

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

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

TENTATIVE AGENDA

December 17, 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 NOVEMBER 19, 2013
- VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASE

- A. **P99-09.** REVOCATION OF A CU/CONDITIONAL USE OVERLAY TO ALLOW OPEN STORAGE AND REPAIR OF DUMP TRUCKS REVERTING TO THE PREVIOUS ZONING CLASSIFICATION OF A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 4515 AND 4531 HUCKLEBERRY ROAD, OWNED BY STEVE AND PONDANESA CARTER. (COUNTY)
- B. **P13-48.** REZONING OF 73.21+/- ACRES FROM R20 RESIDENTIAL/DD DENSITY DEVELOPMENT/CUD CONDITIONAL USE DISTRICT FOR A 125 LOT RESIDENTIAL SUBDIVISION AND THE PERMIT TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2961 AND 2983 CEDAR CREEK ROAD AND ON THE NORTHEAST SIDE OF NC HWY 53 (CEDAR CREEK ROAD), SOUTHWEST SIDE OF SR 2011 (A B CARTER ROAD); SUBMITTED BY J. O. CARTER, JR. ET AL (OWNERS) AND DANIEL H. DEVANE. (COUNTY)
- C. **P13-49.** REZONING OF 1.25+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 8569 CLINTON ROAD, SUBMITTED BY BILLY D. AND FAY J. HORNE (OWNERS). (COUNTY)
- D. **P13-51.** REZONING OF 81.30+/- ACRES FROM A1 AGRICULTURAL TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF SR 2242 (BRAXTON ROAD), NORTHWEST OF SR 2252 (CHICKEN FOOT ROAD); SUBMITTED BY PRENTICE R. BARKER ON BEHALF OF BARKER GALLBERRY FARMS, LLC. (OWNER) AND 4D SITE SOLUTIONS, INC. (COUNTY)

VIII. PUBLIC HEARING CONTESTED ITEMS

- E. **P13-50.** REZONING OF 1.37+/- ACRES FROM R20 RESIDENTIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 725 AND 729 SNOW HILL ROAD, SUBMITTED BY HUXLEY A. AND AHUILDA J. JONES (OWNERS). (COUNTY)

IX. PUBLIC HEARING WAIVER REQUEST

- F. **CASE NO. 13-121.** CONSIDERATION OF THE ERNEST A. BUNCE JR. AND RUTH H. BUNCE PROPERTY; SUBDIVISION REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO CONNECT TO PUBLIC WATER; COUNTY SUBDIVISION ORDINANCE, SECTION 2306.A.1.B, UTILITIES; ZONED: A1; TOTAL ACREAGE: 5.2+/- ; LOCATED AT THE SOUTHEAST QUADRANT OF SR 1006 (MAXWELL ROAD) & SR 1843 (MAGNOLIA CHURCH ROAD); SUBMITTED BY ERNEST A. BUNCE JR. & RUTH H BUNCE (OWNER) AND WAYNE T. YOUNTS (AGENT).

X. DISCUSSION

DIRECTOR'S UPDATE

- MIA SUBCOMMITTEE

XI. ADJOURNMENT

Walter Clark,
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Cumberland County

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Planning & Inspections Department

December 10, 2013

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Deputy Director

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

MEMORANDUM

TO: Cumberland County Joint Planning Board
FROM: Planning & Inspections Director
SUBJECT: Director's Recommendation for the December 17, 2013 Board Meeting

P99-09. REVOCATION OF A CU/CONDITIONAL USE OVERLAY TO ALLOW OPEN STORAGE AND REPAIR OF DUMP TRUCKS REVERTING TO THE PREVIOUS ZONING CLASSIFICATION OF A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 4515 AND 4531 HUCKLEBERRY ROAD, OWNED BY STEVE AND PONDANESA CARTER.

On October 21, 2013 the Planning and Inspections Staff provided me with sufficient evidence indicating that the above referenced property is not in compliance with the conditions as approved for Case No. P99-09— the property owner erected the proposed structure without permits and not in accordance with the conditionally approved site plan as well as allowing uses not specifically approved. Pursuant to Section 508 of the Cumberland County Zoning Ordinance, I am seeking revocation of the Conditional Use Overlay and reversion of the zoning to the A1 Agricultural district for the subject property.

On October 28, 2013 the property owner was notified in writing of this revocation. The property owner was also mailed the standard hearing notice for your December 17, 2013 Board Meeting.

County Zoning Ordinance reference: Section 508, Failure to Comply and Section 509, Validation of Existing Conditional Use Overlays

Attachments:

1. Revocation Notice to Owner
2. Sketch Map
3. Site Plan

Walter Clark,
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Cumberland County

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CUMBERLAND
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NORTH CAROLINA

Planning & Inspections Department

October 28, 2013

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

Steve and Pondanosa Carter
940 Waterless St
Fayetteville NC 28306

SUBJECT: Revocation of A1 Agricultural/CU Conditional Use Overlay Approval to Allow open storage and repair of dump trucks at 4515 Huckleberry Road, Cumberland County, North Carolina & Reversion to A1 Agricultural Zoning

Dear Mr. and Mrs. Carter,

On April 19, 1999 the Cumberland County Board of Commissioners conditionally approved your request for the subject property as listed above with the case heading as follows:

CASE NO. P99-09: ADDITION OF A CONDITIONAL USE OVERLAY TO ALLOW OPEN STORAGE AND REPAIR OF DUMP TRUCKS IN AN A1 AGRICULTURAL DISTRICT ON THE WEST SIDE OF HUCKLEBERRY ROAD, SOUTH OF SANDEROSA ROAD, THE PROPERTY OF STEVE AND PONDANESA CARTER.

On October 21, 2013 it was brought to my attention that the subject property has not been developed according to the conditions of approval adopted by the County Commissioners at the 1999 hearing, with the most egregious violations being that the proposed "50'x60' shop" was not constructed in the location and with the yard setbacks as approved, using or allowing the use of the subject property for a use that was not specifically approved, and did not buffer the property in the specified manner. Because of the foregoing, I am directing the staff to process a reversion to the previous zoning district of A1 Agricultural for the subject property.

Section 508 of the Cumberland County Zoning Ordinance mandates that the request for the Conditional Use Overlay be scheduled for reconsideration by the Joint Planning Board with the final decision rendered by the County Board of Commissioners when a property is found to be noncompliant with the Commissioners' most current approval. The terms of approval *shall continue to be valid provided that terms of the permit are not substantially or materially altered or expanded in any manner, that all conditions and requirements of the permit are and continue to be complied with and that the use does not cease for a period of one year* [Section 509, Cumberland County Zoning Ordinance (2005 w/ amendments through 2011)].

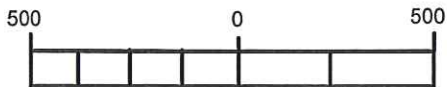
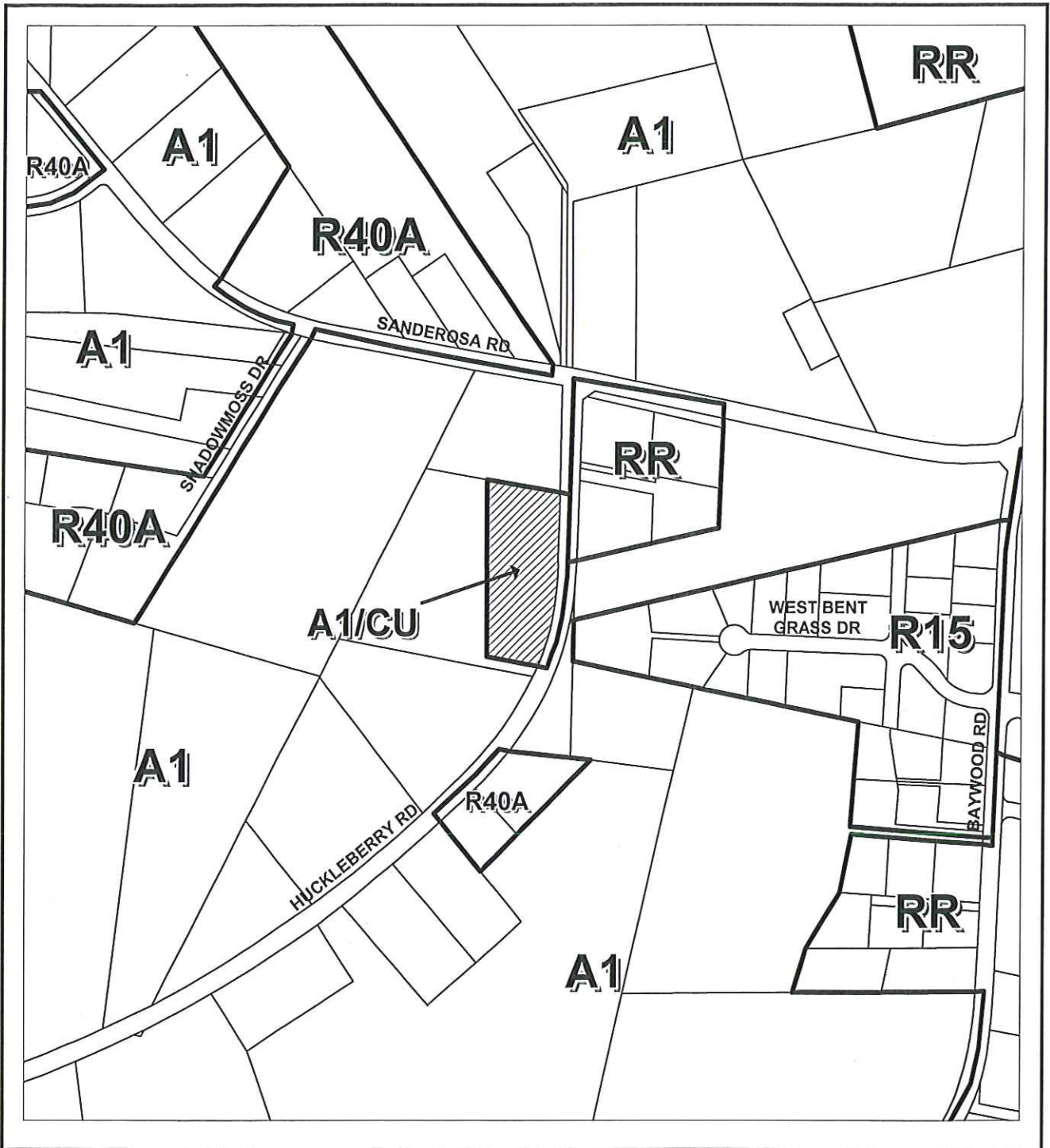
Prior to any future use and/or permit issuance for any development of the subject property, you or your successors in interest must visit Room 103 of the Historic Courthouse located at 130 Gillespie Street, Fayetteville North Carolina to discuss your plans and initiate the appropriate application process. In addition, you are the responsible party to ensure the subject property and all structures thereon are properly permitted, appropriately used and in compliance with all applicable regulations. Our Code Enforcement section will monitor your progress in this matter.

You will receive a notice letter of the hearings for the rezoning of the subject property. If you have any questions regarding the rezoning process please contact Patti Speicher at pspeicher@co.cumberland.nc.us, phone: 910-678-7605; for questions related to the permitting and ordinance compliance, contact Joan Fenley at 910-321-6670, email: jfenley@co.cumberland.nc.us.

Sincerely,

Thomas J. Lloyd
Director
tlloyd@co.cumberland.nc.us

Attachments: Minutes April 19, 2013 Bd of Commissioners Meeting for Hearing of P99-09 and Application Material



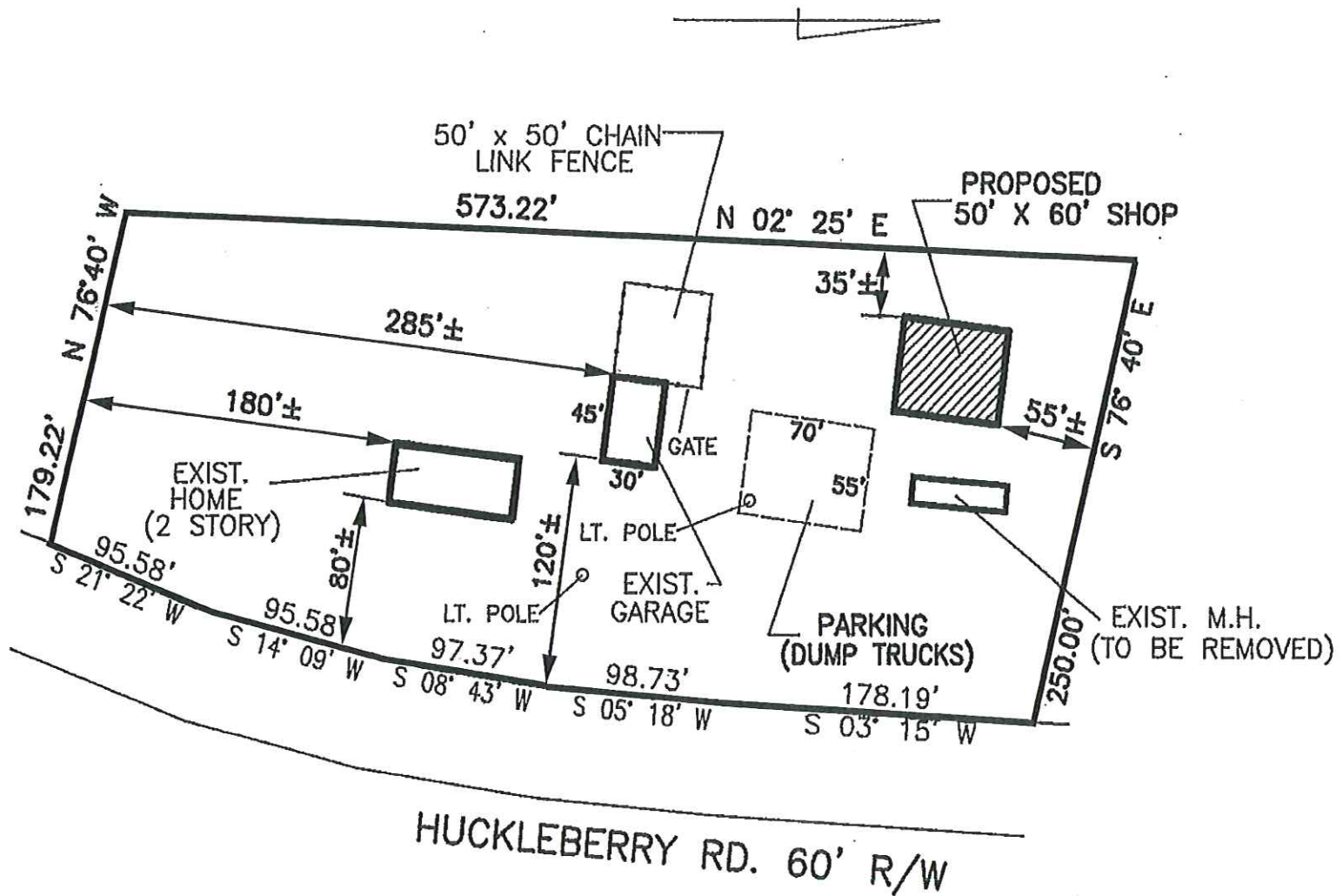
SCALE IN FEET

PIN: 0467-88-0266

REVOCATION CONDITIONAL USE OVERLAY

ACREAGE: 3.00 AC.+/-	HEARING NO: P99-09	
ORDINANCE: COUNTY	HEARING DATE	ACTION
STAFF RECOMMENDATION		
PLANNING BOARD		
GOVERNING BOARD		

AM



CONDITIONAL USE OVERLAY DISTRICT

CASE NO: P99-9 SCALE: 1"=100'

REQUEST: TO ALLOW THE REPAIR AND OPEN STORAGE OF
DUMP TRUCKS. ZONED: A1 ACREAGE: 3.0 AC±

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December 10, 2013

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Benny Pearce,
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MEMORANDUM

TO: Cumberland County Joint Planning Board
FROM: Planning and Inspections Staff
SUBJECT: Staff Recommendation for the December 17, 2013 Board Meeting

P13-48. REZONING OF 73.21+/- ACRES FROM R20 RESIDENTIAL/DD DENSITY DEVELOPMENT/CUD CONDITIONAL USE DISTRICT FOR A 125 LOT RESIDENTIAL SUBDIVISION AND THE PERMIT TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2961 AND 2983 CEDAR CREEK ROAD AND ON THE NORTHEAST SIDE OF NC HWY 53 (CEDAR CREEK ROAD), SOUTHWEST SIDE OF SR 2011 (A B CARTER ROAD); SUBMITTED BY J. O. CARTER, JR. ET AL (OWNERS) AND DANIEL H. DEVANE.

The Planning and Inspections Staff recommends approval of the R40 Residential district based on the following:

1. Although the district requested is not consistent with the 2030 Growth Vision Plan, which calls for “urban” at this location, the request meets the location criteria for “rural density residential” development as listed in the Land Use Policies Plan; and
2. The location and character of the district is reasonable and will be in harmony with the surrounding area.

There are no other districts considered suitable for this request.

Attachments:

- 1 – Site Profile
- 2 – Sketch Map

P13-48
SITE PROFILE

P13-48. REZONING OF 73.21+/- ACRES FROM R20 RESIDENTIAL/DD DENSITY DEVELOPMENT/CUD CONDITIONAL USE DISTRICT FOR A 125 LOT RESIDENTIAL SUBDIVISION AND THE PERMIT TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2961 AND 2983 CEDAR CREEK ROAD AND ON THE NORTHEAST SIDE OF NC HWY 53 (CEDAR CREEK ROAD), SOUTHWEST SIDE OF SR 2011 (A B CARTER ROAD); SUBMITTED BY J. O. CARTER, JR. ET AL (OWNERS) AND DANIEL H. DEVANE.

Site Information:

Frontage & Location: 1,074.00'+/- on NC HWY 53 (Cedar Creek Road) & 1,100.00'+/- on SR 2011 (A B Carter Road)

Depth: 2,940.00'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: 2 residential structures

Initial Zoning: A1 – September 14, 1979 (Area 9); rezoned to R20/DD/CUD on November 20, 2006

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: RR, PND & A1; South: R10/CU (to allow manufactured home), HI (Fay), M(P), C3, C(P), RR, R10 & A1; East: RR, R10 & A1; West: A1/CU (to allow motor vehicle sales), M(P), O&I(P), R40, RR, R15 & A1

Surrounding Land Use: Residential (including manufactured dwellings & multi-family), farmland & woodlands

2030 Growth Strategy Map: Urban & Urban Fringe

Special Flood Hazard Area (SFHA): None

Sewer Service Area: Yes

Water/Sewer Availability: Well/Septic

Soil Limitations: Yes, hydric – LE Leon sand, ST Stallings loamy sand & TR Torhunata and Lynn Haven soils

School Capacity/Enrolled: J. W. Seabrook Elementary (part): 310/281; Sunnyside Elementary (part): 300/381; Mac Williams Middle: 1,270/1,163; Cape Fear High: 1,425/1,570

Subdivision/Site Plan: If approved, new development may require review and approval

Average Daily Traffic Count (2010): 9,500 on NC HWY 53 (Cedar Creek Road) & 1,500 on SR 2011 (A B Carter Road)

Highway Plan: Cedar Creek Road is identified in the Highway Plan as a Major Thoroughfare. The plan calls for widening to a multi-lane facility with a proposed right-of-way of 110 feet. Road improvements are not included in the 2012-2018 MTIP. Note: The request will have no impact on A B Carter Road

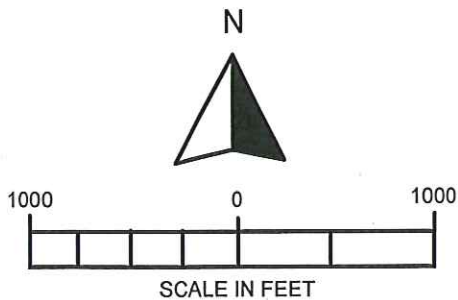
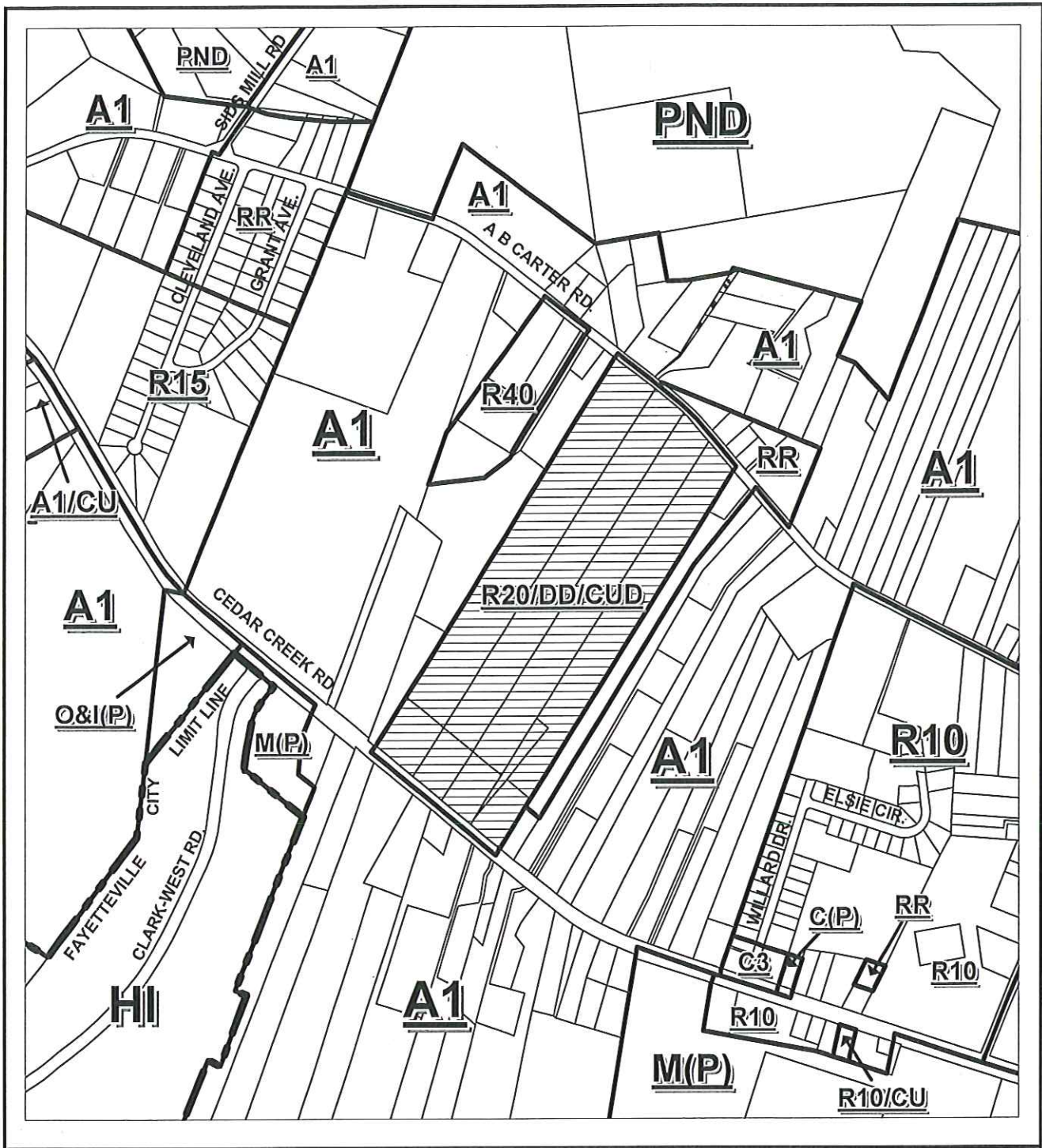
Notes:

1. Density (minus 15% for ROW):
R40 – 79 lots/units (67 lots/units)

2. Minimum Yard Setback Regulations:
R20 & R40
Front yard: 30'
Side yard: 15'
Rear yard: 35'

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 R20/DD/CUD TO R40

ACREAGE: 73.21 AC. +/-	HEARING NO: P13-48	
ORDINANCE: COUNTY	HEARING DATE	ACTION
PLANNING BOARD		
GOVERNING BOARD		

Walter Clark,
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Donovan McLaurin,
Wade, Falcon & Godwin

December 10, 2013

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for the December 17, 2013 Board Meeting

P13-49. REZONING OF 1.25+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 8569 CLINTON ROAD, SUBMITTED BY BILLY D. AND FAY J. HORNE (OWNERS).

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

1. Although the request is not entirely consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as public water and sewer are required and sewer is not available, approval of the request would be consistent with the plan by promoting the re-development of a commercial area as the subject property contains a commercial structure previously used for religious worship and a sign company;
2. The request is consistent with the objectives for commercial development listed in the Land Use Policies Plan, specifically by promoting sufficiently zoned commercial areas to accommodate the needs of County residents and locating commercial development with the least impact on residential and other non-compatible uses; and
3. The district requested is reasonable as this area will likely transition to more non-residential uses with the imminent improvements of NC Hwy 24.

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

Attachments:

- 1 – Site Profile
- 2 – Rezoning Sketch Map

P13-49
SITE PROFILE

P13-49. REZONING OF 1.25+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 8569 CLINTON ROAD, SUBMITTED BY BILLY D. AND FAY J. HORNE (OWNERS).

Site Information:

Frontage & Location: 155.83'+/- on NC Hwy 24 (Clinton Road)

Depth: 320.00'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Vacant non-residential structure (previous use religious worship then sign company)

Initial Zoning: A1 – September 3, 1996 (Area 20)

Nonconformities: Yes, existing non-residential structure does not meet front setbacks and will be made more nonconforming if approved

Zoning Violation(s): None

Surrounding Zoning: North: R6A & A1; South, East & West: A1

Surrounding Land Use: Residential (including manufactured dwellings & multi-family), religious worship, vacant industrial structure, substation, cemetery, farmland & woodlands

2030 Land Use Plan: Rural

Special Flood Hazard Area (SFHA): None

Water/Sewer Availability: Stedman/Septic

Soil Limitations: None

School Capacity/Enrolled: Stedman Primary (K-1): 200/163; Stedman Elementary (2-5): 300/298; Mac Williams Middle: 1,270/1,163; Cape Fear High: 1,425/1,570

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

Average Daily Traffic Count (2010): 9,300 on NC Hwy 24 (Clinton Road)

Highway Plan: This portion of NC Hwy 24 is identified in the Highway Plan as a Major Thoroughfare with adequate right-of-way. The NC Hwy 24 Bypass Project (R-2303) is currently under construction

Notes:

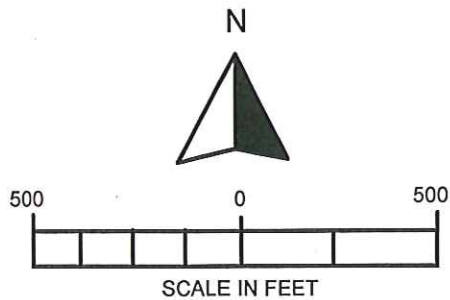
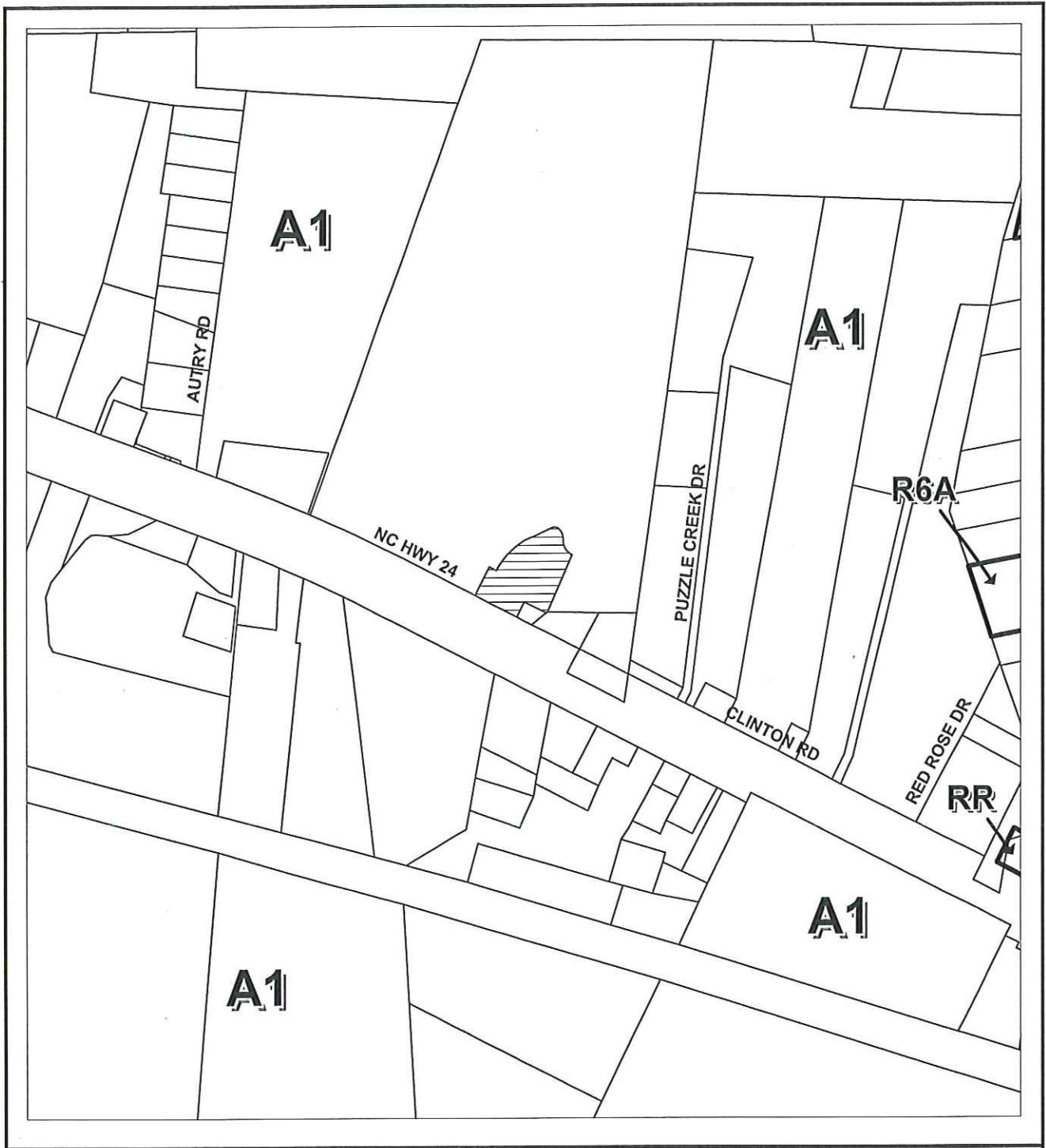
1. Density:
A1 – 1 lots/unit (non-residential)

2. Minimum Yard Setback Regulations:

<u>A1</u>	<u>C1(P)</u>	<u>C2(P) & 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)

ACREAGE: 1.25 AC.+/-	HEARING NO: P13-49	
ORDINANCE: COUNTY	HEARING DATE	ACTION
STAFF RECOMMENDATION		
PLANNING BOARD		
GOVERNING BOARD		

PIN: 1405-07-8276

AM

Walter Clark,
Chair
Cumberland County

Patricia Hall,
Vice-Chair
Town of Hope Mills

Garland C. Hostetter,
Town of Spring Lake
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Wade, Falcon & Godwin

December 10, 2013

MEMORANDUM

TO: Cumberland County Joint Planning Board
FROM: Planning and Inspections Staff
SUBJECT: Staff Recommendation for the December 17, 2013 Board Meeting

P13-51. REZONING OF 81.30+/- ACRES FROM A1 AGRICULTURAL TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF SR 2242 (BRAXTON ROAD), NORTHWEST OF SR 2252 (CHICKEN FOOT ROAD); SUBMITTED BY PRENTICE R. BARKER ON BEHALF OF BARKER GALLBERRY FARMS, LLC. (OWNER) AND 4D SITE SOLUTIONS, INC.

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

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban” and “urban fringe” at this location, as well as meeting the location criteria for “low density residential” development as listed in the Land Use Policies Plan;
2. The location and character of the district is reasonable and will be in harmony with the surrounding area and is a logical extension of the adjacent residentially zoned subdivisions; and
3. Public utilities (voluntary extension) are available to the subject property.

The R15 district could also be considered suitable for this request.

Attachments:

- 1 – Site Profile
- 2 – Sketch Map

P13-51
SITE PROFILE

P13-51. REZONING OF 81.30+/- ACRES FROM A1 AGRICULTURAL TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF SR 2242 (BRAXTON ROAD), NORTHWEST OF SR 2252 (CHICKEN FOOT ROAD); SUBMITTED BY PRENTICE R. BARKER ON BEHALF OF BARKER GALLBERRY FARMS, LLC. (OWNER) AND 4D SITE SOLUTIONS, INC.

Site Information:

Frontage & Location: 300.00'+/- on SR 2242 (Braxton Road)

Depth: 3,800.00'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Farmland

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

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: C(P)/CU & O&I(P)/CU (all uses/Cypress Lakes), C(P), R30, RR, R10 & A1; South & West: A1; East: R10 & A1

Surrounding Land Use: Residential, farmland & woodlands

2030 Land Use Plan: Urban and Urban Fringe

Special Flood Hazard Area (SFHA): None

Water/Sewer Availability: PWC/PWC

Soil Limitations: Yes, hydric – TR Tohunta and Lynn Haven soils, WO Woodington loamy sand & PA Pactolus loamy sand

School Capacity/Enrolled: Gallberry Farms Elementary: 900/886; Gray's Creek Middle: 1,100/1,067; Gray's Creek High: 1,270/1,271

Subdivision/Site Plan: If approved, any new development may require review and approval

Sewer Service Area: Yes (portion)

Average Daily Traffic Count (2010): 2,100 on SR 2242 (Braxton Road)

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

Notes:

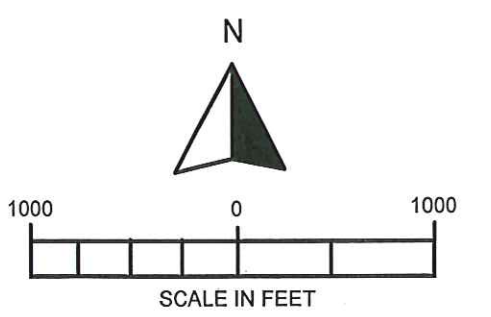
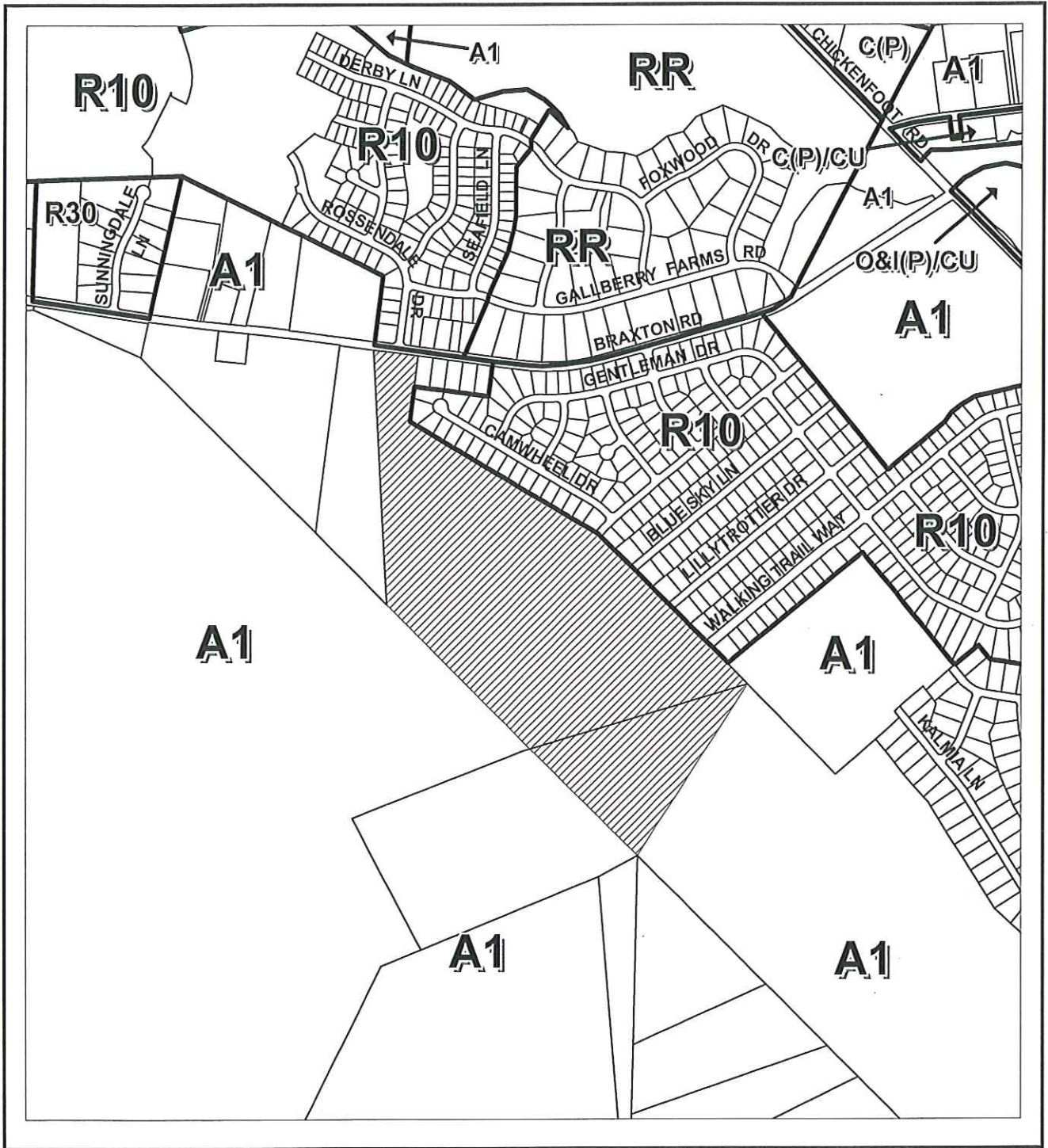
1. Density (minus 15% for R/W):
A1 – 40 lots/units (35 lots/units)
R40 – 89 lots/units (75 lots/units)
R30 – 118 lots/units (100 lots/units)
R20 – 177 lots/units (151 lots/units)
R15 – 236 lots/units (201 lots/units)
R7.5 – 472 lots/units (401 lots/units)

2. Minimum Yard Setback Regulations:

<u>A1</u>	<u>R40, R30 & R20</u>	<u>R15 & R7.5</u>
Front yard: 50'	Front yard: 30'	Front yard: 30'
Side yard: 20'	Side yard: 15'	Side yard: 10'
Rear yard: 50'	Rear yard: 35'	Rear yard: 35'

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 R7.5

ACREAGE: 81.3 AC.+/-	HEARING NO: P13-51	
ORDINANCE: COUNTY	HEARING DATE	ACTION
STAFF RECOMMENDATION		
PLANNING BOARD		
GOVERNING BOARD		

PORT OF PIN: 0422-05-3149
 PORT OF PIN: 0422-54-1009

AM

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Vice-Chair
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December 10, 2013

MEMORANDUM

TO: Cumberland County Joint Planning Board
FROM: Planning and Inspections Staff
SUBJECT: Staff Recommendation for the December 17, 2013 Board Meeting

P13-50. REZONING OF 1.37+/- ACRES FROM R20 RESIDENTIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 725 AND 729 SNOW HILL ROAD, SUBMITTED BY HUXLEY A. AND AHUILDA J. JONES (OWNERS).

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

1. The district requested is inconsistent with the location criteria for "heavy industrial" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan primarily due to the tract not being of sufficient size to accommodate the M(P) setbacks and does not provide adequate area for buffering, screening, and landscaping in addition to any proposed buildings; and
2. The request is not reasonable because a permit was obtained in August 2013 for a residential structure which has been constructed and this structure will become nonconforming in use and yard setbacks if the request is approved.

Staff further recommends that if the board is considering approval of M(P) for this request and due to the proximity of the subject property in relation to the airport and existing residential in the area, the property owner modify the application to a request for Conditional Zoning. Deviation in yard setbacks can also be addressed in the Conditional Zoning application.

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

Attachments:

- 1 – Site Profile
- 2 – Sketch Map

P13-50
SITE PROFILE

P13-50. REZONING OF 1.37+/- ACRES FROM R20 RESIDENTIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 725 AND 729 SNOW HILL ROAD, SUBMITTED BY HUXLEY A. AND AHUILDA J. JONES (OWNERS).

Site Information:

Frontage & Location: 176.31'+/- on SR 2341 (Claude Lee Road) & 344.83'+/- on SR 2219 (Snow Hill Road)

Depth: 425.84'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: 1 residential structure (permit issued August 23, 2013)

Initial Zoning: M(P) – March 15, 1979 (Area 6); rezoned to R20 on December 17, 2012

Nonconformities: If approved, residential structure and use will be made nonconforming

Zoning Violation(s): None

Surrounding Zoning: North: M(P), RR, R15 & M/A (Fay); South: M(P), RR, R10 & R6A;

East: M(P) & HS(P); West: M(P), RR, R15 & R10

Surrounding Land Use: Residential (including manufactured homes), truck terminal activities, quarry & woodlands

2030 Land Use Plan: Urban

Special Flood Hazard Area (SFHA): None

Water/Sewer Availability: PWC/PWC (residential structure served by well & septic)

Soil Limitations: None

School Capacity/Enrolled: Alderman Road Elementary: 750/644; South View Middle: 900/713; South View High: 1,800/1,813

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

Municipal Influence Area: City of Fayetteville

Average Daily Traffic Count (2010): 3,100 on SR 2341 (Claude Lee Road) & 1,400 on SR 2219 (Snow Hill Road)

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

Notes:

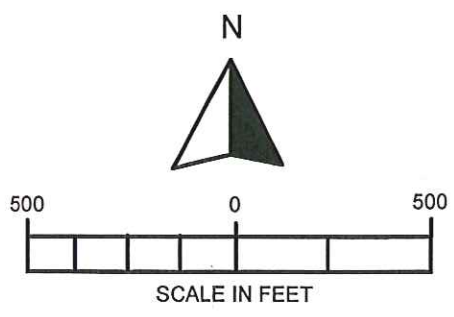
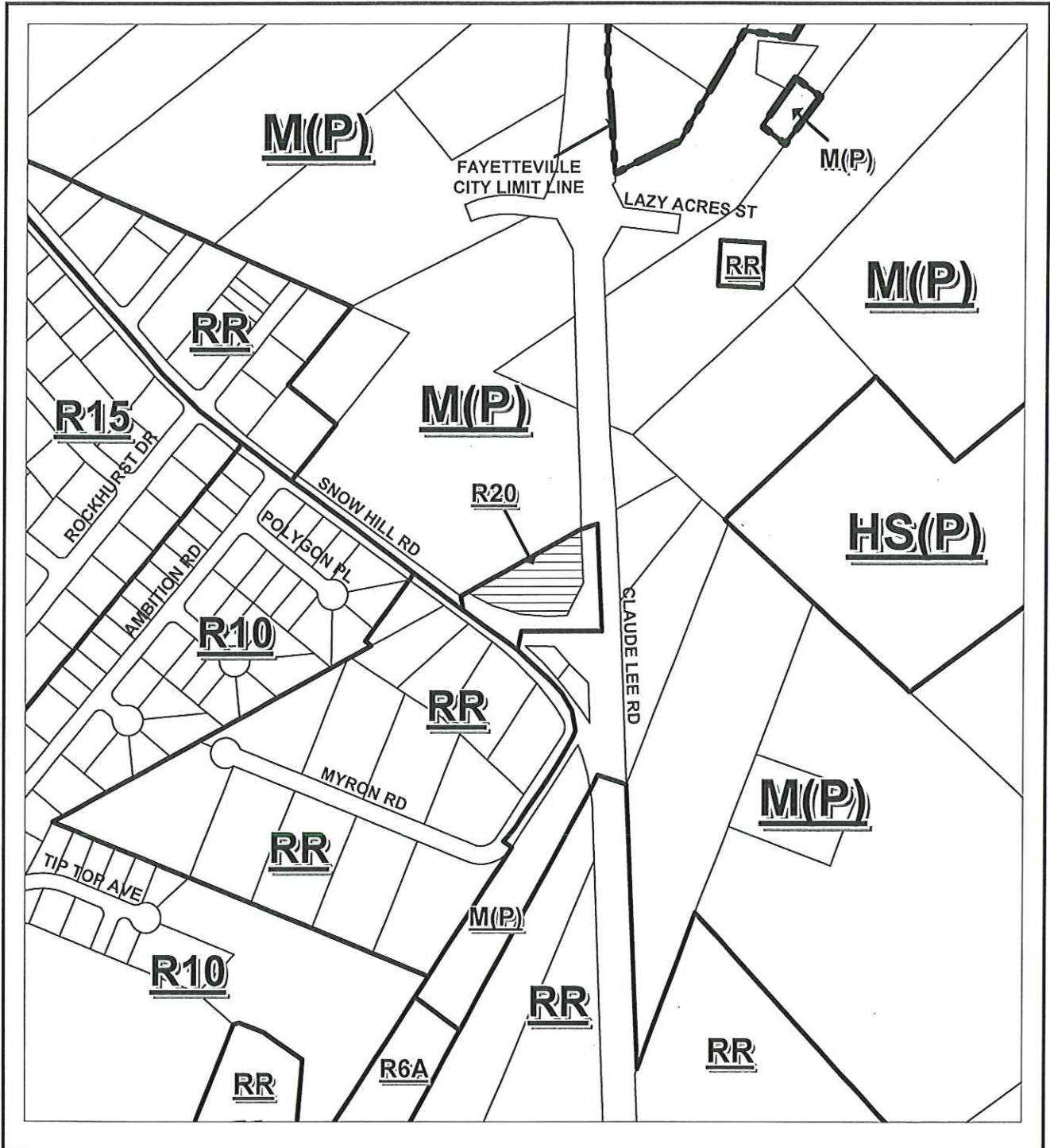
1. Density:
R20 – 2 lots/3 units

2. Minimum Yard Setback Regulations:

<u>R20</u>	<u>M(P)</u>
Front yard: 30'	Front yard: 100'
Side yard: 15'	Side yard: 50'
Rear yard: 35'	Rear yard: 50'

First Class and Record Owners' Mailed Notice Certification

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



REQUESTED REZONING R20 TO M(P)

ACREAGE: 1.37 AC.+/-	HEARING NO: P13-50	
ORDINANCE: COUNTY	HEARING DATE	ACTION
STAFF RECOMMENDATION		
PLANNING BOARD		
GOVERNING BOARD		

13-121
SITE PROFILE

CASE NO. 13-121. CONSIDERATION OF THE ERNEST A. BUNCE JR. AND RUTH H. BUNCE PROPERTY; SUBDIVISION REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO CONNECT TO PUBLIC WATER; COUNTY SUBDIVISION ORDINANCE, SECTION 2306.A.1.B, UTILITIES; ZONED: A1; TOTAL ACREAGE: 5.2+/-; LOCATED AT THE SOUTHEAST QUADRANT OF SR 1006 (MAXWELL ROAD) & SR 1843 (MAGNOLIA CHURCH ROAD); SUBMITTED BY ERNEST A. BUNCE JR. & RUTH H BUNCE (OWNER) AND WAYNE T. YOUNTS (AGENT).

Summary of Request

The developer is requesting a waiver from the requirement to connect to public water for a four lot subdivision. The Eastover Sanitary District (ESD) water line is located along SR 1006 (Maxwell Road) and is located on the north side of SR 1006 (Maxwell Road); the subject property is located on the south side of SR 1006 (Maxwell Road). The developer will be required to rezone the property prior to final plat approval since the property is currently zoned A1, which requires two acres per lot and three of the proposed lots are only one acre in size. The developer will also be required to place a fire hydrant along SR 1006 (Maxwell Road) within 500 feet of each lot, regardless whether or not the waiver is approved. The Health Department will be required to approve individual wells if the waiver is approved. If the waiver is denied, ESD's approval of the water plans will be required.

Site Information:

Frontage & Location: 218.66' feet of frontage along SR 1006 (Maxwell Road) and 585.23' feet of frontage along SR 1843 (Magnolia Church Road)

Depth: 347.81'+/-

Jurisdiction: Cumberland County

Municipal Influence Area (MIA): N/A

Sewer Services Area (SSA): No

Adjacent Property: No

Nonconformities: None

Water & Sewer: ESD/Septic

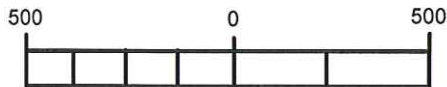
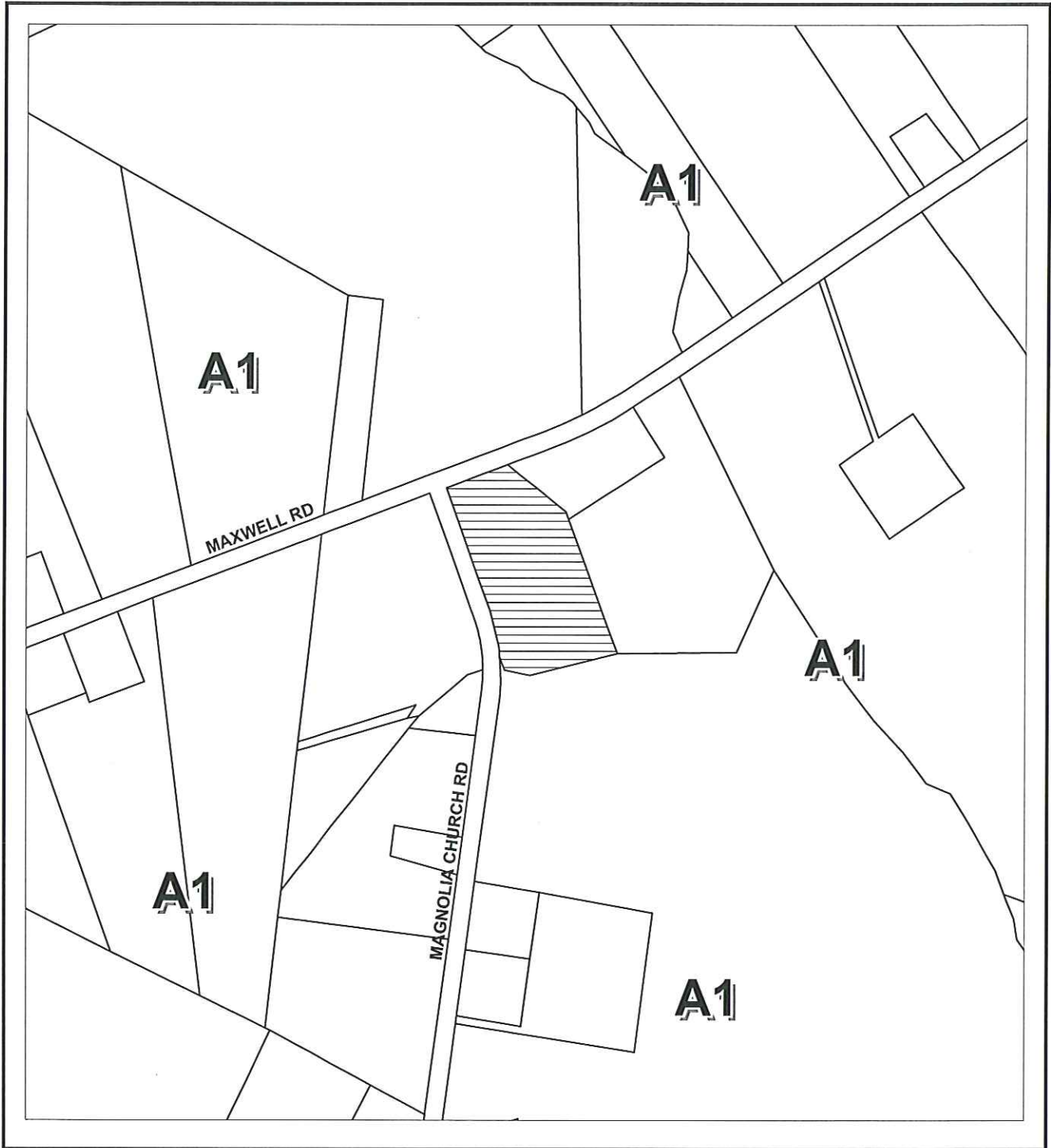
Special Flood Hazard Area (SFHA): No

Applicable County Subdivision Ordinance Provisions

Section 2306 UTILITIES, A.1.b, *Connection to public water and sanitary sewer required.* When not predicated upon a prior mandatory annexation policy and where any portion of a subdivision or other development submitted for approval under the terms of this ordinance or the County Zoning Ordinance proposes two or ten lots or units is within 300 feet of public water or sewer, the public utilities shall be extended and connected. Where any portion of eleven to twenty lots or unit is within 500 feet of public water or sewer, the public utilities shall be extended and connected. For more than twenty lots or units proposed within the Sewer Service Area and/or and where the density is greater than two lots or units per acre, the extension of and connection to public water and sewer services is required. Sanitary sewer service outside the Sewer Service Area requires approval in accordance with the terms of any interlocal agreement officially adopted by the Board of Commissioners.

Attachments

- 1 - Sketch Map
- 2 - Subdivision Sketch Plan
- 3 - Aerial Photo
- 4 - Application for Waiver
- 5 - Conditions of Approval
- 6 - ESD Email Dated December 5, 2013



SCALE IN FEET

COUNTY SUBDIVISION ORDINANCE WAIVER

ACREAGE: 5.20 AC.+/-

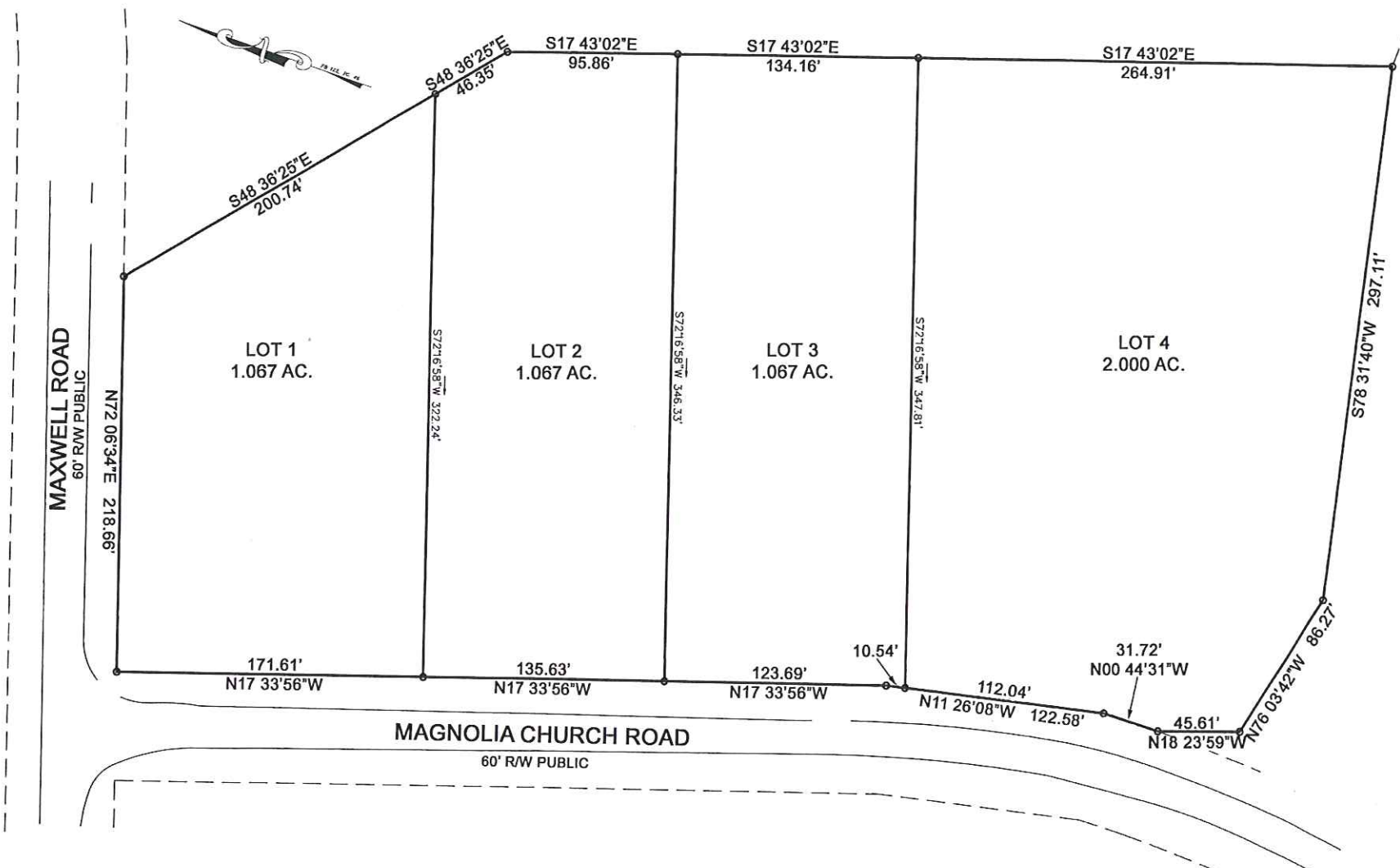
HEARING NO: 13-121

ORDINANCE: COUNTY

HEARING DATE

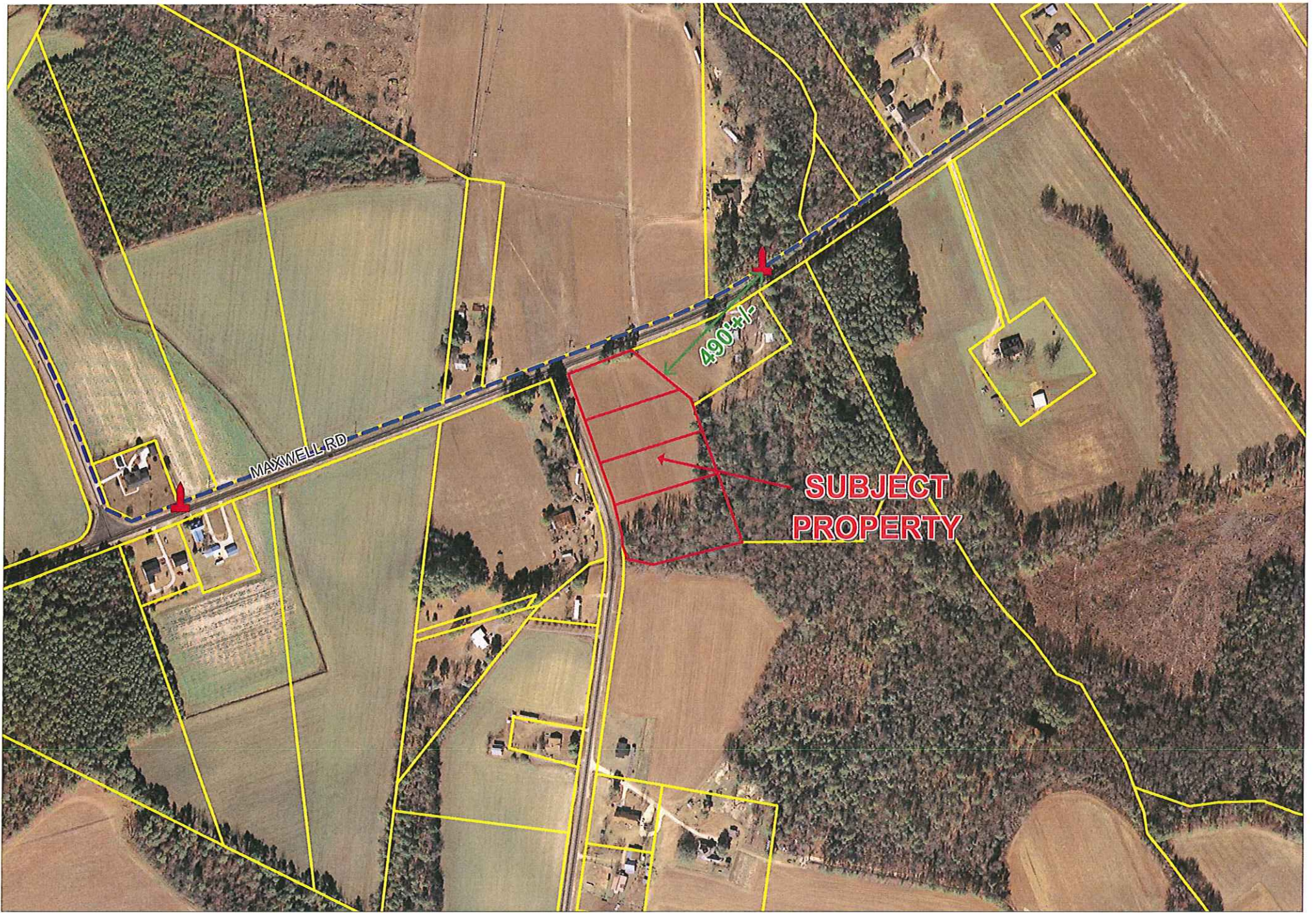
ACTION

GOVERNING BOARD



**ERNEST A. BUNCE JR. AND
RUTH H. BUNCE PROPERTY**
 REQUEST: A WAIVER FROM SECTION 2306.A.1.B
 CASE: 13-121 ACREAGE: 5.20 AC.+/-
 ZONED: A1 SCALE: NTS

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



**AERIAL PHOTO
CASE NO: 13-121**



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

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

LOCATION OF PROPERTY: CORNER OF MAXWELL RD & MAGNOLIA CH. RD.

OWNER: ERNEST BUNCE

ADDRESS: 7029 MAXWELL RD, STEDMAN ZIP CODE: 28391

TELEPHONE: HOME 483-0834 WORK 308-8317 (Cell#)

AGENT: WAYNE T. YOUNG

ADDRESS: 2911 BIRCHWOOD AVE, #200, FAYETTEVILLE, NC 28303

TELEPHONE: HOME (910)977-1804 Cell# WORK (910)323-1804

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

A. Parcel Identification Number (PIN #) of subject property: _____
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 5.2 Frontage: Approx 586' Depth: 347'

C. Water Provider: NONE AT THIS TIME

D. Septage Provider: SEPTIC TANK

E. Deed Book 8440, Page(s) 20-22, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing and/or proposed use of property: SOD FIELD

G. Section and provision of the Cumberland County Subdivision Ordinance from which a waiver [variance] is requested:

Section 2306 Utilities, provision B

H. Nature and extent of hardship involved in strict application of the County Subdivision Ordinance – attach additional sheet if necessary:

It would create a hardship to seller and/or Buyers to install a water line on MAGNOLIA CH. Rd due to having to do a bore under MAXWELL Rd. plus run water line approx. 400'

STATEMENT OF ACKNOWLEDGEMENT

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

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

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

✓ Ernest A. Bunce Jr.
Property owner(s)' signature(s)

Ernest A. Bunce Jr.
Property owner(s)' name (print or type)

7009 Maxwell Rd., Steadman N.C. 28391
Complete mailing address of property owner(s)

(910) 483-0834 (910) 308-8317
Telephone number Alternative telephone number

NONE NONE
Email address FAX number

✓ Wayne T. Younts
Agent, attorney, or applicant's signature (other than property owner)

WAYNE T. YOUNTS
Agent, attorney, or applicant (other than property owner) (print or type)

2911 Breeze wood Ave, # 200, Fayetteville, NC 28303
Complete mailing address of agent, attorney, or applicant

(910) 977-1804 Telephone number (910) 323-1804 Alternative telephone number

YOUNTSRLTY@AOL.com Email address (910) 323-9887 FAX number

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

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

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

DRAFT

STAFF REVIEW: 11-21-13 PLANNING BOARD DECISION: 12-17-13

CASE NO: 13-121 NAME OF DEVELOPMENT: ERNEST & RUTH BUNCE PROPERTY

MIA: N/A SUBDIVISION REVIEW

LOCATION: EAST SIDE OF SR 1843 (MAGNOLIA CHURCH ROAD), ZONING: A1

SOUTH SIDE OF SR 1006 (MAXWELL ROAD) PIN: 0487-64-7517

OWNERS / DEVELOPER: ERNEST BUNCE ENGINEER OR DESIGNER: DENVER MCCULLOUGH

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 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 and Development Ordinance) (Note: This condition is subject to change depending on Planning Board decision – see waiver request this file.)
3. Connection to public water is required, the Eastover Sanitary District (ESD) must approve water plans prior to application for any permits. A copy of the Eastover Sanitary District's approval must be provided to Code Enforcement at the time of application for building/zoning permits. (Section 2306 A.1, Public Water and Sewer Systems, County Subdivision and Development Ordinance) (Note: This condition is subject to change depending on Planning Board decision – see waiver request this file.)

4. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
5. 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.
6. 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.
7. A review of the data available to the Army Corp of Engineers indicates that jurisdictional waters are likely to be present on this property and therefore are likely to be impacted by the proposed project. However, without an official Jurisdictional Determination at the property, these findings cannot be confirmed.

A permit will be required for this project if construction will involve the temporary and/or permanent placement of fill in waters of the United States including wetlands. If a permit is required, the applicant will be required to avoid and minimize impacts to wetland/waters of the United States and may need to provide compensatory mitigation for unavoidable impacts.

Site-Related:

8. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the appropriate zoning district, assigned to the subject property at the time of final plat approval, must be complied with, as applicable – see related Condition No. 16 .
9. All corner lots and lots fronting more than one street must provide front yard setbacks from each street.
10. 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 and Development Ordinance)
11. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
12. 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.
13. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
14. Turn lanes may be required by the NC Department of Transportation (NCDOT).
15. An internal street system most likely will be to serve any future divisions of the subject lots.

Plat-Related:

16. Prior to submission for final plat approval of Lots 1 through 3, the developer must petition and receive a favorable final decision of a rezoning to a zoning district that can accommodate the 1.067+/- acre lot sizes.
17. Prior to submission for final plat approval, fire hydrant(s) must be installed along all streets and drives; hydrants must be located no further than 1,000 feet apart and at a maximum of 500 feet from any lot. (Section 2306 B, Fire hydrants, County Subdivision and Development Ordinance) Also see related Condition No 26.

18. "Magnolia Church Road" must be labeled as "SR 1843 (Magnolia Church Road)" on the final plat.
19. Prior to final plat approval of any portion of this development, the developer is required to submit a check or cash in the amount of \$493.76 (\$123.44 per lot/four lots) payable to "Cumberland County". This condition is in accordance with Section 2308, Parks, Recreation and Open Space, County Subdivision and Development Ordinance, which requires every residential dwelling unit to provide a portion of land, in certain instances, or pay a fee in lieu of dedication, for the purposes of providing park, recreation and open space areas. (Park District #1)
20. 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.
21. The NC Department of Transportation (NCDOT) may not allow a driveway for each individual lot. If any lot shown on the preliminary is required to be served by a joint driveway, the joint driveway must be reflected on the final plat.
22. A 10' x 70' sight distance easement is required at the intersection of SR 1006 (Maxwell Road) with SR 1843 (Magnolia Church Road) and must be reflected on the final plat.
23. A 25' right-of-way radius is required at all intersections and must be reflected on the final plat. (Section 2304.10.c, Street Design, County Subdivision and Development Ordinance)
24. The NC Department of Transportation (NCDOT) stamp must be affixed to the final plat prior to submission for final plat approval by Land Use Codes.
25. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the final plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision and Development Ordinance)
26. The developer is reminded that the improvements must be in place or that final plat approval will only be granted in accordance with Section 2502 B, C, or D, Final Plat – Guarantees of Improvements, County Subdivision and Development Ordinance. (Note: Once the improvements are in place, the developer is responsible for contacting Jeff Barnhill to schedule an inspection of the improvements.)
27. The final plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

Plat-Required Statements:

Note: The disclosure statement required to be shown on the final plat concerning water and sewer may change based upon the Planning Board's decision regarding the waiver request.

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

"Nonconforming structures have not been created by this subdivision plat."

Advisories:

29. The applicant is advised to consult an expert on wetlands before proceeding with any development. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
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.

Other Relevant Conditions:

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

32. The developer has requested a waiver from connection to public water, Section 2306.A.1.b, Cumberland County Subdivision Ordinance, and will be considered by the County Joint Planning Board on December 17, 2013.

Thank you for creating building lots in 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):

Improvements Inspections:	Jeff Barnhill	678-7765
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
Eastover Sanitary District:	Connie Spell	229-3716
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
Street Naming/Signs:	Diane Shelton	678-7665
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

cc: Connie Spell, Eastover Sanitary District

Patricia Speicher

From: Connie Spell [cfsellesd@ncrbiz.com]
Sent: Thursday, December 05, 2013 12:19 PM
To: Patricia Speicher
Cc: Edward Byrne; 'Dave Strum'; 'Heather Adams'
Subject: RE: County Sub Case 13-121 - Waiver from Public Water Connection

Patti,

This property is outside the ESD boundaries, therefore, ESD cannot require mandatory connection. ESD could provide water for this development and ESD has adequate water capacity for the extension. ESD has a main water line located on Maxwell Road. In accordance with ESD Rules & Regulations, all cost for water extensions to undeveloped subdivisions shall be the responsibility of the developer or the person requesting the extension.

If additional information is needed, please give me a call.

Connie F. Spell
District Manager
Eastover Sanitary District
3876 Dunn Road
Eastover, NC 28312
Office 910.229.3716
FAX 910.229.3724
cfsellesd@ncrbiz.com

From: Patricia Speicher [<mailto:pspeicher@co.cumberland.nc.us>]
Sent: Wednesday, December 04, 2013 12:29 PM
To: Connie Spell
Cc: Edward Byrne
Subject: County Sub Case 13-121 - Waiver from Public Water Connection

Hello Connie, hope all is well!

Please see attached. I apologize for this being sideways, I could not seem to get it to scan right. Ed will scan and send the entire packet when it is ready just in case you want it. Notice the waiver will be considered at the Dec 17th PB meeting.

Enjoy your day!
Patti Speicher
Land Use Codes
Cumberland County Planning & Inspections
910-678-7605

All correspondence to and from this address may be subject to the N.C. Public Records Law and may be disclosed to third parties.