

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 & Inspections Department

February 10, 2009

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Walter Clark
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for February 17, 2009 Board Meeting

P09-04: INITIAL ZONING OF 5.94+/- ACRES TO R40 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH END OF WILLOWBRAE DRIVE AND NORTHEAST OF FURLONG PLACE, SUBMITTED BY THE TOWN OF EASTOVER, OWNED BY ESTATE BUILDERS, LLC. (EASTOVER)

The Planning & Inspections Staff recommends approval of the initial zoning request for R40 Residential district based on the following:

1. The request is consistent with the Eastover Area Detailed Land Use Plan, which calls for one acre residential lots at this location; and
2. This request was initiated by the Town of Eastover.

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

Attachments:

- 1 - Site Profile
- 2 - Sketch Map

P09-04
SITE PROFILE

P09-04: INITIAL ZONING OF 5.94+/- ACRES TO R40 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH END OF WILLOWBRAE DRIVE & NE OF FURLONG PLACE, SUBMITTED BY THE TOWN OF EASTOVER, OWNED BY ESTATE BUILDERS, LLC. (EASTOVER)

Site Information:

Frontage & Location: 50.00'+/- on Willowbrae Drive

Jurisdiction: Town of Eastover (Annexation effective date: Jan. 1, 2009)

Adjacent Property: Yes, west and east sides of subject properties

Current Use: Vacant residential lots

Initial Zoning: A1 – December 14, 1979 (Area 10)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North, South & East: A1 & R40 (County & Eastover); West: A1 (County & Eastover)

Surrounding Land Use: Residential and woodlands

Eastover Area Detailed Land Use Plan: One acre residential lots

Special Flood Hazard Area (SFHA): Yes, west and northeast of Willowbrae Drive

Water/Sewer Availability: ESD/ESD

Soil Limitations: Yes, hydric: Ro Roanoke and Wahee loams

School Capacity/Enrolled: Armstrong Elementary: 450/410; Mac Williams Middle: 1,270/1,162; Cape Fear High: 1,425/1,470

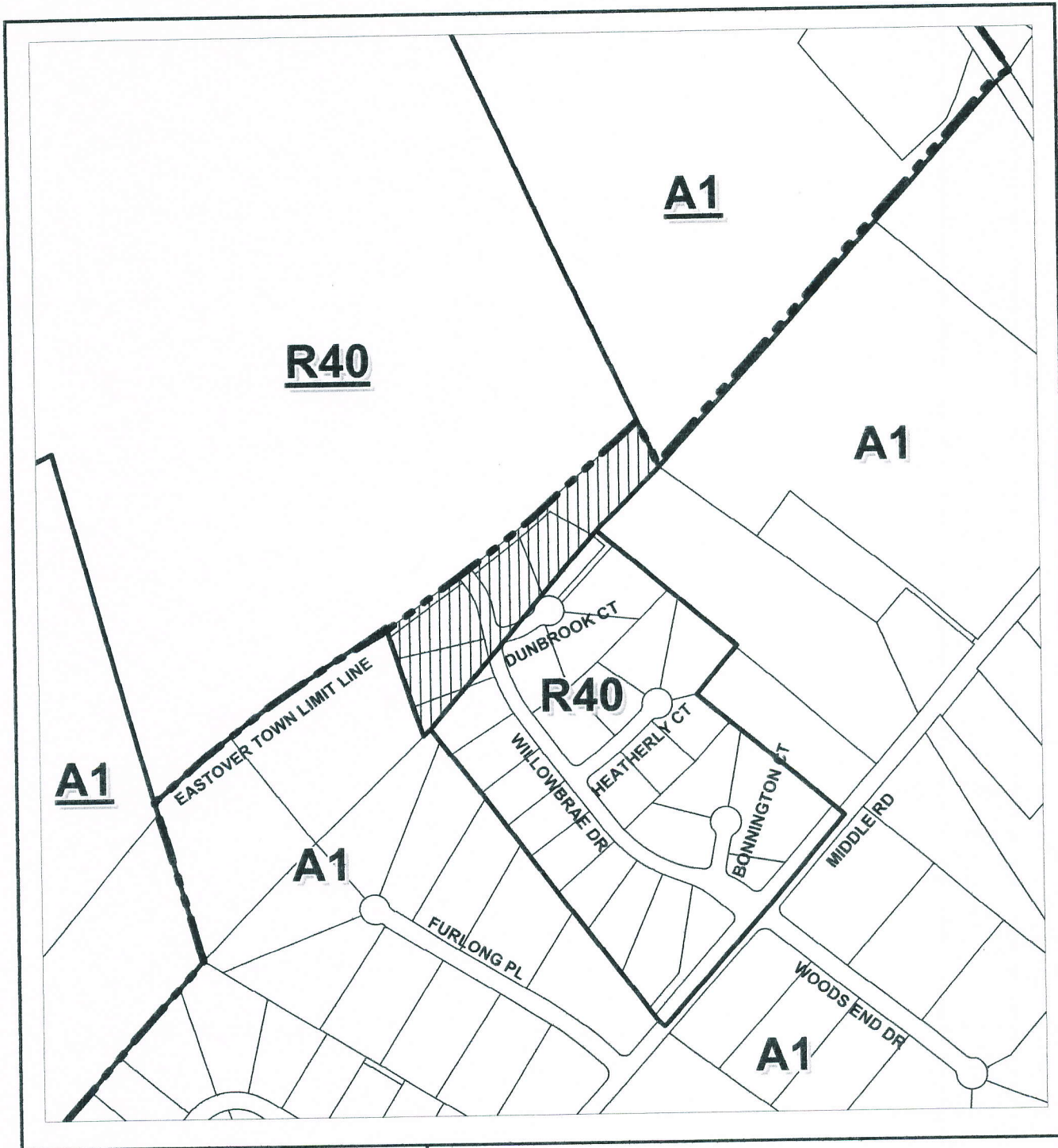
Subdivision/Site Plan: Conditionally approved subdivision for total of 140 lots (1/10/08, ref. Case No. 06-005)

Average Daily Traffic Count (2006): 1,800 on SR 1728 (Middle Road)

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

First Class Mailed Notice Certification

A certified copy of the tax record owner(s) and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.



INITIAL ZONING TO R40

ACREAGE: 5.94 AC.+/-

HEARING NO: P09-04

ORDINANCE: COUNTY(EASTOVER)

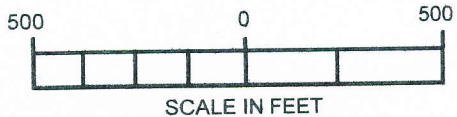
HEARING DATE

ACTION

STAFF RECOMMENDATION

PLANNING BOARD

GOVERNING BOARD



PIN: 0458-05-3887,2647,1505
 PIN: 0448-95-8418,8462,8277,8143

DRAFT

P09-05 AMENDMENT

AMENDMENT TO THE COUNTY ZONING ORDINANCE, CREATING STANDARDS FOR COUNTY-OPERATED CONVENIENCE CONTAINER AND RECYCLING FACILITIES BY AMENDING ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203 DEFINITIONS OF SPECIFIC TERMS AND WORDS; ARTICLE IV PERMITTED, CONDITIONAL, AND SPECIAL USES, SECTION 403 USE MATRIX; ARTICLE IX INDIVIDUAL USES, CREATING SECTION 905.1, ENTITLED: CONVENIENCE CONTAINER AND RECYCLING FACILITY; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

AMEND the County Zoning Ordinance, Article II Interpretations, Calculations, and Definitions, Section 203 Definitions of Specific Terms and Words by CREATING the following definition for “Convenience Container and Recycling Facility” and INSERTING the definition in alphabetical order:

Convenience Container and Recycling Facility: A County-owned, -leased or -operated site, generally two acres or less in size, serving the surrounding community for the temporary collection, storage and transference of solid waste, yard waste and recyclables. (Section 905.1)

AMEND the County Zoning Ordinance, Article II Interpretations, Calculations, and Definitions, Section 203 Definitions of Specific Terms and Words, specifically the definition for “Solid Waste Disposal Facility” as indicated:

Solid Waste Disposal Facility: Any depository of solid waste, excluding earth for fill and septage. This definition includes, but is not limited to, sanitary landfills, sewage treatment facilities and waste incinerators. This definition does not include “Convenience Container and Recycling Facilities” as defined herein. (Section 925)

AMEND the County Zoning Ordinance, Article IV Permitted, Conditional, and Special Uses, Section 403 Use Matrix by INSERTING a row under the Land Uses column entitled: Convenience Container and Recycling Facility (Sec. 905.1), in alphabetical order, with the Convenience Container and Recycling Facility being allowed in the individual zoning districts as indicated below:

DRAFT

Special Use Permit – “S” in the Zoning Classifications columns – (requiring Board of Adjustment approval) for the A1, A1A, R40, R40A, R30, R30A, RR, R20, R20A, R15, R7.5, R6, R6A, R5, R5A and O&I(P) zoning districts; and

Permitted Use – “P” in the Zoning classifications columns - (requiring staff site plan approval) for the C1(P), C2(P), C(P), M1(P) and M(P) zoning districts.

AMEND the County Zoning Ordinance, Article IX, Individual Uses, by CREATING Section 905.1, entitled: Convenience Container and Recycling Facility, along with the following sub-sections:

SECTION 905.1 CONVENIENCE CONTAINER AND RECYCLING FACILITY

- A. Material shall not be stored outside of appropriate waste containers, and all such containers shall be located on a solid impervious surface such as concrete pads.
- B. All structures on the site shall comply with the dimensional requirements for the zoning district in which the facility is to be located.
- C. The site shall be maintained to prevent odors, rodents and any other nuisances.
- D. The site shall have direct access to a paved public street.
- E. Access roads leading to any part of the operation shall be constructed in such a manner as to not impede traffic on any public or private street and shall be paved or constructed with gravel or crushed stone surface and maintained in a dust-free manner.
- F. All environmental health rules and regulations, including Federal and State laws, shall be complied with.
- G. One identification sign, as defined in Section 1302, shall be permitted in accordance with Article XIII.
- H. Site obscuring buffers shall be provided in accordance with the provisions of Section 1102.G, and are not included in the exemptions under Section 1102.G.2

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MEMORANDUM

TO: Joint Planning Board

FROM: Edward M. Byrne, Land Use Codes

SUBJECT: CASE NO. 09-011. CONSIDERATION OF THE BRENDA R. GAROFONE PROPERTY, GROUP DEVELOPMENT REVIEW; REQUEST FOR WAIVER FROM SECTION 2303.C, COUNTY SUBDIVISION ORDINANCE, REGARDING 20 FEET OF ROAD FRONTAGE ALONG A PUBLIC OR PRIVATE STREET; ZONING: A1; ACREAGE: 16.27 +/-; LOCATED OFF THE NORTH OF THE END OF SR 2046 (AVERY ROAD), WEST SR 1002 (TURNBULL ROAD).

The developer is requesting a waiver from the requirement for actual road frontage for a second dwelling unit on an existing 16.27 acre tract, which uses a 30 foot ingress/egress easement for access. The 30 foot deeded easement is recorded in Deed Book 3587, pg. 133 and is known as Avery Road. This portion of Avery Road is not part of the State-maintained portion of the road SR 2046 (Avery Road) in which the easement ties into. The proposed dwelling is a double-wide manufactured home. The existing deeded lot is an exempt lot from the definition of subdivision and would not typically be subject to the requirement for road frontage under the terms of Subdivision Ordinance; however, the second dwelling unit proposed qualifies the request as a group development and the standards for actual road frontage for the lot is required.

In accordance with Section 2601, Waivers, Cumberland County Subdivision Ordinance, the Planning Board may waive the requirements of this Ordinance, where it finds by resolution that:

- a. **Because of the size of the tract to be subdivided, its topography, the condition or nature of the adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this Ordinance would cause a special hardship to the property owner and be inequitable, and**
- b. **The public purposes of the Subdivision Ordinance and the Zoning Ordinance would be served to an equal or greater degree, and**
- c. **The property owner would not be afforded a special privilege denied to others.**

The Planning and Inspections Staff recommends approval of the waiver request based on the following:

- a. Because of the size of the existing lot of record, 16.27 +/- acres, it would be inequitable not to allow a second unit on such a large tract, and strict compliance with the provisions of the ordinances would cause a special and unnecessary hardship if the developer were required to upgrade the ingress/egress easement to "street" status given that the majority of the land area in which the easement crosses is not under the current property owners' control;
- b. The purposes of the County's Subdivision and Zoning Ordinances are being served to an equal or greater degree, in that there is an existing deeded 30 foot ingress/egress easement, assigned a street name for emergency services purposes that assures access to this lot and adjacent lots within the area;
- c. The property owner is not being afforded a special privilege denied to others since the Planning Board has approved similar requests when there has been comparable facts and circumstances.

Attached you will find the waiver application, recommended conditions of approval, group development sketch plan, aerial photo and vicinity map. If you have any questions, please contact me at 910-678-7609, email: ebyrne@co.cumberland.nc.us or Patti Speicher at 910-678-7605, email: pspeicher@co.cumberland.nc.us.

cc: Brenda R. Garofone, Developer
Grainger Barrett, County Attorney
Patti Speicher, Land Use Codes



Date Request Submitted: 2-5-09
Planning Board Meeting Date: 2-17-09
Received by: EMR

Cumberland County Subdivision Ordinance

Request for Waiver

Case No.: 09-011 Case Name: BRENDA GAROFONE

Related Ordinance Section Number(s): 2303.C

Summary of Request: PLACE MOBILE HOME ON PROPERTY FOR DISABLED
BROTHER-IN-LAW

Section 6.1 of the County Subdivision Ordinance governs the Planning Board's authority to waiver provisions of the Subdivision Ordinance. This section reads as follows:

Section 6.1. Waivers

The Planning Board may waive the requirements of this Ordinance where it finds by resolution that:

- a. Because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, problems of access, or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause a special hardship to the property owner and be inequitable, and*
- b. The public purposes of the Subdivision Ordinance and the Zoning Ordinance would be served to an equal or greater degree, and*
- c. The property owner would not be afforded a special privilege denied to others.*

In granting waivers, the Planning Board may require such conditions as will secure, in so far as practicable, the objectives of the requirements waived. Any waiver, thus granted, is required to be entered in writing in the minutes of the Planning Board and the reasoning upon which departure was justified set forth.

The applicant is strongly encouraged to read the above provisions and relate the written waiver request as closely as possible to the criteria contained within. All supporting documentation for the request shall be submitted along with this request for waiver. For example, if the request is based on topography or soils, the applicant is the responsible

party to submit as evidence 'topo' and/or soils maps or if the request is based on the "condition or nature of adjoining property", the applicant will be required to submit evidence supporting this as basis for the request.

My request should receive favorable consideration by the Planning Board based on the following summary of the basis for this request:

1. Because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, problems of access, or the existence of other unusual physical conditions (at least one of the preceding basis must be addressed in this request), strict compliance with the provisions of this Ordinance would cause a special hardship to the property owner and be inequitable, due to:

WE HAVE 30' EASEMENT AND WANT TO PLACE
2nd DWELLING (MOBILE HOME) FOR DISABLED
BROTHER-IN-LAW

2. The public purposes of the County Subdivision and County Zoning Ordinances would be served to an equal or greater degree and the applicant agrees to:

3. The property owner would not be afforded a special privilege denied to others, because:

OTHERS USE THIS EASEMENT FOR ACCESS
TO THEIR HOMES

By signing this request, the applicant is signifying that all statements contained within this request are accurate and true to the best of their knowledge.

BRENDA GAROFONE
Printed Name of Applicant/Agent

910-323-3978
Daytime Phone Number

Brenda Garofone
Signature of Applicant/Agent

2-5-2009
Date Signed

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STAFF REVIEW: 02-05-09 PLANNING BOARD DECISION: 02-17-09

CASE NO: 09-011 NAME OF DEVELOPMENT: BRENDA R. GAROFONE PROPERTY

MIA: N/A GROUP DEVELOPMENT REVIEW

LOCATION: OFF OF THE NORTH END OF SR 2046 (AVERY ROAD), ZONING: A1
WEST OF SR 1002 (TURNBULL ROAD) PIN: 1400-35-8244-

OWNERS / DEVELOPER: BRENDA R. GAROFONE ENGINEER OR DESIGNER: N/A

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. New development that will disturb one acre or more of land or is part of a larger plan that will disturb at least an 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.

4. For any new development that will disturb one acre or more of land or is part of a larger plan that will disturb at least an acre of land, the developer must/may have to 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.
5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
6. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

Site-Related:

7. 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.
8. 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)
9. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)

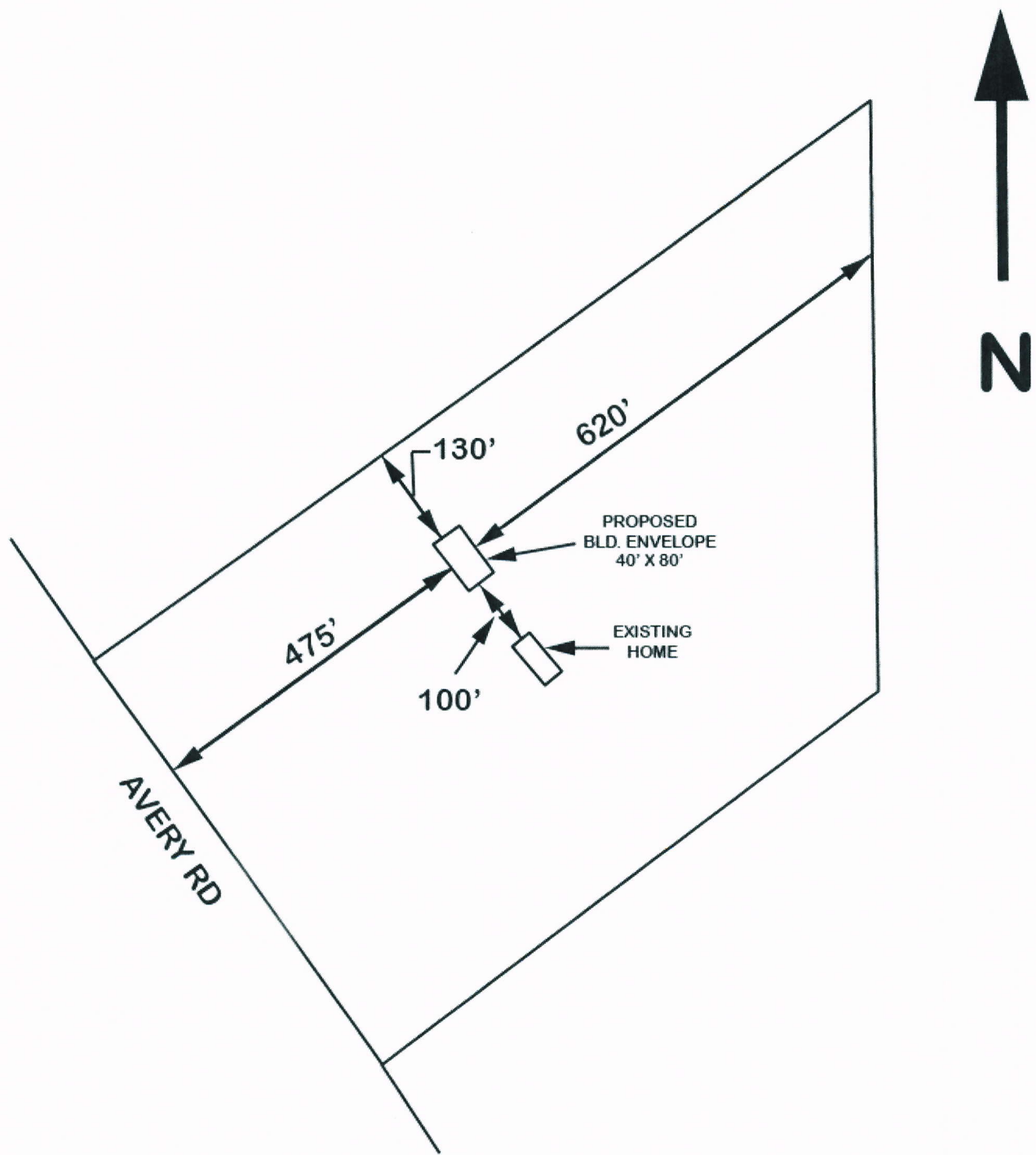
Other Relevant Conditions:

10. The applicant is advised to consult an expert on wetlands before proceeding with any development.
11. 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.
12. Under current standards and until such time that the dirt drive is improved to the appropriate private or public street standards, most likely no additional principal structures can be approved on this tract.
13. Under current standards and with the current zoning, no more than two manufactured homes can be approved on this site.
14. The developer submitted a request for a waiver from Section 2303.C "Street frontage" due to the tract not meeting the 20 feet of road frontage requirement and is requesting the Planning Board's approval of qualifying the existing 30 foot ingress/egress easement for access. This case will be heard by the Cumberland County Joint Planning Board on February 17, 2009.

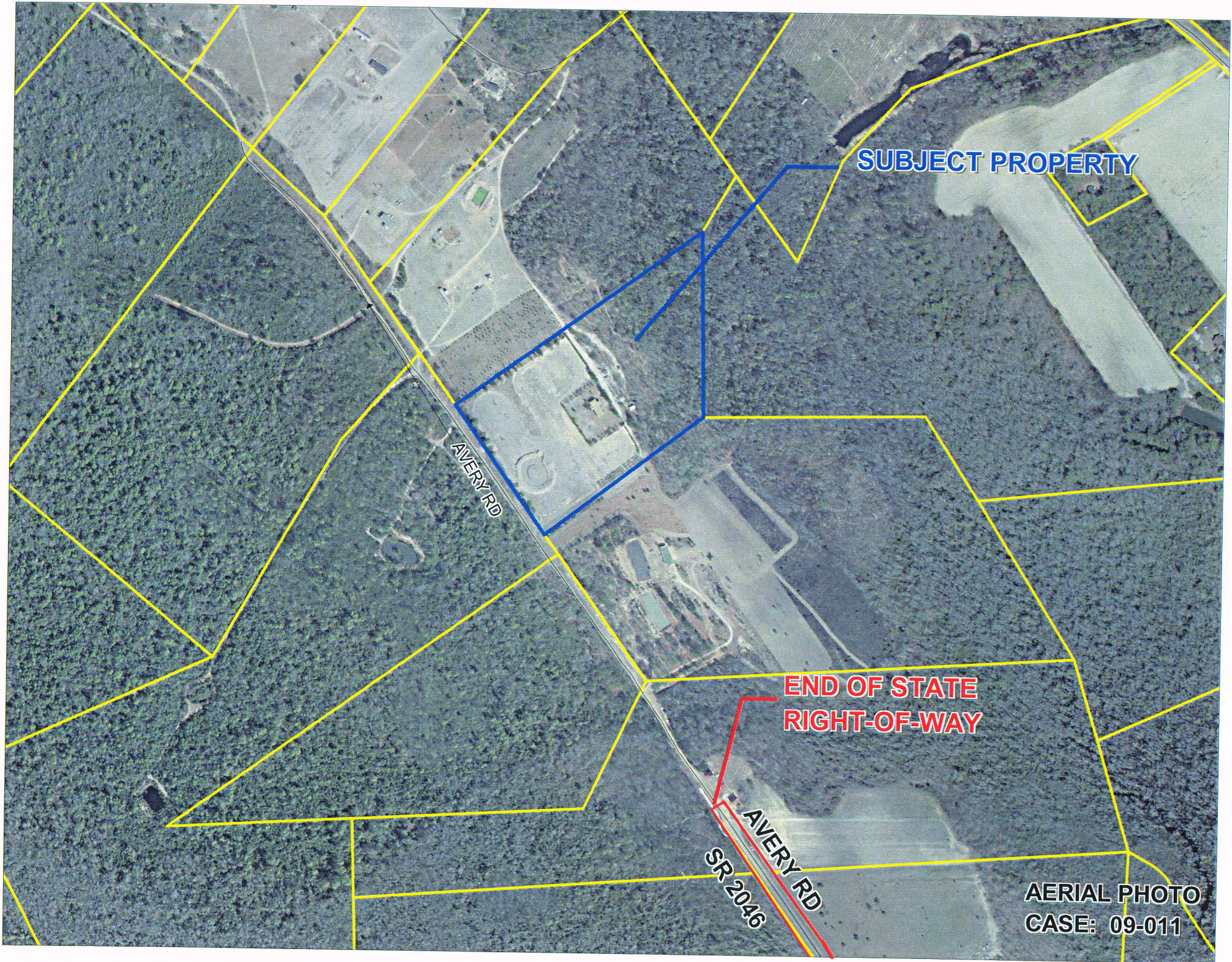
If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.

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:	Tom Cooney	678-7682
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NCDENR (E&S):	Sally McKinney	433-3300
E911 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) 733-5083 ext. 545



**BRENDA R. GAROFONE PROPERTY
GROUP DEVELOPMENT REVIEW
REQUEST: ACCESS WAIVER
CASE: 09-011 ACREAGE: 16.27 AC. +/-
ZONED: A1 SCALE: 1"=200'**



SUBJECT PROPERTY

AVERY RD

**END OF STATE
RIGHT-OF-WAY**

AVERY RD
SR 2046

AERIAL PHOTO
CASE: 09-011

**BRENDA R. GAROFONE PROPERTY
GROUP DEVELOPMENT REVIEW
CASE NO. 09 - 011**



PIN(S): 1400-35-8244-
Prepared by EMB - CCJPB
February 5, 2009

Map not to scale

