

Walter Clark,
Chair
Cumberland County

Patricia Hall,
Vice-Chair
Town of Hope Mills

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



COUNTY of CUMBERLAND

Planning & Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

August 21, 2012

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Charles Morris, Moderator, Land Use Codes Committee

SUBJECT: P12-33. REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE AMENDING ARTICLE II, INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203 DEFINITIONS OF SPECIFIC TERMS AND WORDS; AMENDING ARTICLE IV, PERMITTED, CONDITIONAL AND SPECIAL USES, SECTION 403, USE MATRIX BY INSERTING *INTERNET CAFÉ/VIDEO GAMING* AS A PERMITTED USE IN THE C(P) PLANNED COMMERCIAL DISTRICT COLUMN; AMENDING ARTICLE IX, INDIVIDUAL USES, BY CREATING SECTION 911.1, ENTITLED: INTERNET CAFÉ/VIDEO GAMING AND LISTING SPECIFIC DEVELOPMENT STANDARDS; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

On August 20, 2012 the County Board of Commissioners sent the above referenced Zoning Ordinance text amendment back to the Joint Planning Board, requesting the board propose hours of operation for internet café/video gaming facilities. The Land Use Codes Committee has re-considered the proposed amendment and inserted a provision addressing operating hours to be prohibited between 2:00 am and 7:00 am. The committee also proposed a change to the off-street parking provisions recommending that one space for each machine be required. The committee recommends approval of the proposed amendment as attached with the changes noted.

In addition to the re-consideration of the amendment, the commissioners also requested information concerning police involved activity related to internet café/video gaming. Attached is a compilation of documented incidents in the unincorporated area of the county.

Please contact me with any questions at 910-323-3161, email: charles@morriscoyler.com or Patti Speicher at 910-678-7605 or email: pspeicher@co.cumberland.nc.us.

Attachment:

P12-33 Internet Café/Video Gaming Text Amendment, County Zoning Ordinance
Compiled Incident Report, dated September 7, 2012
Original LUCC Recommendation, dated May 15, 2012

P12-33
Cumberland County

Zoning Ordinance Amendment
(Internet café/video gaming)

P12-33: REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE AMENDING ARTICLE II, INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203 DEFINITIONS OF SPECIFIC TERMS AND WORDS; AMENDING ARTICLE IV, PERMITTED, CONDITIONAL AND SPECIAL USES, SECTION 403, USE MATRIX BY INSERTING *INTERNET CAFÉ/VIDEO GAMING* AS A PERMITTED USE IN THE C(P) PLANNED COMMERCIAL DISTRICT COLUMN; AMENDING ARTICLE IX, INDIVIDUAL USES, BY CREATING SECTION 911.1, ENTITLED: INTERNET CAFÉ/VIDEO GAMING AND LISTING SPECIFIC DEVELOPMENT STANDARDS; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

AMEND Article II, Interpretations, Calculations and Definitions, Section 203, Definition of Specific Terms and Words, by INSERTING in alphabetical order the definition as written below for "Internet café/video gaming":

SECTION 203. DEFINITION OF SPECIFIC TERMS AND WORDS.

Internet café/video gaming: Any for profit business enterprise, whether as a principal, accessory or incidental use, providing two or more computers and/or other electronic devices for access to the internet, email, applications, video games, or any other similar activity for a fee that either rewards the user in currency or in any manner capable of being converted to currency whether immediate or future or any other form of compensation. This term includes but is not limited to "internet cafes," "cybercafés," "sweepstakes," or "business center." This term does not include any governmental use.

AMEND Article IV, Permitted, Conditional and Special Uses, Section 403, Use Matrix, by INSERTING in alphabetical order into the *Land Uses* column "Internet café/video gaming" with the use being allowed in the C(P) Planned Commercial zoning district as a Permitted Use requiring staff site plan approval, indicated by INSERTING an "P" in the *Zoning Classification* column under the heading C(P).

AMEND Article IX, Individual Uses, by CREATING Section 911.1, entitled: *Internet café/video gaming*, and INSERTING the standards for internet café/video gaming operations as follows:

SECTION 911.1. INTERNET CAFÉ/VIDEO GAMING.

The following standards apply regardless whether the internet café or video gaming facility is operated as a principal use, accessory use or incidental use:

(a) The detailed site plan accompanying the application shall comply with the provisions of Article XIV and when the internet café/video gaming facility is to be located on a lot with other existing uses, all existing uses on the same lot must be labeled on the appropriate building footprint as shown on the detailed site plan;

(b) Each such establishment shall be located no closer than 2,500 feet from another internet café/video gaming facility, regardless of the jurisdiction in which the facility is located;

(c) Each such establishment shall not be located within 500 feet of any area zoned for residential use, properties containing residential unit(s), religious worship activity, nursery school, day care facility, educational facilities, any public or non-profit recreation or amusement and any public or private school regardless of the zoning district in which located and shall be measured from the property line(s) containing such regulated use;

(d) In the event there is a change in the operational characteristics of the facility in which the internet café/video gaming operation is located, re-submittal of an updated complete application and site plan for re-review and approval prior to enacting the proposed change;

(e) This establishment shall not be located within the same facility as a commercial entity in the business of providing open alcoholic beverages (to include: liquor, fortified wine, unfortified wine and beer), for sale or otherwise provided and alcohol sales within the establishment shall not be permitted;

(f) No establishment shall contain any computer, computer program or gaming machine that has been declared to be banned in the State of North Carolina;

(g) Off-street parking shall be provided at the rate of one space for each gaming machine ~~four persons in design capacity~~ independent of the off-street parking required for all/any other use on the same property; and

(h) Signage shall be as regulated in Article XII; and

(i) Internet cafés/video gaming facilities shall not operate between the hours of 2:00 am to 7:00 am.

COMPILED INCIDENT REPORTS OF KNOWN INTERNET CAFÉ
CALLS FOR SERVICE PAST 2 YEARS

NATURE OF CALL	CALLS
Area Check	1
Assault Individual/Small Group	1
Assist	1
Audible Alarm	3
Burglary/Intrusion Alarm	9
Business Robbery	6
Community Policing	1
Found Property/Property Pickup	1
Follow up	1
Fraud Forgery	1
Harassment	1
ID Call	5
Information	1
Investigating Suspicious Vehicle	6
Investigate Suspicious Subject	2
Larceny	1
Nuisance Abatement	1
Panic Alarm	1
Past Assault	1
Past Damage/Vandalism	1
Past Prescription Fraud	1

NATURE OF CALL	CALLS
Personal Robbery	1
Physical Disturbance Individual/Group	2
Physical Disturbance Large Group	1
Serve Papers (Warrants, Etc)	2
Suspicious Circumstances	4
Suspicious Person	1
Traffic Stop	5
Trespassing/Unwanted	1
Vehicle Theft	1
Verbal Disturbance Small Group	2
Verbal Disturbance Individual/Group	1
Wanted Subject	1
911 Hang Up Call No Voice	1
	Total Calls 69

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Town of Linden



COUNTY of CUMBERLAND

Planning & Inspections Department

May 15, 2012

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Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Donovan McLaurin, Chairman, Land Use Codes Committee

DEM 1 of 3

SUBJECT: P12-33. REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE AMENDING ARTICLE II, INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203 DEFINITIONS OF SPECIFIC TERMS AND WORDS; AMENDING ARTICLE IV, PERMITTED, CONDITIONAL AND SPECIAL USES, SECTION 403, USE MATRIX BY INSERTING *INTERNET CAFÉ/VIDEO GAMING* AS A PERMITTED USE IN THE C(P) PLANNED COMMERCIAL DISTRICT COLUMN; AMENDING ARTICLE IX, INDIVIDUAL USES, BY CREATING SECTION 911.1, ENTITLED: *INTERNET CAFÉ/VIDEO GAMING* AND LISTING SPECIFIC DEVELOPMENT STANDARDS; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

The Land Use Codes Committee has considered the above referenced text amendment to the County Zoning Ordinance and recommends approval of the proposed amendment as attached.

The proposed amendment is offered due to the proliferation of this type of use throughout the County and the committee finds it necessary for internet cafés/video gaming facilities to be appropriately regulated to minimize any potential adverse impact to affected communities. To date, the staff is approving this use under the ordinance criteria of "for profit indoor recreation" because the specific use *internet café/video gaming* is not listed in the County Zoning Ordinance as a use by right or as a use that can be approved under prescribed conditions.

If the proposed amendment is adopted, land use impacts resulting from internet cafés/video gaming facilities will be specifically addressed, the most crucial being the provision of adequate off-street parking. In addition, the provisions of the amendment will aid in preventing communities from becoming oversaturated with these facilities by specifying a zoning district where the use is to be permitted and implementing separation requirements as contained within the text. The amendment also includes provisions that require separation from uses typically protected such as religious worship facilities, day cares, residential neighborhoods, public or non-profit recreation and schools.

Please contact me with any questions at 910-850-1800, email: dmclaurin@outdrs.net or Patti Speicher at 910-678-7605 or email: pspeicher@co.cumberland.nc.us.

Attachment: P12-33 Internet Café/Video Gaming Text Amendment, County Zoning Ordinance

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COUNTY of CUMBERLAND

Planning & Inspections Department

August 21, 2012

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Benny Pearce,
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MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Charles Morris, Moderator, Land Use Codes Committee

SUBJECT: P12-60. REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY SUBDIVISION ORDINANCE AMENDING ARTICLE XXIII, IMPROVEMENT AND DESIGN STANDARDS; SECTION 2304, STREETS; SUB-SECTION C, PRIVATE STREETS; ALLOWING FOR THE LAND AREA WITHIN A CLASS "C" PRIVATE STREET TO BE COUNTED FOR DENSITY PURPOSES; AND UPDATING THE TABLE OF CONTENTS IF APPROPRIATE.

The Land Use Codes Committee has considered the above referenced text amendment to the County Subdivision Ordinance and recommends approval of the proposed amendment as attached.

The proposed amendment will allow property owners the benefit of using land area within the right-of-way of a Class "C" private street for density calculations. The committee members agreed with the staff recommended amendment based on the following:

1. The NC Department of Transportation will not consider acceptance of a Class "C" private street, approved after September 30, 1975, for addition to the State system for maintenance purposes;
2. The land area within other easements, such as utility, drainage, buffers, and access, can be used for density calculations; and
3. Individual lot owners pay property taxes on the land area within a Class "C" private street right-of-way, unlike other private streets and public streets.

Please contact me with any questions at 910-323-3161, email: charles@morriscoyler.com or Patti Speicher at 910-678-7605 or email: pspeicher@co.cumberland.nc.us.

Attachment: P12-60 Co Subdivision Ord Text Amendment

P12-60
Cumberland County

8/24/12

Subdivision Ordinance Amendment
(Class "C" private street right-of-way)

P12-60: REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY SUBDIVISION ORDINANCE AMENDING ARTICLE XXIII, IMPROVEMENT AND DESIGN STANDARDS; SECTION 2304, STREETS; SUB-SECTION C, PRIVATE STREETS; ALLOWING FOR THE LAND AREA WITHIN A CLASS "C" PRIVATE STREET TO BE COUNTED FOR DENSITY PURPOSES; AND UPDATING THE TABLE OF CONTENTS IF APPROPRIATE.

AMEND Article XXIII, Improvement and Design Standards; Section 2304, Streets; sub-section C, *Private streets*, as indicated below:

SECTION 2304. STREETS.

C. *Private streets.* Private streets will be permitted to serve as access within subdivisions or other developments; however, dedication of public streets and other rights-of-way or easements may be required if such are indicated on the official plans as adopted by the County Board of Commissioners, a governing body of a municipality in Cumberland County or the Planning Board. Public streets and/or other rights-of-way or easements or public access over private streets will be required where the Planning Board, the NCDOT, or public utility agency determines that such are necessary in order to promote the continuity of existing streets or utility systems or otherwise protect and promote the public health, safety and welfare.

1. *NCDOT specifications.* Unless otherwise approved, the developer shall reserve enough area along all private streets to meet NCDOT specifications for right-of-way width requirements on secondary roads. Except for Class "C" private streets, the land ~~Such~~ area within the private street right-of-way as is required to be reserved may not be used toward lot area requirements. The area within any private street right-of-way, regardless of class or type of street shall not ~~or~~ be included in any required yard space.

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COUNTY of CUMBERLAND

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August 21, 2012

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Benny Pearce,
Town of Eastover

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MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Charles Morris, Moderator, Land Use Codes Committee

SUBJECT: P12-61. REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE AMENDING ARTICLE II, INTERPRETATIONS, CALCULATIONS AND DEFINITIONS; SECTION 203, DEFINITION OF SPECIFIC TERMS AND WORDS, SPECIFICALLY: KENNEL; ARTICLE IV, PERMITTED, CONDITIONAL, AND SPECIAL USES, SECTION 403, KENNEL OPERATIONS; AND ARTICLE IX, INDIVIDUAL USES; SECTION 912, KENNEL OPERATIONS; REPEALING PROVISIONS AUTHORIZING APPROVAL OF THE TEMPORARY HOUSING/BOARDING OF DOGS IN RESIDENTIAL DISTRICTS AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

The Land Use Codes Committee has considered the above referenced text amendment to the County Zoning Ordinance and recommends approval of the proposed amendment as attached. If approved, the amendment will ensure consistency between the County's Zoning Ordinance and the Animal Control Ordinance (Chapter 3, Animals, of the Cumberland County Code).

On May 21, 2012 the County Board of Commissioners adopted a comprehensive revision of the County's Animal Control Ordinance. Included in the revision are provisions prohibiting more than three dogs, five months of age or older to be kept, harbored or maintained at any premises located in any area with a zoning classification for single-family residential lots of 20,000 square feet or less. The attached amendment proposes to repeal conflicting provisions currently included in the County Zoning Ordinance.

Please contact me with any questions at 910-323-3161, email: charles@morriscoyer.com or Patti Speicher at 910-678-7605 or email: pspeicher@co.cumberland.nc.us.

Attachment: P12-61 Co Zoning Ord Text Amendment

cc: Dr. John Lauby, Director of Cumberland Co. Animal Control

P12-61
Cumberland County
Zoning Ordinance Amendment
(Kennels)

 8/27/12

P12-61: REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE AMENDING ARTICLE II, INTERPRETATIONS, CALCULATIONS AND DEFINITIONS; SECTION 203, DEFINITION OF SPECIFIC TERMS AND WORDS, SPECIFICALLY: KENNEL; ARTICLE IV, PERMITTED, CONDITIONAL, AND SPECIAL USES, SECTION 403, KENNEL OPERATIONS; AND ARTICLE IX, INDIVIDUAL USES; SECTION 912, KENNEL OPERATIONS; REPEALING PROVISIONS AUTHORIZING APPROVAL OF THE TEMPORARY HOUSING/BOARDING OF DOGS IN RESIDENTIAL DISTRICTS AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

AMEND Article II, Interpretations, Calculations and Definitions; Section 203, Definition of Specific Terms and Words; definition for the term "Kennel" as indicated below:

SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS.

Kennel: Any premises where four or more dogs which are five months old or older are kept permanently commercially or as pets, ~~or temporarily housed/boarded if approved under Section 912.G,~~ excluding pet grooming shops, veterinary clinics and veterinary hospitals. (Section 912)
(Amd. 01-19-10)

AMEND Article IV, Permitted, Conditional, and Special Uses, Section 403, Use Matrix, row entitled: Kennel Operations³ (Section 912) by removing the "S" in the RR zoning classification column and the footnote ³ at the bottom of the page as indicated on the next page:

SECTION 403 USE MATRIX
CUMBERLAND COUNTY ZONING ORDINANCE
P = PERMITTED USE
S = SPECIAL USE (Sec. 1606 Board of Adjustment approval required)
Z = CONDITIONAL ZONING (Article V – County Commissioners approval required) (Amd. 04-11-18)

LAND USES	ZONING CLASSIFICATIONS																						
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)	
HOME OCCUPATIONS, Incidental (Sec. 1002A)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
HOTEL/MOTEL, except as regulated by Sec. 924																			P	P			
INDUSTRIAL OPERATIONS NOT OTHERWISE PROHIBITED																							P
INDUSTRIAL SALES OF EQUIPMENT OR REPAIR SERVICE																						P	P
JANITORIAL SERVICE																			P	P	P	P	P
KENNEL OPERATIONS ³ (Sec. 912)		P	S	S	S			S											P	P	P	P	P
LABORATORY OPERATIONS, medical or dental																	P	P	P	P			
LABORATORY, RESEARCH																	P	P	P	P	P	P	P
LANDFILL, DEMOLITION/INERT DEBRIS																						P	P
LIBRARY (SEC. 916)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
LIVESTOCK SALES & AUCTIONING (SEC. 916)		P																				P	P
LOCKSMITH, GUNSMITH																			P	P	P		
MACHINE TOOL MANUFACTURING OR WELDING																							P
MANUFACTURED HOME CLASS A, for residential occupancy		P	P		P		P	P		P													
MANUFACTURED HOME CLASS B, for residential occupancy		P			P			P															
MANUFACTURED HOME CLASS C, for residential occupancy (Sec. 913)																							
MANUFACTURED HOME PARK (County Subdivision Ordinance), excluding any manufactured home sales																							
MANUFACTURED HOME SALES																					P	P	P
MASSAGE & BODYWORKS THERAPY																		P	P	P			
MILLING OR GRINDING GRAIN AND SEED INTO FOOD (SEC. 916)		P																				P	P
MINI-WAREHOUSING (SELF-STORAGE FACILITY) (no outside commercial storage of motor vehicles (Sec. 914)		P														S	S	P	P	P	P	P	P
MINI-WAREHOUSING (SELF-STORAGE FACILITY) (including outside commercial storage of motor vehicles)		S																		P	P	P	P

³ ~~Repealed See Section 912.G for allowed temporary housing/boarding of dogs in all residential zoning districts. (Amd. 01-19-10)~~

⁴ Group developments in the R6A Residential district shall not be approved for more than one manufactured dwelling unit. (Amd. 08-20-12)

AMEND Article IX, Individual Uses; Section 912, Kennel Operations; by repealing subsection G which are provisions for temporary housing/boarding of dogs in residential districts as indicated below:

SECTION 912. KENNEL OPERATIONS.

A. The site plan for kennel operations shall include information as to any outside pen area, shelters, fencing, runs, etc. pertaining to the kennel operations.

B. Shelters, runs, and pen areas shall not be located any closer than fifteen feet to any property line for kennels located in agricultural and residentially zoned districts.

C. The required shelter shall be fully enclosed on three sides, roofed, and have a solid floor.

D. A vegetative buffer shall be required along the side and rear property lines and must comply with the provisions of Section 1102.G. In addition, a privacy fence may be required if it is determined the fence would alleviate any detrimental effects on neighboring properties.

E. Kennel operations shall not be allowed in residential districts if the minimum lot size required by the zoning district of the subject tract has been compromised or otherwise reduced in area as required by the zoning district, i.e., Zero Lot Line developments.
(Amd. 02-19-08)

F. Kennel operations including all pens, shelters, etc., are required to meet the setbacks as required by the zoning district.
(Amd. 11-20-06; Amd. 02-19-08)

G. ~~Repealed. Occupants of property in residential districts which do not allow kennel operations may submit an application to the Director to allow the temporary housing/boarding of four or more dogs, but in no circumstance more than six dogs, more than five months of age or older, for a period not to exceed 12 calendar months, renewable for a maximum period of 12 additional calendar months. The Director shall consider other relevant County Code of Ordinances pertaining to the housing of dogs including but not limited to noise, sanitation, etc. when permitting or denying any request under this section. Factors that the Director shall consider include, but shall not be limited to:~~

- ~~1. The nature of the hardship and purpose of the request;~~
- ~~2. Duration of housing/boarding the dogs;~~
- ~~3. The accommodations available for housing/boarding the dogs to be temporarily housed;~~



- ~~4. Whether the dogs to be temporarily housed/boarded are neutered;~~
- ~~5. Any history the applicant has of being cited for violations of the County's noise, zoning or animal control ordinances or of animal cruelty laws;~~
- ~~6. Any history the dog(s) to be temporarily housed/boarded have of aggressive behavior towards other pets or towards people, and~~
- ~~7. The effect on and character of surrounding property.~~

~~All applications must list the number of dogs, provide verification that the dogs are listed with the County Tax Department and all vaccinations are current. A zoning permit will be required for all approved temporary housing or boarding.~~

~~Any application for the temporary housing/boarding of dogs allowed under the provisions of this section shall be revoked if the temporary permit is found to be issued in error or due to fraud, or if at any time, the situation is found to be in contradiction with the factors considered by the Director which enabled or supported the issuance of the temporary permit. In the event that the Director denies or revokes the request for temporary housing/boarding of dogs, any aggrieved person/persons may file an appeal with the County Board of Adjustment pursuant to Section 1604 of this ordinance.~~

~~(Amd. 09-16-08)~~

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COUNTY of CUMBERLAND

Planning & Inspections Department

September 11, 2012

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Benny Pearce,
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Wade, Falcon & Godwin

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning and Inspections Staff

SUBJECT: Staff Recommendation for the September 18, 2012 Board Meeting

P12-63: REVISION AND AMENDMENT TO THE TOWN OF STEDMAN ZONING ORDINANCE AMENDING ARTICLE III, PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 3.1. TABULATION OF PERMITTED USES, TABLES 1-A, 1-C AND 1-D; ARTICLE IV. CONDITIONAL USES, SECTION 4.3. CHILDREN'S DAY CARE FACILITIES; AND ARTICLE X. DEFINITION OF TERMS, SECTION 10.2. DEFINITIONS OF SPECIFIC TERMS AND WORDS, SPECIFICALLY: *DAY CARE FACILITY*; AND UPDATING THE TABLE OF CONTENTS IF APPROPRIATE. (STEDMAN)

The Planning and Inspections Staff recommends approval of the proposed day care facility text amendment to the Stedman Zoning Ordinance based on the following:

1. If approved, the amendment will allow for religious worship facilities to more easily offer day care services to the citizens of the town;
2. In removing the word "children," day care facility standards can also apply to adult day care services which would have similar land use impacts as a children's day care, such as traffic, outside use/recreation areas, and caregivers onsite; and
3. The provisions as proposed are relatively consistent with the county's provisions which will prevent nonconformities when properties are annexed.

The Town Administrator has reviewed and is in agreement with the proposed text amendment.

Attachment: P12-63 Town of Stedman Zoning Ordinance Text Amendment

P12-63
Town of Stedman
Zoning Ordinance Amendment
(Day Care Facilities)

P12-63: REVISION AND AMENDMENT TO THE TOWN OF STEDMAN ZONING ORDINANCE AMENDING ARTICLE III, PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 3.1. TABULATION OF PERMITTED USES, TABLES 1-A, 1-C AND 1-D; ARTICLE IV. CONDITIONAL USES, SECTION 4.3. CHILDREN'S DAY CARE FACILITIES; AND ARTICLE X. DEFINITION OF TERMS, SECTION 10.2. DEFINITIONS OF SPECIFIC TERMS AND WORDS, SPECIFICALLY: *DAY CARE FACILITY*; AND UPDATING THE TABLE OF CONTENTS IF APPROPRIATE. (STEDMAN)

AMEND Article III, Permitted Principal Uses and Structures, Section 3.1. Tabulation of Permitted Uses, Tables 1-A, 1-C and 1-D as indicated below:

Strike the word "Children's" from the use entitled: *Children's day care facility*, in Table 1-A, Table 1-C, and Table 1-D to read as:

~~Children's d~~Day care facilities

AMEND Article IV, Conditional Uses, Section 4.3. Children's Day Care Facilities, as indicated below:

SECTION 4.3. CHILDREN'S DAY CARE FACILITIES

~~(a) For~~ Regardless of any other requirements in this ordinance, the following specific provisions shall be met as minimum standards prior to the approval of any children's day care facilities located facility as a conditional use within a residentially zoning district, the following provisions must be complied with zoned area:

~~(1) (a)~~ Minimum lot size shall be: ~~Twenty thousand (20,000)~~ square feet;

~~(2) (b)~~ The required ~~Building setback~~ minimum setbacks shall be as follows:

~~a. Front yard: minimum from any public or private street: Thirty (30)~~ feet from any public or private street;

~~b. (e)~~ Rear yard setback minimum: ~~Thirty-five (35)~~ feet;

~~c. (d)~~ Side yard setbacks ~~minimum~~: ~~Twenty (20)~~ feet; and

~~d. (e)~~ Corner lots ~~setback minimum from interior lot lines~~: shall provide a minimum of 30 ~~Twenty (20)~~ feet from both streets;

(3) Subject property must abut and have direct access to a major or minor thoroughfare or higher street classification, as identified in the Highway Plan, for all day care facilities located in residential districts. ~~(f) -Minimum distance to another children's day care facility as defined herein, whether conforming or nonconforming, shall be two thousand five hundred (2,500) feet;~~

(b) Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district in which the property is located.

(c) ~~(g)~~ Minimum of two paved off-street parking spaces, plus one off-street parking space for each employee, shall be provided. ~~Two (2) plus one (1) for each employee;~~ Off-street parking shall be provided in accordance with the standards of Article VIII.

(d) ~~(h) -Minimum paved off-street loading and unloading area: In addition to the off-street parking area, there~~ There shall be sufficient paved driveway to accommodate at least two motor vehicles (2) autos at one time for the purpose of loading and unloading passengers in addition to any off-street parking area. ;

(e) ~~(i)~~ All children's outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not adjacent to a street. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the N.C. BLDG CODE § R312.2 (2006). ; ~~and~~

~~(j) Other conditions as deemed necessary by the Board of Adjustments in accordance with Section 4.2.~~

~~The above requirements are minimum standards which must be met by the applicant and may not be varied by the Board of Adjustment. Once these requirements are met the applicant shall be entitled to a conditional use permit.~~

AMEND Article X, Definition of Terms, Section 10.2 Definitions of Specific Terms and Words, specifically: *Day care facility* as indicated below:

Day care facility: A building or dwelling regularly used for recreational or supervisory care of nine or more persons (adults or children), not including the operator's own family members, during any 24-hour period. It does not matter where it is located, whether the same or different persons attend and whether or not it is operated for profit. The following are not included: public schools; non-public schools, as described in N.C. GEN. STAT. §110-86(2); day care facilities operated on the principal campus of and in conjunction with a religious worship facilities, summer camps having children in full-time residence; summer day camps; specialized activities or instruction such as athletics, clubs, the arts, etc.; and bible schools normally conducted during vacation periods.

(Amd. 11/03/05)



TOWN *of* EASTOVER

3863 Dunn Road

Eastover, North Carolina, 28312

910-323-0707

www.eastovernc.com

910-323-2640 Fax

September 11, 2012

Walter Clark, Chairman
Joint Planning Board
130 Gillespie Street
Fayetteville, N.C. 28301

RE: Eastover Commercial Core Overlay

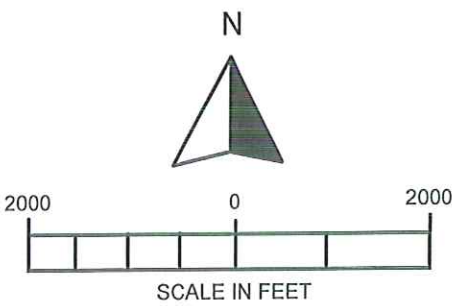
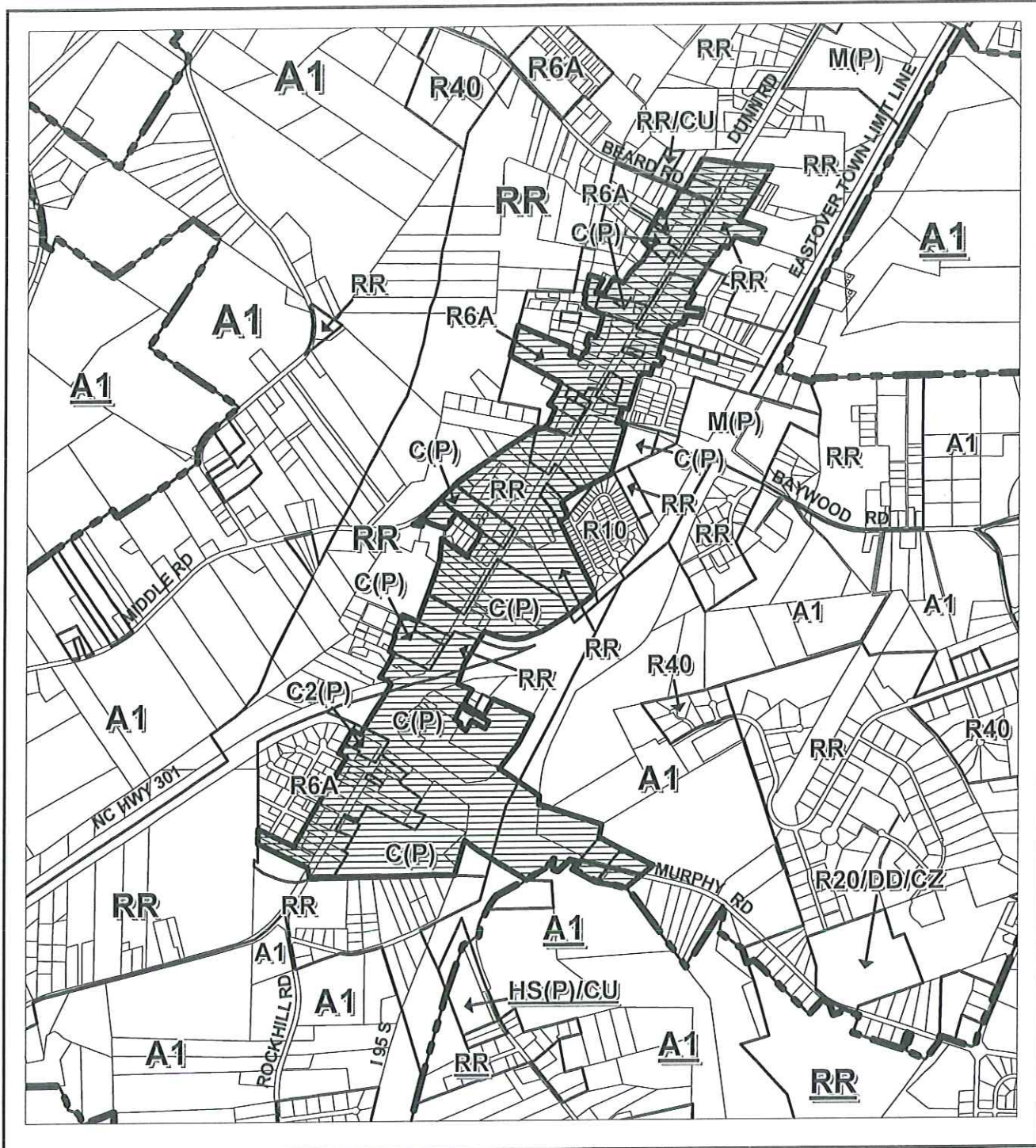
Mr. Clark:

A committee, composed of three Eastover Town Council Members and the Town Manager, has worked for several months with the Cumberland County Planning Staff to develop the Commercial Core Overlay area and the proposed zoning amendment. This proposed amendment has been reviewed by the entire Eastover Town Council, and we feel this amendment will help us manage growth and protect the interest of the Town.

We would greatly appreciate a favorable recommendation from the Joint Planning Board.

Sincerely,

Charles G. McLaurin
Mayor



PIN: SEE FILE

EASTOVER COMMERCIAL CORE OVERLAY DISTRICT REZONING

ACREAGE: 382.68 AC.+/-		HEARING NO: P12-62	
ORDINANCE: EASTOVER	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			

ARTICLE VIII.I OVERLAY DISTRICTS

SECTION 801. COMMERCIAL CORE OVERLAY DISTRICT (CCO)

A. *Purpose and intent.* The purpose of this overlay district is to preserve and enhance the small-scale commercial character of a certain area within the town while providing for low-impact business opportunities and allowing for consistency of development within the overlay area as it continues to be developed or redeveloped. The district is intended to accommodate small-scale, low-intensity and convenience retail and service uses that provide goods and services to the town's residents and their guests. This overlay district is established to prevent unsightly conditions as a result of development which may destroy or detract from the small town character and to exercise such reasonable control over land within the district as may be necessary to accomplish the objective.

B. *Commercial Core Overlay District area defined, generally.* The area within the corporate limits of the town subject to the provisions of this article are properties located approximately within 300 feet along each side of Dunn Road (SR 1838/US HWY 301) between Reese Creek (also known as Reedy Creek/Reedy Branch) and 600 feet north of Beard Road (SR 1722). In addition, the properties along SR 1832 (Murphy Road) from US HWY 301 to a point approximately 2,000 feet east of the northbound I-95 on-ramp, extending 500 feet on each side of SR 1832 (Murphy Road) and within the corporate limits of the town; and all properties fronting on School Street and Church Street (SR 2996) between Dunn Road (SR 1838) and Middle Road (SR 1728) are included within this overlay district. A map of the district is shown on Exhibit A of this ordinance for general reference purposes. The official Commercial Core Overlay district is included on the zoning map referenced in Section 3-310.

C. *Uses allowed; rezoning applications.* The uses as allowed in the underlying general zoning district as listed in Section 4-403, Use Matrix, are allowed uses in this district provided that all other provisions of this section are complied with. Applications for rezoning to O&I(P)/CZ or C1(P)/CZ will be considered within this overlay district. Small scale mixed use development/conditional zoning or mixed use buildings are encouraged, so long as all residential development is located on the second floor or to the rear of the structure or lot.

D. *Development standards.* The provisions below shall apply to all new construction; renovation and/or remodeling of the exterior areas of any structure or property shall comply with the below provisions to the extent practicable.

1. Lot dimensions and setbacks.

- (a) The minimum lot area shall be 10,000 square feet;

(b) Front and corner side setbacks shall be as required by this ordinance from the ultimate right-of-way provided that the improvements and amenities required by the following sub-sections are provided.

[Note: Provisions exist in the ordinance for allowing the same or average setback of non-residential buildings within the same block in addition to the standard dimensional provisions.]

(c) When not connected to an adjacent structure, side yard setbacks shall be a minimum of 20 feet and a maximum of 40 feet;

(d) Where adjacent to a service alley or another non-residential zoning district, the rear yard shall be a minimum of three feet, and when adjacent to residential zoning, the rear yard shall be a minimum of 20 feet.

2. Structural dimension and site layout specifications.

(a) The base building area shall be no larger than 65% of the total land area or 15,000 square feet, whichever is less; and

(b) The maximum building height shall be 30 feet or a maximum of two stories, whichever is less.

(c) Developers of properties located on corner lots at all street intersections shall locate motor vehicle oriented uses or facilities, including but not limited to gas pumps, drive-throughs, pick-up windows, or other accessory uses intended for access while inside a vehicle to the side or rear of the principal building. In no instance shall a motor vehicle oriented feature or accessory use be located between a principal building and the street it fronts.

3. Pedestrian pathways/sidewalks and amenities. *(Note: See attached Exhibit 1 for example.)*

(a) All pedestrian pathways shall be established in order to connect internal and external development and all proposed pathways shall be included on the site plan. Types of sidewalks may include: public, private with public access easement, or private (internal pathways from parking to building entrances or building to building);

(b) A grassed area, minimum five feet in width, shall be located between the curb and a required five foot wide sidewalk that has been constructed in compliance with *American with Disabilities Act (ADA)* provisions. Adjacent to the sidewalk opposite from the curbside, a minimum six foot grass, tree and landscaping area shall be provided with the number and types of trees and landscaping meeting or exceeding the standards of this ordinance. If desired, the developer may provide off-street parking and turnaround between the landscaping and storefront area – see sub-section 5 below.

A minimum 10 foot wide storefront and clear walkway area shall be constructed along the entire building front. This storefront/walkway area shall be designed in such manner that it affords safe pedestrian passage, can accommodate amenities such as benches, potted flowers or plants and may be partially covered by awnings or porticos; and

(c) Pedestrian walkways should be delineated from parking area by separate paved routes using a variation in paved texture and/or color, and protected from adjacent vehicle circulation areas.

4. Landscaping.

(a) Street trees of a type listed in the NC Department of Transportation's *Guidelines for Planting within Highway Right-of-Way* (undated) as being hardy plants for landscaping purposes shall be provided in an amount equivalent to at least one tree for every 30 feet of road frontage and shall be located within the amenity area required in sub-section 3(b) above including along any side street. In the event one or more of the listed types of trees are not available or conducive to the proposed development, specific approval from the Town Council for the alternative tree specimens to be planted is mandatory. All street trees shall be a minimum of two inch caliper at time of planting. Additional plantings in pots or boxes are strongly encouraged; and

(b) Developments within this overlay district shall be exempt from the street tree requirements of Section 1102.N. Landscaping for the yard space and off-street parking areas shall be the same as required by Section 1102.N for any proposed development.

5. Off-street parking and driveways.

(a) Off-street parking shall be provided as required by Article XII, and the preferred design being that the individual spaces are parallel, with internal drives perpendicular, to the right-of-way. Furthermore, the developer is encouraged to align off-street parking spaces in a manner consistent with adjacent developed non-residential properties and engage in shared parking or using remote parking as allowed by Article XII;

(b) Off-street parking areas shall be separated from buildings and public sidewalks with decorative amenities, landscaping or grassed open areas or other appropriate means to afford pedestrian safety;

(c) For corner lots along Dunn Road, driveway access shall be restricted to the side street; and

(d) In order to facilitate traffic flow on Dunn Road, driveways shall be restricted whenever an existing driveway is located within 300 feet with interconnectivity to the affected property; and

(e) Regardless of any provision or requirement of this section, all improvements of properties adjacent to the right-of-way shall be located so that parking, stopping, storage, and maneuvering of vehicles on the right-of-way will not be necessary in order for the vehicles or patrons to be properly served, and shall not restrict the sight distance of adjacent drives.

6. Interconnectivity.

(a) Pedestrian or motor vehicle connections shall be required for new construction and where appropriate for any re-development of properties within the overlay district; and

(b) Rear alleys for service, utilities and employee access are strongly encouraged and will be mandatory when a proposed development is adjacent to a developed property having an existing alley.

7. Signage. All freestanding signs for new construction shall be ground signs and comply with the standards of Article XIII, specifically for the C1(P) district as regulated by Section 1306.B.2 except that the maximum sign area shall be 44 square feet for sites with five occupants or less, and sites with more than five occupants may have an additional six square feet of area for each occupant over five, with a maximum freestanding ground sign area not to exceed 80 square feet. The maximum height of the sign including all portions of the support structure, measured from the grade to the top of the sign/support structure, shall be five feet. Attached signage as allowed in the C1(P) district shall be permitted.

Consideration shall be given to freestanding signs proposed for new development within close proximity to the I-95 interchange, provided that the developer specifically requests relief from the height and/or sign size at the time of application for conditional zoning.

Two copies of the signage plan shall be submitted with the conditional zoning application. The signage plan must address the following:

- (a) *Location.* Identification of sign locations on buildings and the building lot;
- (b) *Materials and illumination.* A description of the proposed sign structure, sign face materials, and type of illumination, if any. The materials and general sign design must be the same as or at a minimum complement the design of the principal structure on the lot;
- (c) *Size.* Itemization of sign size and band areas at identified locations. Allocation of sign area for multi-tenant structures may favor one tenant or series of

tenants over another, provided the property owner identifies the available sign area per tenant;

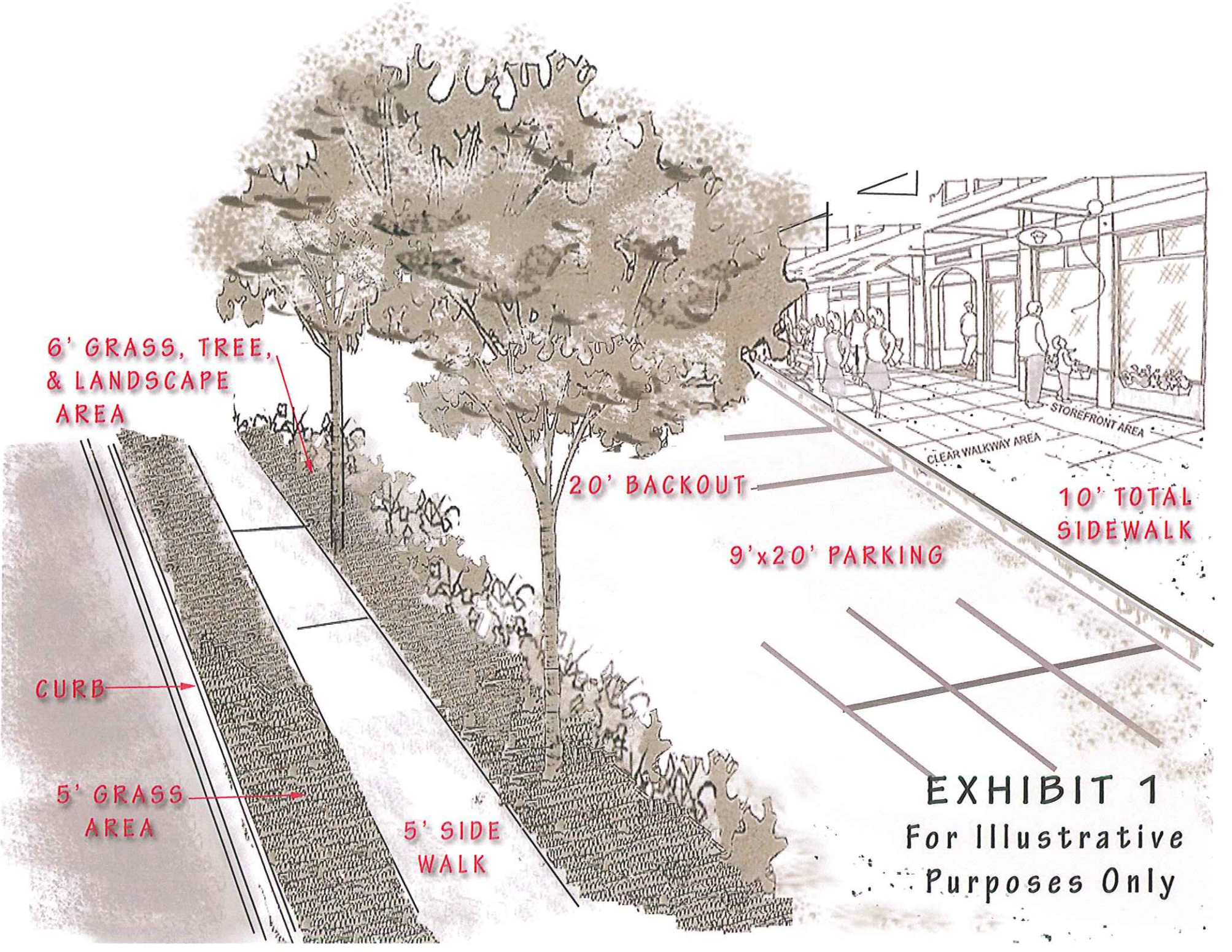
(d) *Letter style.* Description of dominant letter style and letter height proposed to be used on the sign(s);

(e) *Color.* Listing of the colors to be used on each sign and lettering. Neon lighting must be specifically noted and approved by the Town Council prior to installation of any sign.

8. Lighting. All pedestrian areas, including off-street parking areas are to be lighted with shielded, controlled lighting, and shall complement the proposed development in color and style while being consistent with existing lighting of adjacent or nearby developed non-residential properties. The provisions of Section 1102.M shall apply in this district.

9. Open space. Where possible, property owners are encouraged to preserve and provide open space areas. If preserved open space or developed parks are offered to and accepted by the town, the property owner will receive a density bonus for the equivalent land area outside the commercial core overlay district. The density bonus shall be calculated at the R40 density rate.

10. Conflict with other ordinance or regulatory provisions. Wherever there is conflict or inconsistency between the Commercial Core Overlay district provisions and other regulations with any local, state or federal law, the most restrictive standard shall apply. When the provisions of this district conflict with other provisions of this ordinance, the overlay district provisions shall prevail.



6' GRASS, TREE,
& LANDSCAPE
AREA

CURB

5' GRASS
AREA

5' SIDE
WALK

20' BACKOUT

9'x20' PARKING

CLEAR WALKWAY AREA

STOREFRONT AREA

10' TOTAL
SIDEWALK

EXHIBIT 1
For Illustrative
Purposes Only

Guidelines for Planting within Highway Right-of-Way

Roadside Environmental Unit
Landscape Design & Development
1557 Mail Service Center
Raleigh, NC 27699-1557
(919)733.2920

Common Plants Used By NCDOT

The list below represents a sampling of hardy plants used in landscape application on North Carolina roadsides. Plants are listed by botanical (Genus/ species) and common name. Only 'standard' plant names are listed. Many plants have exceptional cultivars that may have qualities more desirable than the 'standard'. Check with local nurseries for superior cultivars, plant adaptability to the location, plant availability, and the best use of the specific plants.

When possible, the Department promotes the practical use of native species.

No planting on state right-of-way is allowed without written approval from your local North Carolina Department of Transportation Division office.

TREES

- Acer rubrum, Red Maple- D, LT, XFC
Acer saccharum, Sugar Maple- D, LT, XFC
Amelanchier arborea, Downy Serviceberry, D, ST, FL, FR, BK, XFC
Betula nigra, River Birch- D, LT, BK
Cercis canadensis, Eastern Red Bud- D, ST, FL
Chionanthus virginicus, White Fringetree- D, ST, FL, FR
Cladrastis lutea (kentukea)- American Yellowwood- LT, FL, XFC
Cornus florida, Flowering Dogwood- D, ST, FL, FR, XFC
Cryptomeria japonica, Japanese Cryptomeria- E, LT, H/S
Fagus grandiflora, American Beech- D, LT, FR, BK, XFC
Fraxinus pennsylvanica, Green Ash- D, LT
Halesia carolina, Carolina Silverbell- D, LT, FL, FR
Juniperus virginiana- Eastern Red Cedar- E, LT, H/S
Koelreuteria paniculata, Golden Raintree- D, LT, FL, FR, XFC
Lagerstroemia indica, Crape Myrtle (come in a great selection of sizes, colors, and shapes)- D, ST, FL, BK, XFC
Lagerstroemia fauriei, Japanese Crape Myrtle-cultivars are highly resistant to mildew and more cold hardy)- D, ST, FL, BK, XFC
Liquidambar styraciflua, Sweetgum (the fruitless variety may be more practical for residential use)- D, LT, FR, XFC
Liriodendron tulipifera, Tulip Poplar- D, LT, FL, XFC
Magnolia grandiflora, Southern Magnolia- E, LT, FL, FR, H/S
Magnolia- a large selection of deciduous native and cultivated magnolia species are worthy of use- LT to ST, FL, FR, BK
Malus, Flowering Crabapple- variety of sizes fit well into the landscape (research selection for disease and insect resistance) - D, ST, FL, FR
Metasequoia glyptostroboides, Dawn Redwood- D, LT, H/S, XFC
Nyssa sylvatica, Black Gum- D, LT, FR, BK, XFC
Oxydendrum arboreum, Sourwood- D, ST, FL, FR, BK, XFC
Picea abies, Norway Spruce- E, LT, FR
Pinus strobus, White Pine- E, LT, H/S
Pinus taeda, Loblolly Pine- E, LT
Pinus thunbergiana, Japanese Black Pine- E, LT

KEY:

E-evergreen
D-deciduous
LT- large tree
ST- small tree
LS- large shrub
MS- medium shrub
SS- small shrub
G-groundcover
FL- conspicuous flower
FR- conspicuous fruit
BK- attractive bark or stem color
H/S-good hedge/screen
XFC- exceptional fall color

SIZE CATEGORIES

(based on average size at maturity)

LT (Large Tree): 30'- taller
ST (Small Tree): 15'- 30'
LS (Large Shrub): 8'-taller
MS (Medium Shrub): 4'- 8'
SS (Small Shrub): less than 4'



Pinus virginiana, Virginia Pine- E, H/S
Pistacia chinensis, Chinese Pistachio- D, ST, FR, BK, XFC
Platanus x acerfolia, London Plane Tree (or Sycamore)- D, LT, FR, BK
Platanus occidentalis, American Plane Tree (or Sycamore)- D, LT, FR, BK
Prunus cerasifera, Flowering Plum- D, ST, FL
Prunus mume, Japanese Apricot- D, ST, FL
Prunus serrulata, Japanese Flowering Cherry- D, ST, FL, BK
Prunus subhirtella, Higan Cherry- D, ST, FL, FR, BK
Prunus x yedoensis- Yoshino Cherry- D, LT, FL, FR, BK
Quercus alba, White Oak, D, LT,
Quercus acutissima, Sawtooth Oak- D, LT, FR
Quercus coccinea, Scarlet Oak- D, LT, FR, XFC
Quercus falcata, Southern Red Oak- D, LT, FR
Quercus palustris, Pin Oak- D, LT, FR, XFC
Quercus phellos, Willow Oak- D, LT, FR
Quercus virginiana, Live Oak- E, LT, FR
Sophora japonica, Japanese Sophora- D, LT, FL, FR
Taxodium distichum, Bald Cypress- E, LT, BK, XFC
Tsuga canadensis, Canadian (Eastern) Hemlock- E, LT, FR, H/S
Tsuga caroliniana, Carolina Hemlock- E, LT, FR, H/S
Vitex agnus-castus, Chastetree (or Vitex)- D, ST, FL
Zelkova serrata, Japanese Zelkova- D, LT, BK, XFC

KEY:

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 SS (Small Shrub): less than 4'

SHRUBS, ETC.

Abelia x grandiflora- Glossy Abelia (many wonderful cultivars)- E, MS, FL, H/S
Aesculus parviflora, Bottlebrush Buckeye- D, LS, FL, FR
Aronia arbutifolia, Red Chokeberry- D, LS, FR, XFC
Berberis thunbergii, Japanese Barberry- D, MS, FR, XFC
Buddleia davidii, Butterfly-bush- D, MS, FL
Callicarpa americana, American Beautyberry- D, MS, FL, FR
Callicarpa dichotoma, Purple Beautyberry- D, SS, FL, FR
Caryopteris x clandonensis, Bluebeard (or Blue-spirea)- D, SS, FL
Chaenomeles speciosa, Common Flowering Quince- D, LS, FL, FR
Clethra alnifolia, Summersweet- D, MS, FL, FR, XFC
Cornus alba, Tatarian Dogwood- D, LS, BK, XFC
Cornus sericea, Redosier Dogwood – D, LS, BK, XFC
Cotinus coggygria, Smokebush (or Smoke Tree)- D, LS (ST), FL, XFC
Elaeagnus pungens, Thorny Elaeagnus- E, LS, H/S
Euonymus alata 'compacta', Compact Burning-bush- D, LS, FR, BK, H/S, XFC
Forsythia x intermedia, Border Forsythia- D, LS, FL
Fothergilla gardenii, Dwarf Fothergilla- D, SS, FL, XFC
Hamamelis virginiana, Witchhazel- D, LS (ST), FL, XFC
Hamamelis x intermedia- group of hybrid Witchhazels- D, LS (ST), FL, XFC
Hemerocallis- Daylily (thousands of varieties available)- D to E, G, FL



Hydrangea quercifolia, Oakleaf Hydrangea- D, MS, FL, XFC
 Hypericum frondosum, Golden St. Johnswort- D, SS, FL
 Ilex x attenuata- group of hybrid hollies (Foster)- E, LS (ST), FR, H/S
 Ilex cornuta, Chinese Holly- E, LS, FR, H/S
 Ilex crenata, Japanese Holly- E, LS, H/S
 Ilex glabra, Inkberry- E, LS, FR, H/S
 Ilex latifolia, Lusterleaf Holly- E, LS (ST), FR, H/S
 Ilex opaca, American Holly (good selection of upright hollies)- E, LS (ST), FR, H/S
 Ilex verticillata, Winterberry- D, LS, FR
 Ilex vomitoria, Yaupon Holly- E, LS (ST), FR, H/S
 Ilex x 'Nellie R. Stevens', Nellie R. Stevens Holly- E, LS (ST), FR, H/S
 Itea virginica, Virginia Sweetspire- D, MS, FL, XFC
 Jasminum nudiflorum, Winter Jasmine- D, SS, FL
 Juniperus- multitude of junipers ideal for various landscape uses- E, LS to G
 Kerria japonica, Japanese Kerria- D, MS, FL
 Lagerstroemia- many smaller (shrubby) Crape Myrtles are introduced annually-
 D, SS(MS), FL, XFC
 Liriope muscari, Big Blue Liriope- E, G
 Loropetalum chinense, Loropetalum- E, LS, FL, H/S
 Myrica cerifera, Southern Wax Myrtle- E, LS, FR, H/S
 Myrica pensylvanica, Northern Bayberry- E, LS, FR, H/S
 Osmanthus x fortunei, Fortune's Osmanthus- E, LS, FL, H/S
 Pyracantha coccinea, Scarlet Firethorn- E, LS, FL, FR, H/S
 Pyracantha koidzumii, Formosa Firethorn- E, LS, FL, FR
 Rhamnus leptocarpa (indica), Indian Hawthorn- E, MS, FL, FR
 Spiraea cantoniensis, Reeves Spirea- D, MS, FL
 Spiraea x bumalda- Bumald Spirea- D, SS, FL
 Taxus x media, Spreading Yew- E, height varies, FR, H/S
 Ternstroemia gymnanthera, Japanese Cleyera (also sold as Cleyera japonica)- E, LS, FL, FR, H/S, XFC
 Viburnum- multiple species and cultivars worthy of use- E to D, LS to MS, FL, H/S
 Weigela florida, Weigela (various sizes, colors, etc.)- D, LS, FL

KEY:

E-evergreen
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SIZE CATEGORIES

(based on average size at maturity)

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Walter Clark,
Chair
Cumberland County

Patricia Hall,
Vice-Chair
Town of Hope Mills

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



COUNTY of CUMBERLAND

Planning & Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

September 11, 2012

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for the September 18, 2012 Board Meeting

P12-51: REZONING OF 20.38+/- ACRES FROM CD CONSERVANCY AND A1 AGRICULTURAL TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 1554 AND 1622 YARBOROUGH ROAD; SUBMITTED BY JAMES S. STEWART SR., LENISE E. STEWART, JAMES S. STEWART JR. AND WILLIAM T. STEWART (OWNERS).

The Planning & Inspections Staff recommends approval of the A1 Agricultural district for that portion of the subject property located outside the *Special Flood Hazard Area* (SFHA) & CD Conservancy for all area within the SFHA, based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "rural and conservation area" at this location, as well as meeting the location criteria for "rural density development," with the exception of the land area within the SFHA;
2. The recommendation for the CD Conservancy for the portion of the subject property within the SFHA ensures that this environmentally sensitive area will be protected and preserved; and
3. The request is reasonable as the location and character of use will be in harmony with the surrounding area.

There are no other districts suitable regarding this request.

The property owner/applicant has verbally agreed with this staff recommendation.

Attachments:

- 1 – Site Profile
- 2 – Sketch Map

P12-51
SITE PROFILE

P12-51: REZONING OF 20.38+/- ACRES FROM CD CONSERVANCY AND A1 AGRICULTURAL TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 1554 AND 1622 YARBOROUGH ROAD; SUBMITTED BY JAMES S. STEWART SR., LENISE E. STEWART, JAMES S. STEWART JR. AND WILLIAM T. STEWART (OWNERS).

Site Information:

Frontage & Location: 692.60'+/- on SR 2251 (Yarborough Road)

Depth: 1,600.00'+/-

Jurisdiction: Cumberland County

Adjacent Property: Yes, west of subject property (Robeson County)

Current Use: 2 residential structures & 2 accessory structures

Initial Zoning: CD & A1 – June 25, 1980 (Area 13)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North & South: CD & A1; East: CD, R40 & A1; West: CD

Surrounding Land Use: Residential (including manufactured homes) & woodlands

2030 Growth Strategy Map: Rural & Conservation Area

Special Flood Hazard Area (SFHA): Yes; base flood varies from 142.20 msl (NAVD) to 143 msl (NAVD)

Water/Sewer Availability: Well/Septic

Soil Limitations: Yes, hydric – JT Johnston loam

School Capacity/Enrolled: Gray's Creek Elementary: 495/393; Gray's Creek Middle: 1,000/959; Gray's Creek High: 1,270/1,284

Subdivision/Site Plan: If approved, new construction will require a review and approval

Average Daily Traffic Count (2010): 920 on SR 2251 (Yarborough Road)

Highway Plan: There are no road improvements/constructions specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program

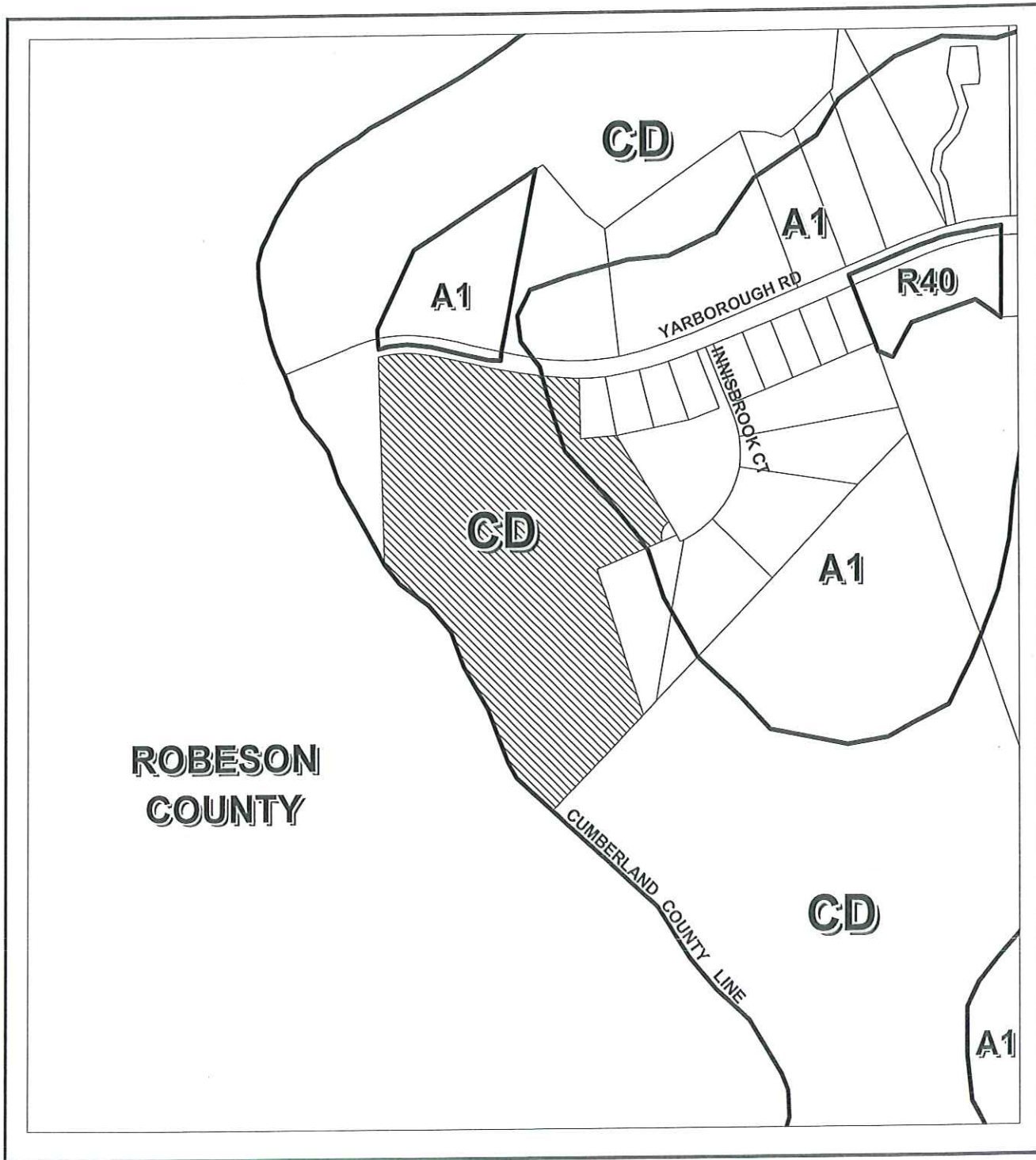
Notes:

1. Density:
A1 – 10 lots/units

2. Minimum Yard Setback Regulations:
A1
Front yard: 50'
Side yard: 20'
Rear yard: 50'

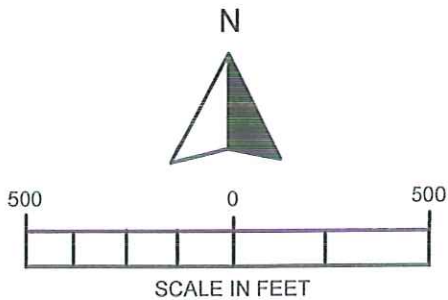
First Class and Record Owners' Mailed Notice Certification

A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' acknowledgement of notice is also included in the case file.



**ROBESON
COUNTY**

**REQUESTED REZONING
A1 & CD TO A1**



ACREAGE: 20.38 AC.+/-		HEARING NO: P12-51	
ORDINANCE: COUNTY	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			

12-071
SITE PROFILE

CASE NO. 12-071. CONSIDERATION OF THE ANDREW SEALS PROPERTY; SUBDIVISION AND GROUP DEVELOPMENT REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO HAVE A MINIMUM OF 20 FEET OF STREET FRONTAGE ABUTTING EITHER A PUBLIC OR PRIVATE STREET; COUNTY SUBDIVISION ORDINANCE, SECTION 2303.C STREET FRONTAGE AND 2401.D STREET ACCESS; ZONED: A1; TOTAL ACREAGE: 6.22+/-; LOCATED AT 6476 & 6480 ALAMANCE ROAD; SUBMITTED BY ANDREW SEALS (OWNER). (COUNTY JURISDICTION)

Summary of Request:

Developer is requesting a waiver from the requirement to have a minimum of 20 feet of street frontage along either an approved private street or public street for the proposed lot. The existing lot was created by deed on June 14, 1985 (Deed Bk. 3074, Pg. 553) and is served by a 60 foot wide ingress/egress easement for access to SR 2243 (Roslin Farm Road) as described on the same recorded deed. Currently (and in 1985) the County Subdivision Ordinance requires all new lots created and group developments to take their access directly from either an approved private or a public street, not from an easement. The lot has three existing dwelling units located on the property which has not been previously approved for a group development.

Site Information:

Frontage & Location: 0.00'+/- 780.00' +/- off of SR 2243 (Roslin Farm Road)

Trail frontage: 256 65'+/- along E911 trail named Alamance Road

Depth: 813.66'+/-

Jurisdiction: Cumberland County

Municipal Influence Area (MIA): N/A

Initially Zoned: June 25, 1980 to A1

Adjacent Property: No

Nonconformities: Yes – lot created by deed on May 31, 1985 and not approved as a subdivision and additional dwellings placed on the property without a group development approval. Lot does not meet the minimum standards for street frontage and access. Some of the existing dwellings do not meet the minimum setback requirements for the A1 zoning district.

Water & Sewer: Well & Septic

Special Flood Hazard Area (SFHA): No

Applicable County Subdivision Ordinance Provisions:

Section 2303 MINIMUM LOT STANDARDS, C, *Street frontage.* Except as otherwise provided in Section 2401, every lot shall abut a public street or private street approved under the terms of this ordinance for at least 20 feet, such frontage (abutting) to be continuous from the property line to building setback line.

Section 2401 GROUP DEVELOPMENTS, D, *Street access.* The property to be developed must have a boundary line or lines contiguous with and giving direct vehicular access to and from one or more public streets, or private streets with public access approved in accordance with Section 2304. Group developments in the form of apartment complexes or unit ownership (i.e., condominium or townhouse) developments with owners' associates legally obligated to maintain vehicular access and circulation drives shall not be subject to the street standards specified in Section 2304.

Attachments

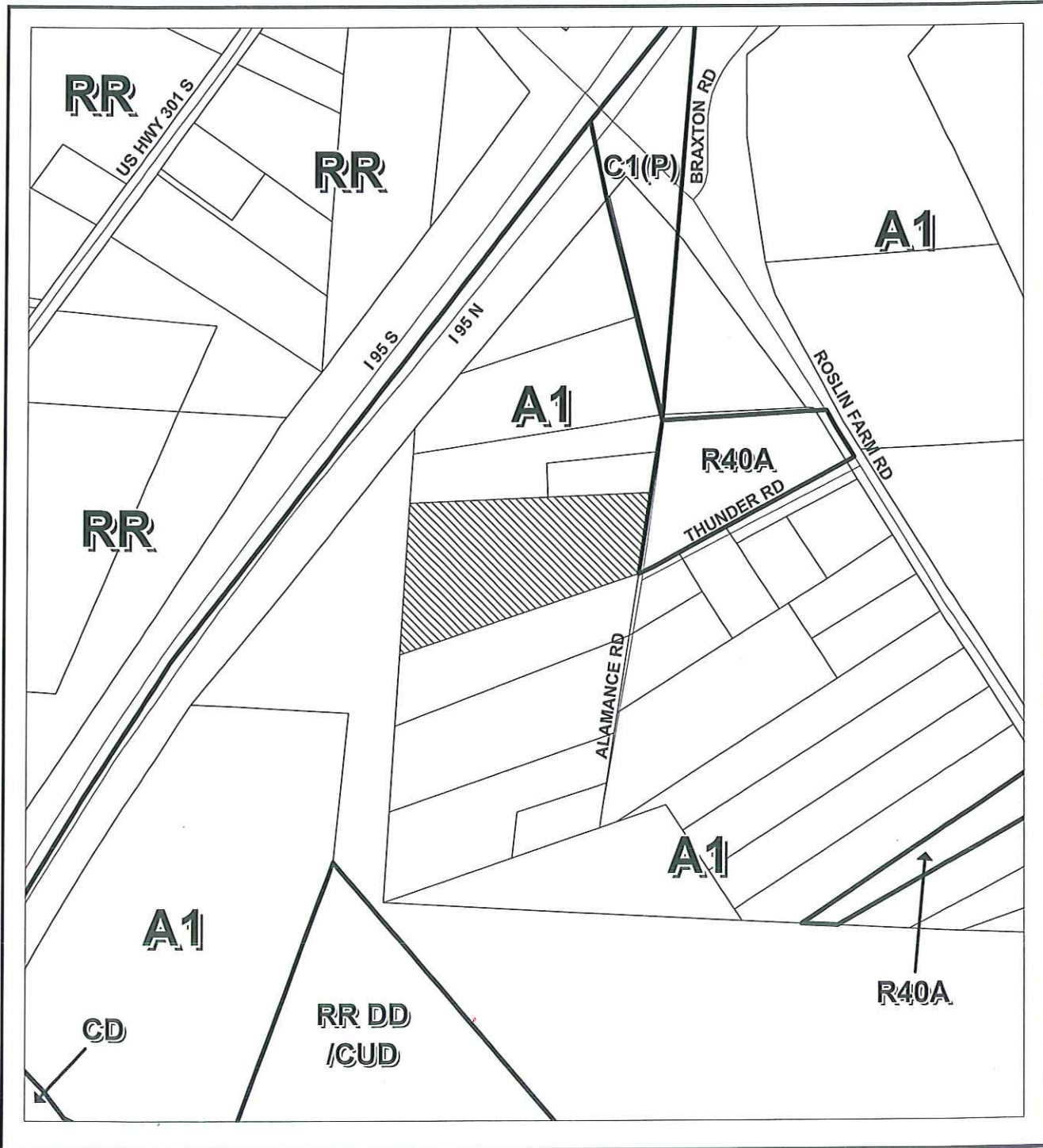
1 - Sketch Map

2 - Subdivision & Group Development Sketch Plan

3 - Aerial Photo

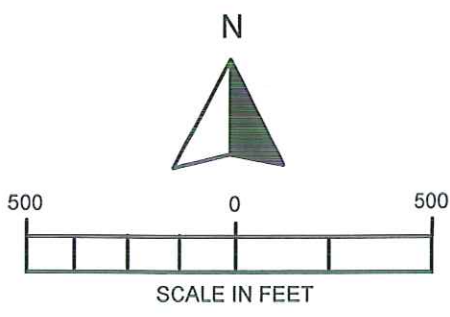
4 - Application for Waiver

5 - Conditions of Approval



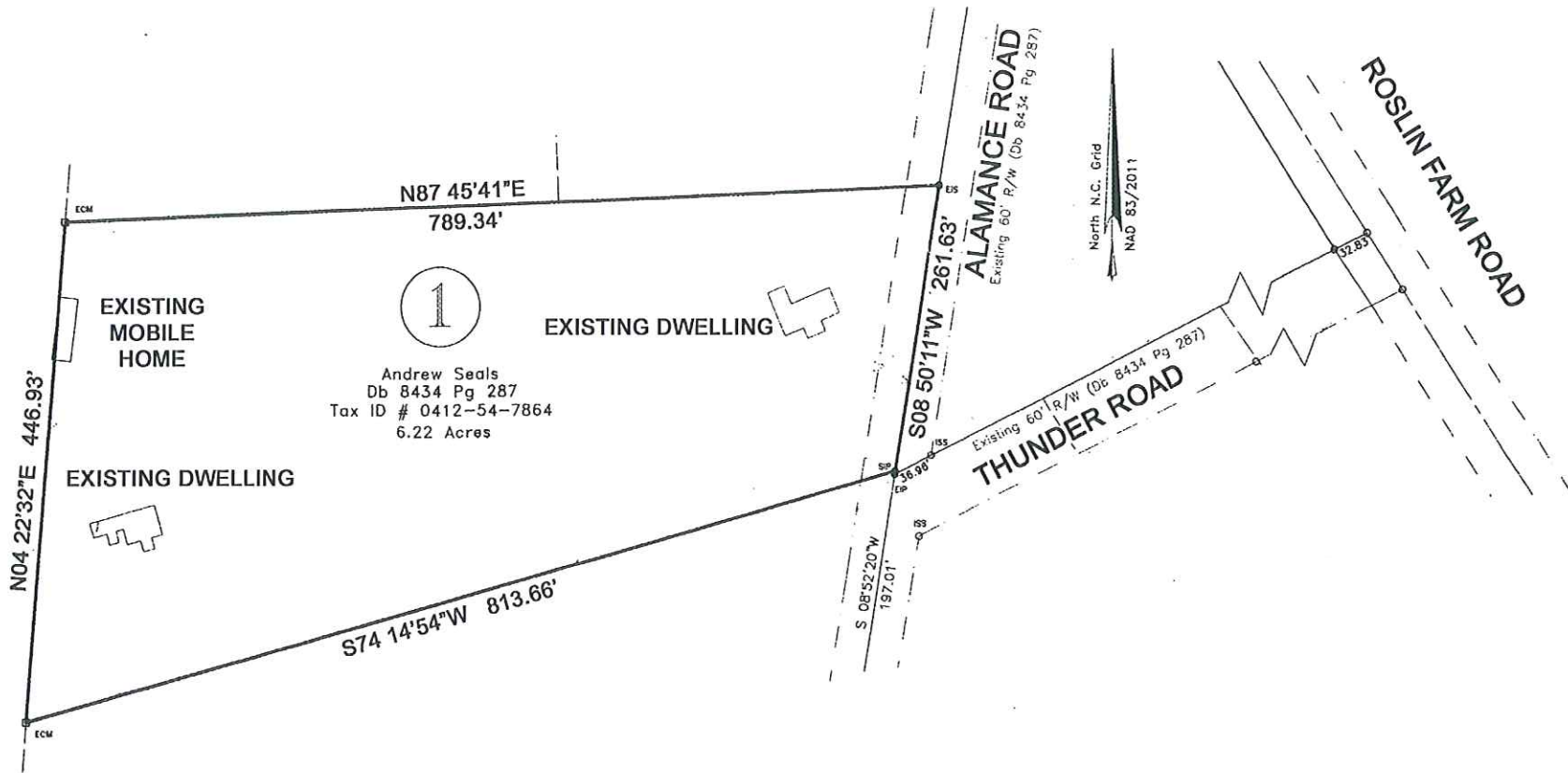
COUNTY SUBDIVISION ORDINANCE WAIVER

ACREAGE: 6.22 AC. +/-		HEARING NO: 12-071	
ORDINANCE: COUNTY		HEARING DATE	ACTION
GOVERNING BOARD			



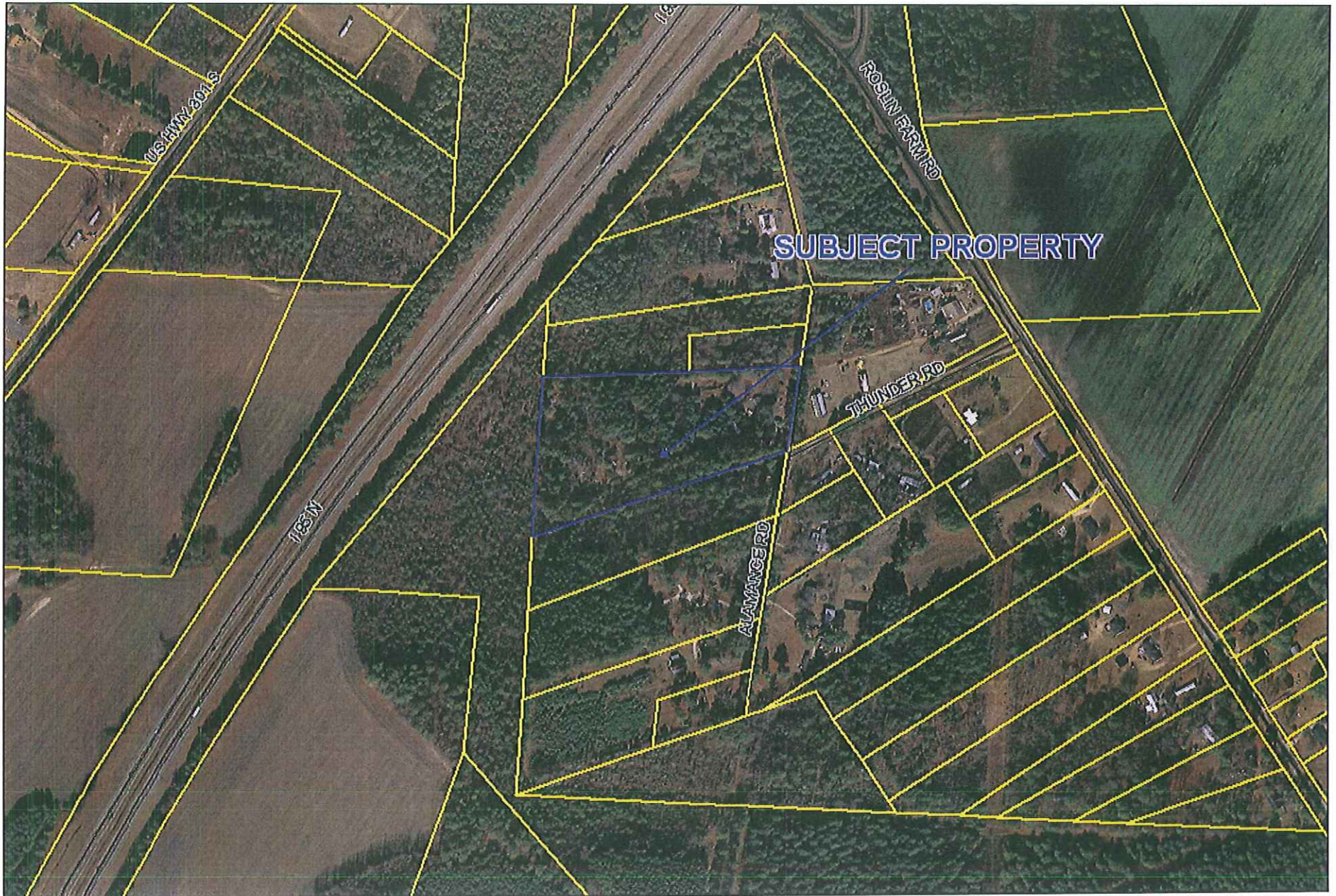
PIN: 0412-54-7864

WL



ANDREW SEALS PROPERTY
REQUEST: FOR A WAIVER FROM SECTION 2303.C "STREET FRONTAGE"
AND 2401.D "STREET ACCESS"
CASE: 12-071 ACREAGE: 6.22 AC. +/-
ZONED: A1 SCALE: NTS

*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST



**AERIAL PHOTO
CASE NO: 12-071**



**TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD,
FAYETTEVILLE, NORTH CAROLINA:**

I (We), the undersigned, hereby submit this application, and petition the Cumberland County Joint Planning Board to waive [vary] certain adopted provisions of the County's Subdivision Ordinance as specified below and provided for under the terms of the Subdivision Ordinance. In support of this petition, the following facts are submitted:

LOCATION OF PROPERTY: ALAMANACE ROAD
OWNER: 6476 ALAMANACE ROAD, Shirley SEALS
ADDRESS: 6476 ALAMANACE Rd HOPE MILLS ZIP CODE: 29348
TELEPHONE: HOME 910-424-3577 WORK _____
AGENT: THOMAS GOODSON
ADDRESS: 1745 CYPRESS LAKES Rd HOPE MILLS NC
TELEPHONE: HOME _____ WORK 910-223-7766

**APPLICATION FOR A WAIVER [VARIANCE]
As required by the Subdivision Ordinance**

- A. Parcel Identification Number (PIN #) of subject property: 0412-54-7862
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: 6.22 Frontage: 258' Depth: _____
- C. Water Provider: Well
- D. Septage Provider: Septic Tanks
- E. Deed Book 8434, Page(s) 287, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing and/or proposed use of property: RESIDENTIAL
- G. Section and provision of the Cumberland County Subdivision Ordinance from which a waiver [variance] is requested:
SEC. 2303 C & 2401.D
- H. Nature and extent of hardship involved in strict application of the County Subdivision Ordinance -- attach additional sheet if necessary:
ACCESS WAYER

STATEMENT OF ACKNOWLEDGEMENT

Regarding appearance before the Joint Planning Board, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the board is not required, it is strongly encouraged;
- The board will hear any and all arguments for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the board has the authority to issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case and defer, approve, or deny the case.
- If the board's action is to deny the matter before them, the course of appeal to the decision will be that of Cumberland County Superior Court. (Affected parties of the board's decision have 30 days from date of proper notification in which to serve notice of appeal).

Signed acknowledgement that the County Planning & Inspections Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above and that the application is complete and accurate.

Shirley Lusk

Property owner(s)' signature(s)

Shirley Lusk

Property owner(s)' name (print or type)

6480 Diamond Pl Hope Mills

Complete mailing address of property owner(s)


910 424 9577

Telephone number

Alternative telephone number

Email address

FAX number


Agent, attorney, or applicant's signature (other than property owner)

Thomas Gooden
Agent, attorney, or applicant (other than property owner) (print or type)

1745 CYPRESS LAKE RD HOPE MILLS NC
Complete mailing address of agent, attorney, or applicant

910-223-7766
Telephone number Alternative telephone number

Email address FAX number

Upon submission, the contents of this application becomes "public record" and is available for review and/or copies upon request.

Roy Turner,
Chair
Cumberland County

Walter Clark,
Vice-Chair
Cumberland County

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



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

DRAFT

STAFF REVIEW: 05-30-12 PLANNING BOARD DECISION: 06-19-12

CASE NO: 12-071 NAME OF DEVELOPMENT: ANDREW SEALS PROPERTY

MIA: N/A SUBDIVISION & GROUP DEVELOPMENT REVIEW

LOCATION: 6476 & 6480 ALAMANCE ROAD ZONING: A1

PIN: 0412-54-7864-

OWNERS / DEVELOPER: ANDREW SEALS ENGINEER OR DESIGNER: THOMAS GOODEN

PLANNING & INSPECTIONS DEPARTMENT ACTION:

- PRELIMINARY
- EXTENSION REVISION
- APPROVED CONDITIONALLY
- DENIED

PLANNING BOARD DECISION:

- PRELIMINARY
- EXTENSION REVISION
- APPROVED CONDITIONALLY
- DENIED

The development plat/plan you submitted to this office is conditionally approved. Your approval is subject to the following conditions:

Permit-Related:

1. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision Ordinance)
3. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
4. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.

5. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.

Site-Related:

6. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
7. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision Ordinance)
8. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
9. This review does not constitute a "subdivision" approval by NC Department of Transportation (NCDOT). A separate submittal to NCDOT will be required prior to consideration for addition to the system of any street within this development.

Plat-Related:

10. Any/All easements must be reflected on the final plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
11. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the final plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision Ordinance)
12. The final plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

Plat-Required Statements:

13. Since this development does not have public water/sewer, the following disclosure statement is required to be provided on the final plat (Section 2504 C, On-Site Water and/or Sewer Disclosure, County Subdivision Ordinance):

"The individual lots in this development do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private wells at the date of this recording."
14. Since this development is located within the *Farmland Protection Area* as defined on the current Land Use Plan map, the following disclosure statement is required to be provided on the final plat (Section 2504 B, Farmland Protection Area Disclosure, County Subdivision Ordinance):

"This property or neighboring property may be subject to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted farming and agricultural practices and operations, including but not limited to noise, odors, dust, the operation of any kind of machinery the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides, and pesticides."
15. All structures shall be shown on the final plat or the final plat shall reflect the following statement (Section 2504 D, County Subdivision Ordinance):

“Nonconforming structures have not been created by this subdivision plat.”

Other Relevant Conditions:

16. This conditional approval is not approval of the location of the two existing dwellings that do not comply with the yard setbacks for the A1 zoning district. If the nonconforming structures are ever removed or destroyed by more than 50%, any replacement structure(s) must meet the required setbacks.
17. The developer is encouraged to consider inquiring of the NC Department of Transportation as to the possibility of the acceptance of Alamance and Thunder Roads for addition to the state system for maintenance purposes.
18. The applicant is advised to consult an expert on wetlands before proceeding with any development.
19. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
20. The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

“Public water and/or sewer services are not available as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the County Health Department.”

21. The developer has requested a waiver from Sections 2303.C Street Frontage & 2401.D Street Access, County Subdivision Ordinance. The Cumberland County Joint Planning Board will hear this case on June 19, 2012.

If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.

Contact Information (Area Code is 910 unless otherwise stated):

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
County Public Utilities:	Amy Hall	678-7682
Corp of Engineers (wetlands):	Crystal C. Amschler	(910) 251-4170
NC DENR (E&S):	Sally Castle	433-3300
Location Services:		
Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
NCDOT (subdivision roads):	David Plummer	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 807-6374