

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
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



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Sara E. Piland,
Cumberland County

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES

July 17, 2007

Members Present

Mr. Donovan McLaurin, Chair
Mrs. Lori Epler, Vice-Chair
Mr. Clifton McNeill
Mrs. Patricia Hall
Mrs. Sara Piland
Mr. Garland Hostetter
Mr. Harvey Cain, Jr.
Mr. Charles C. Morris

Others Present

Mr. Thomas Lloyd, Director
Mrs. Laverne Howard
Mr. Grainger Barrett, County Attorney
Mr. Harvey Raynor, Deputy County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Sara Piland delivered the invocation and led those present in the Pledge of Allegiance.

II. SWEARING IN OF OFFICERS

Mr. Barrett swore in Mr. Donovan McLaurin as the new Chairman of the Joint Planning Board.

Mr. Barrett swore in Mrs. Lori Epler as the new Vice-Chairperson of the Joint Planning Board.

III. APPROVAL OF/ADJUSTMENTS TO AGENDA

There were no adjustments to the agenda.

A motion was made by Mrs. Piland, seconded by Vice-Chair Epler to approve the agenda. Unanimous approval.

IV. PUBLIC HEARING WITHDRAWALS

A. **P07-10: REZONING OF 5.51 ACRES FROM RR TO C(P)/CONDITIONAL USE DISTRICT AND PERMIT TO ALLOW MINI-WAREHOUSING AND RETAIL/OFFICE USES, AT 6417 CAMDEN ROAD, SUBMITTED BY BRAD YOUNG, OWNED BY USA STORAGE CENTER LLC.**

Chair McLaurin informed the audience that P07-10 had been withdrawn.

A motion was made by Vice-Chair Epler, seconded by Mrs. Piland to accept the withdrawal. Unanimous approval.

IV. ABSTENTIONS BY BOARD MEMBER

There were no abstentions.

V. POLICY STATEMENT REGARDING PUBLIC HEARINGS

Mr. Lloyd read the policy statement regarding public hearings.

VI. APPROVAL OF THE MINUTES OF JUNE 19, 2007

A motion was made by Mrs. Piland, seconded by Mr. Morris, to accept the June 19, 2007 Board minutes as submitted. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P07-52:** REZONING OF 2.97 ACRES FROM C(P) TO R5A OR TO A MORE RESTRICTIVE ZONING DISTRICT, ON THE WEST SIDE OF LILLINGTON HIGHWAY, SOUTH OF PINE KNOLL DRIVE, SUBMITTED BY JAMES M. KIZER, OWNED BY HUFF-CAVINESS, LLC. (SPRING LAKE)

The Planning & Inspections Staff recommends approval of the R5A district based on the following:

1. The request is primarily consistent with the Spring Lake Area Detailed Land Use Plan, which calls for Medium Density Residential and Light Industrial at this location;
2. Rezoning will be compatible with the adjacent zoning, which is R5A; and
3. The subject property is located on a Major Thoroughfare.

The O&I and C1 are other suitable zoning districts to be considered for this site.

A motion was made by Vice-Chair Epler, seconded by Mr. Morris, to follow the staff recommendation and approve case P07-52 as submitted. Unanimous approval.

- B. **P07-57:** REZONING OF .33 ACRES FROM R6 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF OWEN DRIVE, EAST OF COPE STREET, OWNED BY EDMON AND KATHRYN MONSOUR.

The Planning & Inspections Staff recommends approval of the C(P) district based on the following:

1. The request is consistent with the 2010 Land Use Plan, which calls for Heavy Commercial at this location;
2. The subject property is located on a Major Thoroughfare; and

3. This parcel is adjacent to commercial property.

The O&I(P) and C1(P) are the only other suitable zoning districts to be considered for this site.

NOTE: Due to the subject property being contiguous to the city limits and the nature of the surrounding area, the Planning & Inspections Staff recommends this parcel be considered for annexation into the City of Fayetteville.

A motion was made by Vice-Chair Epler, seconded by Mr. Morris, to follow the staff recommendation and approve case P07-57 as submitted. Unanimous approval.

- C. **P07-58:** REZONING OF ONE PARCEL AND A PORTION OF A SECOND PARCEL TOTALING 14.99 ACRES FROM O&I(P) AND R10 TO R5 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT THE NORTH QUADRANT OF RAMSEY STREET AND MCCLOSKEY ROAD, SUBMITTED BY G. NEIL YARBOROUGH, OWNED BY JAMES AND EVA SINGLETARY AND TONYA CLARK, TRUSTEE.

The Planning & Inspections Staff recommends denial of the R5 district and approval of the R5A district based on the following:

1. The request is not consistent with the North Fayetteville Area Detailed Land Use Plan, which calls for Low Density Residential and Open Space at this location; and
2. The existing infrastructure in the area can support the density allowed in the R5A district.

The R7.5 and R6 zoning districts are the only other suitable zoning districts to be considered for this site.

The applicant gave a verbal agreement to the staff recommendation.

A motion was made by Vice-Chair Epler, seconded by Mr. Morris, to follow the staff recommendation and approve case P07-58 for the R5A zoning district. Unanimous approval.

- D. **P07-61:** REZONING OF A 21.86 ACRE PORTION OF A 51.33 ACRE TRACT FROM RR TO O&I(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH SIDE OF CLINTON ROAD, WEST OF MOBIUS ROAD, OWNED BY CUMBERLAND COUNTY.

The Planning & Inspections Staff recommends approval of the O&I(P) district based on the following:

1. Although the request is not consistent with the 2010 Land Use Plan, which calls for Suburban Density Residential at this location, the subject property is located between two Major Thoroughfares; and
2. The subject property is located in an area that currently consists of other public entities.

The Staff also suggests the applicant consider submitting the remainder of this tract for rezoning to O&I(P).

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

A motion was made by Vice-Chair Epler, seconded by Mr. Morris, to follow the staff recommendation and approve case P07-61 as submitted. Unanimous approval.

CONDITIONAL USE DISTRICT AND PERMIT

- A. **P02-04:** AMENDING A PORTION OF THE PERMIT FOR A PREVIOUSLY APPROVED R10/CONDITIONAL USE OVERLAY, REVISITING CONSTRUCTION OF A PUBLIC RIGHT-OF-WAY FOR AN AREA RESERVED FROM THE ORIGINAL APPROVAL, ON APPROXIMATELY 527 ACRES, LOCATED AT THE SOUTHEAST QUADRANT OF CHICKEN FOOT AND SAND HILL ROADS, SUBMITTED BY JAMES M. KIZER, P.E., P.L.S., OWNED BY BIRCHWOOD FARMS, INC.

This case was originally approved by the Board of Commissioners in February 2001 as a Conditional Use Overlay for a mixed use project. At that time the applicant voluntarily agreed to reserve the area indicated on the current site plan with pink shading and to re-visit the approval of this strip of right-of-way in or around a five year time frame. During the original public hearings on the case, there was considerable opposition from the residents of Ham Road for the direct connection of Celebration Drive to Ham Road.

Currently, the applicant is requesting the approved permit be amended to allow for construction of a street in this area with a sidewalk along the northern boundary as shown on the attached site plan.

The Planning & Inspections Staff recommends approval of the amendment to the Permit as requested provided that the developer constructs a roundabout or other traffic calming measure in the area south of, but in close proximity to, the existing portion of Ham Road and that the sidewalk be constructed as shown on the current site plan. This recommendation is based on the following:

1. The amendment to the Permit will not materially endanger the public health or safety if constructed according to the plan as submitted and recommended – approval of this request will significantly enhance the public health and safety by providing the proposed Cotton Fire Department Substation with a direct route to Ham Road and the remainder of the Cypress Lakes area; emergency response times will be drastically reduced and the standards of the County development regulations will be complied with to ensure public health and safety are protected;
2. The request meets all required conditions and specifications – subdivision review at Staff level will be required prior plat recordation as an assurance that the development will meet or exceed the minimum standards for development;
3. The request, if approved, will maintain or enhance the value of adjoining or abutting properties – the overall project currently under construction is a quality development and approval of amending the Permit will allow for more convenient access to schools and a future park; and
4. The location and character of the request, 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 policies.

The applicant and property owner have been given a copy of this recommendation and have verbally agreed to install a roundabout or other traffic calming measure.

A motion was made by Vice-Chair Epler and seconded by Mr. McNeill to approve the amendment to the permit for this R10/Conditional Use Overlay allowing the developer to construct a right-of-way with a sidewalk on the north side and a traffic calming measure in close proximity to the stub of the existing Ham Road 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 officially adopted by the Board of Commissioners. The motion passed unanimously.

- B. **P07-44: REZONING OF 2.7+/- ACRES FROM R5 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT THE WEST QUADRANT OF MURCHISON ROAD AND CHARMAIN STREET, SUBMITTED BY BRAD YOUNG, OWNED BY ALBERT AND SHIRLEY NORTON.**

The Planning & Inspections Staff requested deferral of this case at the June 19, 2007 Planning Board meeting due to an unforeseen change to information that had been provided. After having reviewed the information, the recommendation of the Planning & Inspections Staff has not changed (see below).

This case was heard by the Planning Board on May 15, 2007. The Board requested the case be deferred to give the applicant time to consider submission of a Conditional Use District and Permit application. The applicant agreed to the deferral.

Originally, the Planning & Inspections Staff reviewed this case on May 8, 2007 and recommended approval of the C(P) District. Upon review of the amended application, the Staff is recommending approval of the C(P)/Conditional Use District for all uses currently allowed in the C(P) zoning district except: Bars/Nightclubs, Club or Lodge, Hazardous Waste Storage/Disposal Facility, Massage and Bodyworks Therapy, and Sexually Oriented Businesses. This recommendation is based on:

1. The request is reasonable and consistent with the existing zoning and land uses within the general area; and
2. The request is consistent with the 2010 Land Use Plan which calls for an “activity node” at this location.

The Staff recommends approval of the Conditional Use Permit based on:

1. The use 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 use meets all required conditions and specifications – site plan review at Staff level will be required prior to any permit application of the site as an assurance that the development will meet or exceed the minimum standards for non-residential development within the County;

3. The use will maintain or enhance the value of adjoining or abutting properties – the developer owns a long lasting, well-established business on the adjacent property and since the subject property is essentially vacant, containing only a billboard, the development of this tract will aid in enhancing the values of adjacent properties;
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 conformity with Cumberland County's most recent Land Use Plan and adopted planning polices – as stated above, the request is consistent with the Land Use Plan and is also within keeping of the character of the general area.

The owner/applicant has been given a copy of this recommendation with attachments and has agreed to all ordinance-related conditions.

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

A motion was made by Vice-Chair Epler and seconded by Mr. McNeill to follow the staff recommendations and approve C(P)/Conditional Use District for all uses currently allowed in the C(P) zoning district except: Bars/Nightclubs, Club or Lodge, Hazardous Waste Storage/Disposal Facility, Massage and Bodyworks Therapy, and Sexually Oriented Businesses because the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. The motion passed unanimously.

A motion was made by Vice-Chair Epler and seconded by Mr. McNeill to approve the Conditional Use Permit 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 officially adopted by the Board of Commissioners. The motion passed unanimously.

- C. **P07-56:** REZONING OF .94 ACRES FROM C1(P) AND R6A TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 2972 DUNN ROAD, SUBMITTED BY KIMBERLY AND MICHAEL FOUST, OWNED BY VIVIAN LEWIS, ET AL.

The applicant originally submitted an application requesting the C(P) zoning district. Since then, she amended her request to a C(P)/Conditional Use District and Permit to allow a Heating and Air Conditioning Business and other Permitted Uses.

The Planning & Inspections Staff recommends approval of the C(P)/Conditional Use District excluding: Alcoholic Beverage Control Sales, Bars & Night Clubs, Bus Station Activities, Cemetery, Crematorium, Dwelling-Single & Multiple Family, Funeral Home, Golf Courses, Hotel/Motel, Manufactured Home Sales, Massage & Bodyworks Therapy, Motor Vehicle Service Station Operations, Sexually Oriented Businesses, Theater Productions-Indoor, Theater Productions-Outdoor, Billboards, Detention Facilities/ Prisons and Quarry, based on the following:

- Although the request is not consistent with the 2010 Land Use Plan, which calls for Medium Density Residential at this location, the subject property is located on a Major Thoroughfare and in an area that is transitioning to, and suitable for, non-residential uses.

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 and safety if located according to the plan submitted;
2. The use will meet all required conditions and specifications if constructed according to all federal and state mandates, and the County Zoning and Subdivision Ordinances, the requirements of which are attached to this recommendation;
3. The use will maintain or enhance the value of adjoining or abutting properties; and
4. The location and character of the use, if developed according to the plan as submitted, will be in harmony with the area in which it is to be located.

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

The applicant has been given a copy of this recommendation and has verbally agreed to all Ordinance Related Conditions.

A motion was made by Vice-Chair Epler and seconded by Mr. McNeill to follow the staff recommendations and approve C(P)/Conditional Use District excluding: Alcoholic Beverage Control Sales, Bars & Night Clubs, Bus Station Activities, Cemetery, Crematorium, Dwelling-Single & Multiple Family, Funeral Home, Golf Courses, Hotel/Motel, Manufactured Home Sales, Massage & Bodyworks Therapy, Motor Vehicle Service Station Operations, Sexually Oriented Businesses, Theater Productions-Indoor, Theater Productions-Outdoor, Billboards, Detention Facilities/ Prisons and Quarry, because the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. The motion passed unanimously.

A motion was made by Vice-Chair Epler and seconded by Mr. McNeill to approve the Conditional Use Permit 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 officially adopted by the Board of Commissioners. The motion passed unanimously.

VIII. PLATS AND PLANS

- A. CASE NO. 07-095: CONSIDERATION OF RONNIE & MARY EDWARDS PROPERTY, GROUP DEVELOPMENT REVIEW, REQUEST FOR WAIVER FROM SECTION 3.20.2, "MUNICIPAL INFLUENCE AREA", COUNTY SUBDIVISION ORDINANCE, LOCATION: ON THE WEST SIDE OF SR 2027 (BEAVER DAM ROAD), NORTH OF SR 2026 (CONCORD CHURCH ROAD).

A motion was made by Vice-Chair Epler, seconded by Mr. McNeill, to follow the staff recommendation and approve the waiver for Case 07-095. Unanimous approval

- B. CASE NO. 93-333: CONSIDERATION OF HILLSIDE BAPTIST CHURCH OF HOPE MILLS, R10 SITE PLAN REVIEW, EXCEPTION TO SEWER EXTENSION REQUIREMENT FROM SECTION 4.3.D.2, COUNTY SUBDIVISION ORDINANCE, LOCATION: AT THE SOUTHEAST INTERSECTION OF SR 1132 (LEGION ROAD) AND SR 2997 (HEIDELBERG ROAD), NORTH OF PIONEER DRIVE.

A motion was made by Vice-Chair Epler, seconded by Mr. McNeill, to follow the staff recommendation and approve the exception for Case 93-333. Unanimous approval

IX. PUBLIC HEARING CONTESTED ITEMS

REZONING CASES

- A. **P07-53:** REZONING OF 4.33 ACRES FROM A1 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 2545 SAND HILL ROAD, SUBMITTED BY ROBERT M. BENNETT, OWNED BY HAROLD J. KIDD.

The Planning & Inspections Staff recommends denial of the C(P) district based on the following:

1. The request is not consistent with the 2010 Land Use Plan, which calls for Low Density Residential at this location;
2. The request, if approved, will encourage the encroachment of non-residential zoning and uses along Sand Hill Road; an area that is primarily residential.

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

There was one person to speak in favor.

Public Hearing opened

Mr. Lloyd stated that the staff had worked with the applicant on this. The use that the applicant wanted would have been allowed in A1 with the exception of outside storage of vehicles in conjunction with mini warehousing (self storage) which is not permitted in the A1 district, but he decided to go with a straight rezoning to C(P) and the staff recommended denial.

Robert Bennett spoke in favor and represented the owner. Mr. Bennett stated that the mini storage facilities are included as a permitted use in A1 zoning, of course proper screening either fenced or green screen is required. He would like for the Board to recognize that the public needs storage places. Especially in the Fayetteville area where there are a lot of military people coming and going overseas and need a place to store their vehicles. Mr. Bennett doesn't feel that can be done with A1 zoning, but it is permitted in C(P). The only difference is that the setbacks are not the same, but the screening all the way around is required in both A1 and C(P). All of the residential areas abutting this site will be screened. Mr. Bennett stated that he believes the Planning Board should recognize that the public needs these mini storage facilities. Mr. Bennett doesn't feel that a screened off public area degrades the surrounding area. Mr. Bennett would appreciate it if the Board would consider the request to zone C(P). Mr. Bennett also advised that right across from the proposed area is a commercial zone being used as a shopping center so he doesn't feel that they are breaking new ice, this is already an existing condition.

Public Hearing closed

Mr. Morris asked if this case was heard about 18 months ago.

Mr. McLaurin responded that there was a case on Chicken Road with the same situation.

Mr. McNeill stated that the problem the Board has had to deal with in the past is that there are so many other uses in C(P) that may be objectionable in a residential neighborhood. A couple of years ago they ended up putting mini storage in an A1. He can't see a lot of difference with the screening in place that this would really be that objectionable in an A1 area. Seems like the staff may want to consider in the future possibly considering putting outside storage in conjunction with mini storage in an A1 as a special use where that option could be put in and the Board could allow this type of project without going to C(P) and opening the door for a whole lot of other uses which might be objectionable. Mr. McNeill stated that he feels Mr. Bennett is right in this case, there is C(P) across the street, and asked if there would be a site plan review as a part of any C(P).

Chair McLaurin asked Mr. Bennett if Conditional Use had been considered to allow mini storage with outside storage rather than a straight rezoning.

Mr. Bennett stated that he believed that mini warehousing could go in the present zoning without Planning Board action.

Chair McLaurin asked if Mr. Bennett was aware of the possibility of getting a conditional use overlay to allow for outside storage.

Mr. Bennett stated that that had not been considered.

Mr. Lloyd stated that a Conditional Use District is always recommended when there is only a small part of the overall use not permitted in a zoning district. The staff would be more amiable to the Conditional Use District. Mr. Lloyd stated that, yes, there is commercial across the street, but it is at an intersection. Mr. Lloyd stated that a Conditional Use District would be more conducive in this case in light of the condition where outside storage is only a portion of what the applicant is proposing.

Mrs. Epler asked Mr. Lloyd if the applicant chose Conditional Use, would a site plan need to be provided in order to be approved as a Conditional Use District.

Mr. Lloyd stated that yes a site plan would need to be provided.

Chair McLaurin asked if the property owner would be interested in doing that.

Mr. Bennett stated that they would do whatever is required.

Chair McLaurin stated that he would be more comfortable with the uses of A1 and outside storage but not the other uses of C(P). What the Board looks at is all the uses involved with a straight Commercial zoning. What Chair McLaurin would like to do is give Mr. Bennett a deferral so he and the owner could go back and get with the staff to consider the options.

A motion was made by Mr. McNeill, seconded by Mr. Morris to defer case P07-53 for 30 days. Unanimous approval

- B. **P07-54: REZONING OF 20.54 ACRES FROM RR TO R7.5 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE EAST SIDE OF HUMMINGBIRD PLACE, SOUTH OF THREE WOOD DRIVE, SUBMITTED BY AVERETTE ENGINEERING COMPANY P.A., OWNED BY CASTLE HAYNE HOMES, LLC.**

The Planning & Inspections Staff recommends denial of the R7.5 district based on the following:

1. Although the request is consistent with the Eastover Study Area Detailed Land Use Plan, which calls for Low Density Residential at this location, the entire parcel contains hydric soils;
2. Hummingbird Place is not designed in such a manner that the right-of-way can accommodate a large increase in traffic volume that rezoning to R7.5 or R15 would generate; therefore approval of this request would not be conducive to public safety; and
3. The current zoning of R20 is more consistent with the tentative measures included in the draft 2030 Land Use Plan for this area.

The R20 zoning district is the only other suitable zoning district to be considered for this site.

There were two people to speak in favor and one person to speak in opposition.

Public Hearing opened.

Mr. Michael Williams appeared before the Board in favor. Mr. Williams stated that R10 was requested due to the fact that Baywood which borders the property on two sides is R10. This subdivision was zoned RR which calculates out to 39.76 lots. It was developed as a 40 lot subdivision and they were over 40 lots in the calculations until they added in the street stubs, which was required by the Board because the cul-de-sac was so long. That dropped them back to the 39.76 lots. Mr. Williams said the site is almost complete; the asphalt will be going down at the end of the week. If acceptable to the Board R15 would allow him to record the subdivision as planned with 40 lots.

Mr. David Averette spoke in favor. Mr. Averette stated that this was partly his fault because he advised Mr. Williams that they could design for 40 lots but would only be able to get 39 lots recorded due to the length of the street and the requirement of stubouts. Mr. Averette is asking for R15 zoning which would allow for 53 lots instead of 39. He thinks from an engineering standpoint this would be the best zoning use for this area.

Vice-Chair Epler asked Mr. Averette if he wanted to amend his application because he was asking for R15 zoning.

Mr. Averette stated that he was not amending his application but would accept R15 zoning. The only reason they went to R10 then changed to R7.5 is because he feels that is what the zoning should be, it shouldn't be 15,000 square foot lots in that area when the surrounding area is R10 and water and sewer is available.

Mr. McNeill asked if the developer thought about R20.

Chair McLaurin asked Mr. Averette if he would like to amend his application to R15 at this time. Mr. Averette was advised that R15 would take care of what he was trying to do; it would give him 52 lots.

Mr. Lloyd stated that the Baywood subdivision was zoned R10, but with the hydric soils in this area we would hate to see R15 spread up and down Hummingbird Place. Mr. Lloyd stated that he would talk with staff because this could have been resolved with an R15

Conditional Use District which shows one more lot and they would be limited to those 40 lots. This is a wet area of the County.

Liz Reeser spoke in opposition. Ms. Reeser recommends that the Land Use Plan be considered in whatever rezoning is decided especially in light of the hydric soils that Eastover is famous for in certain areas. Ms. Reeser also recommended that the Board not necessarily follow Baywood subdivision.

Mr. Averette spoke in rebuttal. Mr. Averette stated that Mr. Lloyd was talking about drainage not the strength of the soil. He has designed the subdivision so that the street is elevated 1 foot above the ground; the storm water goes both ways into a ditch that is already there. Even if there were 52 lots it would in no way affect the stability of the subdivision as far as the soil is concerned. As far as traffic is concerned he's only talking about one more lot. Mr. Averette stated that we should always think about what the best use is for the land down the road. Not for what we are doing now. The best use of the land is whatever it will sustain and still have the infrastructure there to take care of it. This is definitely one of those cases.

Mrs. Epler asked Mr. Averette if he could ask for a Conditional Use District that would limit the subdivision to 40 lots. Mrs. Epler stated if we approve even at R15 he could put 52 lots in that subdivision if he chooses to redesign. If the Board and Commissioners approve R15 there would be no recourse in that. Mr. Lloyd, the Board and the citizens of the community have concerns about the hydric soils in the area. This would be a possibility for him to come back and work with the staff and present the Board with a Conditional Use District that asks for the 40 lots that he says he wants to build.

Mrs. Epler asked if he would be agreeable to deferring the case for 30 days and come back with a R15 Conditional Use District that would limit this site to 40 lots.

Mrs. Piland stated that she would be comfortable with that because of the staff concerns with the hydric soils and the introduction of R15 in a hydric soil area.

Mr. Averette stated that the concerns of hydric soils are a staff opinion not an engineering opinion. An engineering opinion is that this soil will sustain possibly more than 100 lots as far as the soil and drainage are concerned. Mr. Averette stated that he doesn't really like a lot of conditional uses.

Mrs. Piland advised Mr. Averette that the Board is trying to help him.

Mr. Averette stated that he appreciates that but they should look at the overall picture and not rezone and consider good planning procedures.

Mr. Lloyd stated that Mr. Averette was correct, but US Infrastructure the consultants for the Storm Water Utility has pointed out that there are many areas, this area being one of them, regardless of whether water or sewer is present is not suitable for urban type development. This is what Storm Water Utility has pointed out. The other problem is that there are plenty of drainage ditches through the eastern part of the County. You can drain into one but down onto someone else's property and they are known for being clogged. So they really don't serve as drainage at this point.

Mrs. Piland advised Mr. Averette that Mrs. Epler's suggestion was trying to help him achieve the 40 lots and the Conditional Use would help him achieve that while still protecting the concerns with the soil not only for that particular site but for the entire area.

Mrs. Epler also advised Mr. Averette that we have an adopted Land Use Plan in the area now that was not there when Baywood subdivision rezoned. We don't want to do a disservice to the citizens who have worked hard to adopt the land use plans. It would be a disservice to go against them that way.

Mr. Averette stated that the 39 lots need to be recorded and soon after that's done we can go ahead and sell those lots. He will go ahead and get the 39 lots recorded and leave the 40th lot as not developable under present standards. Mr. Averette said that if they couldn't get R15 zoning out of that area he feels a disservice is being done to the public.

Mr. Morris asked for clarification that if Mr. Averette couldn't get RR or R15 he's not interested.

Mr. Avertett stated that Conditional Use requires so much of bringing back information that is needed and not anything that pertains to good engineering, and that it is just too time consuming. Mr. Averette stated that R15 zoning is their preference. He feels that if it's not capable of being zoned R15 why would the Board want a Conditional Use that would allow that. He stated just go ahead and deny the request.

Public Hearing closed.

Mrs. Piland asked if the request was for R7.5 or R15

Mr. Averette stated that they would like to amend their application to R15

A motion was made by Mr. Morris, seconded by Mrs. Piland, to deny case P07-54 for R15, it passed seven to one with Chair McLaurin voting in favor.

- C. **P07-59: REZONING OF 1.38 ACRES FROM R6A TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 2670 JOHN SMITH ROAD, OWNED BY DEAN H. & DAWN SMELCER, JR.**

The Planning & Inspections Staff recommends denial of the C(P) district based on the following:

1. The request is not consistent with the 2010 Land Use Plan, which calls for Medium Density Residential at this location;
2. Rezoning is not in character with the zoning in the general area; and
3. Approval of the request will encourage the encroachment of non-residential zoning into an area intended for residential use.

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

Public Hearing opened.

Harold Smelcer spoke in favor. Mr. Smelcer stated that all he wanted to do was place an office on the property. He stated that he has cleaned up the property and put up fencing and a 10 foot border. Mr. Smelcer presented pictures of the surrounding area. Mr. Smelcer stated that the staff recommended that he apply for this zoning. Mr. Smelcer said that he had been turned down for three things and he didn't know what the 2010 Land Use Plan is and didn't know anything about it.

Mrs. Epler asked Mr. Smelcer if all of the photos were of the subject property.

Mr. Smelcer said that the picture Mrs. Epler was asking about was the commercial property behind him.

Mrs. Epler asked what the proposed use is for this area in relation to 2030 plan.

Mr. Lloyd stated that it would be residential. Mr. Lloyd also said that there are a lot of businesses in this area, but they front on Hope Mills Road.

Mr. Smelcer showed more pictures of what is in the area. He stated that he's not trying to destroy the area; he just wants to put his office there and carry on. He stated again that staff recommended C(P) zoning.

Mrs. Epler stated that if conversation does not look promising that he get what he is requesting tonight, if staff feels that O&I zoning would be agreeable, to defer his case for 30 days and amend his application to an O&I District. Mrs. Epler went on to explain O&I zoning. Mrs. Epler asked if Mr. Smelcer was under a timetable and could afford a thirty day wait.

Mr. Smelcer said that what he applied for is what the planning staff recommended. He doesn't feel that what he has applied for is a major thing.

Mrs. Epler said that she understands but the zoning that he is applying for allows so many uses that the Board doesn't feel that they are appropriate for this particular piece of property at this time. O&I zoning is the best zoning for this property.

Anthony Sykes Bigham spoke in opposition. Mr. Bigham showed a photograph of how close his house is to the applicant's fence line. Mr. Bigham feels that neighbor's rights should be considered. Mr. Bigham stated that he feels that if the rezoning is approved pretty soon there will be trucks on the property. He stated that ditches are already dug, junk trucks already on the property, part of the fence already up, water and power, and a big street light in the backyard. Mr. Bigham stated that he would like to be able to retire in his house without a lot of noise that this business would cause. He would like to keep this business out of his neighborhood. Mr. Bigham doesn't see the area as a place for business.

Judith Riley spoke in opposition. Ms. Riley stated that she lives directly across the street from the subject property. Her home has been in the family for a long time. There are children in the area and the subject property draws different types of elements related to the subject's business, big trucks in the neighborhood and people in and out. Ms. Riley stated that the streets that the applicant named McKnight and the other street are not on John Smith Road, the man with the horses is a private residence and his property is fenced in. Ms. Riley feels that this would be detrimental to the residents that live there and want to stay there. She would like to see the neighborhood stay the way it is.

Pam Bigham spoke in opposition. Ms. Bigham stated that if you go by the applicant's house on Boone Trail on a Thursday or Friday, that office is his home, you will always see trucks there. When he first bought that property one of the first things he did was bulldoze all the property which now looks desolate. The residents have managed to keep a natural wooded area around their homes. If it were just going to be an office why not keep it pretty. Ms. Bigham stated that the applicant moved some of his workers into the home and there was a

problem with drugs and someone died in the home. Mrs. Bigham called Ken Sykes two years ago and told him what was being told to them about the business being moved into the home and Mr. Sykes said that could never happen. Now two years later and here she is. Mrs. Bigham presented the Board with pictures of the subject property. Mrs. Bigham feels that this would be destructive and intrusive. Mrs. Bigham stated that Mr. Smelcer never lived in the house; he just bought it and rented it out.

Bill Maynard spoke in opposition. Mr. Maynard stated that he works out of his home making knives. He stated that they didn't want to deny anyone the use of their house, but he feels that the applicant's business will bring noise to the neighborhood.

Blake Smelcer spoke in rebuttal. Mr. Smelcer stated the trucks have to use John Smith Road. Mr. Smelcer presented photographs that showed the handmade knives that had a sign like a business and another one for a woodworks business. Mr. Smelcer stated that all they wanted to do was put a fence around the property and they will leave the buffer. They completely renovated the house. They are not trying to make a fence company there, they just want to move an office there.

Public Hearing closed.

Mrs. Epler stated that Mr. Smelcer said that he was comfortable with O&I and a 30 day deferral

Mr. Morris stated that for the Board to go beyond the commercialization of the Hope Mills Road would not be in the best interest of neighbors or the County. The other businesses are home type businesses.

A motion was made by Mr. Morris, seconded by Mrs. Piland to deny case P07-59 for C(P). Unanimous approval.

X. DISCUSSION

Mr. Lloyd stated that there a couple of times when applicants talk to staff and get advice and he would handle that. In Mr. Bennett's case when it comes to using a Conditional Use District Mr. Averette has everything done.

Chair McLaurin asked when R10 section Baywood South came before the Board. The Land Use Plan was in effect at the time.

Mr. Lloyd stated that no one picked up on it. The recommendations said it was consistent with the Eastover plan. We didn't pay as much attention to drainage and hydric soils back than as we do now. Baywood has deep ditches with drainage issues.

Chair McLaurin said that Baywood South was done within the last two years and the Board gave them R10.

Mrs. Epler stated that they asked a lot of the staff and that they are overworked, but is there any way that the Board can be informed of alternatives discussed with applicants.

Mr. Lloyd stated that it could be done, but there are at least three different staff members that talk with applicants, in the case of Mr. Bennett he had talked with Ms. Speicher that day and he was advised it would be better to apply for a Conditional Use District.

Chair McLaurin asked how soon they could get C(P)a = acceptable and C(P)x = objectionable uses as a way of speeding up the Conditional Use District process.

Mr. Lloyd stated that the annual review of the ordinance is getting near, sometime in the next few months. But any changes have to be done at the annual review.

XI. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Mr. Lloyd told the Board that he is prepared to bring whatever has been discussed regarding the Sewer Policy.

XII. ADJOURNMENT

There being no further business, the meeting adjourned at 8:35 p.m.