

Walter Clark,  
Chair  
Cumberland County

Patricia Hall,  
Vice-Chair  
Town of Hope Mills

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



**CUMBERLAND**  
★ **COUNTY** ★  
NORTH CAROLINA

*Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Lori Epler,  
Sara E. Piland,  
Vikki Andrews,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin,  
Wade, Falcon & Godwin

**AGENDA**

April 16, 2013  
7:00 P.M.

- I. INVOCATION AND PLEDGE OF ALLEGIANCE
- II. APPROVAL OF/ADJUSTMENTS TO AGENDA
- III. PUBLIC HEARING DEFERRAL / WITHDRAWAL
- IV. ABSTENTIONS BY BOARD MEMBERS
- V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS
- VI. APPROVAL OF THE MINUTES OF MARCH 19, 2013
- VII. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENT

- A. **P13-15.** REVISION AND AMENDMENT TO ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, AS ADOPTED BY THE TOWN OF EASTOVER ON NOVEMBER 6, 2012 AND APPLICABLE ONLY TO PROPERTIES WITHIN THE CORPORATE LIMITS OF THE TOWN, AMENDING SECTION 403 USE MATRIX BY INSERTING IN ALPHABETICAL ORDER *ZERO LOT LINE DEVELOPMENT* IN THE LAND USE COLUMN AND REQUIRING APPROVAL OF ALL ZERO LOT LINE DEVELOPMENTS AS CONDITIONAL ZONING INDICATED BY INSERTING A "Z" IN EACH OF THE ZONING CLASSIFICATIONS COLUMNS TO BE IMPLEMENTED WITHIN THE TOWN AS A SUPPLEMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE PROVISIONS UNTIL SUCH TIME THAT THE TOWN ADOPTS A COMPLETE EASTOVER ZONING ORDINANCE.

REZONING CASES

- B. **P13-08.** REZONING OF 2.99+/- ACRES FROM M(P)/CU PLANNED INDUSTRIAL/CONDITIONAL USE OVERLAY FOR MANUFACTURED HOME SALES AND M(P) PLANNED INDUSTRIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2965 GILLESPIE STREET, AND ON THE EAST SIDE OF SR 2273 (GILLESPIE STREET), SOUTHWEST OF SR 2260 (AIRPORT ROAD); SUBMITTED BY STEPHEN D. WHEELER AND CARLA M. EMMONS ON BEHALF OF EMMONS & WHEELER LLC., AND JOHN M. TYSON ON BEHALF OF CEDAR CREEK CROSSING WEST LLC. (OWNERS).

- C. **P13-09.** REZONING OF 3.66+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 5208 NC HWY 87 SOUTH AND ON THE WEST SIDE OF NC HWY 87 SOUTH, SOUTH OF SR 2238 (SAND HILL ROAD); SUBMITTED BY BETTY B. WALTERS (OWNER) AND UTA BELLETETE.

CONDITIONAL ZONING DISTRICT

- D. **P13-11.** REZONING OF 5.38+/- ACRES FROM C3/CU HEAVY COMMERCIAL/CONDITIONAL USE OVERLAY FOR OUTSIDE STORAGE, RR/CU RURAL RESIDENTIAL/CONDITIONAL USE OVERLAY FOR OUTSIDE STORAGE AND RR RURAL RESIDENTIAL TO C(P)/CZ PLANNED COMMERCIAL/CONDITIONAL ZONING DISTRICT FOR MOTOR VEHICLE REPAIR AND OUTSIDE STORAGE OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3427 CLINTON ROAD, SUBMITTED BY STEPHEN H. LEDWELL TRUSTEE (OWNER) AND ANDY NICHOLS.

VIII. PUBLIC HEARING CONTESTED ITEMS

IX. DISCUSSION

DIRECTOR'S UPDATE

- GREEN TOOLBOX
- WORK PROGRAM

X. ADJOURNMENT



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**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the April 16, 2013 Board Meeting

**P13-15.** REVISION AND AMENDMENT TO ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, AS ADOPTED BY THE TOWN OF EASTOVER ON NOVEMBER 6, 2012 AND APPLICABLE ONLY TO PROPERTIES WITHIN THE CORPORATE LIMITS OF THE TOWN, AMENDING SECTION 403 USE MATRIX BY INSERTING IN ALPHABETICAL ORDER *ZERO LOT LINE DEVELOPMENT* IN THE LAND USE COLUMN AND REQUIRING APPROVAL OF ALL ZERO LOT LINE DEVELOPMENTS AS CONDITIONAL ZONING INDICATED BY INSERTING A “Z” IN EACH OF THE ZONING CLASSIFICATIONS COLUMNS TO BE IMPLEMENTED WITHIN THE TOWN AS A SUPPLEMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE PROVISIONS UNTIL SUCH TIME THAT THE TOWN ADOPTS A COMPLETE EASTOVER ZONING ORDINANCE. (EASTOVER)

The Planning and Inspections Staff recommends approval of the proposed zero lot line text amendment as a supplement to the County Zoning Ordinance for the Town of Eastover based on the following:

1. If approved, the amendment will require all proposed zero lot line development plans to be submitted with a rezoning application affording the opportunity for the town council to ensure that the rural character of the area is retained, which is the stated primary goal of the Eastover Area Detailed Land Use Plan;
2. Since incorporation, the town council’s vision has been to ensure growth is consistent with the community values that include preserving the rural character, protecting existing trees where possible, and development patterns that provide mostly one to three acre single family lots – the amendment requires the developer to address these values through the rezoning application process ; and
3. The amendment was requested by the town.

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

Attachment: P13-15 Town of Eastover Zoning Ordinance Text Amendment



**P13-15**  
**Town of Eastover Supplement to County Zoning Ordinance**

**ZERO LOT LINE DEVELOPMENTS AS CONDITIONAL ZONING**

**P13-15.** REVISION AND AMENDMENT TO ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, AS ADOPTED BY THE TOWN OF EASTOVER ON NOVEMBER 6, 2012 AND APPLICABLE ONLY TO PROPERTIES WITHIN THE CORPORATE LIMITS OF THE TOWN, AMENDING SECTION 403 USE MATRIX BY INSERTING IN ALPHABETICAL ORDER *ZERO LOT LINE DEVELOPMENT* IN THE LAND USE COLUMN AND REQUIRING APPROVAL OF ALL ZERO LOT LINE DEVELOPMENTS AS CONDITIONAL ZONING INDICATED BY INSERTING A “Z” IN EACH OF THE ZONING CLASSIFICATIONS COLUMNS TO BE IMPLEMENTED WITHIN THE TOWN AS A SUPPLEMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE PROVISIONS UNTIL SUCH TIME THAT THE TOWN ADOPTS A COMPLETE EASTOVER ZONING ORDINANCE. (EASTOVER)

**AMEND** a Town of Eastover supplement to the County Zoning Ordinance adopted by the Town Council on November 6, 2012; specifically ARTICLE IV Permitted, Conditional and Special Uses; Section 403 Use Matrix, by establishing that all **Zero Lot Line Developments** proposed for properties within the corporate limits of the town be submitted as **Conditional Zoning** request in the same manner as the current conditional zoning application process for Eastover. The proposed ordinance text amendment is on the following page.

**SECTION 403 USE MATRIX**

P = PERMITTED USE  
 S = SPECIAL USE (Sec. 1606 – Bd of Adj approval required)  
 Z = CONDITIONAL ZONING (Art V – Town Council approval required)

LAND USES	ZONING CLASSIFICATIONS																			
	CD	A1	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
TRADES CONTRACTOR ACTIVITIES, with or without outside storage of equipment or supplies																	P	P	P	P
TRAILER RENTALS, including terminal activities, hauling and/or storage, incidental to same, but excluding mini-warehousing as defined herein																		P	P	p
TRUCK TERMINAL ACTIVITIES, repair & hauling and/or storage																		P	P	P
UPHOLSTERING OR FURNITURE REFINISHING																	P	P	P	P
VARIETY, GIFT AND HOBBY SUPPLY SALES																P	P	P		
VENDING MACHINE RENTAL																		P	P	P
VETERINARIAN (Sec. 916)		P	P	P			P									P	P	P		
WHOLESALE SALES, with operations conducted and merchandise stored entirely within a building and not otherwise listed herein																		P	P	P
WIRELESS COMMUNICATIONS & ACCESSORY SALES																P	P	P		
ZERO LOT LINE Development (Subdivision Ordinance)	Z <sup>5</sup>	Z	Z	Z	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>6</sup>	Z <sup>7</sup>	Z <sup>7</sup>	Z <sup>7</sup>	Z <sup>7</sup>	Z	Z

<sup>5</sup> See Sec. 1101.H, Lot Area Exceptions in Conservancy Districts

<sup>6</sup> Except for townhouse developments, single family residential zero lot line developments shall be submitted under Article VIII, Density Development-Conditional Zoning District

<sup>7</sup> All residential uses shall be submitted under Article VI, Mixed Use Development-Conditional Zoning District or Sec. 914.1, Mixed Use Building; if located within Eastover Commercial Core Overlay District, Article VIII.I governs

Town of Eastover  
Explanatory Notes  
for  
Zero Lot Line Developments as Conditional Zoning

1. Currently zero lot line (ZLL) developments are regulated only by the subdivision ordinance, adding *Zero Lot Line Development* to Section 403, Use Matrix of the zoning ordinance will allow the town to require conditional zoning for all proposed ZLL developments – residential and non-residential. The current subdivision regulations leave it up to the developer to choose whether or not to propose a ZLL development. (Plats submitted under the state statute exemptions, commonly referred to as *No Approval Required (or NAR)* cannot qualify as a ZLL unless the lots were originally approved as part of a ZLL development.)

As drafted, the proposed amendment will not require conditional zoning for any standard (non-ZLL) subdivision. Therefore, residential developments with existing zoning of R30, R20, R15, R10 (R7.5), R6, or R5A could be developed at the ordinance specified size and meeting yard setbacks after receiving Town Council subdivision approval as currently occurs for non-public hearing items.

Clarification Note: A ZLL development cannot exceed the maximum density for the zoning district of the property where the development is proposed to be located. ZLL gives benefit to the developer only for interior yard setbacks not adjacent to public streets – all ordinance required setbacks around the periphery of the proposed development and along public streets must be complied with – and lots may vary in size so long as the overall average number of lots (or units) allowed is not exceeded.

2. The “Z” indicating conditional zoning in the CD zoning district on the matrix will allow that portion of the development zoned CD to be calculated for density and park, recreation & open space; however, other than boat piers, picnic tables and similar structures, the land area zoned CD cannot be developed. *Footnote 5* refers to Section 1101.H of the Zoning Ordinance, this section reads:

H. Lot Area Exception in Conservancy Districts. In the CD Conservancy District, the area may be used as part of any contiguous zoning district for calculating density of an entire development and satisfying setback requirements for lots within the development. That portion of such lots within the development falling within the CD District shall only be used for open space uses, and no principal or accessory structures shall be permitted, except boat landing piers when permitted by applicable Federal, State, or local regulations.

3. The request to process this amendment was specifically addressing developments for lot sizes proposed at less than the R40 zoning requirements. Mandating that all ZLL developments require conditional zoning approval will prevent a property owner/developer from circumventing the ordinance. Circumvention could be possible when an individual proposes a ZLL subdivision (not as conditional zoning) on a track zoned A1 or R40, with public utilities available and one-quarter acre (or less) lots with one remaining large track – see *Attachment 1* as an example. There is no minimum size for a ZLL development under the subdivision ordinance provisions so long as the overall density is not exceeded and other ordinance standards can be complied with. There are numerous



instances of developments similar to the example attached located within Cumberland County, which is why the proposed amendment includes a “Z” for conditional zoning for all ZLL developments proposed within the A1 and R40 zoning districts as well as other districts.

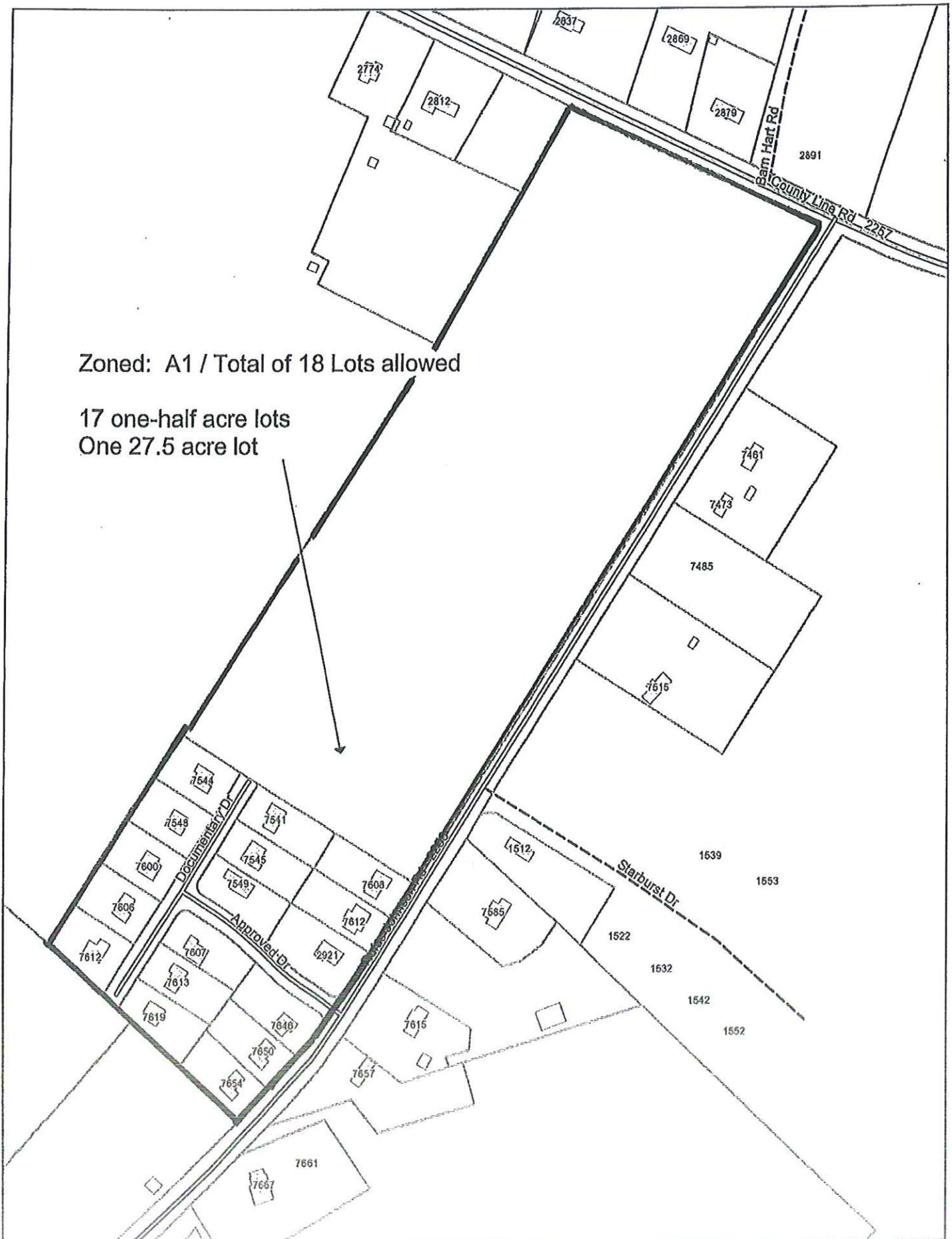
4. *Footnote 6* applies to proposed ZLL developments in the R30 to R5A residential zoning districts and requires all single family developments to be considered by submission of a Density Development - Conditional Zoning application. This requirement would not apply to multi-family (rental) units since they are approved as a “group development” project. It also does not include condominium proposals. Both multi-family and condo plans would continue to be presented to the Town Council for consideration of approval as non-public hearing items. With multi-family and condominium plans, the developer has to comply with all adopted periphery yard setbacks.

Townhouse developments could be excluded from the proposed Density Development -Conditional Zoning requirements in these districts because they are inherently ZLL developments – other than the common walls between individual units, the developer will be required to comply with the applicable yard setbacks for the current zoning of the property as well density maximums.

5. *Footnote 7* clarifies that because residential uses are allowed as part of a Mixed Use Development – Conditional Zoning or as a “mixed use building” in the office/institutional and commercial districts, that this amendment would still allow plans to be submitted as such. In addition, it is noted that the standards for the recently adopted Eastover Commercial Core Overlay would have to be complied with for developments proposed within the overlay district.
6. Timing and costs: Currently for standard and ZLL subdivisions, the process from time of submission of the application takes approximately thirty to 45 days for the request to be presented to the Town Council. The preliminary plan fee is \$100 for five or less lots and \$200 for more than five.

If required to submit ZLL plans as conditional zoning application, the process would take 60 to 90 days, must be presented to the Planning Board for a recommendation and then to the Town Council. The fees vary depending on size of tract and type of development. Residential ZLL conditional zoning (including Density Developments) are \$500. Commercial (includes Mixed Use) are \$700 for less than five acres, \$800 for five acres and up in size.

A final plat fee of \$25 is charged at the time of the plat approval for recording. This fee is charged regardless of the type of approval.





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**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the April 16, 2013 Board Meeting

**P13-08.** REZONING OF 2.99+/- ACRES FROM M(P)/CU PLANNED INDUSTRIAL/CONDITIONAL USE OVERLAY FOR MANUFACTURED HOME SALES AND M(P) PLANNED INDUSTRIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2965 GILLESPIE STREET, AND ON THE EAST SIDE OF SR 2273 (GILLESPIE STREET), SOUTHWEST OF SR 2260 (AIRPORT ROAD); SUBMITTED BY STEPHEN D. WHEELER AND CARLA M. EMMONS ON BEHALF OF EMMONS & WHEELER LLC., AND JOHN M. TYSON ON BEHALF OF CEDAR CREEK CROSSING WEST LLC. (OWNERS).

The Planning and Inspections Staff recommends approval of the M(P) Planned Industrial district for this request based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban” at this location, as well as meeting the location criteria for “heavy industrial/manufacturing” as listed in the Land Use Policies Plan;
2. Approval of the requested district will clear extraneous zoning lines as well as remove the conditional use overlay district as manufactured home sales are now a permitted use in the M(P) district;
3. The location and character of the use is reasonable and will be in harmony with the surrounding area; and
4. Public utilities are available to the subject property.

There are no other districts considered suitable for this request.

Attachments:

- 1- Site Profile
- 2- Sketch Map

**P13-08**  
**SITE PROFILE**

**P13-08.** REZONING OF 2.99+/- ACRES FROM M(P)/CU PLANNED INDUSTRIAL/CONDITIONAL USE OVERLAY FOR MANUFACTURED HOME SALES AND M(P) PLANNED INDUSTRIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2965 GILLESPIE STREET, AND ON THE EAST SIDE OF SR 2273 (GILLESPIE STREET), SOUTHWEST OF SR 2260 (AIRPORT ROAD); SUBMITTED BY STEPHEN D. WHEELER AND CARLA M. EMMONS ON BEHALF OF EMMONS & WHEELER LLC., AND JOHN M. TYSON ON BEHALF OF CEDAR CREEK CROSSING WEST LLC. (OWNERS).

**Site Information:**

**Frontage & Location:** 445.24'+/- on US Hwy 301 (Gillespie Street)

**Depth:** 301.57'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** No

**Current Use:** Manufactured home sales lot

**Initial Zoning:** M(P) – March 15, 1979 (Area 6); portion rezoned to M(P)/CU for manufactured home sales on September 26, 1995

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: M(P)/CU (cemetery), C(P)/CU (outside storage), C(P)/CUD (permitted uses w/ exceptions), HI (Fayetteville), M(P), C(P), R10 & R6A; South: HI (Fayetteville), M(P), M2, C(P), CC (Fayetteville) & R6A; East: M(P) & R6A; West: M(P) & C(P)

**Surrounding Land Use:** Residential (including manufactured dwellings), office, retailing or servicing (5), fire department, convenience retail w/ gasoline sales, manufactured home sales, tower, manufactured home park, vacant commercial building & woodlands

**2030 Land Use Plan:** Urban

**Special Flood Hazard Area (SFHA):** None

**Water/Sewer Availability:** PWC/PWC

**Soil Limitations:** Yes, hydric – JT Johnston loam

**School Capacity/Enrolled:** Elizabeth Cashwell Elementary: 800/694; South View Middle: 900/783; South View High: 1,800/1,784

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

**Fayetteville Regional Airport:** No objections

**Municipal Influence Area:** City of Fayetteville

**Average Daily Traffic Count (2010):** 20,000 on US Hwy 301 (Gillespie Street)

**Highway Plan:** US 301/Bus 95 (Gillespie Street) is identified in the Highway Plan as a Major Thoroughfare. The plan calls for widening to a multi-lane facility

**Notes:**

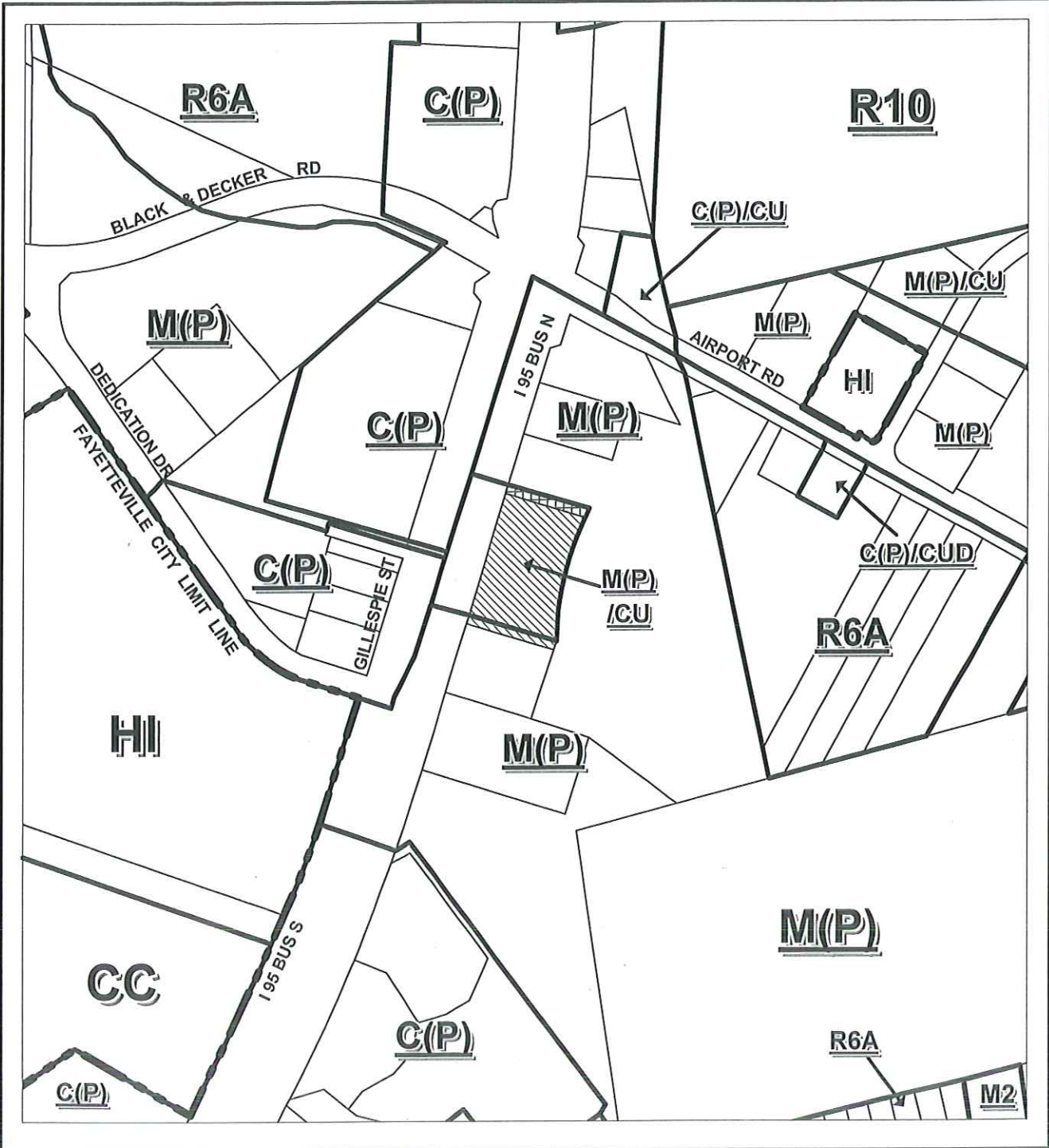
1. Request is to clean up zoning lines, current use now permitted in M(P)
2. Minimum Yard Setback Regulations:

<u>M(P)</u>	<u>C(P)</u>
Front yard: 100'	Front yard: 50'
Side yard: 50'	Side yard: 30'
Rear yard: 50'	Rear yard: 30'



**First Class and Record Owners' Mailed Notice Certification**

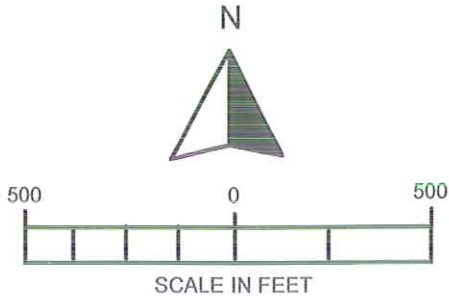
*A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.*





**REQUESTED REZONING**

-  M(P)/CU TO M(P) (0.19 +/-)
-  M(P)/CU & M(P) TO M(P) (2.80 +/-)



<b>ACREAGE: 2.99 AC.+/-</b>		<b>HEARING NO: P13-08</b>	
ORDINANCE: COUNTY	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			



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**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the April 16, 2013 Board Meeting

**P13-09.** REZONING OF 3.66+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 5208 NC HWY 87 SOUTH AND ON THE WEST SIDE OF NC HWY 87 SOUTH, SOUTH OF SR 2238 (SAND HILL ROAD); SUBMITTED BY BETTY B. WALTERS (OWNER) AND UTA BELLETETE.

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

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban” at this location, as well as meeting the location criteria for “heavy commercial” development as listed in the Land Use Policies Plan;
2. The C(P) Planned Commercial district is consistent with the zoning for adjacent property and the request for commercial zoning is a logical extension of the C(P) district;
3. The location and character of the district is reasonable and will be in harmony with the immediate surrounding area; and
4. Public utilities are available to the subject property.

The C1(P) and C2(P) districts could also be considered suitable for this request.

By consensus, the staff agreed that it would be appropriate to restrict any future consideration of requests for non-residential zoning districts to the properties south of the subject property at the hydric soils line.

Attachments:

- 1- Site Profile
- 2- Sketch Map

**P13-09**  
**SITE PROFILE**

**P13-09.** REZONING OF 3.66+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 5208 NC HWY 87 SOUTH AND ON THE WEST SIDE OF NC HWY 87 SOUTH, SOUTH OF SR 2238 (SAND HILL ROAD); SUBMITTED BY BETTY B. WALTERS (OWNER) AND UTA BELLETETE.

**Site Information:**

**Frontage & Location:** 376.12'+/- on NC HWY 87 S

**Depth:** 496.11'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** No

**Current Use:** 1 residential structure & vacant land

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

**Nonconformities:** Yes, residential use & front setback for existing structure will made nonconforming if approved

**Zoning Violation(s):** None

**Surrounding Zoning:** North: C(P)/CUD (mini-warehousing), RR/CU (video sales), C(P), C2(P), C1(P), R40A, RR, R6A & A1; South, East & West: A1

**Surrounding Land Use:** Residential (including manufactured dwellings), day care, community well, shopping center, convenience retail w/ gasoline sales, restaurants (2), motor vehicle wrecking yard, farmland & woodlands

**2030 Land Use Plan:** Urban

**Special Flood Hazard Area (SFHA):** None

**Water/Sewer Availability:** PWC/ PWC

**Soil Limitations:** None

**School Capacity/Enrolled:** Alderman Road Elementary: 750/646; Grays Creek Middle: 1,000/1,001; Grays Creek High: 1,270/1,234

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

**Sewer Service Area:** Yes

**Average Daily Traffic Count (2010):** 15,000 on NC HWY 87

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

**Notes:**

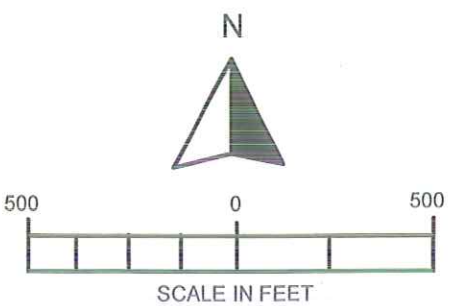
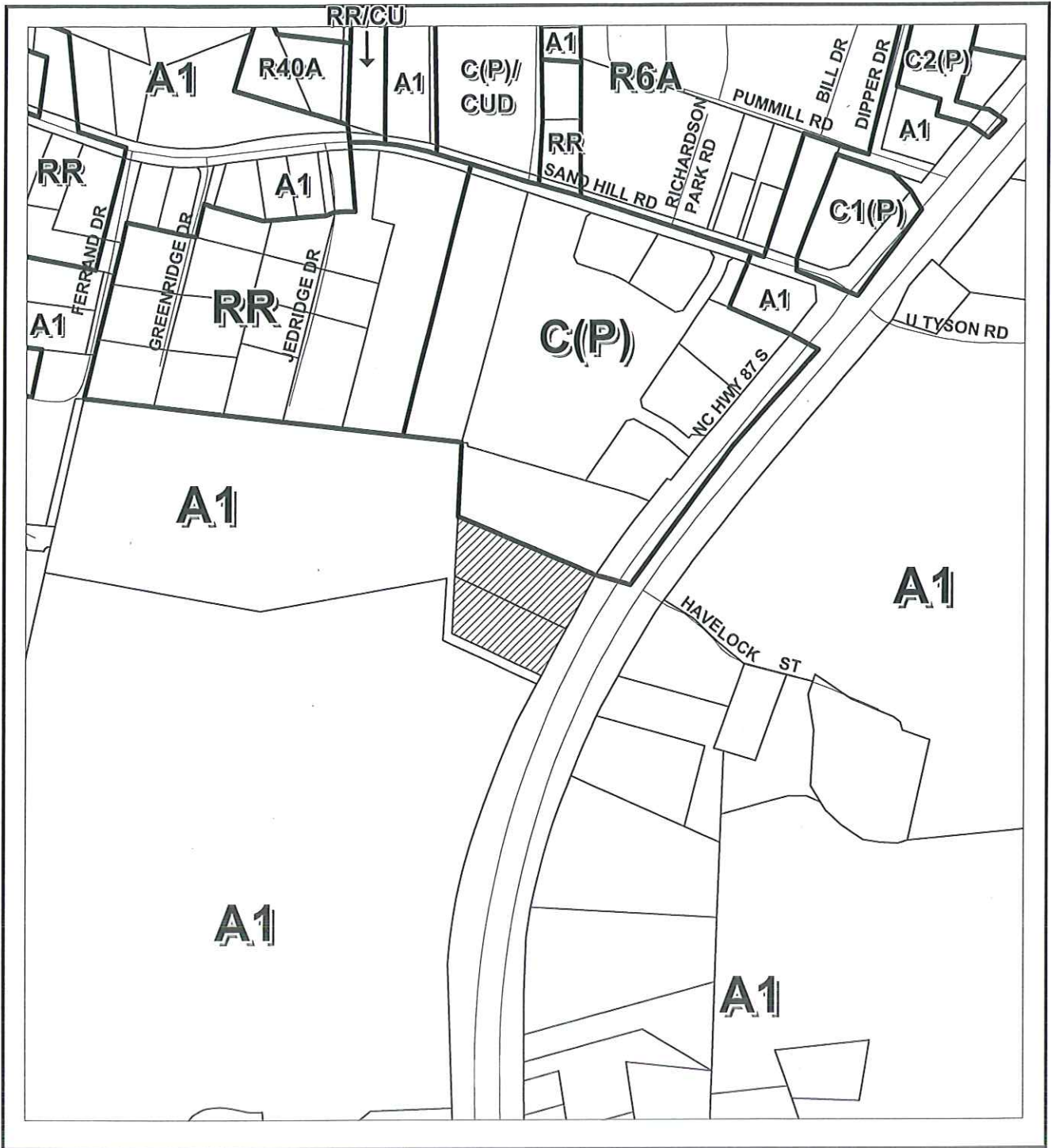
1. Density:  
A1 – 2 lots/units (residential)
  
2. Minimum Yard Setback Regulations:

<u>A1</u>	<u>C1(P)</u>	<u>C2(P) &amp; C(P)</u>
Front yard: 50'	Front yard: 45'	Front yard: 50'
Side yard: 20'	Side yard: 15'	Side yard: 30'
Rear yard: 50'	Rear yard: 20'	Rear yard: 30'

**First Class and Record Owners' Mailed Notice Certification**

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





## REQUESTED REZONING A1 TO C(P)

<b>ACREAGE: 3.66 AC.+/-</b>		<b>HEARING NO: P13-09</b>	
ORDINANCE: COUNTY	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			

PIN: 0442-28-7695  
 PIN: 0442-28-7436



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**SUBJECT:** Staff Recommendation for the April 16, 2013 Board Meeting

**P13-11.** REZONING OF 5.38+/- ACRES FROM C3/CU HEAVY COMMERCIAL/CONDITIONAL USE OVERLAY FOR OUTSIDE STORAGE, RR/CU RURAL RESIDENTIAL/CONDITIONAL USE OVERLAY FOR OUTSIDE STORAGE AND RR RURAL RESIDENTIAL TO C(P)/CZ PLANNED COMMERCIAL/CONDITIONAL ZONING DISTRICT FOR MOTOR VEHICLE REPAIR AND OUTSIDE STORAGE OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3427 CLINTON ROAD, SUBMITTED BY STEPHEN H. LEDWELL TRUSTEE (OWNER) AND ANDY NICHOLS.

The Planning & Inspections Staff recommends approval of the requested rezoning to C(P) Planned Commercial /CZ Conditional Zoning district for motor vehicle repair and outside storage based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "urban fringe" at this location, as well as meeting most of the location criteria for "heavy commercial" development as listed in the Land Use Policies Plan;
2. Connection to public sewer is the location criteria not met; however, approval of the requested uses would be consistent with the 2030 Growth Vision Plan by promoting the re-development of a commercial area as the subject property contains an approved commercial structure with the added use of outside storage; and
3. The location and character of the use, if developed according to the plan as submitted and the recommended Ordinance Related Conditions, are reasonable as they will be in harmony with the area in which they are to be located.

There are no other zoning districts suitable as related to this request. The applicant has verbally agreed to all Ordinance Related Conditions.

Attachments:

- 1 – Site Profile
- 2 – Rezoning Sketch Map
- 3 – Site Plan
- 4 – Draft Ordinance Related Conditions
- 5 – Application

**P13-11**  
**SITE PROFILE**

**P13-11.** REZONING OF 5.38+/- ACRES FROM C3/CU HEAVY COMMERCIAL/CONDITIONAL USE OVERLAY FOR OUTSIDE STORAGE, RR/CU RURAL RESIDENTIAL/CONDITIONAL USE OVERLAY FOR OUTSIDE STORAGE AND RR RURAL RESIDENTIAL TO C(P)/CZ PLANNED COMMERCIAL/CONDITIONAL ZONING DISTRICT FOR MOTOR VEHICLE REPAIR AND OUTSIDE STORAGE OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3427 CLINTON ROAD, SUBMITTED BY STEPHEN H. LEDWELL TRUSTEE (OWNER) AND ANDY NICHOLS.

**Site Information:**

**Frontage & Location:** 400.00'+/- on SR 1006 (Clinton Road)

**Depth:** 739.50'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** No

**Current Use:** Motor vehicle repair

**Initial Zoning:** C3 & RR – April 26, 1979 (Area 8); portion rezoned to C3/CU for open storage and RR/CU for open storage on July 22, 1997

**Nonconformities:** Yes, the subject property's approved conditional use overlay districts did not permit motor vehicle repair

**Zoning Violation(s):** None issued

**Surrounding Zoning:** North: RR; South: M2, C(P), R15 & R6A; East: C3/CU (outside storage), RR/CU (outside storage), C3 & RR; West: RR & R6A

**Surrounding Land Use:** Residential (including manufactured dwellings & multi-family), religious worship, manufactured home park, nursery, tower, retail, fire station, strip mall, vacant industrial structure, wholesale sales & woodlands

**2030 Land Use Plan:** Urban fringe

**Special Flood Hazard Area (SFHA):** None

**Water/Sewer Availability:** PWC/Septic

**Soil Limitations:** None

**School Capacity/Enrolled:** Sunnyside Elementary: 300/379; Mac Williams Middle: 1,270/1,223; Cape Fear High: 1,425/1,595

**Subdivision/Site Plan:** If approved, "Ordinance Related Conditions" apply

**Municipal Influence Area:** City of Fayetteville

**Average Daily Traffic Count (2010):** 4,800 on SR 1006 (Clinton Road)

**Highway Plan:** Clinton Road and Old Vander Road are indentified in the Highway Plan as a Major Thoroughfare with adequate right-of-way

**Note:**

**Minimum Yard Setback Regulations:**

**C(P)**

Front yard: 50'

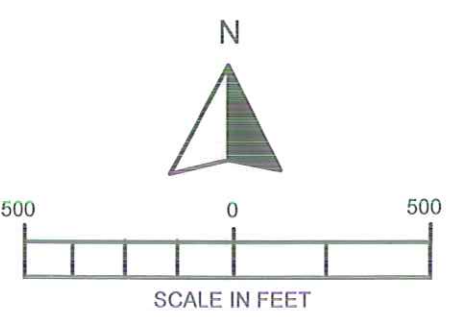
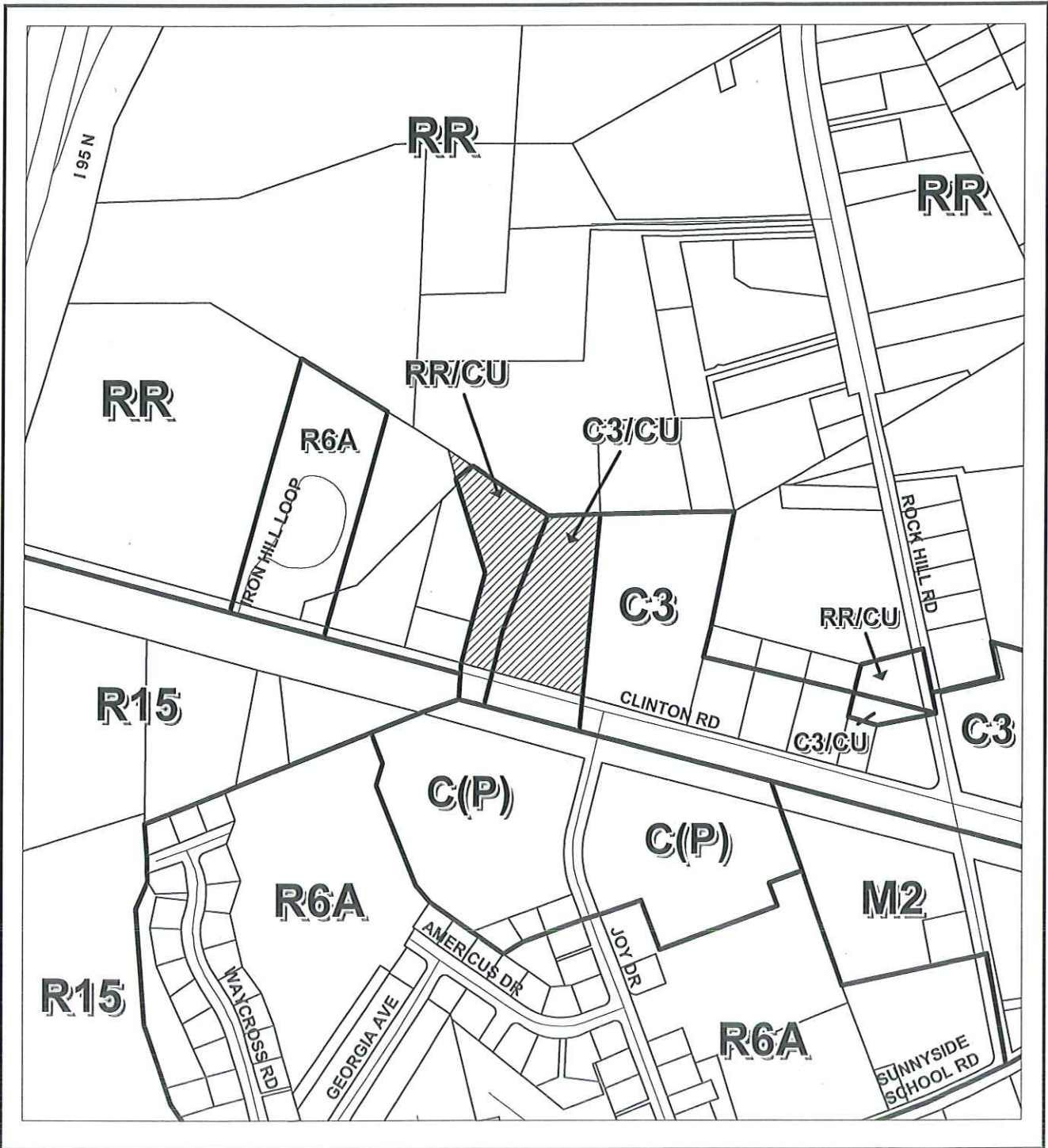
Side yard: 30'

Rear yard: 30'

**First Class and Record Owners' Mailed Notice Certification**

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





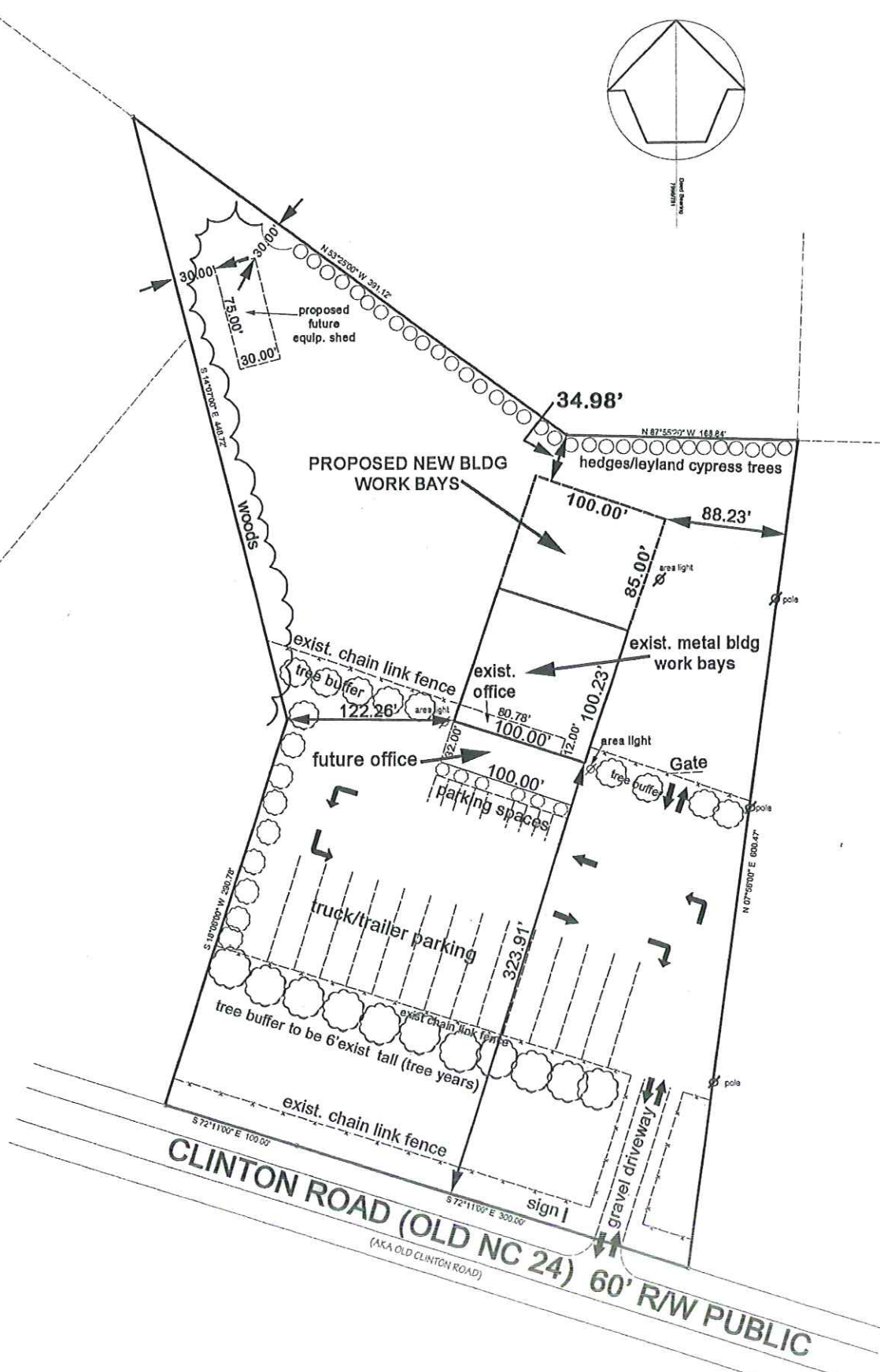
## REQUESTED REZONING RR/CU, C3/CU & RR TO C(P)/CZ

<b>ACREAGE: 5.38 AC.+/-</b>		<b>HEARING NO: P13-11</b>	
ORDINANCE: COUNTY	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			

PIN: 0466-07-1446

3/21/2013  
AM





**C(P)/CZ PLANNED COMMERCIAL/CONDITIONAL ZONING**  
**REQUEST: MOTOR VEHICLE REPAIR AND OUTSIDE STORAGE**  
**CASE: P13-11 ACREAGE: 5.38 AC +/-**  
**ZONED: C3/CU, RR/CU AND RR SCALE: NTS**  
**PARKING: 21 SPACES**  
 \*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

**C(P) Planned Commercial/CZ Conditional Zoning District**

(Motor Vehicle Repair & Outside Storage)

DRAFT

Ordinance Related Conditions

**Pre- Permit Related:**

1. A recombination plat (also known as a “No Approval Required” or “NAR”) must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

**Permit-Related:**

2. 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.
3. The County Health Department must approve 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)
4. At the time of application for permits, the developer must provide to Code Enforcement approval from the entity that owns and/or regulates the type water and sewer serving the proposed development.
5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
6. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State’s *Post-Construction Permit* must be provided to County Code Enforcement.
7. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
8. 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:**

9. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances, the contents of the application and site plan for the C(P)CZ zoning district must be complied with, as applicable.
10. Storage of junked vehicles on this site is not permitted; the temporary storage of motor vehicles awaiting repairs must be temporarily stored in such an area that the vehicles are screened from view and cannot be seen from a public street or the adjacent residential property.



11. This conditional approval is not approval of the permit for the freestanding sign. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.)
12. 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)
13. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
14. In the event a stormwater utility structure is required by the NC Department of Environment and Natural Resources (NCDENR), the owner/developer must secure the structure with a four foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
15. If driveways are changed or added, the developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). If required, a copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
16. Turn lanes may be required by the NC Department of Transportation (NCDOT).
17. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
18. A solid buffer must be provided and maintained along the side and rear property lines where this tract/site abuts residentially zoned properties, and all open storage areas must be screened from view from the public street right-of-way in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)
19. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
20. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of five off-street parking spaces are required for this development.
21. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing.

**Plat-Related:**

22. The recombination plat must be drawn with solid lines with bearing and distances, acreage and lot identifier.
23. "Clinton Road (Old NC 24)" must be labeled as "SR 1006 (Clinton Road)" on the recombination plat.
24. Any/All easements must be reflected on the final plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
25. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the NAR plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision Ordinance)
26. The recombination plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.



**Plat-Required Statements:**

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

“The individual lots in this development do not have public sewer services available, and no lots have been approved by the Health Department for on-site sewer services at the date of this recording.”

28. All structures shall be shown on the recombination plat or the recombination plat shall reflect the following statement (Section 2504 D, County Subdivision Ordinance):

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

**Other Relevant Conditions:**

29. The applicant is advised to consult an expert on wetlands before proceeding with any development.

30. 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.

31. The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

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

*Thank you for choosing Cumberland County!*

**If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605 with the Land Use Codes Section; 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
PWC:	Heidi Maly	223-4737
Fayetteville Planning:	Marsha Bryant	433-1416
County Public Utilities:	Amy Hall	678-7637
Corp of Engineers (wetlands):	Crystal C. Amschler	(910) 251-4170
NCDENR (E&S):	Sally Castle	433-3300
Location Services:		
Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

cc: Marsha Bryant, City of Fayetteville

**TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD AND THE BOARD OF COUNTY COMMISSIONERS OF CUMBERLAND COUNTY, NC:**

I (We), the undersigned, hereby submit this application, and petition the County Commissioners to amend and to change the zoning map of the County of Cumberland as provided for under the provisions of the County Zoning Ordinance. In support of this petition, as hereinafter requested, the following facts are submitted:

1. Applicant/Agent ANDY NICHOLS / NICHOLS BUILDINGS, INC.
2. Address: 1010 CEDAR CREEK RD. FAY, NC Zip Code 28312
3. Telephone: (Home) \_\_\_\_\_ (Work) 910-323-1944
4. Location of Property: 3427 OLD CLINTON RD.  
FAY, N.C. 28312
5. Parcel Identification Number (PIN #) of subject property: 0466-07-1446  
(also known as Tax ID Number or Property Tax ID)
6. Acreage: 5.38 Frontage: 400' Depth: 600'
7. Water Provider: WELL
8. Septage Provider: SEPTIC TANK
9. Deed Book 7998, Page(s) 781, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
10. Existing use of property: TRAILER REPAIRS
11. Proposed use(s) of the property: SAME WITH OUTSIDE STORM E  
WAS

**NOTE: Be specific and list all intended uses.**

12. It is requested that the foregoing property be rezoned FROM: R1/CU & C3/CU / AND R/R  
WAS  
TO: (Select one)  
 Conditional Zoning District, with an underlying zoning district of CP  
(Article IV)  
 Mixed Use District/Conditional Zoning District (Article VI)  
 Planned Neighborhood District/Conditional Zoning District (Article VII)  
 Density Development/Conditional Zoning District, at the \_\_\_\_\_ Density  
(Article VIII)

*The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application.*



APPLICATION FOR  
CONDITIONAL ZONING

1. PROPOSED USE(S):

- A. List the use(s) proposed for the Conditional Zoning. (Use of the underlying district will be restricted only to the use(s) specified in this application.)

SEE SITE PLAN

- B. Density: List the amount of acreage that will be residential, commercial, and/or open space, and the number of lots and/or dwelling units proposed, and the square footage of the non-residential units.

SEE SITE PLAN

2. DIMENSIONAL REQUIREMENTS:

- A. Reference either the dimensional requirements of the district, Sec. 1104 or list the proposed setbacks.

SEE SITE PLAN

- B. Off-street parking and loading, Sec.1202: List the number of spaces, type of surfacing material and any other pertinent information.

AS SHOWN ON SITE PLAN, GRAVEL PARKING  
AND DRIVES.

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIII.

EXIST SIGN AS SHOWN ON SITE PLAN.

4. LANDSCAPE AND BUFFER REQUIREMENTS:

- A. For all new non-residential and mixed use development abutting a public street, indicate the number and type of large or small ornamental trees used in the streetscape, yard space, and/or parking areas, plus the number and type of shrubs. (Sec. 1102N). **NOTE: All required landscaping must be included on the site plan.**

SEE SITE PLAN

- B. Indicate the type of buffering and approximate location, width and setback from the property lines.

SMALL TREES ALONG EACH SIDE OF BLDG.  
AND ALONG TRUCK PARKING AREA.

5. MISCELLANEOUS:

List any information not set forth above, such as the days and hours of the operation, number of employees, exterior lighting, noise, odor and smoke, emission controls, etc.

5 DAYS, 7am/5pm, 7 EMPLOYEES

SEE SITE PLAN.

6. SITE PLAN REQUIREMENTS:

The application must include a site plan drawn to the specifications of Sec. 1402. If the proposed uses involve development subject to the County Subdivision Ordinance, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to the Subdivision Ordinance, the site plan shall be of sufficient detail to allow the Planning and Inspections Staff and the Planning Board to analyze the proposed uses and arrangement of uses on the site. It shall also include the footprints of all buildings (proposed and existing), the proposed number of stories, location and number of off-street parking and loading spaces, proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences and landscaping shall be included on the site plan.



7. STATEMENT OF ACKNOWLEDGMENT:

It is understood by the undersigned that the official zoning map, as originally adopted and subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment (rezoning) rest with the petitioner.

It is the responsibility of the petitioner (personally or by agent) to submit to the Planning and Inspections Department a valid request, not incompatible with existing neighborhood zoning patterns.

In order for the Planning Board to offer a favorable recommendation, and for the Board of Commissioners to approve, any Conditional Zoning District, they must find from the evidence presented at their respective hearing that:

- A. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;
- B. The use meets all required conditions and specifications;
- C. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
- D. 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 Comprehensive Land Use Plan and adopted planning policies.

I further understand I must voluntarily agree to all ordinance related prior to the first hearing on the case. The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

✓ STEPHEN H LEDWELL, TRUSTEE  
NAME OF OWNER(S) (PRINT OR TYPE)

P O Box 1106, TEXARKANA, TX 75504  
ADDRESS OF OWNER(S)

SLEDWELL@LEDWELL.COM  
E-MAIL

903-748-9527      903-838-6531  
HOME TELEPHONE      WORK TELEPHONE

[Signature]      [Signature]  
SIGNATURE OF OWNER(S)      SIGNATURE OF OWNER(S)

↓ Andy Nichols / Nichols Buildings, Inc.  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

1010 CEDAR CREEK ROAD, FAY, NC, 28312  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

910-323-1944  
HOME TELEPHONE WORK TELEPHONE

NICBLDG@EMPHLINK.NET 910-323-9876  
E-MAIL ADDRESS FAX NUMBER

Andy Nick  
SIGNATURE OF AGENT, ATTORNEY,  
OR APPLICANT

- \* **ALL record property owners must sign this petition.**
- \* **The contents of this application, upon submission, becomes "public record."**

**CUMBERLAND COUNTY ZONING ORDINANCE  
FEE SCHEDULE**

REQUESTED ZONING DISTRICTS <sup>1</sup>	LESS THAN 5 ACRES	5 TO 50 ACRES	50 TO 100 ACRES	100+ ACRES
CONDITIONAL ZONING DISTRICTS <sup>2</sup> RESIDENTIAL DD/CZ	\$500	\$500	\$500	\$500
CONDITIONAL ZONING DISTRICTS <sup>2</sup> NONRESIDENTIAL PND/CZ MXD/CZ	\$700	\$800	\$800	\$800

- 1 If more than one zoning district is requested in the same application, the highest fee for the district requested will apply.
- 2 If a general rezoning is requested and based on recommendations of the Planning Board or County Commissioners, the applicant desires to submit a Conditional Zoning District application; the original application fee will be credited towards the Conditional Zoning application fee.