

Charles Morris,  
Chair  
Town of Linden

Diane Wheatley,  
Vice-Chair  
Cumberland County

Jami McLaughlin,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman

Donovan McLaurin  
Wade, Falcon & Godwin



*Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Vikki Andrews,  
Carl Manning,  
Lori Epler  
Cumberland County

Benny Pearce,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

**TENTATIVE AGENDA**

November 15, 2016

7:00 P.M.

- I. INVOCATION AND PLEDGE OF ALLEGIANCE
- II. APPROVAL OF/ADJUSTMENTS TO AGENDA
- III. PUBLIC HEARING DEFERRALS

**CASE NO. 16-102.** CONSIDERATION OF THE KENNETH MCLAURIN PROPERTY; GROUP DEVELOPMENT REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO HAVE A MINIMUM OF TWENTY FEET OF STREET FRONTAGE AND STREET ACCESS OFF OF EITHER A PUBLIC STREET OR AN APPROVED PRIVATE STREET; COUNTY SUBDIVISION ORDINANCE, SECTIONS 2303.C, STREET FRONTAGE & 2401.D, STREET ACCESS; ZONED: RR; TOTAL ACREAGE: 0.96+/-; LOCATED AT 3437 & 3441 NEBULAR DRIVE; SUBMITTED BY HAROLD F LIFE ESTATE & DEHAROLD D MCLAURIN (OWNER) AND KENNETH MCLAURIN (DEVELOPER). **DEFERRED INDEFINITELY**

**P16-48.** REZONING OF 2.36+/- ACRES FROM C(P) PLANNED COMMERCIAL TO A1A AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 5208 NC HWY 87 S, SUBMITTED BY BETTY BENNETT WALTERS (OWNER) AND DONALD LEE WALTERS (AGENT). **DEFERRED UNTIL DECEMBER 20, 2016**

- IV. ABSTENTIONS BY BOARD MEMBERS
- V. APPROVAL OF THE MINUTES OF OCTOBER 18, 2016
- VI. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENT

- A. **P16-50.** REVISION AND AMENDMENT TO THE TOWN OF HOPE MILLS ZONING ORDINANCE, REGARDING PROVISIONS RELATED TO THE BOARD OF ADJUSTMENT, SPECIFICALLY ARTICLE XVII BOARD OF ADJUSTMENT IN ITS ENTIRETY. (HOPE MILLS)

REZONING CASES

- B. **P16-44.** REZONING OF 1.85+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 124 BAYWOOD ROAD, SUBMITTED BY JING MESTER ON BEHALF OF BAYWOOD PROPERTIES, LLC (OWNERS).

- C. **P16-47.** REZONING OF 75.00+/- ACRES FROM A1 AGRICULTURAL & R40 RESIDENTIAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2787 THROWER ROAD, SUBMITTED BY VANCE U. TYSON ON BEHALF OF ASBY HOLDINGS, LLC (OWNER) AND CRAWFORD MCKETHAN (AGENT).

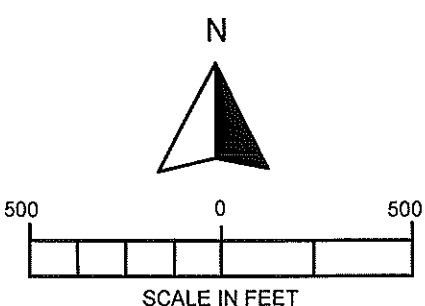
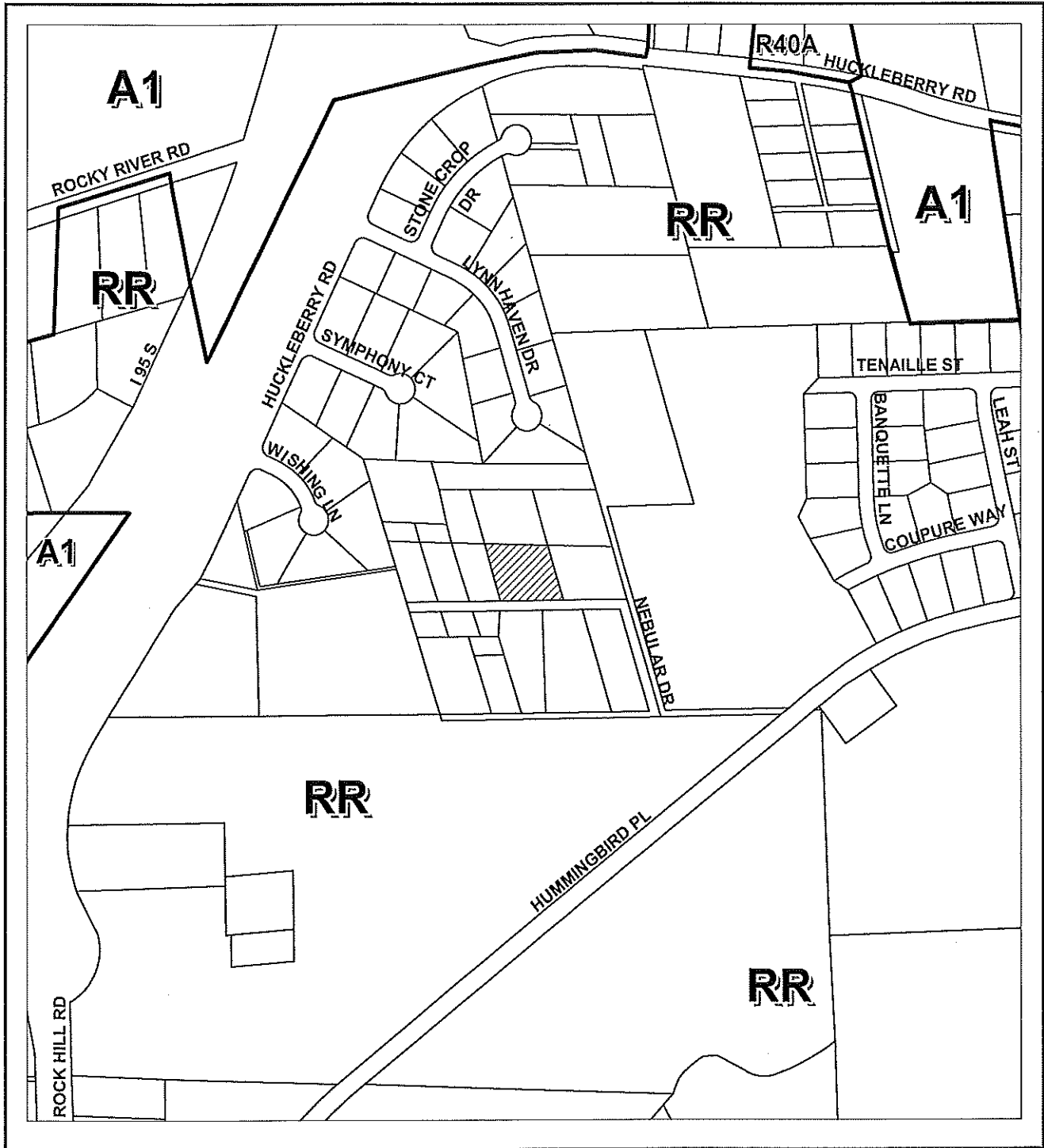
CONDITIONAL ZONING DISTRICT

- D. **P16-49.** REZONING OF 4.33+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING FOR WHOLESALE SALES OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 8015 MAXWELL ROAD, SUBMITTED BY HOLDEN FAMILY INVESTMENTS, LLC (OWNER) AND THOMAS NEVILLE (AGENT).

VIII. DISCUSSION

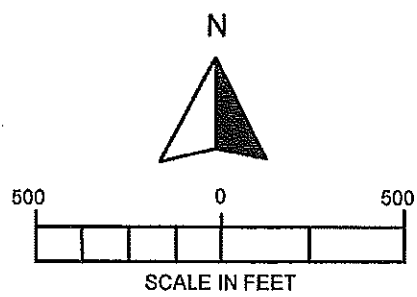
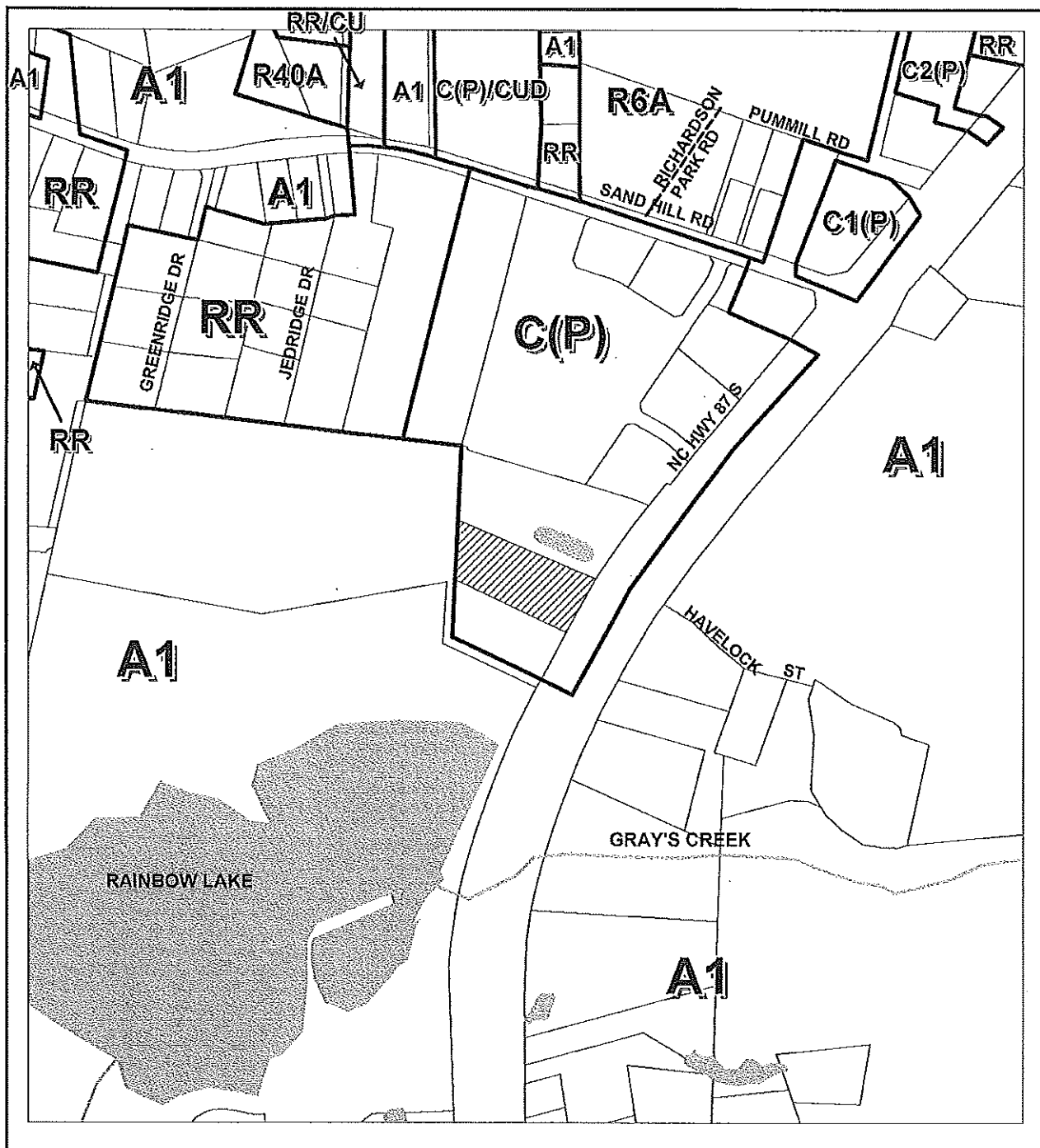
DIRECTOR'S UPDATE

IX. ADJOURNMENT



## COUNTY SUBDIVISION ORDINANCE WAIVER

<b>ACREAGE: 1.00 AC.+/-</b>	<b>HEARING NO: 16-102</b>	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		



## REQUESTED REZONING C(P) & A1A

ACREAGE: 2.36 AC.+/-		HEARING NO: P16-48	
ORDINANCE: COUNTY	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			

PIN: 0442-28-7695

Charles Morris,  
Chair  
Town of Linden

Diane Wheatley,  
Vice-Chair  
Cumberland County

Jami McLaughlin,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman

Donovan McLaurin  
Wade, Falcon & Godwin



CUMBERLAND  
★ COUNTY ★  
NORTH CAROLINA

—◆—  
*Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Vikki Andrews,  
Carl Manning,  
Lori Epler,  
Cumberland County

Benny Pearce,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

November 8, 2016

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board

**FROM:** Planning & Inspections Staff

**SUBJECT:** Staff Recommendation for November 15, 2016 Board Meeting

**P16-50. REVISION AND AMENDMENT TO THE TOWN OF HOPE MILLS ZONING ORDINANCE, REGARDING PROVISIONS RELATED TO THE BOARD OF ADJUSTMENT, SPECIFICALLY ARTICLE XVII BOARD OF ADJUSTMENT IN ITS ENTIRETY. (HOPE MILLS)**

The Planning & Inspections Staff recommends approval of the attached Hope Mills zoning ordinance text amendment which, if approved, would establish the Town Board of Commissioners as the Board of Adjustment.

The staff also recommends the board find that approval of the amendment to the town's zoning ordinance is consistent with the adopted comprehensive plan designated as the **2030 Growth Vision Plan**, specifically including: Policy Area 2: *Well-Managed Growth and Development*. The proposed amendment is also generally consistent with the **Southwest Cumberland Land Use Plan** in that the adopted goals and objectives of the plan strive to ensure compatibility of land uses as well as promoting development that has a positive impact on the social, natural, and environmental conditions in the immediate surrounding area.

The staff further recommends the board find that approval of this amendment is reasonable and in the public interest based on the foregoing information and that by ensuring certain uses are limited to areas where by the small town character will not be affected.

Attachment: P16-50 Hope Mills Zoning Ordinances Text Amendment

**ARTICLE XVII**  
**BOARD OF ADJUSTMENT**

**Sec. 102A-1701. Establishment**

The Board of Commissioners, pursuant to N.C. Gen. Stat. § 160A-388, does establish a Board of Adjustment. The powers and duties of the Board of Adjustment shall be exercised by the five members of the Board of Commissioners. The Board of Adjustment, however, is an independently operating board, and shall be bound by and shall follow the requirements of this Article. The Board of Adjustment will meet on an as-needed basis.

**Sec. 102A-1702. Composition**

The Mayor Pro Tempore shall serve as the Chairperson of Board of Adjustment and shall preside over all meetings of that board. The Town Clerk shall serve as the Secretary of the Board of Adjustment, and shall keep minutes of the proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Board of Adjustment shall elect a Vice-Chairperson by majority vote from among its members. The Vice-Chairperson shall serve a term of one year, but is eligible to serve consecutive terms. The Mayor shall not be a member of the Board of Adjustment.

**Sec. 102A-1703. Powers and Duties**

When sitting as the Board of Adjustment, the Board shall have the following powers and duties:

- (A) **Appeals.** To hear and decide appeals from decisions of the Town Manager, Development & Planning Administrator, Flood Administrator, Stormwater Department, Historic Resource Commission, and/or other administrative officials charged with enforcement of this ordinance. To this end, the Board shall have all the powers of the officer from whom the appeal is taken. An appeal to the Board of Adjustment shall be conducted in accordance with the provisions of Sec. 102A-1705, "Appeals."
- (B) **Variances.** When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board shall vary any of the provisions of the ordinance. Requests for variances shall be processed and considered in accordance with the provisions of section Sec. 102A-1706, "Variances."
- (C) **Special Use Permits.** The Board of Adjustment is authorized to hear and decide special use permits in accordance with the provisions of Sec. 102A-1707, "Special Use Permits."
- (D) **Interpretations.** The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions in accordance with Sec. 102A-1708, "Interpretations."
- (E) **Oaths.** The Chairman or any member temporarily acting as Chairman is authorized in his or her official capacity to administer oaths to witnesses in any matter coming before the Board.

- (F) **Subpoenaing witnesses.** The board of adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d), as set forth in Sec. 102A-1705(B), may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

**Sec. 102A-1704. Fees.**

A fee shall be paid to the town for each application for an appeal or variance. The fee shall be adopted and periodically amended by the Board of Commissioners as needed to cover the administrative costs and advertising associated with the appeal or variance. A copy of the fee schedule shall be available for review in the office of the Town Clerk.

**Sec. 102A-1705. Appeals.**

- (A) The Board of Adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of the zoning or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, subject to the terms of this section. The Board of Adjustment will not hear appeals related to building code violations, and those appeals should be directed to the Department of Insurance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination.
- (B) Any person who has standing under G.S. 160A-393(d) or the town may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. Persons having standing pursuant to G.S. 160A-393(d) include the following:
- (1) Any person meeting any of the following criteria:
    - a. Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.
    - b. Has an option or contract to purchase the property that is the subject of the decision being appealed.

- c. Was an applicant before the decision-making board whose decision is being appealed.
  - (2) Any other person who will suffer special damages as the result of the decision being appealed.
  - (3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
  - (4) A city whose decision-making board has made a decision that the council believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of an ordinance adopted by that council.
- (C) **Notice of Decision.** The official who made the decision shall give written notice of the decision to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal deliver, electronic mail, or by first-class mail.
- (D) **Time to Appeal.** The owner or other party shall have thirty (30) days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- (E) **Constructive Notice.** It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.
- (F) **Record on Appeal.** The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (G) **Stay of Enforcement.** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of



the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

- (H) **Hearings Within a Reasonable Time.** Subject to the provisions of subsection (G) above, the board of adjustment shall hear and decide the appeal within a reasonable time.
- (I) **Hearing.** The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

When hearing an appeal pursuant to G.S. 160A-400.9(e) (i.e. from a decision of the Historic Preservation Commission granting or denying a certificate) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

- (K) **Alternative Dispute Resolution.** The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The board of adjustment may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

#### **Sec. 102A-1706. Variances.**

- (A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Town Clerk. The applicant may submit reports, arguments, proposed findings or other documents along with the application.
- (B) When unnecessary hardship would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or to the general public, may not be the basis for granting a variance.
  - (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  - (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- (C) In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
- (D) A variance may be issued for an indefinite duration or for a specified duration only.
- (E) The nature of the variance and any conditions attached to it shall be entered on the face of the certificate of zoning compliance, or the certificate of zoning compliance may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.
- (F) The concurring vote of four-fifths of the board shall be necessary to grant a variance.

#### **Sec. 102A-1707. Special Use Permits**

- (A) The various uses set forth in the matrix in Article IV, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the Board of Adjustment in accordance with the standards and conditions set forth in this section.
- (B) Special use permits shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Sec. 102A-403 (use matrix) as special uses. Uses specified as a special use in Sec. 102A-403 shall be permitted only upon the issuance of a special use permit by the Board of Adjustment.
- (C) **Application.** The owner or owners of all property included in the petition for a special use permit shall submit a complete application and five copies of a detailed site plan (drawn in accordance with the specifications listed in Sec. 102A-1503) to the County

Planning Staff. The staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. The Town Clerk shall also notify the commanders of the military bases of any application affecting the use of property located within five or less miles of the perimeter boundary of said bases. Developers are encouraged to discuss their special use plans with the County Planning and Town Staff prior to submission of the application. The staff shall assist the developer upon request by reviewing special use plans to ensure that the technical requirements of this ordinance are met before submission to the Board of Adjustment.

- (D) **Consideration of Application.** The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this article and may grant or deny the special use permit requested. In granting a special use permit, the board shall find that:
- (1) The use will not materially endanger the public health or safety if located according to the plan submitted and proposed;
  - (2) The use meets all required conditions and specifications;
  - (3) The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
  - (4) The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Hope Mills' most recent and officially adopted land use plan, either comprehensive or a detailed area plan.
- (E) **Final Disposition.** In granting approval of a special use permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare, and public interest. In granting a special use permit, the Board of Adjustment may give due consideration the considerations set forth in Subsection (D) above, as well as to any or all of the following:
- (1) The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;
  - (2) The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;
  - (3) The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;
  - (4) The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;

- (5) The added noise level created by activities associated with the proposed use;
- (6) The requirements for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;
- (7) Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;
- (8) The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;
- (9) The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;
- (10) The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;
- (11) The availability of public facilities and utilities;
- (12) The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the Individual uses; and/or
- (13) The reasonableness of the request as compared to the purpose and intent of the most recent land use plan, this ordinance, and officially adopted policies, for the physical development of the district, and protection of the environment.

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

If the board denies the special use permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider re-submission of the application for the same special use permit on the same property without a substantial material change concerning the property and the application.

- (F) **Expiration of Permits.** Any special use granted becomes null and void if not exercised within the time specified in such approval, or, if no date is specified, within one calendar year from the date of such approval. Furthermore, once the *Certificate of Occupancy* has been issued for a special use and then the special use ceases to exist for a time period of one calendar year or more, a re-submittal of the special use application for the same use may be required if there has been a material change in the ordinance standards.
- (G) **Modification to Plans.** The Board of Adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a special use application, and new conditions may be imposed where findings require. The County Planning and Town Staff may approve minor modifications of the approved plans in the same manner as authorized in Sec. 102A-508 for conditional zoning districts, provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.
- (H) **Noncompliance.** If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, the special use permit shall be null and void and of no effect, and the County Planning or Town Staff shall institute proceedings for the case to be reheard by the Board of Adjustment.

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

- (I) **Appeals.** No appeal may be taken from the action of the Board of Adjustment in granting or denying a special use permit except through the Superior Court of Cumberland County in the same manner as set forth in this article for appeal of any Board of Adjustment decision.

**Sec. 102A-1708. Interpretations.**

- (A) The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such

questions arise in the context of an appeal from a decision of the Administrator, they shall be handled as provided in Sec. 102A-1705, "Appeals."

- (B) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator. The application shall contain sufficient information to enable the Board to make the necessary interpretation.
- (C) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
  - (1) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
  - (2) Boundaries indicated as approximately following lot lines, Town limits or extraterritorial boundary lines shall be construed as following such lines, limits or boundaries;
  - (3) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline, shall be construed as following such shorelines;
  - (4) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Maps, the boundary shall be determined by measurement, using the scale of the Official Zoning Map; and
  - (5) Where any street or alley is hereafter officially closed or withdrawn, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added to the parcel by virtue of such closure or withdrawal.
- (D) Interpretations of the location of floodway and floodplain boundary lines may be made by the Administrator as provided in article XVI, "Floodways, Floodplains, Drainage and Erosion," part 1.

**Sec. 102A-1709. Voting.**

- (A) The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- (B) A member of any board exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate

affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

- (C) The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

**Sec. 102A-1710. Reversal of Decisions.**

After a public hearing has been held and approval granted for a special use or variance, the Board of Adjustment may reverse any decision upon finding that the:

- (1) Approval was obtained by fraud;
- (2) Use for which such approval was granted is not being executed;
- (3) Use for which such approval was granted has ceased to exist or has been suspended for one year or more;
- (4) Permit granted is being, or recently has been, exercised contrary to the terms of conditions of such approval or in violation of any regulation or statute; or
- (5) Use for which the approval was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

**Sec. 102A-1711. Appeal of Final Decision.**

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to [G.S. 160A-393](#). A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.



Charles Morris,  
Chair  
Town of Linden

Diane Wheatly,  
Vice-Chair  
Cumberland County

Jami McLaughlin,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman

Donovan McLaurin  
Wade, Falcon & Godwin



CUMBERLAND  
COUNTY  
NORTH CAROLINA

Planning & Inspections Department

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Vikki Andrews,  
Carl Manning,  
Lori Epler,  
Cumberland County

Benny Pearce,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

November 8, 2016

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the November 15, 2016 Board Meeting

**P16-44.** REZONING OF 1.85+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 124 BAYWOOD ROAD, SUBMITTED BY JING MESTER ON BEHALF OF BAYWOOD PROPERTIES, LLC (OWNERS).

**1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends denial of the C(P) Planned Commercial but approval of the C2(P) Planned Service and Retail district for Case No. P16-44; The recommended district is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “community growth area” at this location.

The staff recommends the board further find that approval of the recommended rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *public water and sewer required*, public water and sewer (PWC) is available; *must have direct access to a collector street*, Baywood Road is a minor collector street; *should serve as a transition between heavy commercial, office & institutional or residential development*; *should have other light commercial uses in the area*; *should provide convenient goods and services to the immediate surrounding neighborhood*; *and may be located along a street that is in transition from residential to non-residential through redevelopment and physical improvements*.

**2<sup>nd</sup> MOTION**

In addition to the above information, the Planning and Inspections Staff recommends denial of the requested district of C(P) Planned Commercial but approval of the C2(P) Planned Service and Retail district based on the following :

- The C2(P) Planned Service and Retail district is logical as there are similar commercial zoning districts and uses in the general area.

The applicant has verbally agreed with the staff recommendation.

Attachments:

- 1 – Site Profile
- 2 – Sketch Map



**P16-44**  
**SITE PROFILE**

**P16-44.** REZONING OF 1.85+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 124 BAYWOOD ROAD, SUBMITTED BY JING MESTER ON BEHALF OF BAYWOOD PROPERTIES, LLC (OWNERS).

**Site Information:**

**Frontage & Location:** 445.81'+/- on SR 1831 (Baywood Rd) & 210.00'+/- on SR 1006 (Clinton Rd)

**Depth:** 219.05'+/-

**Jurisdiction:** County

**Adjacent Property:** No

**Current Use:** Light commercial

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

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: RR, SF-15 (Fayetteville) & R10; South: C2(P), RR, RR/CU (billboard) & R20; East: RR; West: C(P), RR & R5A

**Surrounding Land Use:** Residential, woodlands & farmland

**2030 Growth Vision Plan:** Community growth area

**School Capacity/Enrolled:** Sunnyside Elementary: 300/377; Mac Williams Middle: 1270/1165; Cape Fear High School: 1425/1534

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

**Municipal Influence Area:** Stedman

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

**Soil Limitations:** Yes, hydric – Le Leon sand

**Subdivision/Site Plan:** If approved, any change in use would require site plan review.

**Average Daily Traffic Count (2014):** 3300 on SR 1831 (Baywood Rd)

**Highway Plan:** Baywood Road is a local thoroughfare with no road improvements/ construction planned. This case has no impact on the current Highway Plan or Transportation Improvement Program.

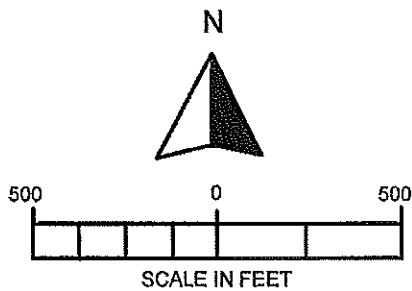
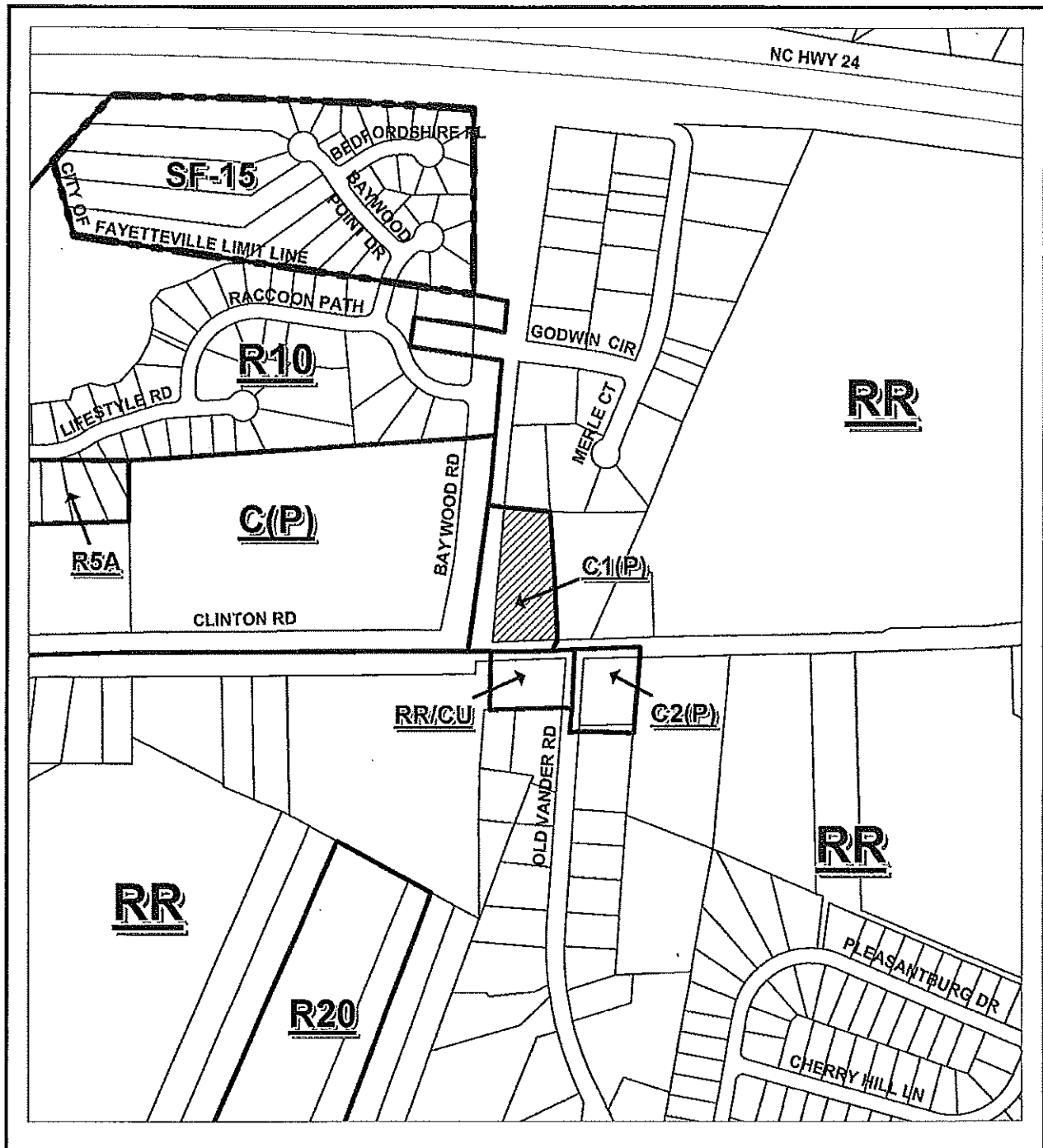
**Notes:**

1. **Minimum Yard Setbacks:**

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

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

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



## REQUESTED REZONING C1(P) TO C(P)

ACREAGE: 1.85 AC. +/-

HEARING NO: P16-44

ORDINANCE: COUNTY

HEARING DATE

ACTION

STAFF RECOMMENDATION

PLANNING BOARD

GOVERNING BOARD

Charles Morris,  
Chair  
Town of Linden

Diane Wheatley,  
Vice-Chair  
Cumberland County

Jami McLaughlin,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman

Donovan McLaurin  
Wade, Falcon & Godwin



CUMBERLAND  
★ COUNTY ★  
NORTH CAROLINA

—◆—  
*Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Vikki Andrews,  
Carl Manning,  
Lori Epler,  
Cumberland County

Benny Pearce,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

November 8, 2016

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the November 15, 2016 Board Meeting

**P16-47.** REZONING OF 75.00+/- ACRES FROM A1 AGRICULTURAL & R40 RESIDENTIAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2787 THROWER ROAD, SUBMITTED BY VANCE U. TYSON ON BEHALF OF ASBY HOLDINGS, LLC (OWNER) AND CRAWFORD MCKETHAN (AGENT).

**1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends the board find approval of the request is consistent with the *2030 Growth Vision Plan*, which calls for “rural” at this location and the plan calls for “urban” on adjacent properties across Thrower Road. The request is not consistent with the South Central Land Use Plan which calls for “farmland,” but could be found suitable as the plan calls for “low density residential” on adjacent properties across Thrower Road.

The staff recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *septic systems allowed based on soil type, lot size, and distance from public sewer; must have direct access to a public street*, Thrower Road is a public street; *must not be located in any defined critical area as defined by the Fort Bragg Small Area Study*.

**2<sup>nd</sup> MOTION**

In addition to the above information, the Planning and Inspections Staff recommends the board approve Case No. P16-47 for R20 Residential based on the following:

- The developer is proposing to extend PWC water to the site, which is critical for future and existing development in Gray’s Creek – to include the nearby elementary schools.

The R30 Residential zoning district could also be considered suitable at this location.

Attachments: 1 – Site Profile; 2 – Sketch Map

**P16-47**  
**SITE PROFILE**

**P16-47.** REZONING OF 75.00+/- ACRES FROM A1 AGRICULTURAL & R40 RESIDENTIAL TO R20 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2787 THROWER ROAD, SUBMITTED BY VANCE U. TYSON ON BEHALF OF ASBY HOLDINGS, LLC (OWNER) AND CRAWFORD MCKETHAN (AGENT).

**Site Information:**

**Frontage & Location:** 1,950'+/- on SR 2245 (Thrower Rd) & 150.00'+/- on SR 2245 (Thrower Rd)

**Depth:** 2,100'+/-

**Jurisdiction:** County

**Adjacent Property:** Yes

**Current Use:** Residential & Farmland

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

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: A1, RR, R20 & R15; South: A1, R40 & RR; East: C1(P), A1, R40 & RR; West: A1, A1A, R40, R40A & RR

**Surrounding Land Use:** Residential (including manufactured homes), farmland and trade contractor

**2030 Growth Vision Plan:** Rural

**South Central Land Use Plan:** Farmland

**School Capacity/Enrolled:** Alderman Road Elementary: 750/731; Gray's Creek Middle: 1100/1025; Gray's Creek High: 1270/1368

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

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

**Soil Limitations:** None

**Subdivision/Site Plan:** If approved, subdivision review would be required.

**Average Daily Traffic Count (2014):** 240 on SR 2245 (Thrower Rd)

**Highway Plan:** Thrower Road is a local road with no road improvements/construction planned. No impact on the current Highway Plan or Transportation Improvement Plan.

**Notes:**

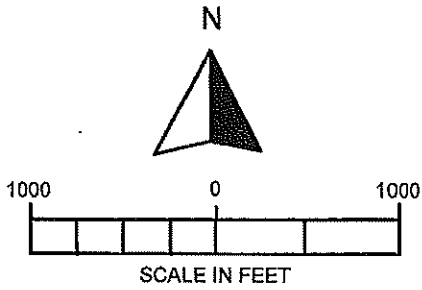
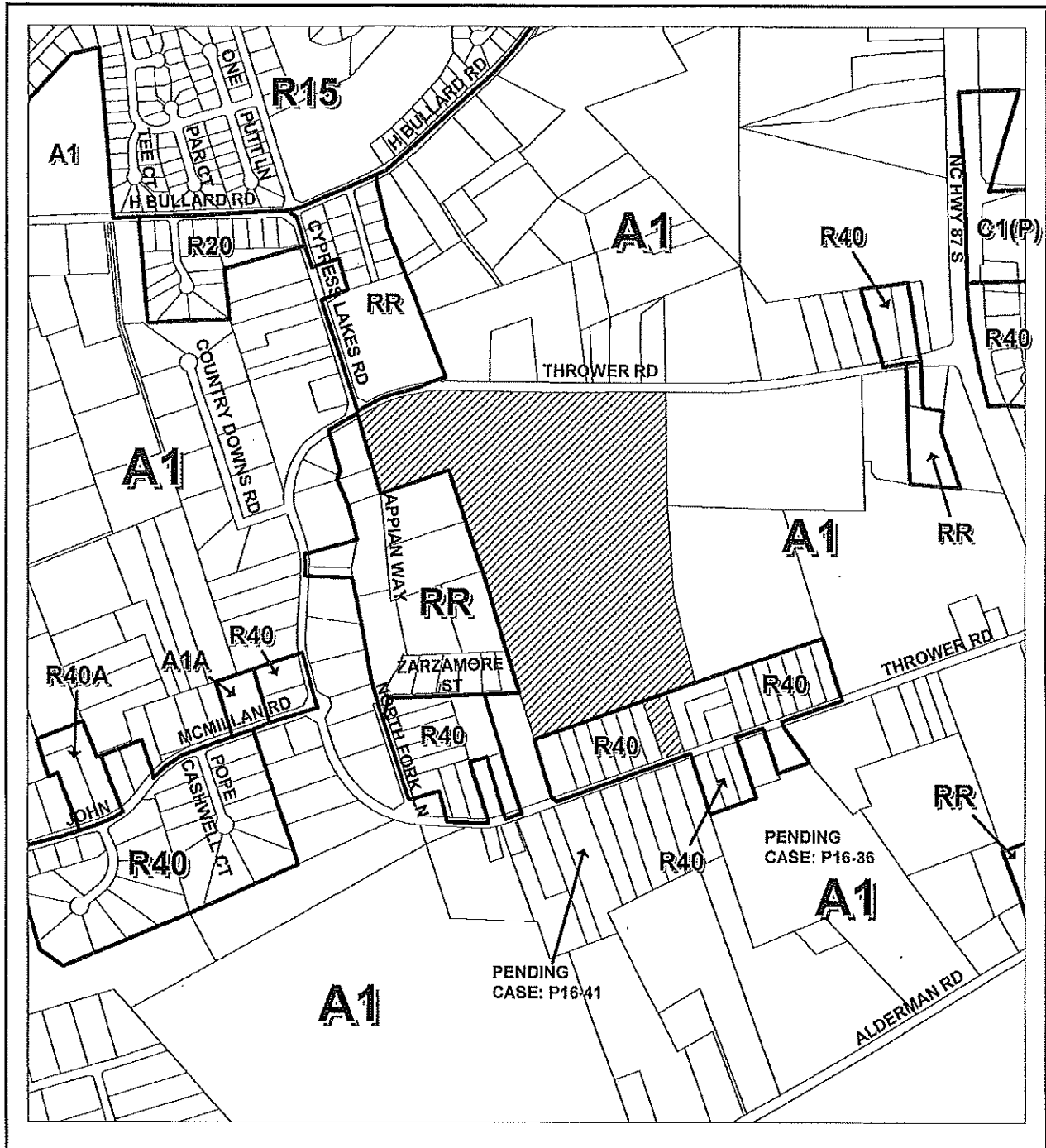
1. Density (minus 15% for R/W)  
A1 – 31 lots/32 units  
A1A – 63 lots/ 64 units  
R40/R40A – 69 lots/units  
R30 – 92 lots/ 93 units  
R20 – 138 lots/ 139 units

2. Minimum Yard Setbacks:

<u>A1 &amp; A1A</u>	<u>R40, R40A, R30 &amp; R20</u>
Front yard: 50'	Front yard: 30'
Side yard: 20'	Side yard: 15'
Rear yard: 50'	Rear yard: 35'

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

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



PIN: 0442-00-1723

# REQUESTED REZONING A1 & R40 TO R20

<b>ACREAGE: 75.00 AC.+/-</b>		<b>HEARING NO: P16-47</b>	
ORDINANCE: COUNTY	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			



Charles Morris,  
Chair  
Town of Linden

Diane Wheatley,  
Vice-Chair  
Cumberland County

Jami McLaughlin,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman

Donovan McLaurin  
Wade, Falcon & Godwin



CUMBERLAND  
★ COUNTY ★  
NORTH CAROLINA

Planning & Inspections Department

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Vikki Andrews,  
Carl Manning,  
Lori Epler,  
Cumberland County

Benny Pearce,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

November 8, 2016

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the November 15, 2016 Board Meeting

**P16-49.** REZONING OF 4.33+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING FOR WHOLESALE SALES OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 8015 MAXWELL ROAD, SUBMITTED BY HOLDEN FAMILY INVESTMENTS, LLC (OWNER) AND THOMAS NEVILLE (AGENT).

**1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends the board find that approval of the request is somewhat consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for "rural development" at this location, in that approval would allow the property owner to continue an agricultural and commercial operation that has existed on the property for quite some time.

The staff recommends the board further find that approval of this request is reasonable and in the public interest because the district requested for the subject property generally meets most of the location criteria of the adopted Land Use Policies Plan, in that: *public water and sewer is required*, the site has access to ESD water, however, public sewer is not available; *should have minimum direct access to a collector street*, Maxwell Road is a major collector street; *must be located on a sufficient site that provides adequate area for buffering, screening and landscaping*, the subject property contains 4.33+/- acres.

**2<sup>nd</sup> MOTION**

In addition to the above information, the Planning and Inspections Staff recommends the board approve Case No. P16-49 for the C(P) Planned Commercial/CZ Conditional Zoning district for Wholesale Sales based on the following:

1. The location and character of the requested district will be in harmony with the general area as it is contained within a 4.33+/- acre tract, with a small portion of the current use existing prior to zoning; and
2. All activity for the requested use occurs off site at the customers place of business, therefore, there will be no affect from additional traffic in the area.

There are no other districts considered suitable for this request at this location.

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

**P16-49**  
**SITE PROFILE**

**P16-49.** REZONING OF 4.33+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING FOR WHOLESALE SALES OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 8015 MAXWELL ROAD, SUBMITTED BY HOLDEN FAMILY INVESTMENTS, LLC (OWNER) AND THOMAS NEVILLE (AGENT).

**Site Information:**

**Frontage & Location:** 122.80'+/- on SR 1006 (Maxwell Rd)

**Depth:** 831.00'+/-

**Jurisdiction:** County

**Adjacent Property:** Yes

**Current Use:** Wholesale sales of agricultural and motor vehicle related equipment

**Initial Zoning:** A1 – August 23, 1994 (Area 19)

**Nonconformities:** Operating commercial business in agricultural zoning.

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

**Surrounding Zoning:** North: A1 & CD; South: A1 & R40; East & West: A1

**Surrounding Land Use:** Residential (including manufactured homes), farmland & woodland

**2030 Growth Vision Plan:** Rural

**School Capacity/Enrolled:** Eastover Central Elementary: 540/421; Mac Williams Middle: 1270/1165; Cape Fear High School: 1425/1534

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

**Water/Sewer Availability:** Eastover/Septic

**Soil Limitations:** None

**Subdivision/Site Plan:** If approved, see ordinance related conditions.

**Average Daily Traffic Count (2014):** 2600 on SR 1006 (Maxwell Rd)

**Highway Plan:** Maxwell Road is a local thoroughfare with no road improvements/ construction planned. This case has no impact on the current Highway Plan or Transportation Improvement Program.

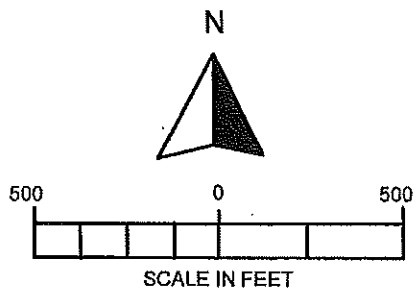
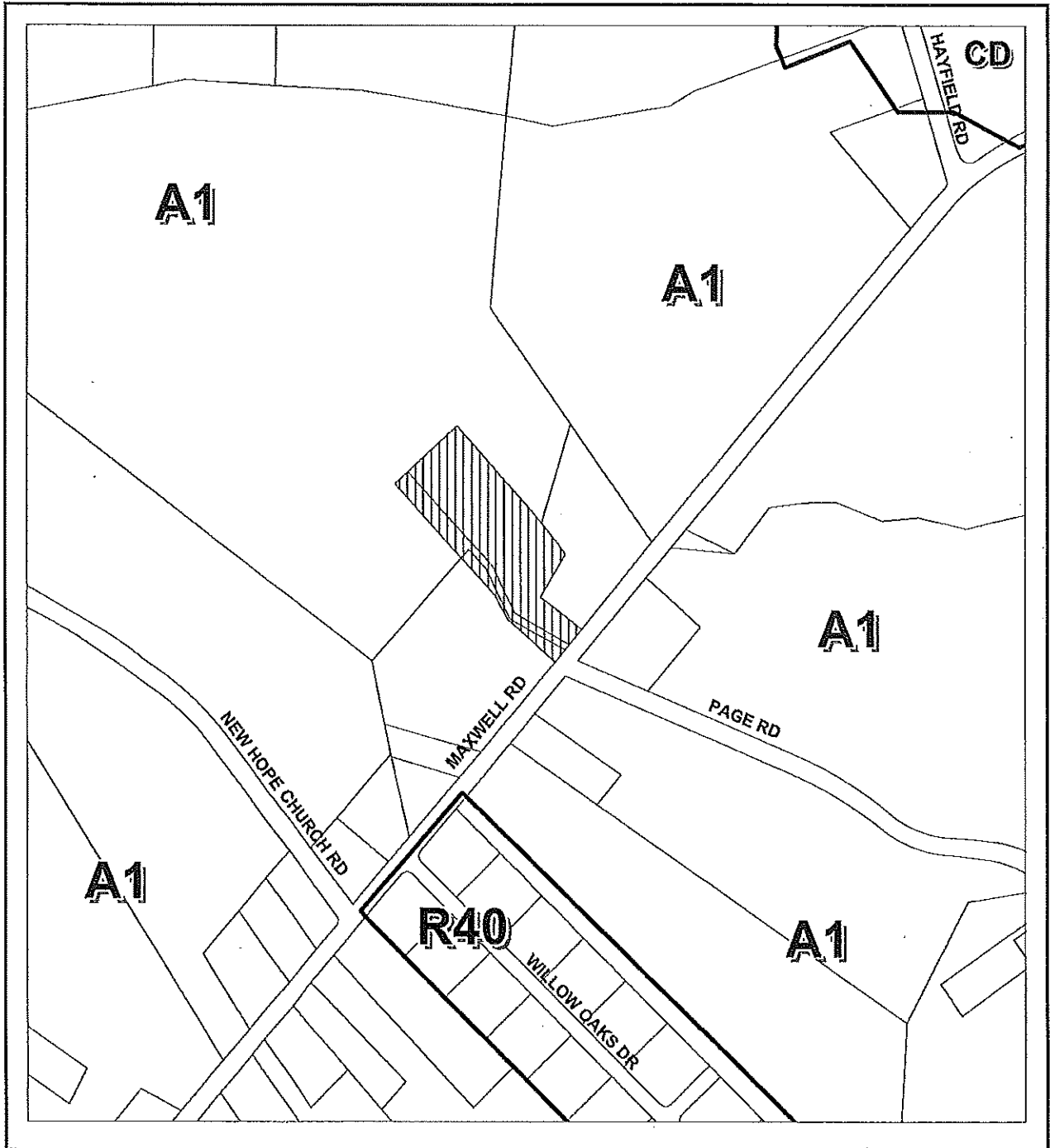
**Notes:**

1. Density  
A1 – 2 lots/units  
A1A – 4 lots/units
  
2. Minimum Yard Setbacks:

<u>A1 &amp; A1A</u>	<u>C(P)</u>
Front yard: 50'	Front yard: 50'
Side yard: 20'	Side yard: 30'
Rear yard: 50'	Rear yard: 30'

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

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

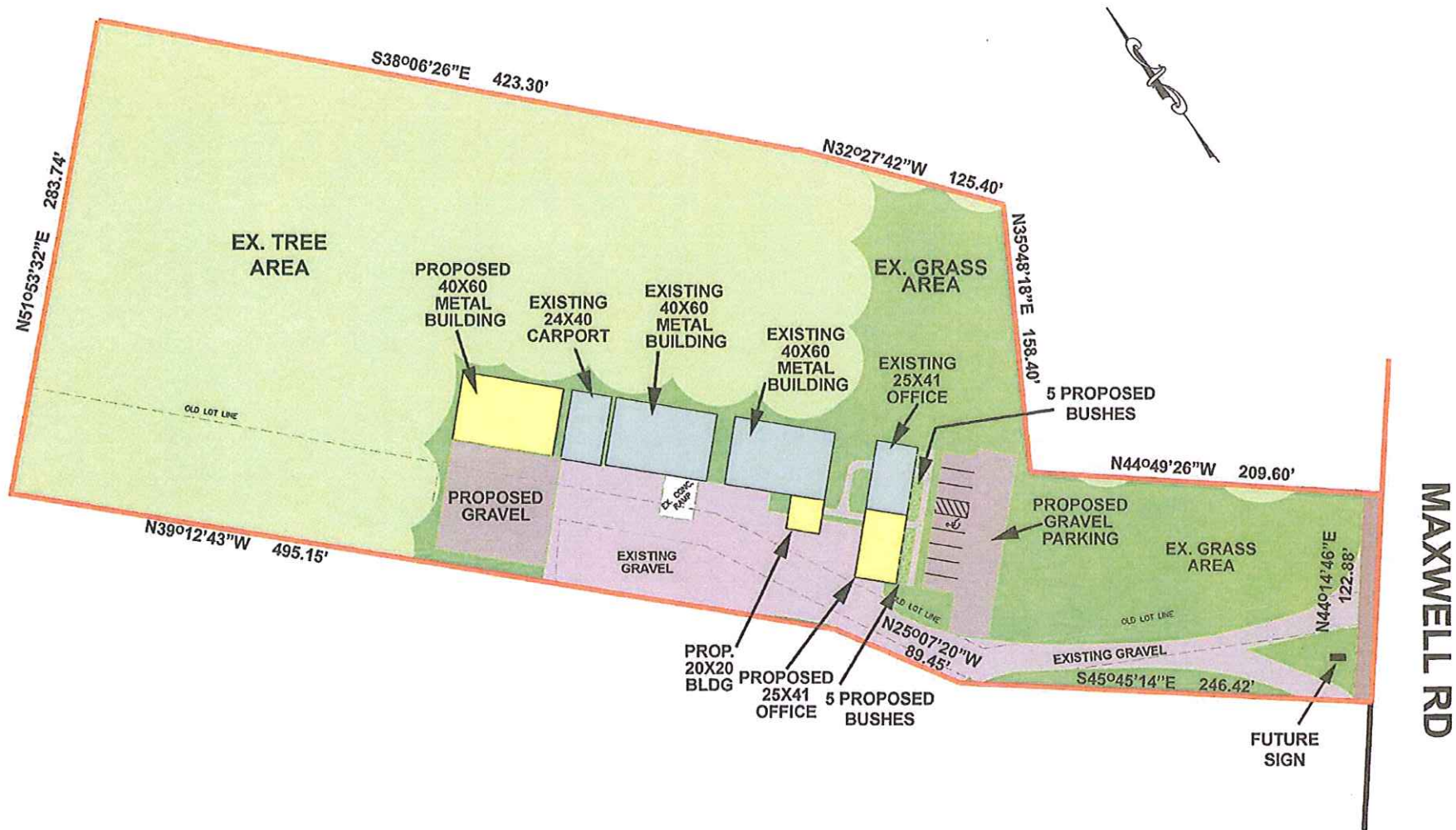


## REQUESTED REZONING A1 TO C(P)/CZ

<b>ACREAGE: 4.33 AC.+/-</b>		<b>HEARING NO: P16-49</b>	
ORDINANCE: COUNTY	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			

PIN: 0498-54-6545  
 PORT. OF PIN: 0498-45-7228  
 PORT. OF PIN: 0498-54-5121





**C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING**

**REQUEST: WHOLESALE SALES**

**CASE: P16-49    ACREAGE: 4.33 AC+/-**

**SCALE: NTS    PARKING: 8 SPACES**

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

**C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING DISTRICT**

**DRAFT**

Ordinance Related Conditions  
for  
Wholesale Sales

**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 and Development Ordinance)
4. 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 ESD 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)
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. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. Three copies of a revised site plan depicting the landscaping must be submitted to Land Use Codes. The following are the minimum standards for the required landscaping of this site:
  - a. 3 large shade trees or 6 small ornamental trees within the front yard setback area along SR 1006 (Maxwell Road); and
  - b. 2 ornamental trees and 10 shrubs are required in the building yard area.

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
  - b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
9. 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.
  10. 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.

11. 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. Permits MUST be secured prior to the change or alteration of existing or proposed property use. Failure to secure required permits prior to construction or change in property usage may result in the removal of the driveway or street connections at the property owner's expense. For additional information contact the Division 6 / District 2 office at the number listed on the bottom of this conditional approval.

**Note: In the event the NCDOT driveway permit process alters the site plan in any manner, the copies of a revised site plan must be submitted for staff review and approved prior to permit application.**

**Site-Related:**

12. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the C(P) zoning district, to include the contents of the application and site plan, must be complied with, as applicable.
13. 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.)
14. 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)
15. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
16. 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.
17. Turn lanes may be required by the NC Department of Transportation (NCDOT).
18. 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.
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 are required to be a minimum of 9' x 20'; a minimum of 12 off-street parking spaces is required for this development.

21. A minimum of one off-street loading spaces(s) measuring 12' x 25' with 14' overhead clearance must be provided for the wholesale area.

**Plat-Related:**

22. Any/All easements must be reflected on the recombination 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.
23. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the recombination plat when submitted for approval for recording. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision and Development Ordinance)
24. 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:**

25. 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 and Development 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.”

26. Since this development is located within the *Farmland Protection Area* as defined on the current Land Use Plan map, the following disclosure statement is required to be provided on the recombination plat (Section 2504 B, Farmland Protection Area Disclosure, County Subdivision and Development Ordinance):

“This property or neighboring property may be subject to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted farming and agricultural practices and operations, including but not limited to noise, odors, dust, the operation of any kind of machinery the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides, and pesticides.”

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

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

**Other Relevant Conditions:**

28. 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.
29. An internal street system most likely will be required to serve any future divisions of the subject properties.
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 US Postal Service most likely will require this development to have centralized cluster boxes for postal service to each lot or unit. The developer is advised contact the US Postal Growth Coordinator for the Mid-Carolinas District to determine the appropriate location for the cluster boxes. If the cluster box location requires changes to the subdivision or site plan, a revised preliminary/plan must be submitted to the Planning & Inspections Department for review and approval.



32. This conditional approval is not to be construed as all encompassing of the applicable rules, regulations, etc. which must be complied with for any development. Other regulations, such as building, environmental, health and so forth, may govern the specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.

*Thank you for choosing Cumberland County for your business location!*

**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	<a href="mailto:ebyrne@co.cumberland.nc.us">ebyrne@co.cumberland.nc.us</a>
Code Enforcement (Permits):	Scott Walters	321-6654	<a href="mailto:swalters@co.cumberland.nc.us">swalters@co.cumberland.nc.us</a>
County Building Inspections:	Gary Faulkner	321-6648	<a href="mailto:gfaulkner@co.cumberland.nc.us">gfaulkner@co.cumberland.nc.us</a>
Fire Marshal – Emergency Services	Rodney Ward	321-6625	<a href="mailto:rward@co.cumberland.nc.us">rward@co.cumberland.nc.us</a>
County Engineer’s Office:	Wayne Dudley	678-7636	<a href="mailto:wdudley@co.cumberland.nc.us">wdudley@co.cumberland.nc.us</a>
County Health Department:	Daniel Ortiz	433-3680	<a href="mailto:dortiz@co.cumberland.nc.us">dortiz@co.cumberland.nc.us</a>
Eastover Sanitary District:	Connie Spell	229-3716	<a href="mailto:cfspllesd@ncrrbiz.com">cfspllesd@ncrrbiz.com</a>
County Public Utilities:	Amy Hall	678-7637	<a href="mailto:ahall@co.cumberland.nc.us">ahall@co.cumberland.nc.us</a>
US Postal Service	Jonathan R. Wallace	(704) 393-4412	<a href="mailto:jonathan.r.wallace@usps.gov">jonathan.r.wallace@usps.gov</a>
Corp of Engineers (wetlands):	Liz Hair	(910) 251-4049	<a href="mailto:hair@usacr.army.mil">hair@usacr.army.mil</a>
NCDEQ (E&S):	Leland Cottrell	(910) 433-3393	<a href="mailto:leland.cottrel@ncdenr">leland.cottrel@ncdenr</a>
US Fish & Wildlife Services	Susan Ladd Miller	(910) 695-3323	<a href="mailto:susan_miller@fws.gov">susan_miller@fws.gov</a>
Location Services:			
Site-Specific Address:	Ron Gonzales	678-7616	<a href="mailto:rgonzalez@co.cumberland.nc.us">rgonzalez@co.cumberland.nc.us</a>
Street Naming/Signs:	Diane Shelton	678-7665	<a href="mailto:nameit2@co.cumberland.nc.us">nameit2@co.cumberland.nc.us</a>
Tax Parcel Numbers:		678-7549	
NCDOT (driveways/curb-cuts):	Troy Baker	486-1496	<a href="mailto:tlbaker@ncdot.gov">tlbaker@ncdot.gov</a>
NCDOT (subdivision roads):	David Plummer	486-1496	<a href="mailto:rdplummer@ncdot.gov">rdplummer@ncdot.gov</a>
Transportation Planning:	Michael Mandeville	678 7620	<a href="mailto:mmandeville@co.cumberland.nc.us">mmandeville@co.cumberland.nc.us</a>
N.C. Division of Water Quality:	Mike Randall	(919) 807-6374	<a href="mailto:mike.randall@ncdenr.gov">mike.randall@ncdenr.gov</a>

cc: Connie Spell, Eastover Sanitary District

**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 Holden Family Investments, LLC
2. Address: 8015 Maxwell Road, Wade, NC Zip Code 28395
3. Telephone: (Home) 591-8915 (Work) 323-3160
4. Location of Property: 8015 Maxwell Road, Wade, NC
5. Parcel Identification Number (PIN #) of subject property: 0498-54-6545  
(also known as Tax ID Number or Property Tax ID)
6. Acreage: 4.33 Frontage: 61.16 Depth: 272.58
7. Water Provider: Eastover Sanitary District Septage Provider: Owner
8. Deed Book 9355, Page(s) 74, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: agricultural or rural/wholesale sales
10. Proposed use(s) of the property: wholesale sales of agricultural and commercial auto equipment

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

11. Do you own any property adjacent to, including across the street from, the property being submitted for rezoning? Yes  No
12. Has a violation been issued on this property? Yes  No
13. It is requested that the foregoing property be rezoned FROM: A1

TO: (Select one)

- Conditional Zoning District, with an underlying zoning district of C(P)  
(Article V)
- 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)

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 if approved.)

Proposed use of property is agricultural or rural farm use. Current use of property is wholesale sales, of new equipment primarily utilized for commercial automotive and agricultural uses with operations conducted and merchandise stored entirely within buildings, to include but not limited to, lift air compressors, tire changers, wheel balancers, large fans and heaters.

- 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.

4.33 acre lot to be utilized for commercial use upon which one building will be used as office space and 4 buildings for wholesale sales. All operations will be conducted within buildings. The total area for all buildings is 11,090 SF.

2. DIMENSIONAL REQUIREMENTS:

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

Request setbacks be approved as shown on site plan.

- B. Off-street parking and loading, Sec.1202 & 1203: List the number of spaces, type of surfacing material and any other pertinent information.

Request that parking be approved as shown on site plan. Total proposed parking area is comprised of 32,184 SF which will be gravel.

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIII.

Request signage be approved as shown on plat.

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.**

Request that landscaping and buffer requirements be approved as shown on site plan.

- B. Indicate the type of buffering and approximate location, width and setback from the property lines. (Sec. 1102G). **NOTE: All required buffers must be included on the site plan.**

Request that the buffering and setbacks be approved as shown on site plan. By way of further information, the subject property is mostly surrounded by properties owned by the applicant and utilized for agricultural uses creating very large buffers. In addition, as shown on the site plan, the applicant intends to install additional landscaping primarily for aesthetic purposes.

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.

This is a family owned business. The owners have been involved in Cumberland County for not less than six generations. The property which is adjacent to the property upon which the zoning change is sought is also owned by the owner and has been in the family for six generations. The owners of the property continue to conduct agricultural operations on the adjacent property to include hay farming and timber forestry. The owners have no plans to change said use. The proposed business will have very little traffic as most sales result from orders obtained off-site. The business only sells new equipment and does not store any used equipment and does not service any equipment on site.

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 must be of sufficient detail to allow the Planning and Inspections Staff, Planning Board and County Commissioners to analyze the proposed uses and arrangement of uses on the site. It also must 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.



