

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



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

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

October 9, 2007

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for October 16, 2007 Board Meeting

P07-76: REZONING OF 71.0+/- ACRES FROM RR AND CD TO R7.5 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH SIDE OF CAMDEN ROAD, EAST OF THE COUNTY LINE, OWNED BY HAROLD KIDD, JOSEPH GILLIS, AND DOUGLAS BARFIELD, SUBMITTED BY K. DOUGLAS BARFIELD, ATTORNEY.

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

1. The request is consistent with the 2010 Land Use Plan, which calls for Low Density Residential at this location; and
2. Public utilities are available to the subject property.

The R15 zoning district is the only other suitable zoning district to be considered for this site.

Attachments:

- 1 - Site Profile
- 2 - Rezoning Sketch Map

SITE PROFILE

P07-76

REZONING OF 71.0+/- ACRES FROM RR AND CD TO R7.5 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH SIDE OF CAMDEN ROAD, EAST OF THE COUNTY LINE, OWNED BY HAROLD KIDD, JOSEPH GILLIS, AND DOUGLAS BARFIELD, SUBMITTED BY K. DOUGLAS BARFIELD, ATTORNEY.

Site Information:

Applicant/Owner: HAROLD KIDD, JOSEPH GILLIS, AND DOUGLAS BARFIELD

Area: 71.0 +/- acres

Frontage & Location: 1,000 feet on Camden Road

Depth: 3,300 feet

Jurisdiction: County

Adjacent Property: No

Current Use: Undeveloped property

Initial Zoning: February 6, 1976 (Area 5)

Zoning Violation(s): None

Surrounding Zoning: North-CD, RR, East-CD, RR, R10, South-CD, RR, R15, and West-CD, RR

Surrounding Land Use: Well lots (3), church, A.B. commercial, single family residential, woodland and vacant land

2010 Land Use Plan: Activity Node and Low Density Residential

Designated 100-Year Floodplain or Floodway: None

Municipal Influence Area: Hope Mills

Proposed Interchange or Activity Node: Activity Node

Urban Services Area: Yes

Water/Sewer Availability: PWC / PWC

Soil Limitations: Yes – JT (Johnston loam)

School Capacity/Enrolled: Stoney Point Elementary 865/916, John Griffin Middle 1274/1314, Jack Britt High 1870/1900

Subdivisions: A subdivision review will be required prior to development.

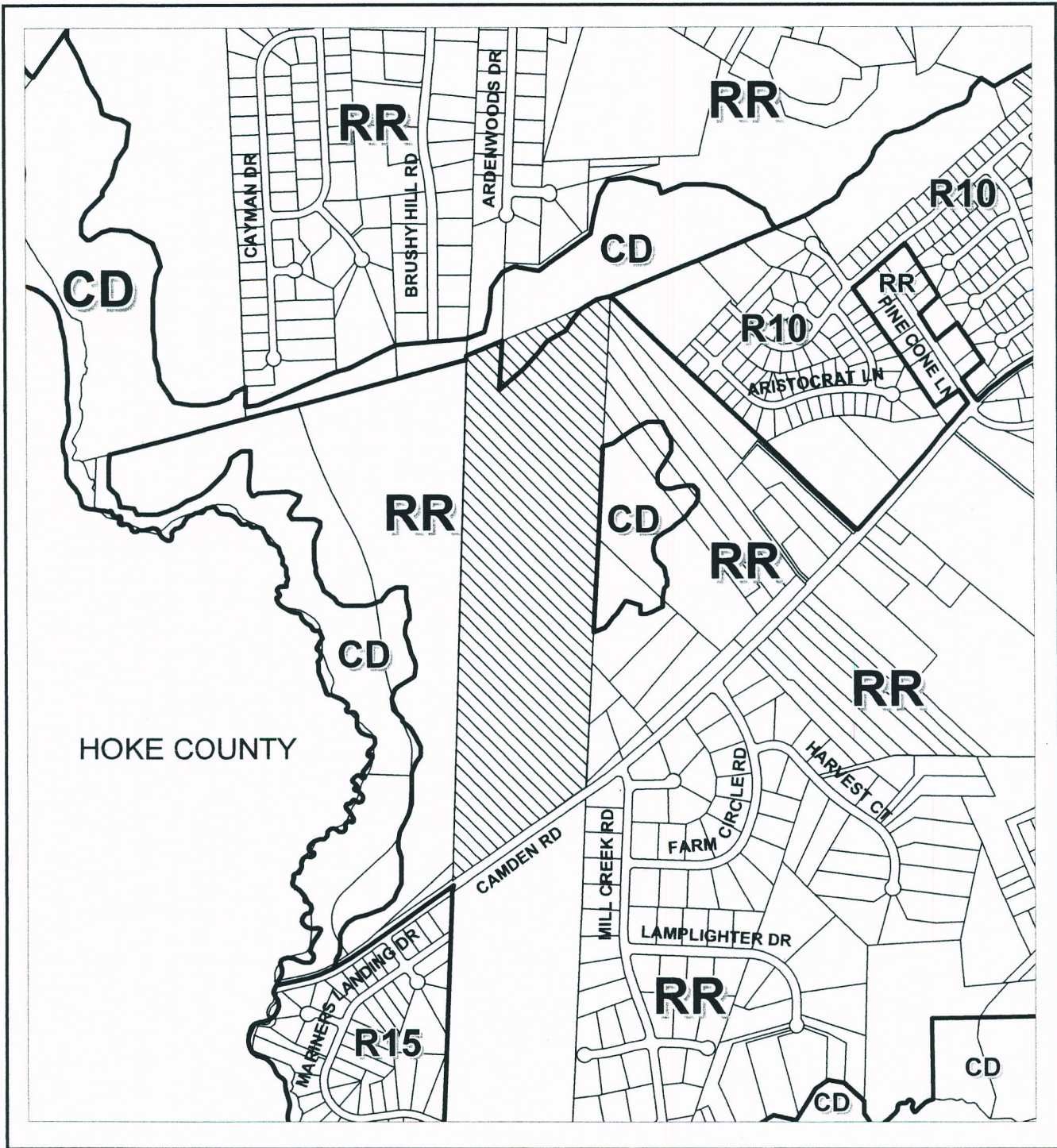
Highway Plan: Camden Road is identified as a Major Thoroughfare. The proposal calls for a multi-lane facility with a 100 foot right-of-way. Road improvements are included in the 2007-2013 MTIP. Right-of-Way-Unfunded, Construction-Unfunded. This property will be directly impacted by the Fayetteville Outer Loop, a Major Thoroughfare. The proposal calls for a multi-lane facility with a 250 foot right-of-way. Road improvements are included in the 2007-2013 MTIP. Planning/Design-In Progress, Mitigation-FFY 07, ROW Acquisition-FFY 06, 07, Post Years, Construction-08, 12, Post Years

Average Daily Traffic Count (2004): 4,400 on Camden Road

Notes:

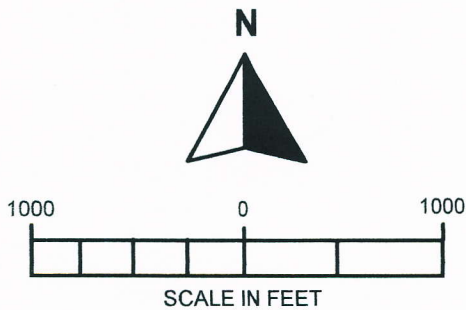
71.0 acres - 6.34 acres (area within Outer Loop Project) = 64.64+/- acres

Density minus 20% for roads:	RR – 112 lots	Minus 10% for roads:	126 lots
(51.71 acres)	R15 – 150 lots	(58.18 acres)	168 lots
	R7.5 – 300 lots		337 lots



HOKE COUNTY

REQUESTED REZONING: RR & CD TO R7.5



ACREAGE: 71.0 AC.+/-

HEARING NO: P07-76

ORDINANCE: COUNTY

HEARING DATE

ACTION

PLANNING BOARD

GOVERNING BOARD

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Wade, Falcon & Godwin

Lori Epler,
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October 9, 2007

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for October 16, 2007 Board Meeting

P07-79: REVISION AND AMENDMENT TO THE TOWN OF SPRING LAKE, NORTH CAROLINA CODE OF ORDINANCES, CHAPTER 156: ZONING CODE, AMENDING §§ 156.006 INTERPRETATION.; REPEAL 156.007 APPLICATION OF CHAPTER.; AMEND 156.008 DEFINITIONS.; REPEAL 156.035 DISTRICT USE REGULATIONS.; AMEND THE TABLE OF PERMITTED AND CONDITIONAL USES; AMEND §§ 156.050 PURPOSE.; AMEND 156.051 PROCEDURE FOR OBTAINING A CONDITIONAL USE PERMIT.; AMEND 156.052 SPECIFIC CONDITIONAL USE REQUIREMENTS.; AMEND § 156.120 SIGNS PERMITTED IN ANY DISTRICT; §§ 156.132 POWERS AND DUTIES.; 156.133 CONCURRING VOTE.; §§ 156.148 CONDITIONAL USE PERMITS.; 156.149 FEES; AND UPDATE THE TABLE OF CONTENTS TO REFLECT CHANGES. (SPRING LAKE)

The Planning & Inspections Staff recommends approval of the text amendment based on the following:

1. The amendment updates the provisions of the Town Code, complimenting the current and soon to be adopted standards of the Zoning Code; and
2. This amendment allows the Town of Spring Lake to retain its individuality while its regulations become more consistent with the County.

Attachments:
- Amendment

P07-79

REVISION AND AMENDMENT TO THE TOWN OF SPRING LAKE, NORTH CAROLINA CODE OF ORDINANCES, CHAPTER 156: ZONING CODE, AMENDING § 156.006 INTERPRETATION., SUB-SECTION (A) USES BY RIGHT.; § 156.008 DEFINITIONS. BY INSERTING IN ALPHABETICAL ORDER: OBSCENE MATTER, SEXUALLY ORIENTED BUSINESS, AND SPECIAL USE; § 156.035 DISTRICT USE REGULATIONS., TABLE OF PERMITTED AND CONDITIONAL USES; § 156.050 PURPOSE.; § 156.051 PROCEDURE FOR OBTAINING A CONDITIONAL USE PERMIT.; § 156.052 SPECIFIC CONDITIONAL USE REQUIREMENTS.; § 156.120 SIGNS PERMITTED IN ANY DISTRICT., SUB-SECTION (H) SPECIAL INFORMATIONAL SIGNS.; § 156.132 POWERS AND DUTIES., SUB-SECTION (C) CONDITIONAL USE.; 156.133 CONCURRING VOTE.; § 156.148 CONDITIONAL USE PERMITS.; 156.149 FEES; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (SPRING LAKE)

AMEND § 156.006 INTERPRETATION.

The district regulations shall be enforced and interpreted according to the following rules:

(A) *Uses by right.* All uses of property shall be prohibited except those which are permitted under the terms of this chapter as permitted uses and nonconforming uses. Conditional Special uses permits are permitted according to specific criteria and approval of the Board of Adjustment.

AMEND § 156.008 DEFINITIONS, BY AMENDING, DELETING AND INSERTING IN ALPHABETICAL ORDER, AS INDICATED:

OBSCENE MATTER. Any item with a context of a sexual nature depicting, describing or related to anatomical areas and sexual activities.

SEXUALLY ORIENTED BUSINESS. Any business or enterprise that has as one of its principal business purposes or as a predominant purpose of its business an emphasis on matter and conduct depicting, describing or related to anatomical areas and sexual activities specified in N.C. Gen Stat § 14-202.10.

SPECIAL USE. Those uses for which a permit is required for the proposed activities which are essentially compatible with other uses or activities permitted in a zoning district, but which present unique challenges or possess unique characteristics, or qualities that require comprehensive review at a quasi-judicial public hearing by the county Board of Adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions.

§ 156.035 DISTRICT USE REGULATIONS.

TABLE MATRIX OF PERMITTED, CONDITIONAL, AND SPECIAL USES
PERMITS

[Editor's Note: The Matrix of Permitted, Conditional, and Special Uses is to be updated by replacing all "C" with an "S".]

CONDITIONAL SPECIAL USES

§ 156.050 PURPOSE.

Some land uses have a particular impact on the surrounding area that cannot be adequately controlled by general regulations. Their establishment shall be allowed only after review and approval of plans and shall be called ~~conditional~~ special uses. ~~Conditional~~ Special uses, because of special site or design requirements, operating characteristics, or potential adverse effects on surrounding property and the neighborhood, shall be permitted only upon approval by the Board of Adjustment in accordance with the standards and conditions as set forth in § 156.051. ('78 Code, § 12.91) (Ord. passed 1-10-72)

§ 156.051 PROCEDURE FOR OBTAINING A ~~CONDITIONAL~~ SPECIAL USE PERMIT.

(A) In granting approval for a ~~conditional~~ special use permit the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for protection of health, the general welfare, and the public interest, including the requirement that detailed plans for each ~~conditional~~ special use permit proposal be submitted as part of the application for a ~~conditional~~ special use permit. Any changes, enlargement or alteration in such use shall be reviewed by the Board of Adjustment and new conditions may be imposed where findings require.

(B) In granting a ~~conditional~~ special use permit, the Board of Adjustment shall give due consideration to:

(1) The location, site, design, and operating characteristics of the proposed development so that it will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and surrounding neighborhood;

(2) The harmony in scale, bulk, coverage, function, and density of the proposed development;

(3) The availability of public facilities and utilities;

(4) The generation of traffic and the capacity of surrounding streets; and

(5) The purpose and intent of the General Land Use Plans for the physical development of the district and the protection of the environment. Developers are encouraged to discuss their ~~conditional~~ special use plans with the Planning Board's staff before submission. The staff shall assist the developer upon request by reviewing ~~conditional~~ special use plans to ensure that the technical requirements of this section are met before submission to the Board of Adjustment.

AMEND § 156.052 SPECIFIC ~~CONDITIONAL~~ DEVELOPMENT STANDARDS FOR INDIVIDUAL SPECIAL USES REQUIREMENTS.

(A) *Generally.* It is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of these are concentrated under certain circumstances thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or down-grading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area; for example, not more than one such use within 1,000 feet of each other which would create such adverse effects.

(A) *Radio and television transmitting and receiving stations and towers.* All such facilities when permitted as a ~~conditional~~ special use shall provide at least one foot of side, rear and front yard for every two feet of tower and/or building height. ('78 Code, § 12.93) (Ord. passed 1-10-72)

(B) *Children's ~~d~~Day care home.* Regardless of any other requirements in this chapter, the following specific provisions shall be met as minimum standards prior to the approval of any ~~children's~~ day care home as a ~~conditional~~ special use in a residentially zoned area. The following requirements are minimum standards which must be met by the applicant and may not be varied by the Board of Adjustment. Once the following requirements are met, the applicant shall be entitled to apply for a ~~specified~~ conditional use permit.

(1) Minimum lot size of 10,000 square feet land area;

(2) Minimum distance to another ~~children's~~ day care home as defined herein, whether conforming or non-conforming, shall be 500 feet (measurement based on center of lot);

(3) All children's outside play areas shall be enclosed with at least a four-foot high fence;

(4) All outside pets shall be enclosed in a separately fenced area;

(5) Must have adequate off-street parking; and,

(6) The applicant must be the property owner or have permission from the owner to operate a day care home and must occupy the dwelling.
(Ord. passed 1-10-94)

(C) ~~Adult activities~~ Sexually Oriented Businesses. Sexually oriented businesses are some of the uses which, because of their very nature, may have serious objectionable characteristics, particularly when several of them are concentrated in one area, thereby having a deleterious effect upon adjacent areas, or when the uses are proposed to be located in or near sensitive areas or land uses. Special regulation of sexually oriented businesses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations and applicable criteria are contained in this section. Sexually oriented businesses shall be allowed only in the C3 Heavy Commercial District subject to the following:

~~(1) Definitions.~~ For the purpose of this subsection, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) (a) Sexually oriented businesses shall not be located within 1,000 feet of another sexually oriented business. The measurement shall be taken from the exterior walls of the building(s) containing such regulated use.

(2) (b) No sexually oriented business shall be located within 500 feet of any area zoned for residential use or from the property line of residential unit(s), religious worship activity, nursery school, day care facility, any recreation and amusement not regulated herein, and any public or private school regardless of the zoning district, and shall be measured from the property line(s) containing such regulated use.

(3) (c) Buffering complying with the standards of Section 156.086 (G) shall be placed around the entire perimeter, including road frontage, for all sexually oriented businesses.

(4) (d) No nude or seminude service or entertainment of any kind shall be allowed outside the building of such use.

~~**ADULT BOOKSTORE.**—An establishment having a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical area,” or an establishment with a segment or section devoted to the sale or display of such material.~~

~~**ADULT MOTION PICTURE THEATER.**—An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.~~

~~ADULT MOTELS AND HOTELS.~~ A place where motion pictures not previously submitted to or not rated by the Motion Picture Association of America are shown in rooms designed primarily for lodging, which the motion pictures have as the dominant or primary theme matters depicting, describing, or relating to specified sexual activities.

~~SPECIFIED ANATOMICAL AREAS.~~

(a) ~~Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and~~

(b) ~~Human male genitals in a discernibly turgid state, even if completely and opaquely covered.~~

~~SPECIFIED SEXUAL ACTIVITIES.~~

(a) ~~Human genitals in a state of sexual stimulation or arousal;~~

(b) ~~Acts of human masturbation, sexual intercourse or sodomy; or~~

(c) ~~Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.~~

(2) ~~Uses.~~ The following uses are permitted under C-3 as conditional use and subject of the provisions of this section.

(a) ~~Adult bookstores;~~

(b) ~~Adult motion picture theater housed in a permanent indoor structure;~~

(c) ~~Clubs and other places of entertainment operated as a commercial enterprise providing nude or semi-nude entertainment such as "topless" dancing;~~

(d) ~~Eating and drinking establishments including drive-in curb service providing nude or semi-nude entertainment such as "topless" dancing;~~

(e) ~~Any physical culture establishment, masseur, massage parlor, health salon or club not otherwise permitted by § 156.035; and~~

(f) ~~Adult motels and hotels.~~

(3) ~~Location of uses.~~

(a) ~~No use permitted under this section may be located within 1,000 feet of another use permitted under this subsection which will be measured from the exterior walls of the building(s) containing such regulated use.~~

(b) ~~No use permitted under this subsection may be within 500 feet of any area zoned for residential use which will be measured from the exterior walls of the building(s) containing such regulated use. (Ord. passed 5-13-91)~~

(D) *Open-air farmer's market.* The following specific provisions are minimum provisions and shall apply to "approved" open-air farmers' markets. The applicant is the responsible party for continued compliance upon issuance of a ~~conditional~~ special use permit by the Town Board of Adjustment. The contents of this section shall not be construed as to limit the Board's authority to impose any additional restrictions or conditions necessary for protection of the public health, general welfare, and interest.

AMEND §156.120 SIGNS PERMITTED IN ANY DISTRICT, (H) SPECIAL INFORMATION SIGNS

(H) *Special information signs.* For the purpose of giving directions and information, off-premises signs and on-site signs pertaining to ~~conditional~~ special uses where not otherwise permitted, may be approved by the Board of Adjustment subject to a ~~conditional~~ special use permit specifying the size, location, lighting, design, and display. Such signs shall be limited to those which are necessary to inform the public as to location and information concerning facilities, institutions, business districts, fraternal orders and service clubs, or such other activity as the Board of ~~Aldermen~~ Adjustment may judge to be beneficial to the total community.

(78 Code, § 12.109) (Ord passed 1-10-72) Penalty, see § 156.999

AMEND § 156.132 POWERS AND DUTIES.

(C) *Special Conditional-use permit.* The Board of Adjustment shall ~~have the authority to grant permit exceptions, called "Special conditional uses," in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified in this e § 156.148.~~

AMEND § 156.133 CONCURRING VOTE.

The concurring vote of 4/5 of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter. A concurring vote of 4/5 of the Board of Adjustment is also required to decide in favor of any applicant on any matter which the Board of Adjustment is required to pass including granting variance from the provisions of this chapter and issuing a ~~conditional~~ special use permit.

(78' Code § 12.116) (Ord. passed 1-10-72)

AMEND § 156.148 CONDITIONAL SPECIAL USE PERMITS.

~~(A) The Board of Adjustment, upon request of a property owner or his authorized agent after public hearing may authorize and subject to appropriate conditions and safeguards which the Board deem necessary, conditional permits, when in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured.~~

~~(B) Any conditional use granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one year from the date of such approval. (78' Code § 12.120(d)) (Ord. passed 1-10-72)~~

The various Special Uses set forth in the District Use Regulations Table, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the Board of Adjustment in accordance with the standards and conditions as set forth in this Section.

(A) Purpose. Permitting Special Uses adds flexibility to this Ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special use Permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.

(B) Procedure. Special Use Permits shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Chapter 156.035, District Use Regulations, as Special Uses. Uses specified as a Special Use in the Table shall be permitted only upon the issuance of a Special Use Permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and three copies of a site plan (drawn in accordance with the specifications listed in Chapter 156.071) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. The Planning and Inspections Staff shall also notify the Commanders of Fort Bragg, Pope Air Force Base, and Simmons Army Airfield of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with N.C. Gen. Stat. § 153A-323.

Developers are encouraged to discuss their Special Use plans with the Planning and Inspections Staff before submission. The Staff shall assist the developer upon request by reviewing Special Use plans to insure that the technical requirements of this Ordinance are met before submission to the Board of Adjustment. All applications and site plans

shall provide information indicating compliance with the development standards for the individual uses as listed in Chapter 156.052 of this Ordinance, as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the Special use provide to the contrary.

(C) Consideration of Application. The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this chapter and may grant or deny the Special Use Permit requested. In granting a Special Use Permit, the Board shall find that:

(1) The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;

(2) The use meets all required conditions and specifications;

(3) The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

(4) The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Town of Spring Lake's most recent Detailed Land Use Plan.

(D) Final Disposition. In granting approval of a Special Use Permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare and public interest. In granting a Special Use Permit, the Board of Adjustment shall give due consideration to:

(1) The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;

(2) The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;

(3) The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;

(4) The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;

(5) The added noise level created by activities associated with the proposed use;

(6) The requirement for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police

and fire protection, and the presence of any potential or real fire hazards created by the proposed use;

(7) Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;

(8) The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;

(9) The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;

(10) The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;

(11) The availability of public facilities and utilities;

(12) The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and

(13) The purpose and intent of the most recent Land Use Plan for the physical development of the district, and the protection of the environment.

All such additional conditions shall be entered in the minutes of the meeting at which the Special Use Permit is granted, on the Special Use Permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the Special Use Permit, their heirs, successors and assigns. The applicant for the Special Use Permit is responsible for the recordation of the "Notice of Special Use Permit" with the Cumberland County Register of Deeds prior to application for any zoning permit.

If the Board denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same Special Use Permit on the same property without a substantial material change concerning the property and the application.

(E) Expiration of Permits. Any Special Use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one calendar year from the date of such approval. Furthermore, once the Certificate of Occupancy has been issued for a Special Use and then the Special Use ceases to exist for a time period of one calendar year or more, the Special Use Permit shall become void.

(F) Modifications to Plans. The Board of Adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a special use application, and new conditions may be imposed where findings require. The Planning and Inspections Staff may authorize minor modifications of the approved plans provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.

(G) Noncompliance. If for any reason any condition imposed pursuant to this Chapter is found to be illegal or invalid, the Special Use Permit shall be null and void and of no effect, and the Planning and Inspections Staff shall institute proceedings for the case to be reheard by the Board of Adjustment.

Compliance with all the conditions of a Special Use Permit is an essential element of the Special Use Permit's continued validity and effectiveness. If the Director of Planning shall determine that a permittee has failed to comply with a condition of an approved Special Use Permit, he shall so notify the permittee or the permittee's successor in interest and shall place the matter on the Board of Adjustment's agenda for the Board's decision whether or not to revoke the Special Use Permit. Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Adjustment shall be a final decision, and a decision to revoke the Special Use permit may be appealed to the Superior Court of Cumberland County within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the Board of Adjustment's decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the Board of Adjustment's approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the Board of Adjustment's decision hereunder.

(H) Appeals. No appeal may be taken from the action of the Board of Adjustment in granting or denying a Special Use Permit except through the Cumberland County Superior Court in the same manner as set forth in this Chapter for appeal of any Board of Adjustment decision.

AMEND § 156.149 FEES

(A) Each applicant for rezoning, either general or conditional use district, appeals from administrative decisions, variances or special~~ied conditional~~ use permits, shall pay a nonrefundable fee in accordance with the proposed fee schedule set out below, recommended by the Planning Board and adopted by the Board of Aldermen. This fee shall be waived for cases initiated and requested by the Board of Aldermen.

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October 9, 2007

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for October 16, 2007 Board Meeting

P07-80: REZONING OF THREE PARCELS TOTALLING 5.0+/- ACRES FROM A1 TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, SOUTH OF DELANCY DRIVE, WEST OF SOUTH FORTY DRIVE, OWNED BY ROBERT AND STEPHANIE VAUGHN AND FRANKLIN R. FOWLER, SUBMITTED BY MCCOY, WEAVER, AND WIGGINS ATTORNEYS.

The Planning & Inspections Staff recommends approval of the R15 district based on the following:

1. The request is consistent with the 2010 Land Use Plan, which calls for Low Density Residential at this location;
2. The R15 zoning district is in character with the current zoning of the adjacent property;
and
3. Public utilities are available to the subject property.

The R40, R30 and R20 zoning districts are the other suitable zoning districts to be considered for this site.

Attachments:

- 1 - Site Profile
- 2 - Rezoning Sketch Map

SITE PROFILE
P07-80

REZONING OF THREE PARCELS TOTALLING 5.0+/- ACRES FROM A1 TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, SOUTH OF DELANCY DRIVE, WEST OF SOUTH FORTY DRIVE, OWNED BY ROBERT AND STEPHANIE VAUGHN AND FRANKLIN R. FOWLER, SUBMITTED BY MCCOY, WEAVER, AND WIGGINS ATTORNEYS.

Site Information:

Applicant/Owner: ROBERT AND STEPHANIE VAUGHN AND FRANKLIN R. FOWLER

Area: 5.0 +/- acres

Depth: 533 feet (average)

Jurisdiction: County

Adjacent Property: No

Current Use: Undeveloped property

Initial Zoning: June 25, 1980 (Area 13)

Zoning Violation(s): None

Surrounding Zoning: North-A1, R40, R20, East-A1, RR, R15, South-RR, R15, R10, C1(P), and West-A1, R15, R10

Surrounding Land Use: Single family residential, woodland and vacant land

2010 Land Use Plan: Low Density Residential

Urban Services Area: Yes

Water/Sewer Availability: PWC / PWC sewer to be installed in the tract west of the site.

Soil Limitations: None

School Capacity/Enrolled: Galberry Farm Elementary 886/1085, Gray's Creek Middle 495/590, Gray's Creek High 1270/1133

Subdivisions: A subdivision review will be required prior to any development.

Military Impact Area: No

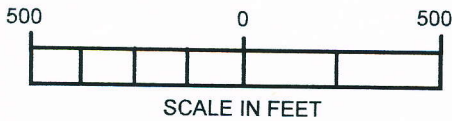
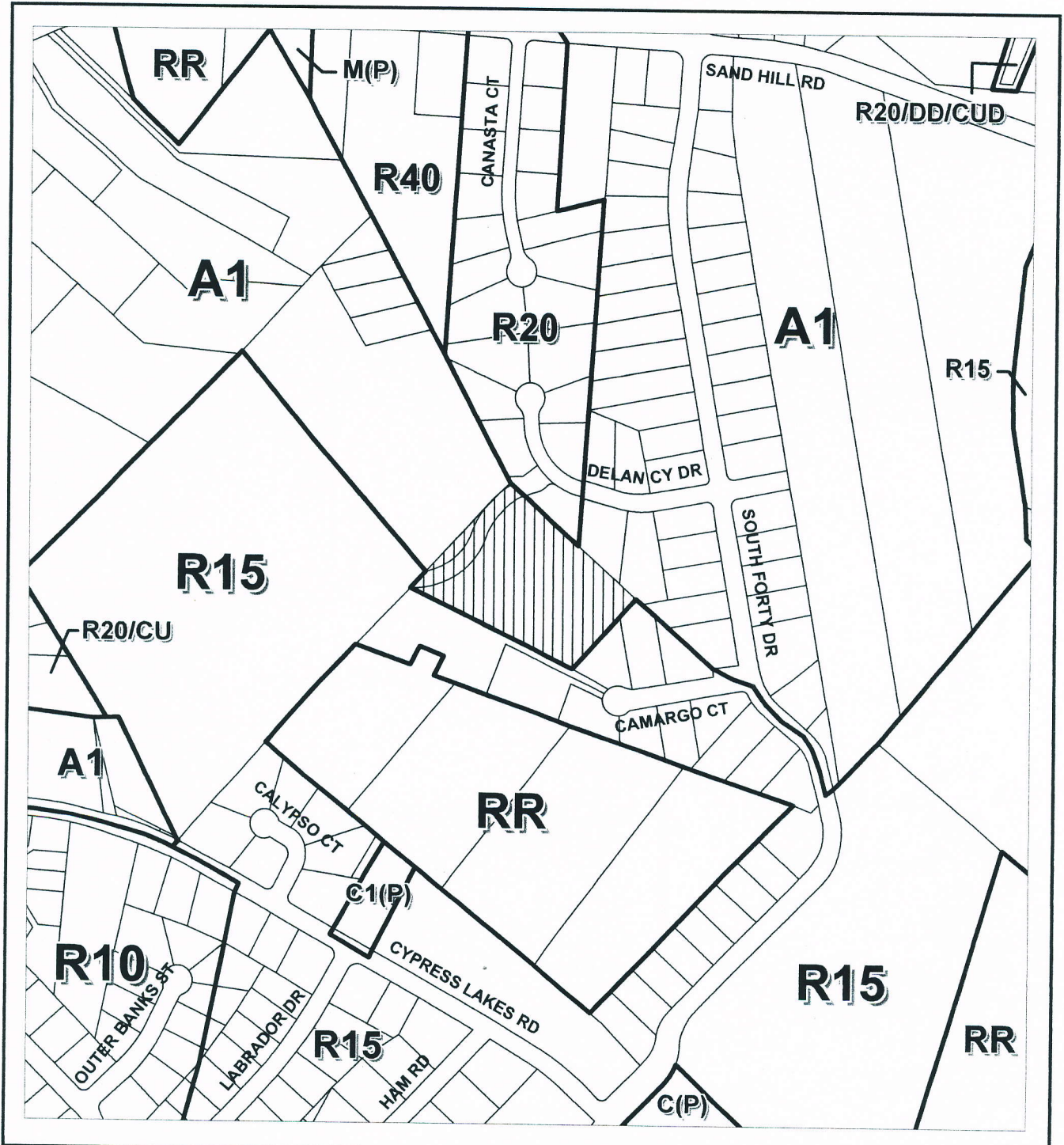
Highway Plan: No road improvements or new construction is specified for this area.

Notes:

5.0 +/- acres – .54 acres (area within approved right-of-way) = 4.46+/- acres

Density minus 20% for roads: A1 – 1 lots
(3.57 acres) R40 – 3 lots
R30 – 5 lots
R20 – 7 lots
R15 – 10 lots

Minus 10% for roads: A1 – 2 lots
(4.01 acres) R40 – 4 lots
R30 – 5 lots
R20 – 8 lots
R15 – 11 lots



REQUESTED REZONING: A1 TO R15

ACREAGE: 5.0 AC.+/-		HEARING NO: P07-80	
ORDINANCE: COUNTY		HEARING DATE	ACTION
PLANNING BOARD			
GOVERNING BOARD			

PIN: 0433-50-3434
 PIN: 0433-50-1505
 PIN: 0433-50-1567

JJ
 9/20/07
 9/25/07
 10/09/07