major thoroughfare and would be consistent with the existing development in the area.

Chair Epler swore in Jackie Hairr.

Mr. Herring: I'm asking for the modification of the permit to allow the interconnection of Thornsby into the end of the mixed use project that we have out by Rockfish Rd. My premise was to involve marketing to a move down community of 55+ type community, people who would want to move out of their 500,000 homes in Traemoor and move over into a \$300,000 – \$350,000 home with the same standards with the quality of living so that is why I am asking for this. I am staying within the original plan and I'm sure there will be questions and I can answer them later. Mr. Herring stated there is a misunderstanding that he is asking to connect to Rockfish Rd. He stated that is absolutely not true. He stated the property line shown on the map that was sent out has misled some people to the extension of Thornsby or a road out to Rockfish Rd.

Chair Epler: Are there any question for Mr. Hairr.

Mr. Lloyd: Asked Mr. Morris to restate the question that he asked earlier.

Mr. Morris: Mr. Morris requested the minutes be pulled to clarify comments made by him and Mr. McLaurin at the previous meeting. He remembered the connectivity was in the original application. He stated he remembered that it was single family and multi-family mixed-use, and there was additional discussion it would be bermed and properly buffered between the neighbor and the mixed use development.

Mr. Lloyd: All that we have in the minutes is to eliminate the stubs, the minutes don't reflect that it be bermed. That was actually attributed to you.

Mr. Morris: Ok.

Chair Epler: Swore in all those who are opposed: Melissa McKinney, Timothy Middleton, Sharon Lewis, MaryAnn Thomas, Steve Alvin, James Huggins, Tina Pointer, Calvin Draughan, Mark Parsons, Jay Downing, Scott Kabida, Cheryl Arnold [Pat Ricotta was signed in to speak, but did not answer when called to the podium]

Melissa McKinney: When this issued was addressed three years ago and he was approved his multi-use zoning behind us. The thing was we did not want that added to our neighborhood. I am a real estate agent and whenever you add something like that on to an already successful well done neighborhood, it does nothing but take away from the value. Just like you said you don't want a trailer park in Grays Creek, we don't want the condos in our neighborhood, it might as well be a trailer park. That's all I have to say. Everybody is not going to get a chance to speak, but they wanted to stand in opposition to this, so everybody here that is in opposition to Traemoor, please stand.

Approximately 35 people stand who oppose Traemoor.

Timothy Middleton: My wife and I met Mr. Hair about three years ago, and we knew there was going to be a development to the south and I have no issue with that. I was excited about the kinds of things he was going to do with it. So I bought my house knowing that property was going to be mixed-use. When I bought the house, there were more ambitious goals for the development inside of Traemoor Manor. A lot of the plots that were unused when I moved in three years ago are still unused. This is an ambitious plot to connect something that doesn't exist yet. The homeowners association that we belong to is not functioning, it's kind of broken so we don't have a way to bring these grievances up. I would not have come here tonight if there were an alternate venue somewhere else to be able to establish this. I do not want to interfere with any process. I was introduced to the mixed-use project three years ago. This is a change to a change that's been changed already and not one spoonful of dirt has come out of that lot yet. I'm not really sure why we continue to revisit the issue again and again. I do pay taxes in the area, there are about sixty-six homes in there, conservatively speaking, we produce about \$200,000 in taxes on the record for the state and county. If you open that up we will be a four-lane traffic out of there, even though it's showing a narrow opening, we're still going to be a throughfare from Meadowmont to Lakewood and back and it is going to reduce the value of our homes. I don't think we will have anything but diminishing returns on our current taxes. Thank you for your time.

Sharon Lewis: Our neighborhood has been very passionate about this issue and we've had to deal with this over the past few years. We've complied and tried to go on with our lives and found ourselves here again this year with this situation. Unfortunately, we've only about two weeks to react. We are hopeful that Mr. Hairr would call a meeting to listen to our thoughts, concerns and what we might suggest to him, but we didn't have a chance to do that. I would like to offer the original petition from our neighborhood opposing this motion. I would like to give this to Mr. Lloyd and submit it as evidence. All the signatures are there and we've put in place the motion to change the mixed-use and interconnect our neighborhood. Everybody's address has been documented and there are signatures and dates.

Chair Epler: You said this petition was passed around when we made the last approval? [see Exhibit #1]

Ms. Lewis: This petition was just done over the past week in reference to this particular change.

Chair Epler: Ok, our County Attorney will look it over and let us know if we can review it or not, you may continue.

Ms. Lewis: I noticed the Ten Commandments are above your heads. Number ten states, "Thou shall not bear false witness against thy neighbor". Mr. Hairr, on May 15, 2007, you assured myself and my fellow neighbors that you would not interconnect into our neighborhood. If you'll note on page 8, from your board minutes, it specifically states as Mr. Charles Morris had noted, Jackie Hairr, the applicant, stated that he tried to design a suitable neighborhood to ease traffic flow.

Mr. Lloyd stated the applicant agreed not to tie into adjoining neighborhood and to provide a buffer in the area. That's all that I have to say.

Mr. Lloyd: For the record, can we get you to attest that these are all genuine signatures?

Ms. Lewis: Those are all genuine signatures and I attest to that.

MaryAnn Thomas: I have four kids and when we moved in almost five years ago and we were greeted with a 4<sup>th</sup> of July parade in the neighbor. We've had Halloween parties with hay rides, dinners together and 4<sup>th</sup> of July parties continuously. I am opposed to this connection, it will bring in much more traffic than our neighborhood needs. We have kids playing, riding bikes, walking and parents out on the streets together. If Meadowmount is allowed to have this traffic brought in to connect to the back end of the new development, that will be taken away from our families. My kids can go to anybody and they know them. We know what cars belong, what trucks are coming in the neighborhood. People keep an eye out for one another. Opening that up will take that away because we won't know who is coming and going into and out of that other development. I ask that you deny the request to connect Thornsby to the rest of that development.

Steve Alvin: I'm opposed to this because there is no need to link anything through our neighborhood. All it will do is drag traffic. If you take what he currently has, 22 units and do an average. I think there are six units in each of those residences. If each one had two cars, that's 264. If each person left and returned each day, that's 528 cars going down that road every day. That's including those working or retired. This is just going out and coming back each day. If twenty-five percent of them took an additional trip, we'd have 660 cars going down Meadowmont Lane. There is no absolutely no benefit whatsoever to tie that into our neighborhood. Everything is a downside and to make the statement that there would be no decrease or injury to the value in the homes there, that's impossible. The real estate agent made comments to that and I think that's evident that on any street that has a tremendous amount of traffic, the homes do not sell well and we do not need that in our neighborhood.

James Huggins: I just want to add my voice. Three main points: Treasure, conflict of interest and traffic. You've heard about the treasure, we've all made choices to live there. We've committed our futures and many hundreds of thousands of dollars of our future to live there because we prize the safety and security of the neighborhood. The children are the treasure that live among us. Conflict of interest: Mr. Hairr cannot defend the neighborhood because he's still developing the neighborhood. The homeowners association is in the hands of a man who is still developing the concept as you see what's happening, you've heard the new homes value from \$350,000 -\$200,000, so we're going to do what the market bears as the previous speaker said. It is bound to have a negative effect on the homes that exist in Traemoor. That neighborhood will not be Traemoor, it will be something else. My last point which is the traffic: Connect to Rockfish or Stonepoint. We want to be reasonable as other speakers have said. You can't run traffic from another neighborhood down Thornsby and Meadowmont with all the driveway traffic and all the children that play in the streets, with our blessing, without having something tragic occur. The least being diminishing property value, the worst being an accident involving people.

Tina Pointer: A lot of my neighbors have said what I wanted to say about the safety. When we moved in we were also told that we would not be interconnected and we just want him to keep his promise. My main concern was the safety and property value and the crime. We live in a fantastic neighborhood where there is no crime, no trouble and we want to keep it that way.

Kelvin Draughon: Mr. Draughon had concern about the map that he received.

Chair Epler stated to Mr. Draughon that the map on display on the overhead is the only map being addressed at the proceedings at this meeting.

Mr. Draughon: There are no benefits to the neighborhood, the benefits are unknown. School busses do not come into Traemoor. I stand corrected, the middle school bus does not come in. Twenty-five children stand each morning and wait to be picked up. The map that I'm showing here and again I'll state it's not the same map I received. Mr. Lloyd said earlier today, it eliminates curb cuts and I'm trying to figure out how it eliminates curb cuts at all.

Chair Epler: The concept of interconnectivity eliminates curb cuts, theoretically, it may not in every case, but theoretically it does.

Mr. Draughon: I would submit that it is irrelevant since it is not connecting to Rockfish Road. I want to re-point out that there are precedents for closing thoroughfares and what we are doing here is opening a thoroughfare, allowing more traffic in our neighborhood that we don't need.

Mark Parsons: I've got mostly the same concerns as everyone else, but want to add a few things. This was supposed to be a 30 ft. berm built with trees, shrubs to buffer our neighborhood from this. My problem is in the middle of the game, Mr. Hairr is changing his tune as he has done before and trying to open up the traffic in our neighborhood. What I'm concerned with is if we open it up now to these condos, in another two or three years, he may want to open it up to Rockfish Rd. I hope that will not happen. About 2 ½ years ago, he said he was not interested in any shape or form. We are trying to hold him to that. Again, a concern that Ms. Lewis mentioned earlier, we were not notified of this and only found out about it a few weeks ago in the mail. We wish we had a working home owners association so we could get together, talk and be told of these things and perhaps keep public meetings like this from happening. Those are my concerns; my wife and I are public school employees and we've worked really hard to be able to afford a house in here and we look at it as a sizeable investment for our family. We just want it to keep the same value and obviously it will not if these condos are built.

Jay Dowdy: A lot of points I was going to make have been brought up. I think the most important thing is in America, it's the land of the free, we have agreed upon the development as originally planned. What is changing now is the Thornsby Lane coming into the condo associations complex. Mr. Downing spoke about the lanes and roads. He stated the morning travelers will go through the school zone through Lakewood Drive and it will be used as a short cut, like the Montclair subdivision. He stated he is all for the development, but want the original promise with the berm and the trees. He stated a diagram was given out indicating the 30 foot. berm with trees, etc and said the Board should look at their notes showing the proposed berm with

the trees separating the two areas. We're for development, but not for messing up and making a thoroughfare for this whole complex cutting through this subdivision. Thank you.

Mr. Lloyd: I would like to make one clarification. There has been a lot of mention about the berm, but in what was approved, both conditions and map, a berm was not included in the original approval. I'm talking about what was actually approved by the Commissioners.

Scott Kobida: I actually travelled from Tennessee. Mr. Kobida asked if we had a recorded transcript of the last meeting he attended. He stated he remembers the buffer part and stated it was brought up after Mr. Hair made a rebuttal.

Chair Epler: Informed Mr. Kobida the proceeding was recorded and the recording was transcribed into written minutes.

Mr. Lloyd: The final approval would be to the County Commissioners.

Chair Epler: This board makes a recommendation to the County Commissioners.

Mr. Lloyd: They approve the conditions and map we have in the file.

Mr. Kobida: Did they have access to the notes?

Chair Epler: Yes, they did have access to the minutes from our meeting.

Mr. Kobida: When this goes to the county again, can those minutes be transcribed. I swore he did talk about a berm and blocking those things out in the last meeting.

Chair Epler: County Commissioners will have the minutes from this meeting when they look at this case.

Mr. Lloyd: Just for clarifications, when we do these CUDs, regardless of what the discussion was what was agreed to by the staff with the developers reflected on those conditions and there were no changes to those conditions that night in the motions and there weren't any changes to the map.

Mr. Kobida: When were those agreements made? I only ask because we walk out of this meeting thinking those were part of the agreement and they're not.

Chair Epler: The motion that was made and voted on by this board and the County Commissioners is found in those minutes and staff can give you copies of those minutes.

Mr. Lloyd: The only thing that was added on at the Commissioners minutes was the sidewalk.

County Attorney: Madam Chair, if these were two separate parts at that time and it sounds like they were, the county did not have the authority to impose conditions on the adjoining parcel where he was talking about putting a 30 foot berm on the development.

Mr. Kobida: In other words, promises made during this had no bearing on what happened on the County Commissioners, is that what your saying?

County Attorney: No sir, it was not tied to your subdivision, it's on his piece of property.

Chair Epler: Asking Mr. Kobida. Can you tell me was the berm and the 30 foot strip supposed to be on the Traemoor lots or on Mr. Hairr's mixed-use development?

Mr. Kobida: On the mixed-use development.

Chair Epler: Ok, then that stipulation could have been added to this proceeding, but it was not.

Mr. Lloyd: Correct. This addresses only the connectivity.

Chair Epler: Exactly. We are addressing the connection where Thornsby Lane comes into. We can't discuss the fact that there was or was not supposed to be a berm there.

Mr. Kobida: What's the process for him to change?

Chair Epler: You are in that process. He would have to go through another process, however, staff has capability to approve minor changes to that site plan. Our ordinance allows for that.

Mr. Lloyd: Such as internal street layouts or maybe the turning of buildings, nothing that would statistically change.

Chair Epler: A major site plan change would come back to this board again.

Mr. Kobida: Would we be notified in the future if that road went straight from that cut through which we're discussing now all the way to Rockfish.

Chair Epler: If you were notified this time, you would be notified at that time as well. Under the provisions of today's ordinance, yes you would.

Mr. Lloyd: No, it's an internal road, not a curb cut. Only if it were going to be a curb cut onto Rockfish Road, it would be a major modification; then you would be notified.

Chair Epler: We can make that stipulation in our conditions for this recommendation tonight in that if there were any additional curb cuts.

Mr. Lloyd stated the only thing we are discussing tonight is: will this road go through and will it connect or not.

Mr. Kobida: So, as I understand there's not going to be anything to discuss as a potential for this being cut all the way to Rockfish and we'll have to wait on notification on that. There is no reconciliation or any discussion about what was stated in the last meeting that was not put through.

Chair Epler: Not at this time.

Mr. Kobida: Is there anything that we can do to address that as a neighbor?

Mr. Lloyd: What was stated is one thing, but what was approved by the County Commissioners and reflected in their minutes is what we are seeing here.

Mr. Morris: What was stated was there would be no connectivity. What was approved was there was no connectivity. The modification here tonight is to allow connectivity. That's a yes or no decision by the Board.

Pat Ricotta: Was signed in to speak but not present when called to the podium to speak.

Cheryl Arnold: I have a couple of questions about the development. First, we have a lot of children who are here and they are absolutely going to be affected by the changes. They do go outside and play on the streets so the idea of having a lot of additional traffic is not something that we want. My husband and I made the specific decision to move into this neighborhood because it is a closed neighborhood, it's one way in and out and we know when someone doesn't belong. We are very vigilant to make sure our neighborhood stays safe and closed for our kids. My first question is: Will there be a traffic study with relation to the proposed changes? Also, have you seen any other neighborhood where people make the decision to purchase \$400,000 – \$500,000 homes and later have someone put in lower income, smaller houses that connect into the neighborhood? I haven't seen that. It's one thing to grow a neighbor and take smaller homes and build it up with larger homes. It's another thing for people to make a conscious decision to live into a certain type of neighborhood and have that neighborhood against our will changed into something different. It's not what I want. I've been through this before. I used to live in Hunter's Crossing, which was a small area, one way in and out. Over the years, the neighborhood changed dramatically and it has been a terrible change for that neighbor. My husband and I made a decision to move into this neighborhood and spend a lot more money; now we see somebody attempting to do exactly what we've moved away from. It's got to be stopped, it's not right. We have the right to move into the type of neighborhood we want to be in and we have the right to make sure it stays that way. If we had a working homeowners association which wasn't being run by somebody who is interested in doing something against our will, we would be able to make more changes and stop this kind of thing from happening. That's why there are so many of us here today to speak out against this.

Chair Epler: Does anybody have any questions for Mrs. Arnold? I have a question. Do the residents of this neighborhood pay home owners association dues?

The audience all responds "Yes, we do".

Chair Epler: We're going to close the public hearing

Mr. McLaurin: We're talking about the permit here tonight and two of the things you read when granting the permit are. (1) Will not materially endanger the public health and safety. This is a

small neighborhood, approx. 90 houses, it's closed in, one way in and one way out. The way that neighborhood is now and then to put another access into that neighborhood would alter it and somewhat destroy the neighborhood because people would be passing in and out. One of the problems we have in this country today is that a lot of the things we do in the name of the law has helped destroy or neighborhoods, schools, etc. and to preserve a neighborhood, and particularly its' health and safety, we don't need the curb cuts. The second thing you note when granting a permit is to ensure it will not substantially injure the value of adjoining or abutting property. It's putting more traffic out here and Mr. Hairr thinks the residents of these homes will consist of people aged 50 years or older. You don't know who is going to be living in those homes. It could be a lot of young single people, you don't know. They pass through the neighborhood, pass at the bus stops and there could be twenty-five little kids standing out there. Mr. Hairr agreed to keep them separate. Mr. Hairr still has a chance to change what's going on out front. The people in the audience can't change anything, the only thing they can do is try to preserve a way of life they thought they had when they moved there. I support these motions that are being made.

**Mr. Morris made a motion, seconded by Mr. Turner to deny the petitioners request. The vote was unanimous.**

Chair Epler: This case goes to the County Commissions on April 19, 2010.

C. **96-449: CONSIDERATION OF THE RADHA SOAMI SOCIETY BEAS AMERICA, RR SITE PLAN REVIEW; REQUEST FOR A WAIVER FROM SECTION 2306 A.1, CONNECTION TO SEWER, COUNTY SUBDIVISION ORDINANCE; ZONING: RR; TOTAL ACREAGE: 52.05 +/-; LOCATED AT 4115 GILLESPIE STREET; SUBMITTED BY RAJAN SHAURDA SANI FOR (OWNER) RADHA SOAMI SOCIETY BEAS - AMERICA.**

Chair Epler swore in Mr. Rajan Shamdasani.

Mr. Morris: As disclosure states, Mr. Shamdasani called him regarding this piece of land. Behind that piece is an abandoned subdivision, it's not abandoned, it just never happened in the 1950's. So he and I engaged in a conversation regarding that and with that I also recall Tom had a conversation with him. So for disclosure purposes, he and I had that discussion.

Chair Epler: Do you feel that you can rule fairly or impartially?

Mr. Morris: I do.

Mr. Shamdasani: I represent the church, a very small caretaker home, approximately 1200 square feet which is approximately 1200 linear feet away from the manhole where the sewer line lies. According to the PWC letter, it will cost us approximately \$120,000 to connect from this house to the sewer line and for a small caretaker home, that's a lot of money and our church does not have that kind of money to spend just for a sewer line. That's the reason for the waiver.

Mr. McLaurin: I saw in the packet that Public Works Commission said you could connect into the manhole or into a lateral, a lateral is just a pipe that comes up and connect into the sewer. Did

they mention anything to you about one of these small lift pumps that you could put in down there and you could take a trencher to put about a inch and a half of pipe in and carry it through that manhole as opposed to do a septic tank?

Mr. Shamdasani: We actually have a lot of volunteers in the church who can do a lot of trenching, but the cost of getting that pipe and the trenching was quite inequitable and we spoke to the County Health Department to see if they would allow us to do a septic tank. They came out, looked at it and said there was no issue with that at all.

Mr. McLaurin: I just wanted to say if you ever wanted to increase back there or maybe put some more dwelling, these pumps are not very expensive. I have one I put up at about 2500 feet to a manhole. It's very reasonable and it's large enough that I could actually put about three more dwellings on the system. Maybe later on if you thought about doing it, it's about one tenth of running a sewer up there. I went about 2500 feet. I don't know if they informed you about those types of pumps.

Mr. Shamdasani: No, but thank you for the information.

Mr. McLaurin: It's your call, just in case you ever have any future growth back there, you'd be done with it.

Mr. Lloyd: Acknowledges and thanks Joe Glass from PWC for his attendance in case anyone had any questions concerning this case.

**A motion was made by Mr. McLaurin, seconded by Mr. Clark. The Joint Board for the County of Cumberland having held a public hearing to consider the waiver request for Case #96-449 requesting to not be required to connect to public sewer and develop subject property in a manner not permissible under the literal terms of the County Subdivision Ordinance. Having heard all of the evidence and arguments proceeding, I move that the board makes the following findings and facts and draws the following conclusion: 1. Because of unusual physical conditions, strict compliance with the position of the Cumberland County Subdivision Ordinance would cause a special hardship to the property owner and be inequitable, this finding is based on the following conditions: The sewer distance is excessively cost prohibitive. 2. It is the Boards conclusion that the public purposes of the County Subdivision and County Zoning Ordinances would be served to an equal or greater degree, this finding is based on the following conditions: It's in excess of 1200 feet to public sewer which cost again is prohibitive. 3. It is the Board's conclusion that the property owner would not be afforded a special privilege denied to others, this finding is based on the following conditions: The sewer is 1200 feet and cost prohibitive. Because of the foregoing, I move to request that the request for the waiver be approved. Unanimous approval.**

## VIII. DISCUSSION

A. Mr. Lloyd: Had that been two lots it would have only been 300 feet, but it was one lot that was huge, so we may want to look at that. We'll talk more about that at a later time.

XI. FOR YOUR INFORMATION

DIRECTOR'S UPDATE

Two weeks from tonight, we have our Joint Meeting with the City of Fayetteville's Planning Board. David Owens from the Institute of Government is going to speak to this board, that board and members of the Board of Adjustment. I think it might be better to hold the meeting here instead of the Lafayette Room in case there are too many people. He is traveling from out of town. Would it be possible, if the City could, to start the meeting at 6 pm instead of 7 pm? The meeting is on March 30, 2010. We will notify you all to finalize the change in time.

In regards to the Hope Mills MIA, Hope Mills met with the City of Fayetteville. The City of Fayetteville is pursuing to reach an agreement with Hope Mills because they want to do an area of intent. They are worried about the annexation laws, so they apparently reached an agreement, but I just want to remind you that the MIA still needs to be approved by this body and the County Commissioners. It is county land.

The Northeast Vision Plan for Falcon/Godwin, the most recent area was approved by the County Commissioners last night and will be going to those two towns within a month.

Mr. Lloyd introduced Rick Moorefield as our County Attorney.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 10:00 pm.