

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

TENTATIVE AGENDA

April 18, 2017  
7:00 P.M.

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

**P17-12.** REZONING OF 8.03+/- ACRES FROM A1 AGRICULTURAL TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTH SIDE OF THROWER ROAD, WEST OF NC HWY 87 S; SUBMITTED BY VANCE TYSON (OWNER) AND TIM EVANS (AGENT). **DEFERRED UNTIL MAY 16, 2017**

- IV. ABSTENTIONS BY BOARD MEMBERS
- V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS
- VI. APPROVAL OF THE MINUTES OF MARCH 21, 2017
- VII. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENTS

- A. **P17-07.** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY SUBDIVISION ORDINANCE AMENDING ARTICLE XXIII, IMPROVEMENT AND DESIGN STANDARDS, SECTION 2302. AREA-SPECIFIC STANDARDS, A. MUNICIPAL INFLUENCE AREAS; AND APPENDIXES EXHIBIT 4, OFFICIAL MUNICIPAL INFLUENCE AREA AND SEWER SERVICE AREA MAP, AND EXHIBIT 5 MUNICIPAL INFLUENCE AREA DEVELOPMENT STANDARDS, HOPE MILLS COLUMN, ROW ENTITLED *SIDEWALKS* (PAGE E5-E).
- B. **P17-17.** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, ARTICLE XVI, BOARD OF ADJUSTMENT; AND REQUESTING PERMISSION TO REPRINT THE ZONING ORDINANCE INSERTING ALL TEXT AMENDMENTS APPROVED SINCE JUNE 20, 2005 AS LISTED.

REZONING CASES

- C. **P17-15.** REZONING OF 6.12+/- ACRES FROM A1 AGRICULTURAL TO R40 & R40A RESIDENTIAL, LOCATED AT 2157 SCHOOL ROAD, SUBMITTED BY DANORA J. POWELL (OWNER) AND MICHAEL J. ADAMS (AGENT).

- D. **P17-16.** REZONING OF 3.90+/- ACRES FROM A1 AGRICULTURAL TO R30 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 7045 MAXWELL ROAD, SUBMITTED BY JOSEPH & VIOLET DOWD (OWNERS) AND MICHAEL J. ADAMS (AGENT).

VIII. PUBLIC HEARING CONTESTED ITEMS

REZONING CASES

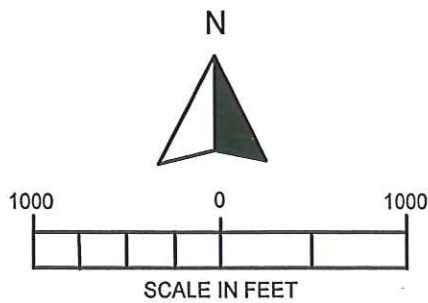
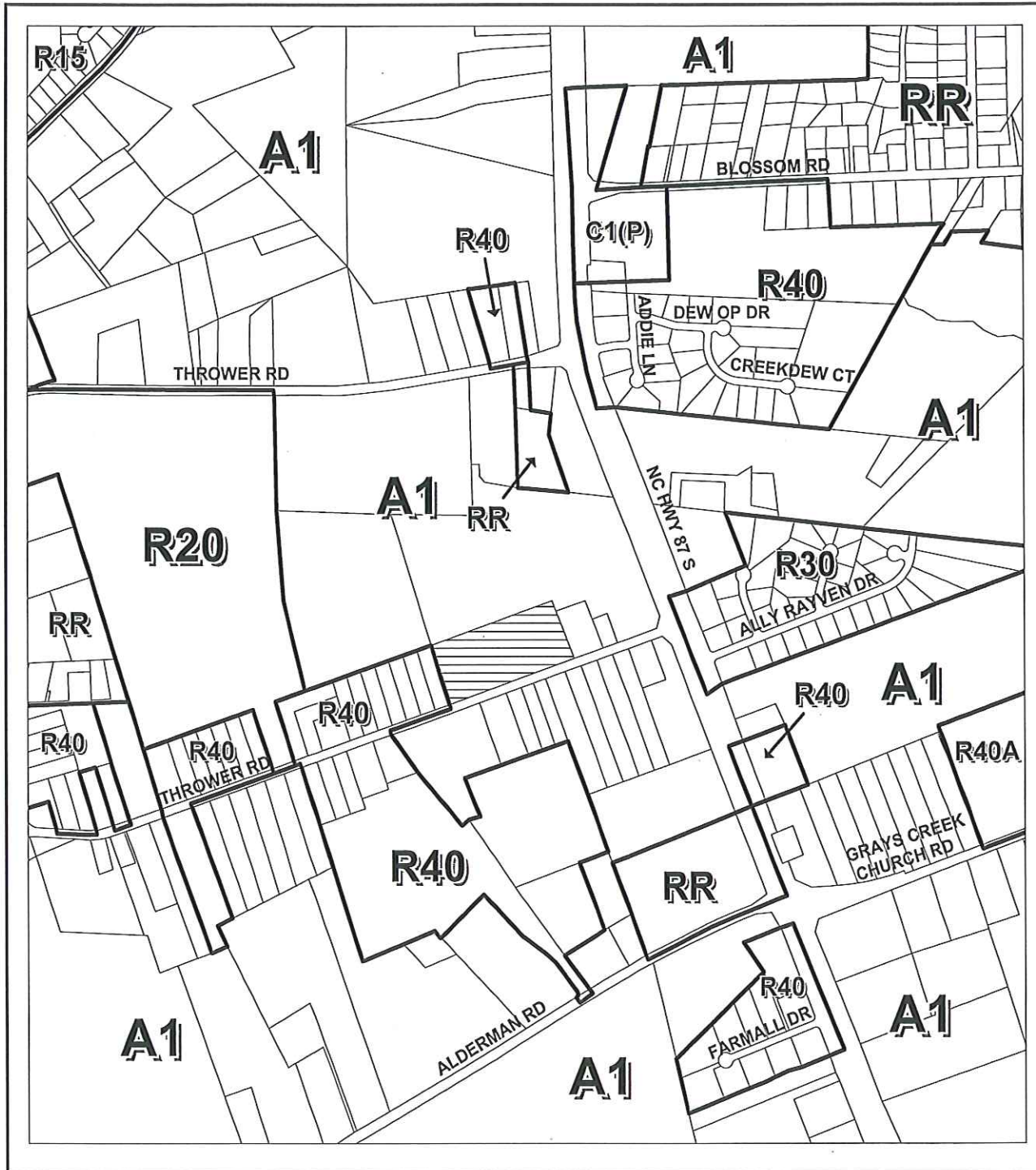
CONDITIONAL ZONING DISTRICT

- E. **P16-28.** REZONING OF 2.13+/- ACRES FROM C3 HEAVY COMMERCIAL & R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING FOR MOTOR VEHICLE REPAIR AND BODY WORK OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2541 BALLPARK ROAD, SUBMITTED BY MICHAEL ANDREW LONGHANY (OWNER). (EASTOVER)
- F. **P17-13.** REZONING OF 3.08+/- ACRES FROM RR RURAL RESIDENTIAL TO C1(P) PLANNED LOCAL BUSINESS/CZ CONDITIONAL ZONING FOR CONVENIENCE RETAIL WITH GASOLINE SALES & RESTAURANT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 6020 US HWY 301 S; SUBMITTED BY A. MAURICE ELLIOT & HELEN ELLIOT SMITH ON BEHALF OF MADIE ELLIOT HEIRS, DANIEL & DEBORA MCPHAUL (OWNERS), DAVID L. PAIT (APPLICANT) AND WILLIAM R. DAVIS, ATTORNEY (AGENT).
- G. **P17-14.** REZONING OF .70+/- ACRES FROM C3 HEAVY COMMERCIAL TO M(P) PLANNED INDUSTRIAL/CZ CONDITIONAL ZONING FOR OPEN STORAGE AND WAREHOUSING OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 5417 TRADE STREET; SUBMITTED BY LOUISE M. AUTRY AND JAMES A. MCLEAN ON BEHALF OF AUTRY & MCLEAN, LLC (OWNER) AND TERRY C. FAIRCLOTH, PLS (AGENT). (HOPE MILLS)

IX. DISCUSSION

DIRECTOR'S UPDATE

X. ADJOURNMENT



PORT OF PIN: 0442-20-4633

## REQUESTED REZONING A1 TO R40

<b>ACREAGE: 8.03 AC.+/-</b>	<b>HEARING NO: P17-12</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,  
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**CUMBERLAND**  
★ **COUNTY** ★  
NORTH CAROLINA

*Planning & Inspections Department*

April 11, 2017

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Director

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Deputy Director

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Carl Manning,  
Lori Epler,  
Cumberland County

Benny Pearce,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board

**FROM:** Land Use Codes Committee  
(Mr. Carl Manning, Moderator)

**SUBJECT:** Recommendation for the April 18, 2017 Board Meeting

**P17-07.** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY SUBDIVISION ORDINANCE AMENDING ARTICLE XXIII, IMPROVEMENT AND DESIGN STANDARDS, SECTION 2302. AREA-SPECIFIC STANDARDS, A. MUNICIPAL INFLUENCE AREAS; AND APPENDIXES EXHIBIT 4, OFFICIAL MUNICIPAL INFLUENCE AREA AND SEWER SERVICE AREA MAP, AND EXHIBIT 5 MUNICIPAL INFLUENCE AREA DEVELOPMENT STANDARDS, HOPE MILLS COLUMN, ROW ENTITLED *SIDEWALKS* (PAGE E5-E).

The Town of Hope Mills has requested a County Subdivision Ordinance text amendment so that the town's recently adopted sidewalk standards will apply to development of properties within the town's Municipal Influence Area (MIA). The Codes Committee has met on two occasions concerning the above referenced subdivision ordinance text amendments. For detailed dates and explanation of pertinent events related to this recommendation, please see attached *P17-07: Timeline and Background Information* with attachments.

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

The Codes Committee recommends the board find that the request from the Town of Hope Mills could only be consistent with the 2030 Growth Vision Plan, most particularly Policy Area 2: Well-Managed Growth and Development which specifies that "not all land is equally suited for development" and "Development that is convenient to existing public facilities maximizes taxpayer investments and minimizes local government service costs" if the staff recommended Hope Mills MIA boundary is approved. In addition, Policy Area 2 establishes the need for clearly defined urban and rural areas for development purposes and that different development standards should apply, "e.g. no curb and gutter, no streetlights, etc." where rural development densities are designated. The request is also not consistent with the Southwest Land Use Plan that clearly defines ideal development densities, patterns and standards for urban, suburban and farmland areas.

The committee recommends the board further find that approval of the requested text amendment would be reasonable and in the public interest only if the town's MIA boundary is modified as recommended by staff with the text to Section 2302.A also being amended to address future modification of the MIA boundaries upon annexation.

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

The committee's recommendation to approve the request provided that the boundary of the MIA is modified is based on the above information and the following:

1. The attached timeline establishes the discrepancies between the fairly recently adopted land use plans and the previously stated MIA purpose and intent;
2. The current MIA boundaries were generally created primarily as an attempt to stop the City of Fayetteville from annexing properties completely surrounding the smaller municipalities, which is no longer an issue due to the change in the annexation laws coupled with the change to the Public Works Commission's Charter; and
2. To include developed parcels within any MIA is fruitless and inequitable to the individual lot owners considering the current annexations laws.

**Attachments:**

1. P17-07 – Section 2302.A Proposed Text Amendment
2. P17-07 – Exhibit 4, Official Municipal Influence Area Map (Hope Mills Portion Only)
3. P17-07 – Exhibit 5, MIA Development Standards
4. P17-07 – Timeline & Background Information w/ Attachments

**P17-07**  
**COUNTY SUBDIVISION ORDINANCE TEXT AMENDMENT**  
[Municipal Influence Area (MIA) and Hope Mills Sidewalks in MIA]

**HEADING HAS CHANGED**

**P17-07.** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY SUBDIVISION ORDINANCE AMENDING ARTICLE XXIII, IMPROVEMENT AND DESIGN STANDARDS, SECTION 2302. AREA-SPECIFIC STANDARDS, A. MUNICIPAL INFLUENCE AREAS; AND APPENDIXES EXHIBIT 4, OFFICIAL MUNICIPAL INFLUENCE AREA AND SEWER SERVICE AREA MAP, AND EXHIBIT 5 MUNICIPAL INFLUENCE AREA DEVELOPMENT STANDARDS, HOPE MILLS COLUMN, ROW ENTITLED *SIDEWALKS* (PAGE E5-E).

**ARTICLE XXIII**  
**IMPROVEMENT AND DESIGN STANDARDS**

**SECTION 2302. AREA-SPECIFIC STANDARDS.**

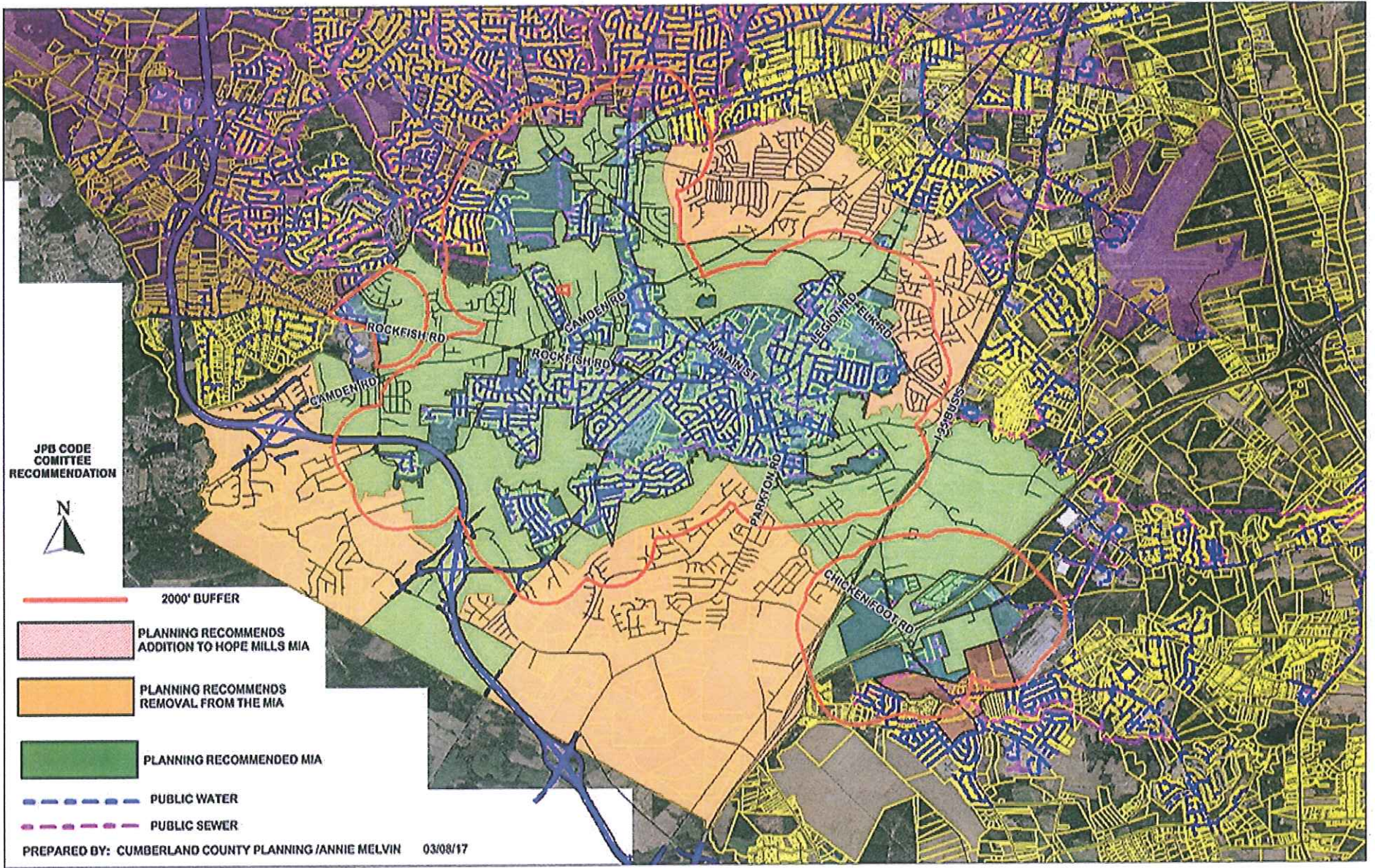
A. *Municipal Influence Areas.*

1. *Municipal Influence Area Application.* The Board of Commissioners may approve and establish a *Municipal Influence Area* (MIA) for a municipality. All subdivisions or developments with four or more proposed lots/units derived from the same parent tract as of the date of this ordinance and located within a municipality's MIA shall be designed and constructed in accordance with the subdivision design standards officially adopted by the municipality and explicitly listed in this ordinance, except that no payment in lieu for any required improvement may be charged as a condition of approval of the proposed development for the benefit of any municipality. ~~as provided in any~~ The terms of any interlocal agreement adopted by the County Commissioners and affected governing bodies shall prevail in the event of conflict between the provisions of this ordinance and the agreed upon terms of the interlocal agreement. The subdivision design standards for each municipality are attached to this ordinance as "Exhibit 5" and entitled *MIA Subdivision Design Standards*.

(Amd. 12-19-11)

2. *Municipal Influence Area Map.* Upon annexation of property or properties within a municipality's *Municipal Influence Area* (MIA), the MIA boundary shall automatically extend approximately the same width and in the same general area as the property being annexed. The newly established MIA boundary shall follow natural barriers, major roadways, railroads, or property boundaries as appropriate. In the event the governing body of the municipality and the Planning Staff do not agree on the location of the boundary as extended, the matter will be scheduled for

final determination by the Board of Commissioners upon the commissioners' receipt of a recommendation from the Joint Planning Board. The official MIA map – see Exhibit 4 – shall be maintained by the Planning and Inspections Department and kept on file with the office of the Clerk to the County Board of Commissioners.



JPB CODE  
COMMITTEE  
RECOMMENDATION



2000' BUFFER



PLANNING RECOMMENDS  
ADDITION TO HOPE MILLS MIA



PLANNING RECOMMENDS  
REMOVAL FROM THE MIA



PLANNING RECOMMENDED MIA



PUBLIC WATER



PUBLIC SEWER

PREPARED BY: CUMBERLAND COUNTY PLANNING /ANNIE MELVIN 03/08/17



### Exhibit 1 - MIA Development Standards

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
<p>Sidewalks (complying w/ ADA standards)</p> <p>Sidewalks (complying w/ ADA standards), <i>continued</i></p>	<p>One side of all streets w/in development; Along existing collector or arterial street adjacent to development [Sec. 25-61(5)] [Per interlocal agreement, in SSA on one side of collector streets (serves/intended to serve at least 100 dwelling units) and both sides of all thoroughfares]</p>	<p><del>Both Density-equal to or greater than 2 units-per-acre, both</del> sides of all <u>proposed streets, internal drives for non-residential &amp; multi-family</u> – <del>required only when curb &amp; gutter type street cross-section exists, and along</del> <u>Along existing collector or arterial street(s) adjacent to development; sidewalks standards shall not apply in the Cumberland Industrial Center [Sec. 86A-405 86-122(g)]</u></p>	<p>One side of street, location determined by Town Building Inspector [§155.67(F)]</p>	<p>Pending – currently same as County</p>	<p>4’ wide along all streets whether proposed (new) or existing, except cul-de-sac serving 8 or less lots/units</p> <p>When adjacent to parking area, 6’ wide (Sec. 4.3.g)</p>	<p>4’ paved sidewalks on one side of all new streets adjacent to curb and gutter (Sec.4.1.h)</p>	<p>Not applicable; however, sidewalks cannot be located over Town-owned water lines &amp; Town will not accept existing system with sidewalks over lines</p>		
<p>Group Development Provisions</p>	<p>Same as County</p>	<p>Min. size of tract 40,000 sq ft;</p> <p>Setbacks comply with zoning of site</p> <p>40’ access point</p> <p>1/35 acre per unit on site recreation</p>	<p>Min. size of tract 40,000 sq ft;</p> <p>Setbacks comply with zoning of site</p> <p>40’ access point</p>	<p>Pending – currently same as County</p>	<p>Same as County (Sec. 3.21)</p>	<p>Same as County (Sec. 3.21)</p>	<p>Not applicable</p>	<p>Same as County (Sec. 3.21)</p>	<p>Same as County (Sec. 3.21)</p>

### P17-07: Timeline and Background Information

- May 1, 1995** 2010 Land Use Plan was adopted by the Board of Commissioners. Included in the plan was the creation of the Municipal Influence Area (MIA) concept. A MIA was established for each municipality with the intent to facilitate annexation by ensuring the minimum development standards of the affected municipality were met as properties were developed. This concept was intended to ensure that annexations were more efficient and less expensive. (pp. 4-1 to 4-2)
- May 16, 2011** Over the years, the MIA boundaries were changed and/or removed due to non-participation in the joint planning process and ultimately reinstated. The MIA boundaries as they exist today were last modified in 2011 by the County Commissioners. (p. 4-3)
- June & July 2011 & May 2012** The North Carolina General Assembly vastly changed the laws governing involuntary annexations of properties which have had the effect of municipalities finding it difficult to successfully involuntarily annex properties. (Rather than including the various bills, a blog from the UNC School of Government is included, pp. 4-4 to 4-6)
- November 18, 2013** The County Board of Commissioners adopted the Southwest Cumberland Land Use Plan (SW LUP) which included the SW Land Use Map. The map as adopted includes a considerable amount of properties within the Hope Mills MIA designated as either for “farmland” (preserve rural character, promote measures that protect farmland from urban development and encroachment, one unit per acre or more) or “suburban” (allowable density of less than two units per acre) (p. 4-7)
- March 17, 2014** The Town of Hope Mills’ Board of Commissioners adopted the SW LUP as addressed above.
- June 22, 2015** The Hope Mills Board of Commissioners approved text amendments to the town’s subdivision and zoning ordinances related to their sidewalk requirements. (The zoning ordinance amendments are irrelevant to this current case.) The text amendment was made applicable to development of properties within the town immediately. (pp. 4-8 to 4-10)
- June 29, 2016** The General Assembly ratified changes to the Public Works Commission’s Charter, among the changes is the declaration forbidding Fayetteville Council to request annexation in order to receive water service. (pp. 4-11 to 4-13)
- December 9, 2016** The Hope Mills Town Manager hand delivered a letter to the County Manager requesting that the MIA provisions concerning sidewalks be amended so that when properties within the Hope Mills MIA were developed, the June 2015 sidewalk regulations would apply. A courtesy copy of the letter was delivered to the County Planning Staff on the same day. (p. 4-14)

- January 2017 EOM** The County Planning Staff met with the then Interim Town Manager (now Manager) and the Town Planner explaining that the County Staff could only support the requested sidewalk amendment if the MIA boundaries for the town were revised. The County Staff's position was based on the adopted SW Land Use Plan and the General Assembly's Session Laws amending the annexation laws, which resulted in the staff recommending that the areas designated as farmland and suburban in addition to the developed areas being removed from the MIA.
- February 2017 BOM** The County Staff met with the Hope Mills Mayor, one Commissioner, and the Manager and Planner with the town representatives explaining their requested changes to the proposed MIA boundaries. The County Staff was agreeable to some of the requested changes.
- February 21, 2017** The County Planning Staff presented the Hope Mills requested MIA amendment to the Joint Planning Board's Codes Committee. Staff explained the proposed modification to the MIA boundary, the Land Use Plan and the town representative's position. The committee voted to recommend that the Planning Board not take action on the amendment until the staff brings back the proposed changes to the MIA.
- February 21, 2017** The Joint Planning Board voted unanimously to send the sidewalk text amendment back to the Codes Committee.
- March 6, 2017** The Hope Mills Board of Commissioners adopted a resolution indicating their specific requested boundaries and the reasoning for said boundaries. (p. 4-15 to 4-17)
- March 14, 2017** The Planning Staff re-visited the Hope Mills Commissioners' request and made some minor modifications to the proposed boundary. In addition, staff agreed that if the proposed staff version was adopted, that upon annexation the boundaries should automatically shift a similar distance.
- March 21, 2017** The Codes Committee considered the Hope Mills' Commissioners request and the County Staff's proposal. By unanimous vote, the committee recommended approval of the Hope Mills request for the town's June 2015 sidewalk regulations to apply within the town's MIA provided that the staff version of the proposed MIA boundary along with the text amendment for MIA boundaries to automatically shift was approved.

**GENERAL RECOMMENDATIONS**

The Plan contains some recommendations which are broad concepts applicable to all development in the County. This Section outlines these general recommendations, which include the Urban Services Area/Municipal Influence Area Concept, "Designated Entrance Corridors" Concept, the Nodal/Corridor Urban Form Concept, the 2010 Land Use Plan Map, and the Transitional Use and Zoning Policy Concept.

**THE URBAN SERVICES AREA/MUNICIPAL INFLUENCE AREA (MIA) CONCEPT**

Early planning efforts in Cumberland County recognized the need to address urban sprawl. This was addressed in 1973 through the Urban Services Area Concept. Over the years, the concept was used as a planning tool by the Planning Staff in its deliberations on rezoning cases. Recently, the Board of County Commissioners adopted the policy of enforcing new development standards within the Urban Services Area. This action is a step toward developing uniform development standards throughout Cumberland County.

The Cumberland County 2010 Land Use Plan revisited this concept and found it to be conceptually sound and currently applicable. The Urban Services Area is defined in **Exhibit 3 - Urban Services Area Map**. During the Plan development process, it was found that some municipalities wanted the flexibility to be unique and maintain their identity. To meet this goal, since none of the municipalities in the County have extra-territorial jurisdiction, a concept called the Municipal Influence

Area (MIA) was incorporated into the Urban Services Area Concept. The Municipal Influence Area (MIA) Concept was developed primarily to designate portions of the Urban Services Area that were to be developed to specific municipal standards. The Municipal Influence Areas are shown in **Exhibit 4 - Municipal Influence Areas Map**. The advantages of the MIA Concept are that it allows each governing body to be unique; it motivates them to plan and program the extension of public services and facilities in an effective and efficient manner; and it forces the municipalities to address future annexation and growth plans, and intra-municipal boundaries before they become issues; and makes future annexations into the municipality more efficient and cheaper.

The disadvantages are that the municipalities will not have approval authority for any changes, revisions, additions, or adoption of any standards they wish to implement within their municipal influence area. This approval authority rests with the Board of County Commissioners. The standards would also have to be part of the County's Zoning Ordinance or Subdivision Regulations and would be enforced by the County Inspections Department. This makes the concept somewhat cumbersome and it will not be successful unless there is good cooperation between the Board of County Commissioners and the municipal governing bodies.

The Municipal Influence Areas for Fayetteville, Hope Mills, Spring Lake, and Stedman include large areas outside their corporate limits. Changes in each Municipal Influence Area are projected to be minor because their projected growth areas are included within their defined Municipal Influence Areas.

EXHIBIT 4  
MUNICIPAL INFLUENCE AREAS  
MAP

LEGEND

- CITY OF FAYETTEVILLE MUNICIPAL INFLUENCE AREA
- TOWN OF HOPE MILLS MUNICIPAL INFLUENCE AREA
- TOWN OF SPRING LAKE MUNICIPAL INFLUENCE AREA
- TOWN OF STEDMAN MUNICIPAL INFLUENCE AREA
- TOWN OF WADE MUNICIPAL INFLUENCE AREA
- TOWN OF LINDEN MUNICIPAL INFLUENCE AREA
- TOWNS OF FALCON AND GODWIN MUNICIPAL INFLUENCE AREA
- URBAN SERVICES AREA BOUNDARY



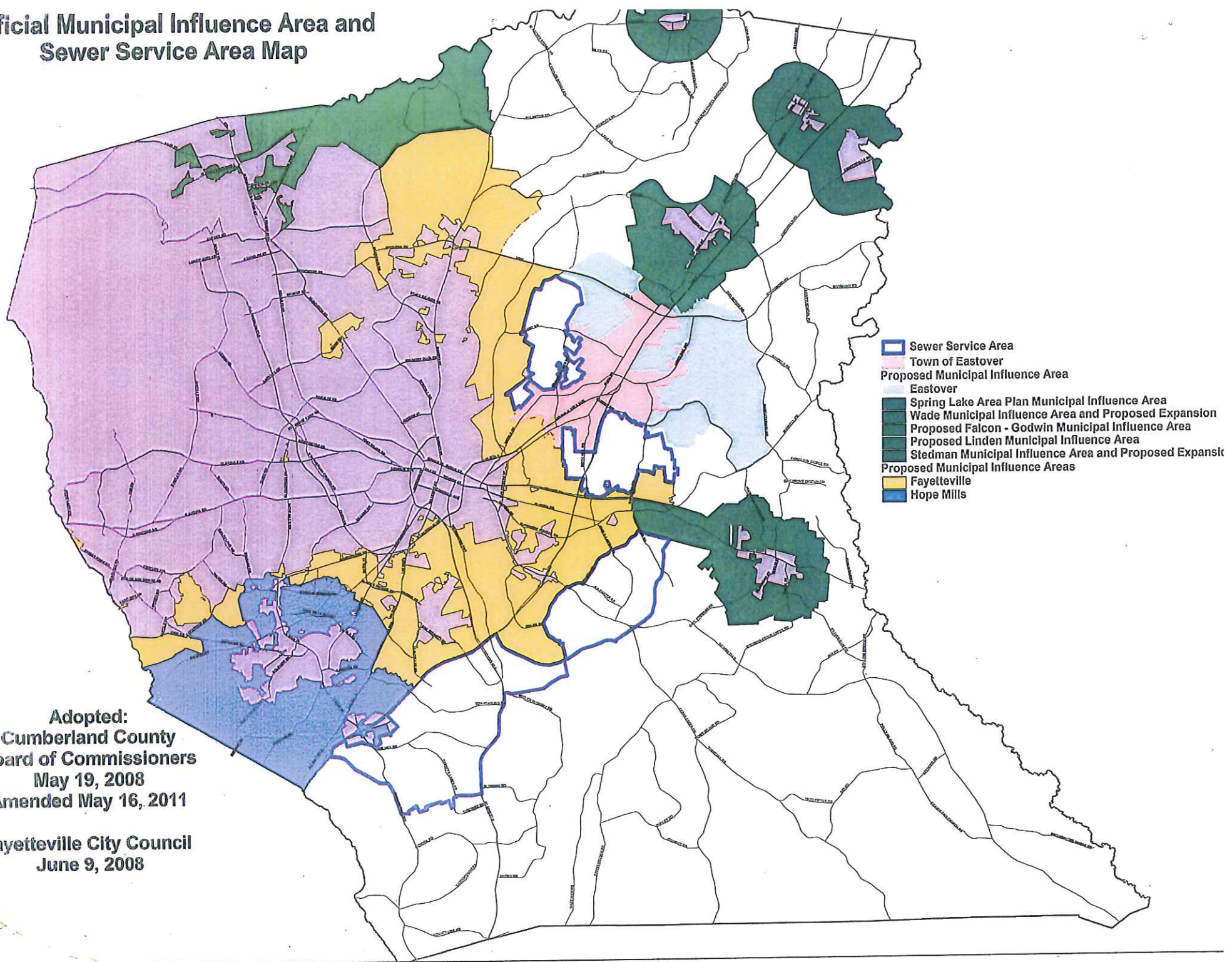
N.T.S.



SOURCE: CUMBERLAND COUNTY JOINT PLANNING BOARD, 1996

4-2

# Official Municipal Influence Area and Sewer Service Area Map



Adopted:  
Cumberland County  
Board of Commissioners  
May 19, 2008  
Amended May 16, 2011

Fayetteville City Council  
June 9, 2008



Coates' Canons:  
NC Local Government Law



- [About this Blog](#)
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## Annexation Reform: A Summary of the New Law

### About the author

Frayda Bluestein



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This entry was posted on July 15th, 2011 and is filed under [Annexation](#), [Finance & Tax](#), [General Local Government \(Miscellaneous\)](#), [Miscellaneous](#).



UPDATE August 2013: In 2012, the legislature replaced the petition process described below with a referendum requirement. The current law is summarized [here](#).

Nearly 40 annexation-related bills were introduced during this legislative session. Included in this number were identical **House** and **Senate** bills that would have imposed a one-year moratorium on involuntary annexation, as well as several local bills undoing specific annexations that had been adopted but had not yet become effective. The legislature opted for reform instead of a moratorium and enacted [S.L. 2011-396 \(HB 845\)](#). In addition, the legislature has created an exclusion from annexation for land used for farm purposes, as set forth in a separate act, [S.L. 2011-363](#), which also affects authority over farm property in the ETJ. Local bills to repeal certain completed annexations were revised and combined in two separate acts, [S.L. 2011-173 \(SB 27\)](#) and [2011-177 \(HB 56\)](#). These acts allow completed annexations in nine cities to be terminated by petition of the owners of 60% of the annexed parcels. This post updates and replaces my earlier post about the statewide bill, and provides a summary of the new annexation law (which became effective without the Governor's signature on July 1, 2011), and of the other related legislation.

#### Overview of Key Provisions

There are several significant changes in the new statewide law. First, an annexation can now be terminated if the owners of 60% of the parcels in the area to be annexed sign petitions to deny the annexation. Second, cities that provide water and sewer services are required to extend water and sewer services to properties in the annexed areas within 3 and 1/2 years of the annexation at no cost to the property owners, if the owners of a majority of the parcels request services within the timeframe set out in the law. Third, the new law amends the voluntary annexation law to allow petitions for voluntary annexation of contiguous property in high poverty areas, modifying the 100% petition requirement, and allowing petitions by residents in addition to property owners. The section pertaining petitions by property owners in high poverty areas *requires* the city to annex the property and to provide water and sewer services to the area.

#### Decoding the Session Law

The new law reorganizes the annexation provisions in the statutes, which are codified in Article 4A of Chapter 160A. The voluntary annexation provisions are in Part 1 (contiguous) and Part 4 (satellite). Part 2 contained the involuntary annexation provisions for cities of less than 5,000, and Part 3 contained the

4.4

involuntary provisions for cities of 5,000 or more. The new law repeals Parts 2 and 3 and enacts a new Part 7 containing the requirements for involuntary annexation by all cities. The new part incorporates the same urbanization standards (the requirements for qualifying areas that may be annexed) that applied to cities of 5,000 or more, which now apply to all cities. The new part also includes changes in various sections that reflect interpretations in court cases and clarification of existing law. The basic structure of the process remains the same, beginning with a resolution of consideration, then the resolution of intent, preparation of an annexation report, public informational meeting, public hearing, and adoption of the ordinance. New components are added to provide the opportunity for property owners to request water and sewer service, and to deny the annexation by petition, so the process also includes procedures and time frames for providing notice and receiving responses as to each of these new options.

#### Water and Sewer Services

The city's obligation to provide water and sewer service is set out in new G.S. 160A-58.56. Under this provision, at an early stage of the annexation procedure – just after the adoption of the resolution of intent to annex – the city must provide notice to the property owners in the annexed area describing their right to have water and sewer lines and connections installed and extended to their property at no cost to them (other than user fees). Property owners have 65 days to request service. The city's obligation to extend lines to these properties at no cost kicks in only if a the owners of a majority of parcels in the area to be annexed request service. (If a majority opt in, the law requires a second notice to those who didn't, in case they want to change their minds.) If the obligation to extend service is triggered, the city is required to complete all of the improvements necessary to provide water and sewer service to each property within 3 1/2 years of the effective date of the ordinance. The language of the new law indicates that the required improvements include service to and within the property, including the part of the extension that becomes the private property of the owner.

If a the owners of a majority of parcels do not request service within the initial time frame, the city is not required to extend service. If the city does extend the lines, and property owners request service, the law sets a sliding scale (based on how much later the requests come in), which limits how much the city may charge these customers, expressed as a percentage of the total cost of connecting under the policies then in effect. This limitation on the amounts that may be charged applies to requests received within the first five years following annexation, after which property owners requesting service may be charged according the policies in effect at the time of the request.

The obligation to provide water and sewer services relates back the provision that requires provision of services “on substantially the same basis and in the same manner as such services are provided in the rest of the municipality.” So if a city doesn't provide or contract for the provision of water and sewer services, it would not apply. G.S. 160A-58.56(a) also provides that the city has no financial responsibility for the extension of lines if water and sewer services are provided under contract with another water or sewer system, and the contract does not require the city to pay for extensions to annexed areas.

#### Petitions to Deny Annexation

Under new G.S. 160A-58.55(i), after the city completes the entire process and adopts an ordinance annexing property, owners of property in the area to be annexed have the opportunity to sign a petition to terminate the annexation. If the owners of at least 60% of the parcels in the annexation area sign petitions to deny the annexation, it is terminated, and the city is prohibited from considering annexation of the property for at least 36 months. For a property with multiple owners to count toward the 60%, a majority of the owners must sign a petition.

The statute gives the county board of elections the responsibility for distributing and collecting the pre-printed petitions for denial. The process begins with the county tax assessor providing to the board of elections a list of property owners in the area proposed for annexation. The board of elections prepares and mails pre-printed petitions. Detailed procedures and time frames are specified for the contents, mailing, receipt, and review of petitions. Results are determined and certified by the board of elections. The statute calls for observation of this determination by three property owners, chosen by the board of elections from among those who volunteer, and three people designated by the city. If the 60% requirement is met, the annexation is terminated by operation of law, without any action by the city.

#### Exception for Land Used for Farm Purposes

The annexation laws previously provided for special treatment of land subject to present use value taxation under G.S. 105-277.3, allowing annexation but limiting the extent of regulation and taxation of this type of property. These provisions are not included in the new involuntary annexation provisions. Instead, the legislature has created an exception to the city's annexation authority for land used for bona fide farm purposes. In S.L. 2011-363 the legislature adopted G.S. 160A-58.54 (in the new Part 7 of the annexation laws), which provides that, “Property that is being used for bona fide farm purposes on the date of the resolution of intent to consider annexation may not be annexed without the written consent of the owner or owners of the property.” Although the language is a bit confusing, the pertinent date is probably the date of the resolution of consideration. Under a separate section of this session law the legislature lists evidence that may be provided to demonstrate that property is being used for bona fide farm purposes. I refer readers to the session law for the list, which effectively exempts from annexation a significantly larger category of property than was covered by the prior “present use value” provisions.

#### Amendments to Voluntary Annexation Laws

Under existing law, petitions for voluntary annexation (whether contiguous or satellite) must be signed by 100% of the property owners in the area to be annexed, and the city has no legal obligation to annex the property upon receipt of a valid petition. The new law creates two exceptions to the 100% petition requirement and creates a new requirement to annex upon receipt of a petition. These new provisions apply only to contiguous – not to satellite – annexations.

The new law adds a new subsection (b1) to G.S. 160A-31, to allow *property owners* in high poverty areas to petition for voluntary annexation. High poverty is defined as an area in which 51% of the households have incomes that are 200% or less than the most recent US Census Bureau poverty thresholds. If the owners of 75% of the parcels in such areas petition for annexation, the city *must* annex the property. The population in the area to be annexed must not exceed 10% of the existing city population, and the area must have a minimum 1/8 contiguity with the existing city limits. A city is not required to annex more than one of these areas within a 36-month period.

A second provision (new subsection (j) of G.S. 160A-31), allows *residents* in “distressed areas” – defined the same way as in (b1) described above – to petition for voluntary annexation. Under this provision, the city may consider annexation if it receives petitions signed by at least one adult resident of at least two-thirds of the resident households in the area to be annexed. The statute allows the city to require reasonable proof that the petitioner actually resides at the address indicated. The area must be contiguous, but no minimum amount of contiguity is specified. This provision *does not require* the city to annex upon receipt of a valid petition.

Cities annexing under either of these provisions must provide services to the annexed areas in accordance with the provisions in Part 7 (the new involuntary annexation provisions). This means that if the annexing city provides water and sewer services, lines must be extended at no cost to the annexed areas. The



voluntary annexation statute does allow a city to deny a petition under subsection (b1) if the cost of extending lines is too high, as determined by a formula set out in the statute (new G.S. 160A-31(d2)), and subject to review by the Local Government Commission. If a petition is denied, another request may not be filed within the next 36 months, but during that time, the law requires the city to make ongoing efforts to secure funding sufficient to make the extension feasible. The law also requires the relevant state agencies to give priority consideration to grant requests for water and sewer projects in these areas.

#### Annexing State Rights of Way

Another change to the voluntary annexation laws appears to address a narrow circumstance involving annexation of state maintained streets. [S.L. 2011-57 \(HB 171\)](#) prohibits a city from petitioning itself for annexation of property it doesn't own (including a state-maintained right of way in which the city does not own a fee simple interest). Ownership of an easement in a state-owned right of way is not sufficient to support a self-annexation petition. It also prohibits the acceptance of a petition that is not signed, or that does not require a signature (which is the case for tax exempt or utility property) and the property owner objects to the annexation.

For some insights into the tax effects of these changes, check out Chris McLaughlin's [latest blog post](#).

For more information about this and other recent legislation consider attending or purchasing the archive version of our [legislative webinar](#).

«

#### [Property Tax Implications of the New Annexation Law](#)

#### [Legislation Affecting Environmental Health Programs](#)

»

#### Leave a Comment


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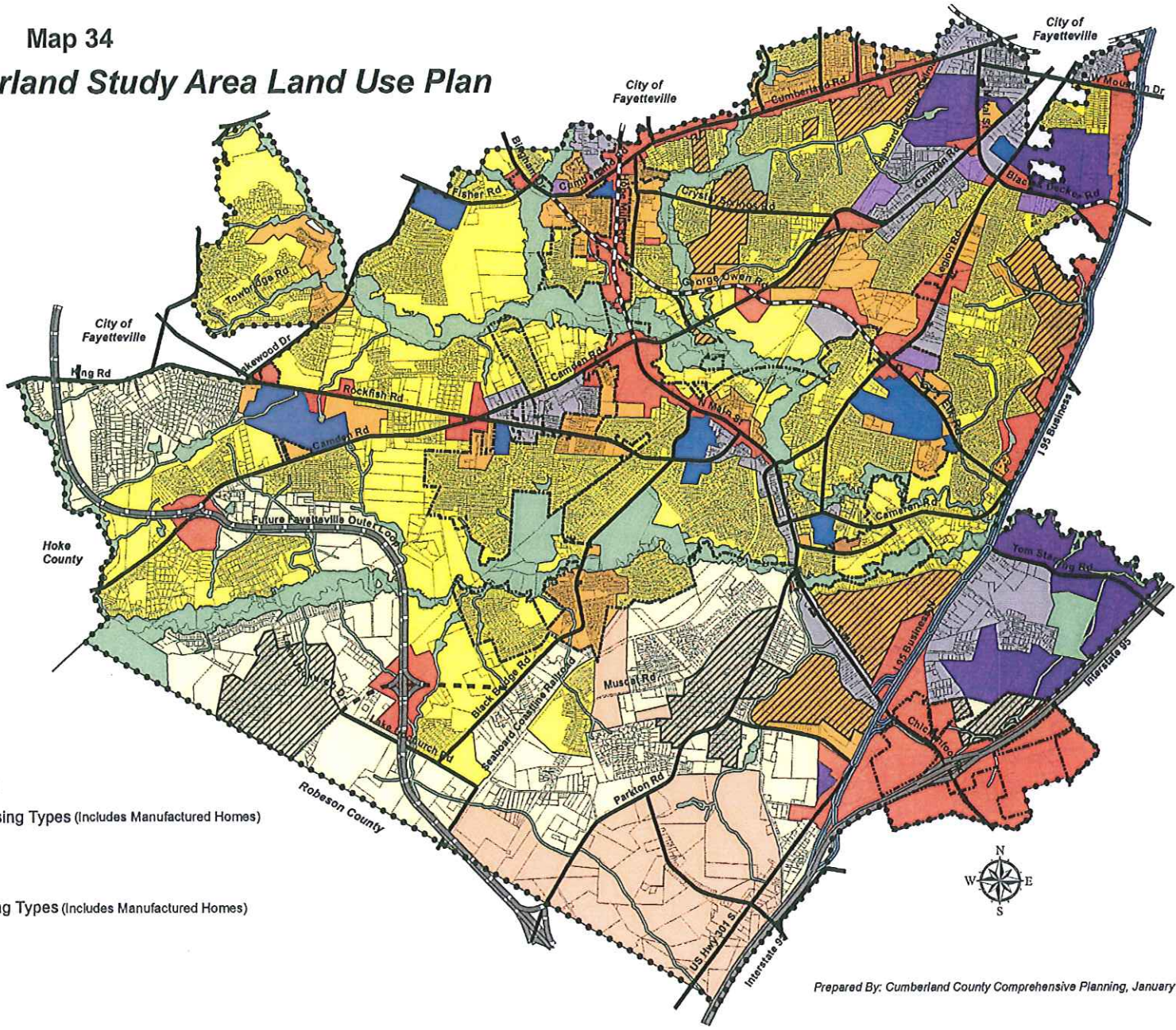
- [\[+\]Animal Control\(12\)](#)
- [\[+\]Board Structure & Procedures\(88\)](#)
- [\[+\]Community & Economic Development\(42\)](#)
- [\[+\]Elections\(46\)](#)
- [\[+\]Emergency Management\(10\)](#)
- [\[+\]Employment\(54\)](#)
- [\[+\]Ethics & Conflicts\(41\)](#)
- [\[+\]Finance & Tax\(268\)](#)
  - [Miscellaneous\(1\)](#)
- [\[+\]General Local Government \(Miscellaneous\)\(109\)](#)
  - [Annexation\(6\)](#)
- [\[+\]Land Use & Code Enforcement\(147\)](#)
- [\[+\]Liability & Immunity\(4\)](#)
- [\[+\]Open Government\(114\)](#)

Map 34

Southwest Cumberland Study Area Land Use Plan

Legend

- Study Area Boundary
- Hope Mills Town Limit
- Existing Freeway
- ▬ Future Freeway
- ▬ Existing Expressway
- ▬ Existing Boulevard
- ▬ Existing Thoroughfare
- - - Future Thoroughfare
- Office Institutional & Parks
- Heavy Commercial
- Industrial
- Light Industrial
- Farmland
- Open Space
- Suburban Density Residential
- Suburban Density Mixed Housing Types (Includes Manufactured Homes)
- Low Density Residential
- Medium Density Residential
- Medium Density Mixed Housing Types (Includes Manufactured Homes)
- High Density Residential
- Mixed Use Development



Prepared By: Cumberland County Comprehensive Planning, January 2013

4-7

Approved  
6-22-15

**ATTACHMENT B**

**P15-29**

**Town of Hope Mills**

**Subdivision and Zoning Ordinances**

**(Sidewalks & Walkways)**

**P15-29.** REVISION AND AMENDMENT TO THE TOWN OF HOPE MILLS SUBDIVISION AND ZONING ORDINANCES TO MODIFY THE SIDEWALK PROVISIONS PERTAINING TO DEVELOPMENTS WITHIN THE TOWN; SPECIFICALLY AMENDING THE HOPE MILLS SUBDIVISION ORDINANCE, ARTICLE IV DEVELOPMENT IMPROVEMENT AND DESIGN STANDARDS, SECTION 86A-405. SIDEWALKS AND WALKWAYS; AND AMENDING THE HOPE MILLS ZONING ORDINANCE, ARTICLE I ADMINISTRATIVE PROVISIONS, SECTION 102A-107. ZONING PERMIT AND ARTICLE XV PLANNED DISTRICTS, SECTIONS 102A-1501. GENERAL OBJECTIVES, 102A-1502. DETAILED SITE PLAN SPECIFICATIONS, 102A-1503. SITE PLAN REVIEW, 102A-1504. BOARD OF COMMISSIONERS' CONSIDERATION; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (HOPE MILLS)

**AMEND the Hope Mills Subdivision Ordinance, Article IV Development Improvement and Design Standards, Section 86A-405. Sidewalks and walkways, as indicated below:**

**HOPE MILLS SUBDIVISION ORDINANCE**

**ARTICLE IV**

**DEVELOPMENT IMPROVEMENT AND DESIGN STANDARDS**

**Sec. 86A-405. Sidewalks and walkways.**

*(a) Sidewalks and walkways required.*

(1) Except as described herein, sidewalks shall be installed along public and private right(s)-of-way within and adjacent to any development located in the town's jurisdiction, and shall be constructed in accordance with the town's sidewalk specifications and construction standards, and good engineering practices. Sidewalks shall be located according to the following:

a. For proposed residential subdivisions or developments, sidewalks shall be installed on both sides of all proposed streets and drives, and along the existing street right-of-way to which the project abuts. For multi-family developments, sidewalks shall be provided along the building side of the off-street parking area in addition to other sidewalk requirements of this ordinance.

~~b. For existing residential subdivisions or developments, if a sidewalk exists along the same side of the street abutting the new development or redevelopment of a principal structure, including situations where a principal structure is destroyed by more than 50%, regardless of distance away from the proposed development, a sidewalk shall be required along the lot to be developed; if no sidewalk exists on the same street side, payment of a fee in lieu of sidewalk construction shall be mandatory as regulated in sub-section (b) of this section.~~

b<sub>6</sub>. For all non-residential development with no new streets proposed, sidewalks are required along internal drives and along the existing street(s) adjacent to the subject property. Where new streets are proposed in conjunction with any non-residential development, sidewalks are required along all proposed street(s) and internal drives, and along the existing street(s) adjacent to the subject property. For non-residential developments, sidewalks shall be provided along the building side of the off-street parking area in addition to other sidewalk requirements of this ordinance.

(2) A walkway shall be installed when any subdivision or development proposed is adjacent to an existing or proposed public school or park property. The shall construct and offer for dedication to the affected public agency owning the affected park or school property a walkway not less than ten feet in width in such a location as to facilitate direct convenient access to the adjacent school or park property from the proposed subdivision or development.

(3) Sidewalks and walkways shall be constructed by the developer and inspected by the town staff prior to the completion of any building final inspection or submission of final plat approval for recordation, except where a guarantee has been approved and posted as authorized in Section 86A-602.

(4) The developer shall be responsible for the entire cost of installing sidewalks and walkways within and adjacent to the subdivision or development. Payment in-lieu of sidewalk construction may be considered by the Board of Commissioners in accordance with sub-section (b) of this section.

*(b) Payment in-lieu of sidewalk construction.*

(1) *General.* The payment of fees in-lieu of installing a required sidewalk or walkway may be made upon written request of the developer with approval from the Board of Commissioners upon the board finding that:

a. The street is designated as a state or local road subject to widening or improvement on an officially adopted plan;

b. The right-of-way, developing lot, or lot abutting a proposed sidewalk is not suitable for sidewalks due to floodplains, wetlands, riparian buffers, required tree preservation areas, slopes exceeding 25 percent, or other unique site conditions; or

c. The area to be subdivided or developed is too small for the construction of sidewalks or walkways to be practicable.

(2) *Procedure for approval.* The payment of such fees in-lieu shall be reviewed and approved as part of the subdivision or development application submittal. A sidewalk or walkway easement shall be included on the plan in the general area where a sidewalk or walkway would have been built had the fee in-lieu not been paid. The easement shall be offered for dedication to the town or in the case of walkways required by sub-section (a)(2) above to the agency owning the public park or

school. The request to pay the fee in lieu must be attached to the plan application, in letter form and include an itemized estimate of the expected costs of sidewalk construction sealed by the developer's engineer or other qualified licensed professional. At the meeting in which the plan approval occurs, the Board of Commissioners shall also consider the request for the payment in lieu of installing the sidewalk. If the letter requesting payment in lieu of sidewalk construction is submitted on a date after the date the application is submitted, a new and separate fee equal to one-half of the original subdivision/development submittal fee shall be charged.

(3) *Time of payment.* The fees in-lieu of sidewalks shall be paid prior to the building final inspection and/or approval of each phase of the subdivision or development submitted for final plat approval as directed by the Board of Commissioners.

(4) *Use of funds.* Payments in-lieu of sidewalk construction received in accordance with this sub-section shall be used only for the development of new sidewalks or multi-use pedestrian/bicycle paths.

(c) Exemptions. The sidewalk and in-lieu fee requirements of this section do not apply to (i) existing residential subdivisions or other existing residential development, (ii) new development consisting solely of an accessory residential structure (for example a pool, garage or shed), (iii) new development consisting solely of an addition to an existing principal residential structure that is a single-family dwelling, or (liiv) the repair or reconstruction of a damaged principal residential structure, provided that the damage to the structure is 50% or less than the value of the structure at the time it is damaged. The Town Planner may determine the value of the structure using tax assessment information, an appraisal or other similarly credible sources.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2015

SESSION LAW 2016-47

HOUSE BILL 392

AN ACT AMENDING THE CHARTER OF THE CITY OF FAYETTEVILLE TO MAKE CHANGES RELATED TO THE MEMBERSHIP AND OPERATION OF THE PUBLIC WORKS COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter VI of the Charter of the City of Fayetteville, being Chapter 557 of the 1979 Session Laws, as amended by Chapter 756 of the 1981 Session Laws, S.L. 1998-61, and S.L. 2008-103, is repealed.

**SECTION 2.** The Charter of the City of Fayetteville, being Chapter 557 of the 1979 Session Laws, as amended, is amended by adding a new Chapter to read as follows:

"Chapter VIA. Public Works Commission.

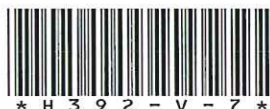
"§ 6A.1. Commission continued; election and term of members; vacancy. (a) A Commission of the City of Fayetteville to be known as the "Fayetteville Public Works Commission" (hereinafter "Commission"), as heretofore created, established, and now existing, is hereby continued and the number of members shall be four. The terms of office of each member shall be four years, and the terms shall expire four years from the date on which the appointment was originally made, provided that a member shall continue to serve until a successor is appointed. A new appointment shall be made in September of 2016, and it shall be for a term of four years. As each appointment expires, the City Council shall, at its regular meeting in September of each year, elect a member of the Commission for a term of four years to replace the expiring member. In addition, the Mayor shall annually designate a member of the City Council to serve on the Commission as an ex officio, nonvoting member.

(b) No member of the Commission may serve more than two consecutive terms. Except for the ex officio designee appointed by the Mayor, no person shall be eligible for appointment to the Commission who is an elected official of the City of Fayetteville or an employee of the City or the Commission. If a member resigns, dies, or otherwise becomes incapable of performing his or her duties, the City Council shall appoint a person to fill the remainder of the term. The four members appointed to the Commission by the City Council and the Mayor's ex officio designee shall constitute the entire Fayetteville Public Works Commission.

"§ 6A.2. Qualifications of Commissioners. The members of the Commission shall be residents of the City of Fayetteville at the time of their initial appointment and must remain so throughout their tenure on the Commission and shall be persons of recognized ability and good business judgment and standing who, in the opinion of the City Council, can and will perform their official duties (i) in accordance with prudent management and sound financial principles, (ii) in the manner provided for in this Chapter, and (iii) to the best interest of the City. If it is determined that a member of the Commission is no longer a resident of the City, that seat shall immediately become vacant and a successor shall be appointed in accordance with Section 6A.1(b) of this Chapter.

"§ 6A.3. Organization; chair, vice-chair, secretary, and treasurer. The members of the Commission shall meet as soon after their appointment as possible and shall elect out of their number a chair, vice-chair, secretary, and treasurer, each of whom shall be a different person. The duties of each shall be as prescribed by the Commission from time to time but shall not be inconsistent with the provisions of this Chapter. Each member of the Commission, including the chair, but not the ex officio City Council member, shall be entitled to vote on any question before the Commission.

"§ 6A.4. Bonds of members of the Commission. Each voting member of the Commission shall give bond to the City in the following amounts: the sum of fifty thousand dollars



accounts, and revenues) shall be and remain in the name of the City of Fayetteville. Nothing in this Chapter shall be construed as conferring upon the Commission any power or authority to convey title or ownership to sell, lease, or otherwise transfer or dispose of any property owned or held in the name of the City of Fayetteville, but under the management and control of the Commission, unless such transaction is approved by resolution of the City Council and is in compliance with the Financing Documents.

"§ 6A.10. Sale of water service. The Commission is hereby authorized and empowered to extend its water system and to sell water in any geographical area permitted in G.S. 160A-312 or other State law. The City Council shall not directly or indirectly require any individual, group, or developer to request annexation of its property by the City in order to receive water service from a water system under the management and control of the Commission. The Commission may adopt schedules of rents, rates, fees, charges, and penalties that vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the City.

"§ 6A.11. Billing electric utility customers. The Commission shall provide electric power for street lighting on all City streets and thoroughfares that are served by the Commission's electric utility service and shall bill the appropriate electric utility customer for the same, except the City of Fayetteville. The Commission shall not be responsible for providing street lighting on City streets and thoroughfares that are not served by the Commission's electric utility service.

"§ 6A.12. Budget. The Commission is a public authority as defined in G.S. 159-7(b)(10) and therefore shall prepare a budget as provided in Article 3 of Subchapter III of Chapter 159 of the General Statutes and shall publish the budget in the manner provided for in G.S. 159-12. Approval of the budget by the City Council is not required.

"§ 6A.13. Records and accounts. The Commission shall keep full and accurate minutes of all official meetings held as provided in G.S. 143-318.10 and shall exercise fiscal control related to all matters, including establishing and maintaining an accounting system and designating an official depository as provided in Part 3 of Article 3 of Subchapter III of Chapter 159 of the General Statutes.

"§ 6A.14. Receipts and disbursements. All funds handled by the Commission shall be paid over to the treasurer thereof, and all disbursements by the Commission shall only be made by order upon the treasurer, signed by the secretary, and countersigned by the chair thereof. All orders shall state for what object the same is drawn, and a record shall be kept of all such orders.

"§ 6A.15. Cash reserves. Subject to the provisions in any Financing Documents, in each fiscal year, the Commission shall maintain in the Electric Fund, the Water/Wastewater Fund, and any other utility fund established pursuant to this Chapter, sufficient cash reserves to cover not less than 90 days' operating expenses, capital outlay, and debt service on outstanding revenue bonds or notes, as shown by the budget ordinance, but shall set a target for cash reserves to cover not less than 120 days or as otherwise required by any Financing Documents.

"§ 6A.16. Remittances to City. Beginning July 1, 2016, and each year thereafter, the Commission shall, each month, if funds are available without violating the provisions of any Financing Documents, remit to the City one-twelfth of an annual amount equal to two and forty-five one hundredths percent (2.45%) of the value of the Total Net Position of the Electric Fund as reported in the Comprehensive Annual Financial Report for the Public Works Commission for each immediately preceding fiscal year ending June 30. There shall be no additional cash contributions or transfers from the Commission to the City unless the following conditions are met: (i) the Mayor declares a state of emergency under the authority granted in G.S. 166A-19.22(a) and (ii) the Commission and City Council agree on the amount of the cash contribution or transfer. No transfer of funds from the Commission to the City shall exceed the amount authorized in G.S. 159-13(14).

"§ 6A.17. Audit of books; access to financial records. At the end of each fiscal year, the books, accounts, and records of the Commission shall be audited by a certified public accountant or an accountant certified by the Local Government Commission as provided in G.S. 159-34. The City Council shall select the auditor, and the auditor shall report directly to the City Council and the Commission. Upon giving reasonable notice, the City Council shall have full access to the books, accounts, and records of the Commission.

"§ 6A.18. Quarterly and annual reports. (a) The Commission shall, on a quarterly basis, provide to the City Council a report on its activities and the utilities under its management and

- (1) The actions of the Commission authorized pursuant to the terms of this new Chapter VIA of the Charter of the City of Fayetteville shall be deemed to be caused by actions of the City.
- (2) No provisions of these amendments to the Charter shall be interpreted or applied to change the ownership or status of any revenues, plant, property, or equipment pledged as security for any outstanding indebtedness, and any such revenues, plant, property, and equipment shall remain so pledged.
- (3) The budget process, the handling of records and accounts, receipts and disbursements, maintenance of cash reserves, remittances of funds to the City, and payment of bond proceeds as set forth in Sections 6A.12 through 6A.16 and Section 6A.19 of the Charter amendments shall be subject to the terms of any Financing Documents.
- (4) Nothing herein shall be deemed to limit, impair, or alter the rights vested to bondholders or creditors under any Financing Documents.
- (5) To the extent that Section 6A.16 of the Charter is inconsistent with the document titled "Agreement Between the City of Fayetteville and the Public Works Commission of the City of Fayetteville Establishing a Formal Operating Transfer," originally dated May 12, 2008, and as amended from time to time thereafter, then the provisions of Section 6A.16 of the Charter shall control.

**SECTION 5.** This act becomes effective July 1, 2016.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of June,

2016.

s/ Harry Brown  
Presiding Officer of the Senate

s/ Tim Moore  
Speaker of the House of Representatives





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December 9, 2016

Ms. Amy Cannon  
Cumberland County Manager  
County Courthouse  
117 Dick Street  
Fayetteville, NC 28301

**Via Hand Delivery and Courtesy Copies by Electronic Mail**

Dear Ms. Cannon:

In 2015, the Hope Mills Board of Commissioners adopted a revision to our subdivision and zoning ordinance amending the requirements for sidewalks and walkways. Based on conversations with County Planning staff, it is my understanding that the Cumberland County Board of Commissioners needs to approve ordinance revisions for the Town of Hope Mills as part of the standards for Hope Mills' MIA so these requirements can be enforced in the MIA.

The revised ordinance is on the County Planning website and your planning staff is very familiar with it. They have indicated they will provide the ordinance information once the process has started. I have included the portion of our minutes indicating that the ordinance revision was approved. Accordingly, please begin the process on behalf of the Town to have these requirements included in our MIA standards. Please let me know what other actions we need to take.

As always, thank you and other County staff for all that you do for the Town of Hope Mills.

Sincerely,

John W. Ellis, III  
Town Manager

Cc: Hope Mills Mayor and Board of Commissioners  
Melissa P. Adams – Town Clerk  
Chancer McLaughlin – Planning and Development Director  
Dan Hartzog, Jr. – Town Attorney  
Cumberland County Planning Staff via Patricia Speicher

Office of the Town Manager  
Office (910) 426 - 4116  
Electronic Mail – [jwellis@townofhopemills.com](mailto:jwellis@townofhopemills.com)

Received  
12-9-16  
BSS 4-14

**RESOLUTION  
OF THE BOARD OF COMMISSIONERS  
OF THE  
TOWN OF HOPE MILLS, NORTH CAROLINA**

**Resolution No. 2017-07**

**WHEREAS**, the Town of Hope Mills has a Municipal Influence Area (MIA) agreement with Cumberland County; and

**WHEREAS**, Cumberland County has requested that the Town of Hope Mills re-evaluate the boundaries of the existing Municipal Influence Area; and

**WHEREAS**, the Town of Hope Mills is currently allocating funds for the construction of a Public Safety Facility that will facilitate an increase in emergency services personnel; and

**WHEREAS**, the Town of Hope Mills is currently working on a Municipal Influence Area plan in an effort to identify viable avenues of the expansion of the Town of Hope Mills limits; and

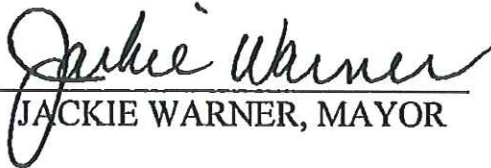
**WHEREAS**, Cumberland County has provided recommendations on new Municipal Influence Area boundaries while requesting that the Town of Hope Mills determine which areas to remain inside of the MIA; and

**WHEREAS**, the Town of Hope Mills is requesting to keep all areas of the current MIA to the south of the town limits identified by the county on the attached map (Exhibit A) as "*Planning and Hope Mills recommends removal from the MIA*", and would like to remove the remaining areas of the MIA on the attached Exhibit A to the north of the town limits identified as "*Planning and Hope Mills recommends removal from the MIA*"; and

**WHEREAS**, the Town of Hope Mills agrees with the Cumberland County recommendation on Exhibit A identified as "*Planning recommends addition to the Hope Mills MIA*";

**NOW THEREFORE BE IT RESOLVED** that the Town of Hope Mills does hereby support the above referenced changes to the Municipal Influence Area boundaries.

Adopted this 6th day of March, 2017.

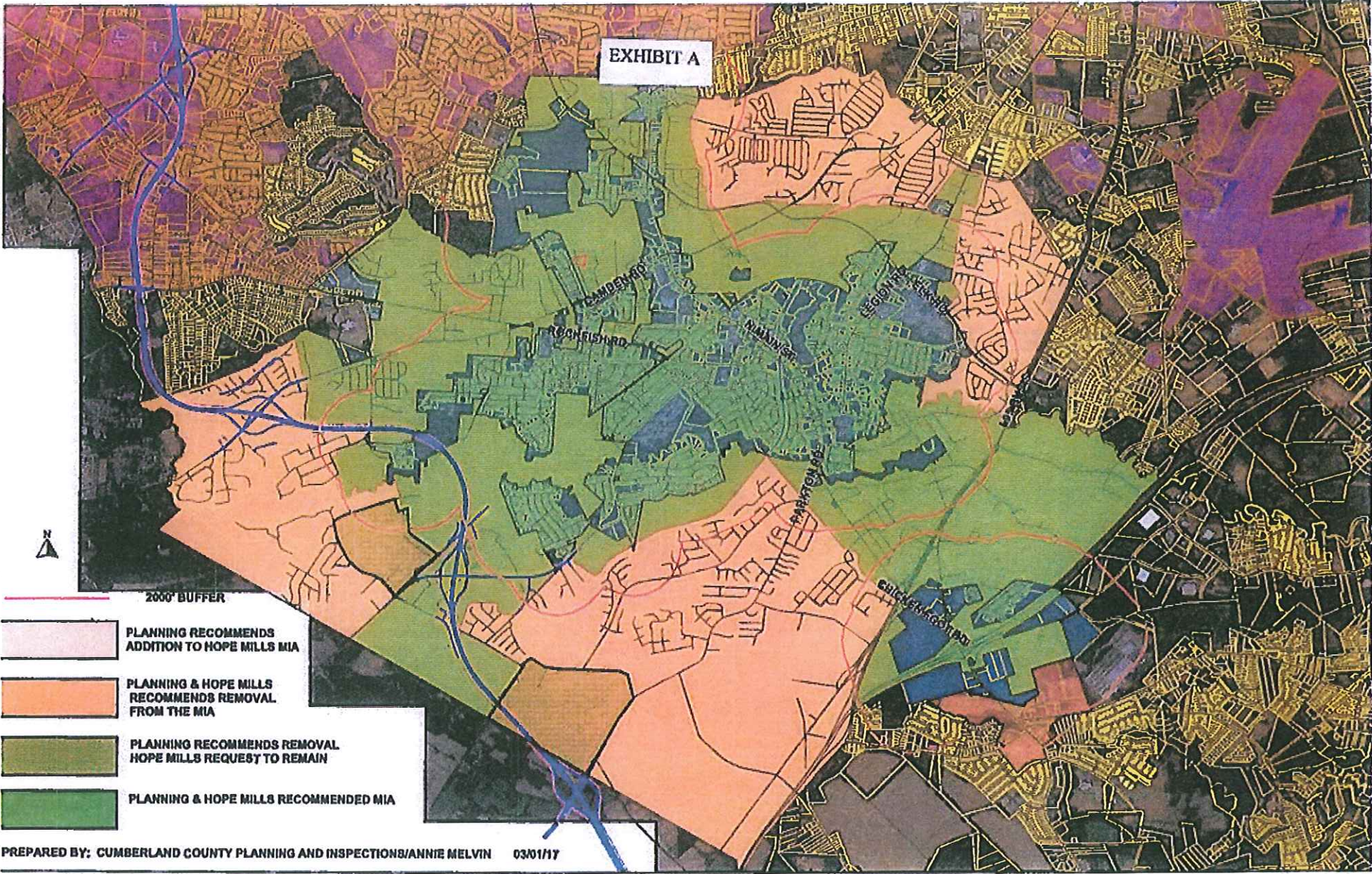
  
\_\_\_\_\_  
JACKIE WARNER, MAYOR

ATTEST:

  
\_\_\_\_\_  
Deborah Holland, Interim Town Clerk



EXHIBIT A



4-17

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*

April 11, 2017

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

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board

**FROM:** Land Use Codes Committee  
(Mr. Carl Manning, Moderator)

**SUBJECT:** Recommendation for the April 18, 2017 Board Meeting

**P17-17.** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, ARTICLE XVI, BOARD OF ADJUSTMENT; AND REQUESTING PERMISSION TO REPRINT THE ZONING ORDINANCE INSERTING ALL TEXT AMENDMENTS APPROVED SINCE JUNE 20, 2005 AS LISTED.

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

The Codes Committee recommends the board find that the attached text amendment is consistent with the 2030 Growth Vision Plan and all other applicable detailed area plans throughout the County since this amendment, if approved, will ensure the County Zoning Ordinance provisions related to Board of Adjustment matters are consistent with the 2013 State Legislature amendments to the statutes regulating local Boards of Adjustment.

The committee recommends the board further find that approval of the text amendment is reasonable and in the public interest which has been established by the General Assembly's ratification of the amended regulations coupled with the fact that certain standards within the statute have been relaxed particularly those related to variances.

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

In addition to the above information, the Codes Committee recommends approval of the text amendment and that the Commissioners direct the staff to re-publish the County Zoning Ordinance as a technical ordinance in its entirety with all amendments consolidated within the text based on the following:

1. The proposed amendment will afford property owners a lower threshold to meet when a variance is necessary for justifiable use of their property; and
2. Reprinting with merging previously approved amendments into the County Zoning Ordinance will ensure ease of use for citizens, development professionals, and County staff.

Attachment: P17-17 Text Amendment

**P17-17**  
**Proposed County Zoning Ordinance Text Amendment**  
(Article XVI, Board of Adjustment)

**P17-17. Revision and Amendment to the Cumberland County Zoning Ordinance, Article XVI, Board of Adjustment; and requesting permission to Reprint the Zoning Ordinance inserting all text amendments approved since June 20, 2005 as listed.**

**AMEND Article XVI, Board of Adjustment as indicated below:**

**ARTICLE XVI**  
**BOARD OF ADJUSTMENT**

**SECTION 1601. ESTABLISHMENT.**

The Board of Commissioners, pursuant to N.C. GEN. STAT. §~~153A-340~~ ~~153A-345~~, does establish a Board of Adjustment. Such board shall consist of at least five members appointed by the Commissioners, with membership providing for a means of proportional representation of the County's territorial jurisdiction. The appointments shall be for staggered terms. Subsequent or new reappointments shall be for three-year terms; all appointments to fill vacancies shall be for the unexpired term. The Commissioners shall also appoint five alternate members at large to serve in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed in the same manner as regular members and at the regular times for appointment. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and exercise all the powers and duties of any regular member absent from the meeting.

**SECTION 1602. PROCEEDINGS.**

The Board shall elect a Chairperson ~~Chairman~~ and Vice-Chairperson ~~Vice-Chairman~~ from among its members. The Director shall assign a staff member to fill the Secretary and Clerk positions. Meetings of the board shall be held at the call of the Chairperson ~~Chairman~~ and at such other times as the board may determine. The Chairperson ~~Chairman~~ or any member acting as chair and the Secretary to the Board are authorized ~~is authorized in his official capacity~~ to administer oaths. The Chairperson may and compel the attendance of witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor. The Vice-Chairperson or any Any member of the board while temporarily acting as Chairperson ~~Chairman~~ has and can

exercise like authority. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every motion or question, or if absent or failing to vote, indicating such fact. The board shall also keep records of its examinations and official action.

*(Amd. 04-18-11)*

### **SECTION 1603. POWERS AND DUTIES.**

The Board of Adjustment ~~shall have the powers, authority and duty to~~ shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development:

A. Hear and decide special use permits, requests for variances, and appeals of decisions ~~Act in all matters~~ relating to the administrative review of any order, requirement, decision or determination made by the Director or other administrative official regarding enforcement of this ordinance or other ordinance that regulates land use or development. (see Section 1604 below)

*(Amd. 01-19-10)*

B. Vary or modify any of the regulations or provisions of this ordinance related to the construction or alteration of buildings or structures, dimensional requirements and minimum standards of individual uses except for specific location criteria for individual uses, in accordance with Section 1605, where there are unnecessary hardships in carrying out the strict letter of this ordinance, so that the spirit, purpose and intent of the ordinance shall be observed, public safety ~~is and welfare~~ secured and substantial justice achieved ~~done~~;

*(Amd. 01-19-10)*

C. May hear and decide special use permit applications ~~Grant permit exceptions, called "Special Uses," in the classes of cases or situations and~~ in accordance with ~~the principles, conditions, safeguards~~ standards and procedures specified in Section 1606;

*(Amd. 01-19-10)*

D. ~~Repealed. Interpret the official zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions as they arise in administration of this ordinance;~~

E. Rule on matters concerning nonconforming uses as to their continuance or discontinuance, expansion, reconstruction and, in general, compliance with Sections 1003 and 1004;

F. Rule on matters related to the County's Water Supply Watershed Management and Protection Ordinance regarding High Density developments, appeal of the Watershed Review Officer's decision, and hear request for variance from the County Water Supply Watershed Management and Protection Ordinance;

*(Amd. 01-19-10)*

G. Hear and rule on appeals and variance requests from the County's Flood Damage Prevention Ordinance, ~~and~~

H. *Repealed.*  
(Amd. 01-19-10)

**SECTION 1604. APPEALS ADMINISTRATIVE REVIEW.**

The Board of Adjustment shall hear and decide from decisions of administrative officials charged with enforcement of the zoning ordinance and may hear appeals arising out of any other ordinance that regulates land use or development pursuant to all of the following: ~~Appeals may be taken to the Board of Adjustment by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of an administrative official charged with the enforcement or interpretation of this ordinance thought to be in error. Such appeals shall be filed with the Board of Adjustment by notice specifying the grounds for appeal. Appeal shall be filed within 30 calendar days from the date of the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken, together with any additional written reports or documents, as the administrative official deems pertinent.~~

A. Any person who has standing under G.S. 160A-393(d) or the County may appeal a decision to the Board of Adjustment. The notice of appeal shall state the grounds for the appeal.

B. The official who made the decision shall give written notice 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 subject property owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail;

C. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

D. 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.

E. 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.

F. Subject to the provisions of subdivision (E) of this sub-section, the board of adjustment shall hear and decide the appeal within a reasonable time.

G. 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 County 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.

~~The Board of Adjustment may after public hearing, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determinations as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.~~

*(Amd. 01-19-10)*

## **SECTION 1605. VARIANCE.**

When unnecessary hardships would result from carrying out the strict letter of this ordinance, or other land use regulation or ordinance, The Board of Adjustment may authorize in specific cases such variances from the terms of this ordinance upon

~~request of a property owner or his authorized agent and may require any evidence necessary to make a determination of the case. Before the Board may grant any variance, the Board must find that all of the following conditions exist for an individual case~~ the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

A. 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. ~~There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district; difficult~~

B. 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 the general public, may not be the basis for granting a variance. ~~Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located;~~

C. 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. ~~The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located;~~

D. The requested variance is consistent with the spirit, purpose ~~will be in harmony with the purpose~~ and intent of the this ordinance, such that public safety is secured, and substantial justice is achieved; ~~and will not be injurious to the neighborhood or to the general welfare;~~

~~E. The special circumstances are not the result of the actions of the applicant;~~

~~F. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure;~~

~~G. The variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries; and~~

~~H. The existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for approval of the requested variance. In granting a variance, the Board may attach and the record shall reflect such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem~~

~~advisable. The record shall also state in detail any exceptional difficulty or unnecessary hardship upon which the request was based and which the Board finds to exist.~~

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. The Board of Adjustment is not authorized to grant variances to any use approved in a Conditional Zoning district or to the specific conditions or other performance criteria imposed upon such use. If the board denies ~~a~~ the variance request, the board ~~it~~ shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same variance request on the same property without a substantial material change concerning the property and the application.

*(Amd. 02-19-08; Amd. 04-18-11)*

## **SECTION 1606. SPECIAL USE PERMITS.**

The Board of Adjustment shall hear and decide applications for special use permits. The various Special Uses set forth in the Use 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 procedures specified in the ordinance ~~and conditions as set forth in this section.~~ Reasonable and appropriate conditions may be imposed upon these permits.

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

B. Procedure. Special Use Permits shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 403, Use Matrix, as Special Uses. Uses specified as a Special Use in Section 403 shall be permitted only upon the issuance of a Special Use Permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and a detailed site plan (drawn in accordance with the specifications listed in Section 1402) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. ~~The Planning and Inspections Staff shall also notify the Commanders of Fort Bragg, Pope Air Force Base, and Simmons Army Airfield of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with N.C. GEN. STAT. § 153A-323.~~

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

All applications and site plans shall provide information indicating compliance with the development standards for individual uses as listed in Article IX of this ordinance, as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the Special Use provide to the contrary.

C. Consideration of Application. The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this 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 Cumberland County's most recent Land Use Plan, either comprehensive or a detailed area plan.  
(Amd. 02-19-08)

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

13. The reasonableness of the request as compared to the purpose and intent of the most recent Land Use Plan, this ordinance, and adopted policies, for the physical development of the district, and protection of the environment.

*(Amd. 02-19-08)*

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

If the Board denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same Special

Use Permit on the same property without a substantial material change concerning the property and the application.

E. Expiration of Permits. Any Special Use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one calendar year from the date of such approval if the permit has not been recorded with the County Register of Deeds. 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 *(Amd. 08-18-08)*

F. Modifications to Plans. The Board of Adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a Special Use application, and new conditions may be imposed where findings require. The Planning and Inspections Staff may approve minor modifications of the approved plans in the same manner as authorized in Section 506 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.  
*(Amd. 02-19-08; Amd. 04-18-11)*

G. 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 Planning and Inspections Staff shall institute proceedings for the case to be reheard by the Board of Adjustment.

Compliance with all the conditions of a Special Use Permit is an essential element of the Special Use Permit's continued validity and effectiveness. If the Coordinator shall determine that a permittee has failed to comply with a condition of an approved Special Use Permit, he shall so notify the permittee or the permittee's successor in interest and shall place the matter on the Board of Adjustment's agenda for the Board's decision whether or not to revoke the Special Use Permit. Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Adjustment shall be a final decision, and a decision to revoke the Special Use Permit may be appealed to the Superior Court of Cumberland County within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the Board of Adjustment's decision. Service by personal delivery, electronic mail 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, may constitute written notice and service of the Board of Adjustment's decision hereunder.  
*(Amd. 04-18-11)*

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

## **SECTION 1607 HEARINGS**

A. The Board of Adjustment 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 is effective upon filing the written decision with the Clerk to the board. 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 Clerk to the board shall certify that proper notice has been made. ~~Any variance or Special Use Permit application considered by the Board of Adjustment requires a quasi-judicial hearing. All other applications considered by the board shall be considered in the manner in which the governing regulation establishes. The board shall fix a reasonable time for hearing and give public notice as well as due notice to the parties in interest. Each quasi-judicial hearing shall follow quasi-judicial requirements including sworn testimony, the reliance on competent evidence, the right to question witnesses, avoiding ex parte contact and bias and matching up evidence to findings of fact. At the hearing, any person or party may appear in person or by agent or attorney. The board shall take action on all matters within a reasonable time after the termination of the proceedings.~~

*(Amd. 08-18-08; Amd. 07-26-13)*

The Secretary to the Board of Adjustment ~~Planning and Inspections Staff~~ shall ensure also notify the Commanders of Fort Bragg, Pope Army Airfield ~~Air Force Base~~, and Simmons Army Airfield are notified of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with N.C. GEN. STAT. § 153A-323.

## **SECTION 1608. REQUIRED VOTE.**

A. The concurring vote of four-fifths ~~of the members~~ of the Board of Adjustment shall be necessary to ~~reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this ordinance and to decide in favor of an applicant on any matter, except relating to Special Use Permits, which the board is required to pass, including granting variances from the provisions of this ordinance. Decisions for issuance of a Special Use Permit shall be made by the majority vote of the board members present at the meeting in which the request is heard.~~ 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 sub-section, 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.  
(Amd. 02-19-08; Amd. 04-18-11)

B. A member of the 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 person's 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.

### **SECTION 1609. REVERSAL/REVOCAION OF DECISION.**

After a hearing has been held and approval granted, the Board of Adjustment may reverse or revoke any decision notice to the property owner and affected applicant if not the owner ~~without a public hearing~~ upon finding that:

- A. The approval was obtained by fraud;
- B. The use for which such approval was granted is not being executed;
- C. The use for which such approval was granted has ceased to exist or has been suspended for one calendar year or more;
- D. The permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval;
- E. The permit granted is in violation of an ordinance or statute; or
- F. The use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

### **SECTION 1610. 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 N.C. GEN. STAT. § 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 A of this sub-section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.



~~Any decision of the Board of Adjustment is subject to review by the Superior Court by proceedings in the nature of certiorari. The aggrieved party shall file a "Notice of Intent to Appeal" with the Planning and Inspections Department on the next business day following the meeting in which the board's decision was made final, or the next business day following receipt of the written copy thereof and delivery is made to every aggrieved party, whichever is later. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within of 30 calendar days after the decision of the Board is made final. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail, return receipt requested.~~

~~(Amd. 01-19-10; Amd. 04-18-11)~~

**State Statute References: N.C. GEN. STAT. §153A-345.1 and §160A-388**

**AUTHORIZE the County Planning and Inspections' staff to REPRINT the Cumberland County Zoning Ordinance in its entirety, including all text amendments to the zoning ordinance adopted on or after June 20, 2005 and as listed below:**

(See next page of zoning text amendment listing.)

# Cumberland County Zoning Ordinance Book

ZONING CASE #	BRIEF DESCRIPTION OF AMENDMENT	BOC ADOPTION DATES	BOC MEETING MINUTES PAGE NUMBERS
P15-25	SOLAR FARMS	5/18/2015	pg. 12-13
P15-16	DISTILLERIES	4/20/2015	pg. 8-9
P14-38	VOCATIONAL SCHOOLS	8/18/2014	pg. 26-30
P14-17	CTOD AND BILLBOARDS	4/22/2014	pg. 12-14
P12-61	KENNEL OPERATIONS	10/15/2012	pg. 28
P12-41	MANUFACTURED HOME CLASSES	8/20/2012	pg. 12-13
P12-33	INTERNET CAFÉ/VIDEO GAMING	10/15/2012	pg. 9-12 (8/20/2012) pg. 17-28
P12-32	RIPARIAN BUFFER & SCREENING BUFFER	6/18/2012	pg. 27-29
P11-20	FIRING RANGE, OUTDOOR	6/17/2013	PG. 24-34
P11-10	ZONING ORDINANCE ANNUAL REVISION	4/18/2011	pg. 14-15
P09-56	ZONING ORDINANCE ANNUAL REVISION	1/19/2010	pg. 8-9
P09-20	RELIGIOUS WORSHIP ACTIVITY AND BUFFER REQUIREMENTS	6/15/2009	pg. 8
P09-05	CONVENIENCE CONTAINERS & RECYCLING FACILITY	3/16/2009	pg. 7
P08-44	KENNEL AMENDMENT	9/15/2008	pg. 7-8
P08-39	AIRPORT OVERLAY DISTRICT	9/15/2008	pg. 6-7
P08-26	SPECIAL USE PERMITS, EXPIRATIONS AND HEARINGS	8/18/2008	pg. 10
P08-05	ZONING ORDINANCE ANNUAL REVISION	2/19/2008	pg. 11
P06-80	ZONING ORDINANCE ANNUAL REVISION	11/20/2006	pg. 6
P06-33	MIXED-USE & MIXED USE BUILDING	8/21/2006	pg. 3
P06-06	R20 & R20A RESIDENTIAL DISTRICTS	2/21/2006	pg. 6-7

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

April 11, 2017

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the April 18, 2017 Board Meeting

**P17-15.** REZONING OF 6.12+/- ACRES FROM A1 AGRICULTURAL TO R40 & R40A RESIDENTIAL, LOCATED AT 2157 SCHOOL ROAD, SUBMITTED BY DANORA J. POWELL (OWNER) AND MICHAEL J. ADAMS (AGENT).

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

The Planning and Inspections Staff recommends the board find that approval of the request is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “rural” development at this location, because the district requested will allow for single family dwelling units on relatively large lots in a rural area. Although the request is not entirely consistent with the South Central Land Use Plan which calls for “farmland,” the requested district would restrict development to approximately one acre lots where soil conditions are suitable for septic systems.

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: *individual well and septic systems are allowed; could be located in any defined critical area as defined by the Fort Bragg Small Study Area; desirable to be limited to one unit per acre in areas with hydric soils and severe septic tank limitations; desirable to not be located in an area that is a prime industrial site and may be outside the Sewer Service Area.*

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

In addition to the above information, the Planning and Inspections Staff recommends the board approve Case No. P17-15 for R40 and R40A Residential based on the following:

- The district requested will allow for land uses and lot sizes that exist in the general area.

There are no other districts that could be considered suitable at this location.

Attachments: 1 – Site Profile  
2 – Sketch Map

**P17-15**  
**SITE PROFILE**

**P17-15.** REZONING OF 6.12+/- ACRES FROM A1 AGRICULTURAL TO R40 & R40A RESIDENTIAL, LOCATED AT 2157 SCHOOL ROAD, SUBMITTED BY DANORA J. POWELL (OWNER) AND MICHAEL J. ADAMS (AGENT).

**Site Information:**

**Frontage & Location:** 595'+/- on SR 2233 (School Rd)

**Depth:** 469'+/-

**Jurisdiction:** County

**Adjacent Property:** No

**Current Use:** Residential

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

**Nonconformities:** Existing manufactured home may not meet side yard setback

**Zoning Violation(s):** None

**Surrounding Zoning:** North: A1 & R40; South: A1, A1/CU (convenience store, outdoor storage, mini warehousing & car wash) & R40/DD/CZ(32 lot subdivision) ; East: A1, A1/CU(39 lot subdivision) & R40/DD/CZ (56 lot subdivision); West: A1 & R40A

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

**2030 Growth Vision Plan:** Rural

**South Central Land Use Plan:** Farmland

**School Capacity/Enrolled:** Gray's Creek Elementary: 495/440 ; Gray's Creek Middle: 1100/1076;  
Gray's Creek High: 1270/1440

**Special Flood Hazard Area (SFHA):** No

**Water/Sewer Availability:** Well/Septic

**Soil Limitations:** None

**Subdivision/Site Plan:** If approved, see Case no. 2017-029

**Average Daily Traffic Count (2014):** 1,400 on SR 2233 (School Rd)

**Highway Plan:** School Road is identified as an existing thoroughfare in the 240 Metropolitan Transportation Plan with no constructions/improvements planned. The subject property will have no impact on the Transportation Improvement Plan

**Notes:**

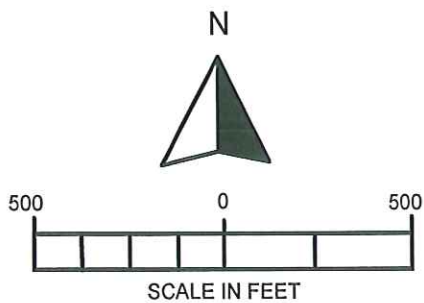
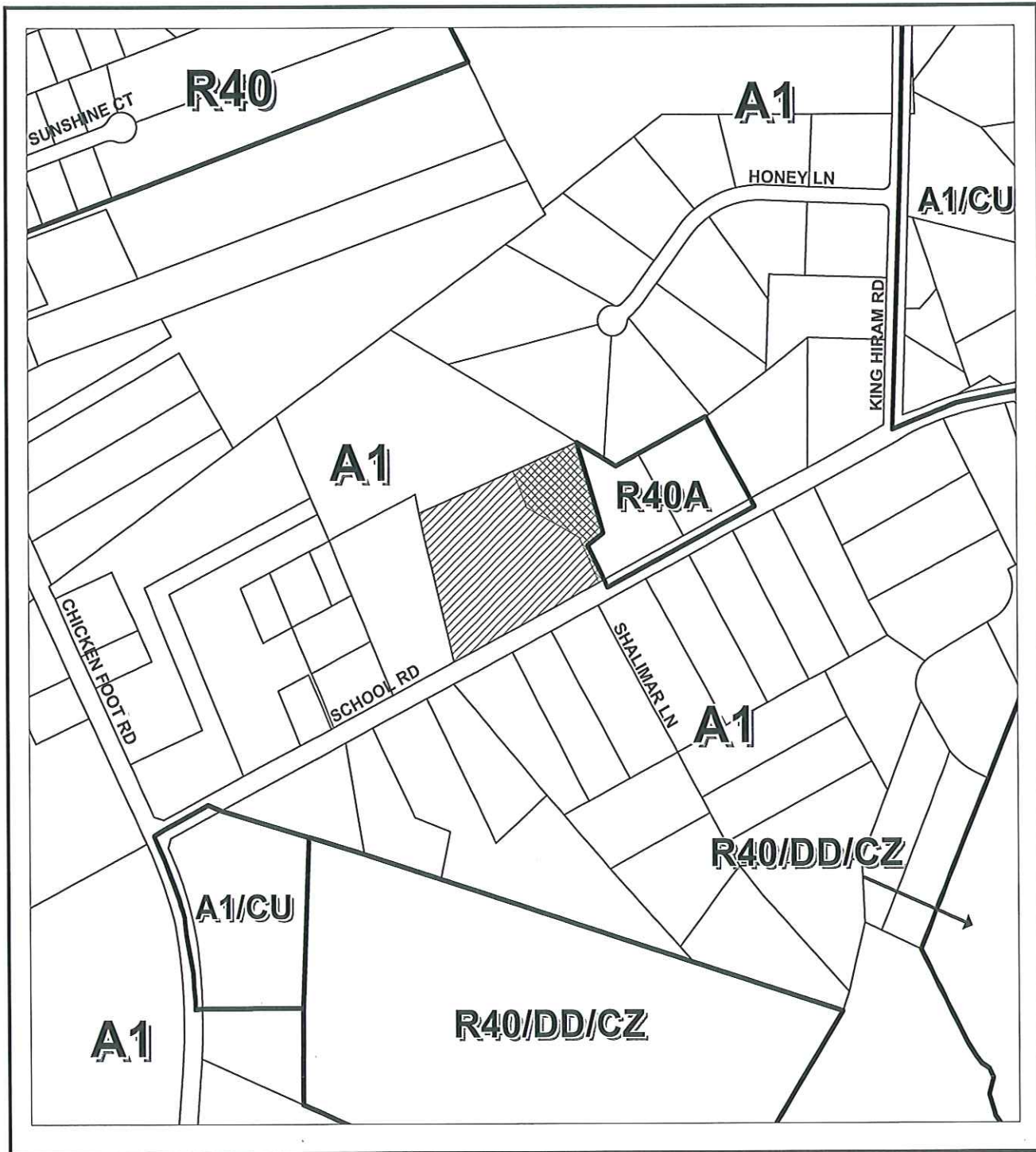
1. Density  
A1 – 3 lots/units  
A1A – 5 lots/ 5 units  
R40 & R40A – 5 lots/ 6 units

2. Minimum Yard Setbacks:

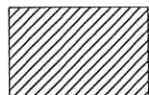
<u>A1&amp; A1A</u>	<u>R40 &amp; R40A</u>
Front yard: 50'	Front yard: 30'
Side yard: 20'	Side yard: 15'
Rear yard: 50'	Rear yard: 35'

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

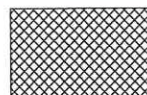
*A certified copy of the listing with the tax record owner(s) of the subject and adjacent properties, along with their tax record mailing addresses, is contained within the case file and incorporated by reference as if delivered herewith.*



### REQUESTED REZONING



**A1 TO R40**  
4.81 AC +/-



**A1 TO R40A**  
1.31 AC +/-

**ACREAGE: 6.12 AC +/-**

**HEARING NO: P17-15**

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

April 11, 2017

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the April 18, 2017 Board Meeting

**P17-16.** REZONING OF 3.90+/- ACRES FROM A1 AGRICULTURAL TO R30 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 7045 MAXWELL ROAD, SUBMITTED BY JOSEPH & VIOLET DOWD (OWNERS) AND MICHAEL J. ADAMS (AGENT).

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

The Planning and Inspections Staff recommends the board find that while approval of the request is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “rural” development at this location, public water is available and connection would be required for any new development.

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 system allowed based on soil type, lot size, and distance from public sewer*, public sewer is not available; *must have direct access to a public street*, Maxwell Road is a minor collector street & Wade Stedman Road is a major collector 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. P17-16 for R30 Residential based on the following:

- The district requested will allow for land uses and lot sizes that exist in the general area.

The R40 Residential district could also be considered suitable at this location.

Attachments: 1 – Site Profile  
2 – Sketch Map

**P17-16**  
**SITE PROFILE**

**P17-16.** REZONING OF 3.90+/- ACRES FROM A1 AGRICULTURAL TO R30 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 7045 MAXWELL ROAD, SUBMITTED BY JOSEPH & VIOLET DOWD (OWNERS) AND MICHAEL J. ADAMS (AGENT).

**Site Information:**

**Frontage & Location:** 150'+/- on SR 1826 (Wade Stedman Rd) & 320' +/- on SR 1006 (Maxwell Rd)

**Depth:** 580'+/-

**Jurisdiction:** County

**Adjacent Property:** No

**Current Use:** Residential

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

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: C2(P), A1, R40, R40A & RR; South: C(P)/CZ (consignment shop & other approved requested uses), A1 & R40 ; East: C(P) & RR; West: A1 & R40

**Surrounding Land Use:** Residential (including manufactured homes), retail sales, second hand sales, fire department, religious worship, convenience retail with gasoline sales, woodland & farmland

**2030 Growth Vision Plan:** Rural

**School Capacity/Enrolled:** Stedman Primary: 200/172; Stedman Elementary: 300/324; Mac Williams Middle: 1270/1085; Cape Fear High: 14258/1503

**Special Flood Hazard Area (SFHA):** No

**Water/Sewer Availability:** ESD/Septic

**Eastover Sanitary District:** Property is within the ESD boundaries and water is available – mandatory connection

**Eastover Town Manager:** If petitioner wishes to rezone from A1, Eastover would prefer an R40 rather than R30

**Soil Limitations:** None

**Subdivision/Site Plan:** If approved, subdivision or group development review may be required.

**Average Daily Traffic Count (2014):** 2,300 on SR 1826 (Wade Stedman Road)

**Highway Plan:** The subject property lies between Maxwell Road and Wade-Stedman Road. Maxwell Road & Wade-Stedman Roads are identified as an existing thoroughfare in the 2040 Metropolitan Transportation Plan with no construction/improvements planned in the area. The subject property will have no impact on the Transportation Improvement Plan

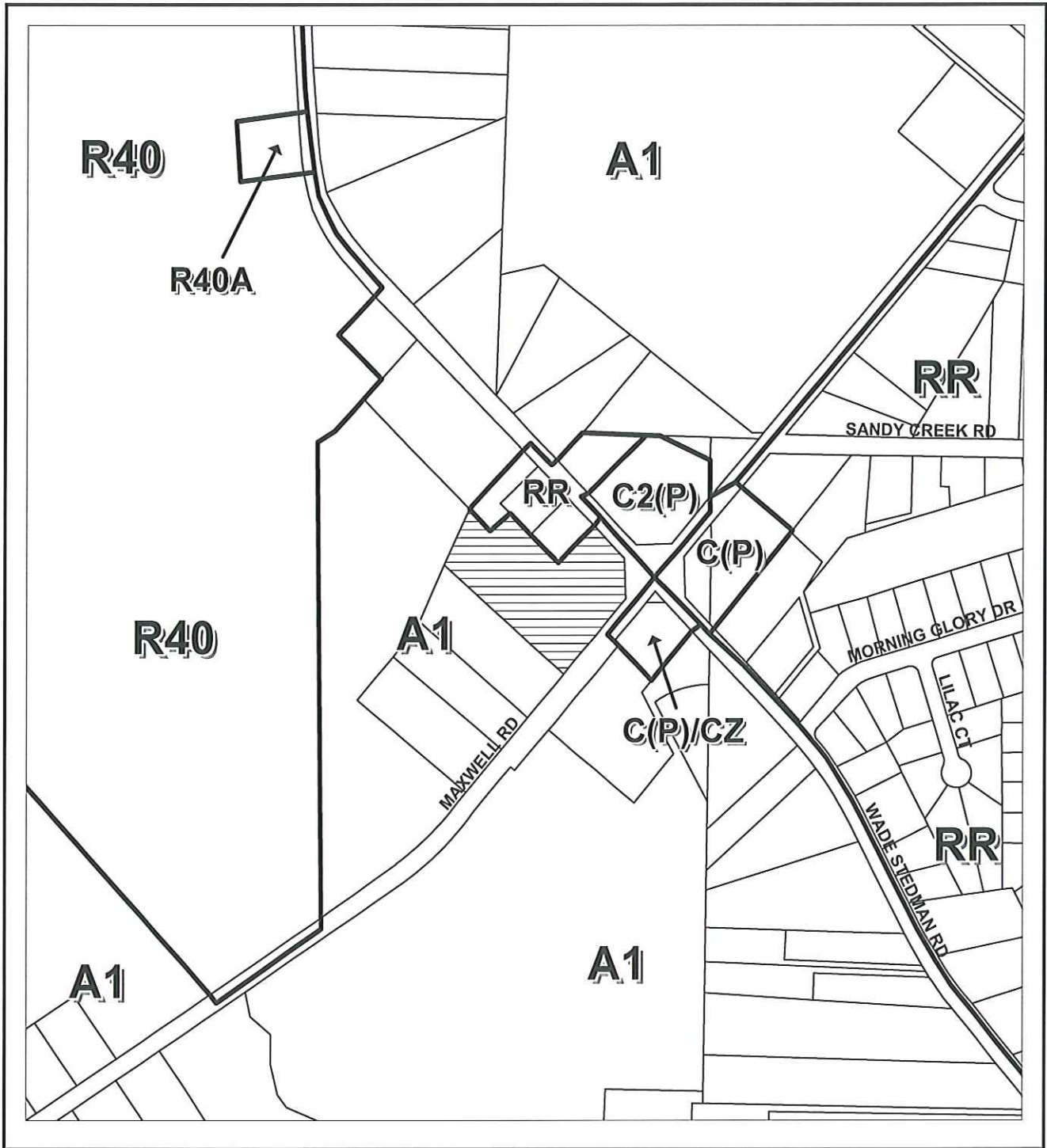
**Notes:**

1. Density  
A1 – 1 lot/ 2 units  
A1A – 3 lots/ 4 units  
R40 & R40A – 3 lots/ 4 units  
R30 & R30A – 4 lots/ 5 units
  
2. Minimum Yard Setbacks:

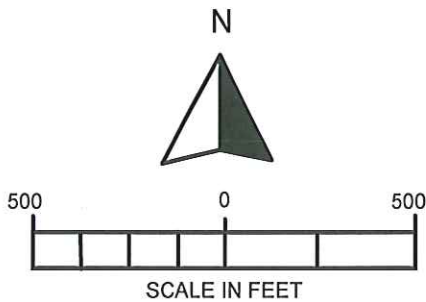
<u>A1&amp; A1A</u>	<u>R40 &amp; R40A</u>
Front yard: 50'	Front yard: 30'
Side yard: 20'	Side yard: 15'
Rear yard: 50'	Rear yard: 35'

**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.*



## REQUESTED REZONING A1 TO R30



PIN: 0497-08-4181

<b>ACREAGE: 3.90 AC.+/-</b>	<b>HEARING NO: P17-16</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  
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CUMBERLAND  
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Cumberland County

Benny Pearce,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

April 11, 2017

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the April 18, 2017 Board Meeting

**P16-28.** REZONING OF 2.13+/- ACRES FROM C3 HEAVY COMMERCIAL & R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING FOR MOTOR VEHICLE REPAIR AND BODY WORK OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2541 BALLPARK ROAD, SUBMITTED BY MICHAEL ANDREW LONGHANY (OWNER). (EASTOVER)

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

The Planning and Inspections Staff recommends the board deny the request to rezone the property to C(P)/CZ for motor vehicle repair and body work on all but the portion already zoned C3 Commercial and to approve R6 Residential on the portions zoned R6A Residential based on the following:

1. The expansion of the commercial operation will not be in harmony with the general area as it is predominately residential; and
2. All uses allowed within the R6A district would not be appropriate in this area.

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

The Planning and Inspections Staff recommends the board find that the request is inconsistent with the 2030 Joint Growth Vision Plan (April 2009), specifically Policy Areas 2, *Well-Managed Growth and Development* and 10, *Community Appearance and Image*. Expansion of the current commercial operation in a residential area served by a community road could lead to further deterioration of the character of the neighborhood. The site could potentially become overwhelmed with vehicles awaiting repair which would make it an eyesore for neighbors and those frequenting the Eastover Ball Park. If expansion is needed for the business to thrive, it would be better for the property owner to relocate along a main road on a property better suited for commercial development. The original request is also inconsistent with the Eastover Detailed Land Use Plan, which calls for "medium density residential" at this location.

The staff recommends the board further find that approval of this request is not reasonable or in the public interest because the district requested for the subject property does not meet several of the location criteria of the adopted Land Use Policies Plan, in that: *should have minimum direct access to a collector street*, Ballpark Road is not a collector street; and *should not be in a predominantly residential, office & institutional, or light commercial area*, the surrounding area is predominantly residential.

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

**P16-28**  
**SITE PROFILE**

**P16-28.** REZONING OF 2.13+/- ACRES FROM C3 HEAVY COMMERCIAL & R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING FOR MOTOR VEHICLE REPAIR AND BODY WORK OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2541 BALLPARK ROAD, SUBMITTED BY MICHAEL ANDREW LONGHANY (OWNER). (EASTOVER)

**Site Information:**

**Frontage & Location:** 260'+/- on SR 2828 (Ballpark Rd)

**Depth:** 340'+/-

**Jurisdiction:** Eastover

**Adjacent Property:** Yes

**Current Use:** Motor vehicle repair and vacant

**Initial Zoning:** R6A – December 14, 1979 (Area 10); Rezoned portion to C3 May 22, 1990 (Case P90-50); initially zoned to C3 & R6A December 4, 2007 (Town of Eastover incorporated July 26, 2007)

**Nonconformities:** Existing structure does not meet side yard setback; existing accessory structures do not meet separation requirements.

**Zoning Violation(s):** None

**Surrounding Zoning:** North: C(P), C1(P)/CZ (trade contractor office & mini-warehousing), A1, RR & R6A; South: M(P), C(P), C1(P), RR & R6A; East: C(P), C1(P), C2(P)/CZ (commercial parking lot & retail shopping center), RR & R15; West: RR (all zoning districts are Eastover)

**Surrounding Land Use:** Residential (including manufactured homes), open storage, retail sales (2), utility substation, Eastover Community Park

**2030 Growth Strategy Map:** Community growth area

**Eastover Land Use Plan:** Medium density residential

**Town of Eastover:** Although the petitioner is currently in a commercial zoning, expanding that in a residential neighborhood is not something we wish to see. If this is done, it could also give weight to a later request for rezoning on the larger parcel to the rear, which he chose to remove from this request.

**School Capacity/Enrolled:** Armstrong Elementary: 450/444; Mac Williams Middle: 1270/1165; Cape Fear High School: 1425/1534

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

**Water/Sewer Availability:** ESD/ESD

**Soil Limitations:** None

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

**Average Daily Traffic Count (2014):** 1300 on SR 1722 (Glenwood Lane); No data available for Ballpark Rd

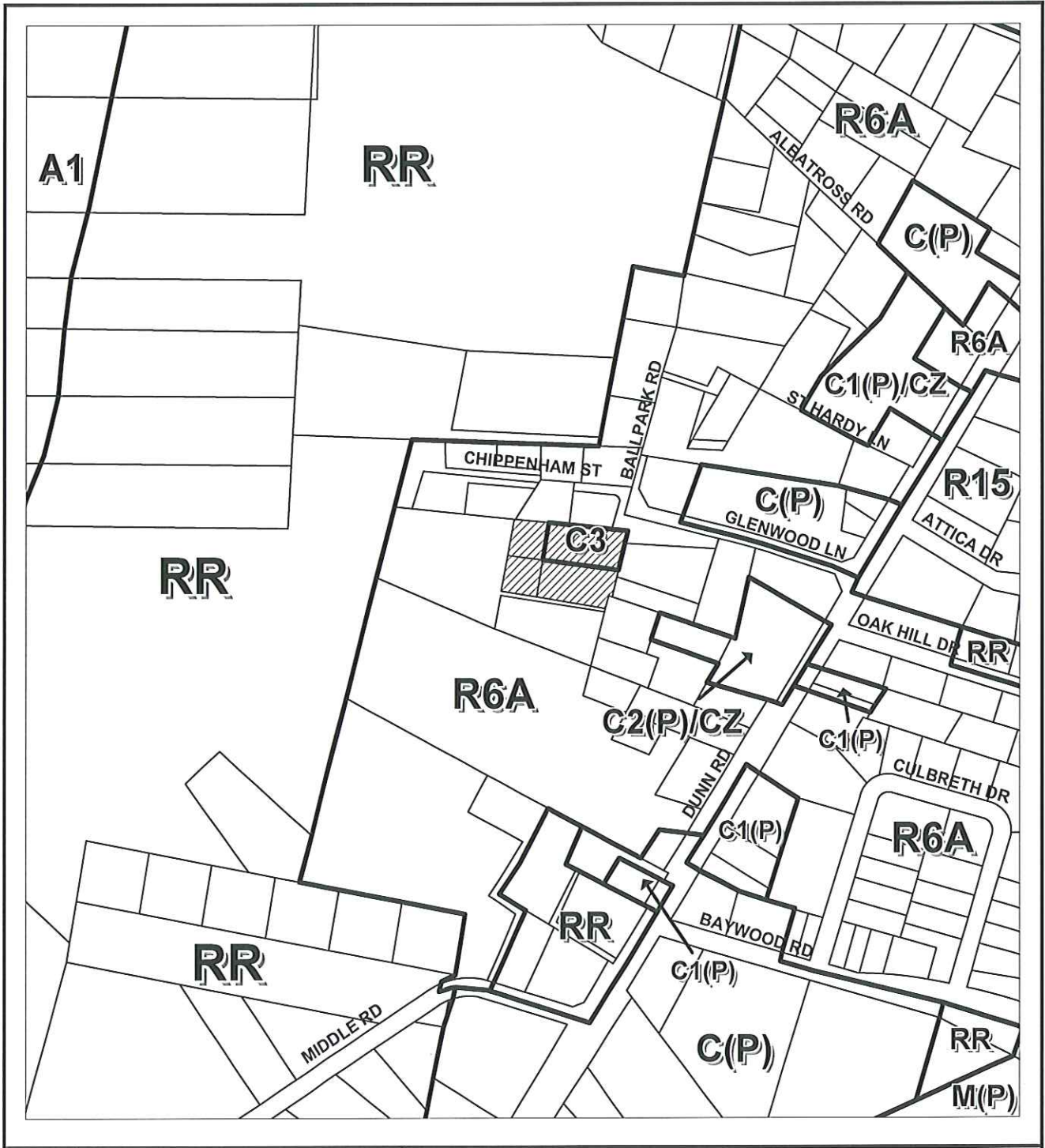
**Highway Plan:** Ballpark Road is a local road with no construction/improvement planned for this area. The subject property will have no impact on the Highway Plan or Transportation Improvement Plan.

**Notes:**

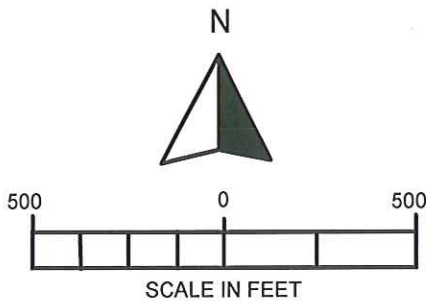
1. Density  
R6 & R6A – 11 lots/ 12 units  
MHP (R6A only) – 11 lots/units

2. Minimum Yard Setbacks:

<u>C(P)</u>	<u>R6</u>	<u>R6A</u>
Front yard: 50'	Front yard: 25'	Front yard: 25'
Side yard: 30'	Side yard: 10'	Side yard: 10'
Rear yard: 30'	Rear yard: 30'	Rear yard: 15'

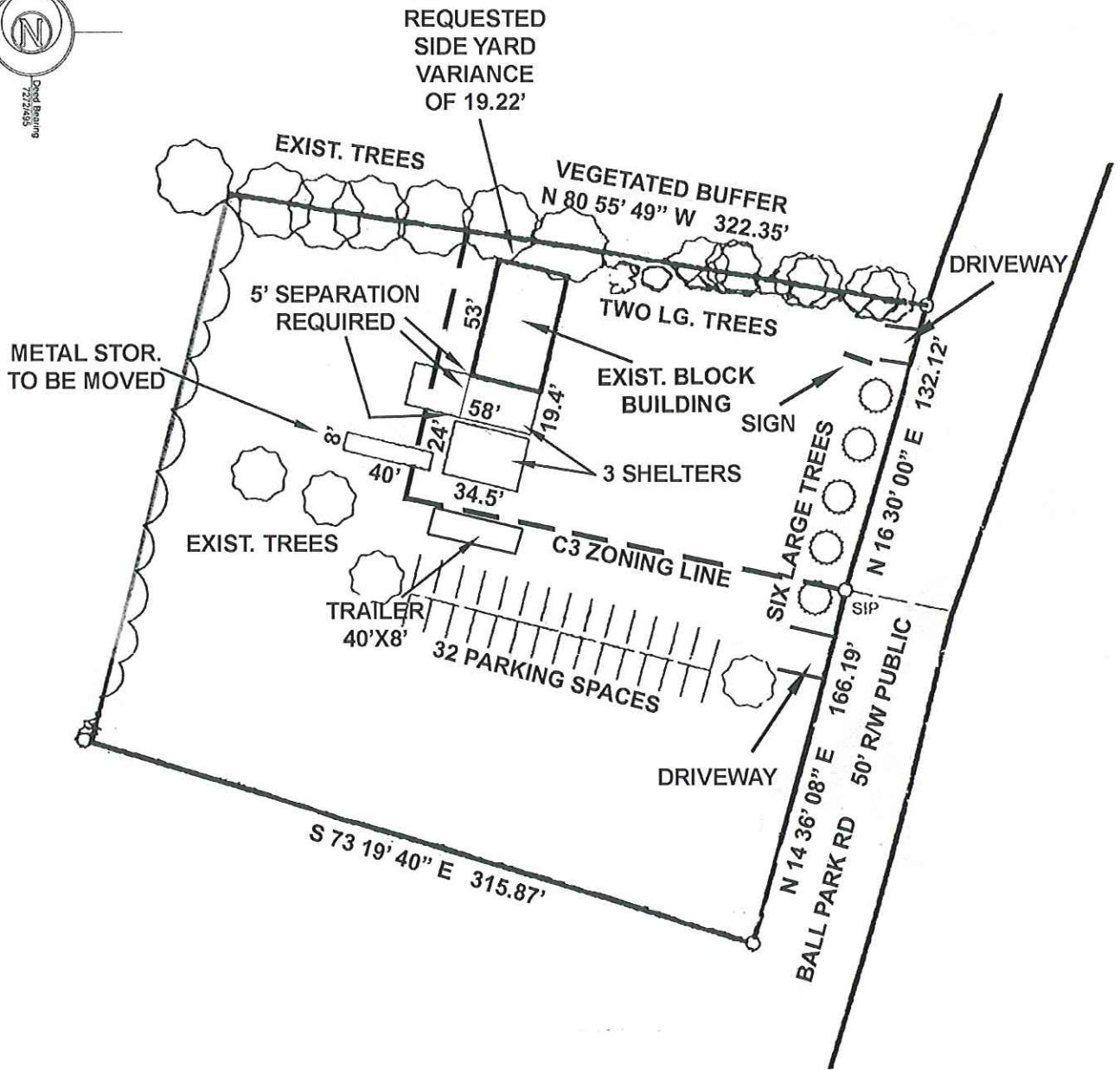
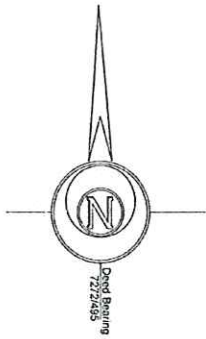


## REQUESTED REZONING C3 AND R6A TO C(P)\CZ



PIN: 0469-41-4775, 0469-41-4653,  
0469-41-6630, 0469-41-6763

<b>ACREAGE: 2.13 AC.+/-</b>	<b>HEARING NO: P16-28</b>	
ORDINANCE: EASTOVER	HEARING DATE	ACTION
STAFF RECOMMENDATION		
PLANNING BOARD		
GOVERNING BOARD		



**C(P) PLANNED COMMERCIAL / CZ CONDITIONAL ZONING  
REQUEST: FOR MOTOR VEHICLE REPAIR AND BODY WORK**

**CASE: P16-28 ACREAGE: 2.13 AC +/-**

**SCALE: NTS PARKING: 32 SPACES**

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

03/16/17  
04/11/17  
MB

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

**DRAFT**

Ordinance Related Conditions  
for  
Motor Vehicle Repair w/ Body Work

**Pre- Permit Related:**

1. A recombination plat (also known as a “No Approval Required” or “NAR”) must be submitted to Land Use Codes and then the Town Manager 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.
2. Five copies of a revised site plan and a \$25.00 revision fee must be submitted for staff review and approval. The revised plan must include the following:
  - a. Define the specific area where vehicles awaiting repair will be parked and denote the location and type of buffer, either vegetative or solid fence (cannot be chain link). **Storage of junked vehicles on this site is not permitted; the temporary storage of motor vehicles awaiting repair must be temporarily stored in such an area that the vehicles are screened from view and cannot be seen from a public street or the adjacent residential property;**
  - b. If any of the requested variances are not approved, the structure/item subject to the variance must be adjusted so that the minimum ordinance standards are met. The property owner is requesting the Council to vary the following:

(1) Existing block building	19.22’ side yard
(2) Three shelters	5’ separation required between each shelter and between the two middle shelters and the existing building

**Permit-Related:**

3. 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.

**Note: All structures, to include the existing building renovations and the three shelters must be properly permitted prior to application for permits for construction of the existing building.**
4. Connection to public water and sewer is required, the Eastover Sanitary District (ESD) must approve water and sewer 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. The following are the minimum standards for the required landscaping of this site:
  - a. Five large shade trees or 10 small ornamental trees within the front yard setback area along SR 2828 (Ballpark Rd);
  - b. Four ornamental trees and 19 shrubs are required in the building yard area; and
  - c. Two large shade trees or four small ornamental trees are required within the parking 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. The “metal stor.” shown on the site plan as to be removed must be removed within 30 days of the final inspection.
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)/CZ zoning district, to include the contents of the application and site plan, must be complied with, as applicable.
13. Storage of junked vehicles is not a permitted use of this site.
14. This site is approved for motor vehicle repair and body work in accordance with the site plan as submitted, any change in use, additional use and/or construction/ placement of any new and/or additional structures on this site must first be approved by the Town Council.
15. 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.)
16. “Ball Park Road” must be labeled as “SR 2828 (Ballpark Road)” on all future plans.
17. 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)
18. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)

19. 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.
20. 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.
21. A solid buffer must be provided and maintained along the side and rear property lines where this tract/site abuts residential in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)
22. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
23. All required off-street parking spaces are required to be a minimum of 9' x 20'; a minimum of 33 off-street parking spaces is required for this development. The 32 spaces shown plus the bay parking satisfies this condition.
24. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing.

**Plat-Related:**

25. "Ball Park Road" must be labeled as "SR 2828 (Ballpark Road)" on the recombination plat.
26. 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.
27. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the recombination plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision and Development Ordinance)
28. 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:**

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

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

**Advisories:**

30. The applicant is advised to consult an expert on wetlands before proceeding with any development.
31. 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.
32. The developer's subsequent application for permits upon receipt of these conditions of approval constitutes the developer's understanding and acceptance of the conditions of approval for this development.
33. 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 choosing the Town of Eastover for your business location!*

**If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Jaimie Melton at 910-678-7603 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>
Eastover Sanitary District:	Connie Spell	229-3716	<a href="mailto:cfspllesd@ncrrbiz.com">cfspllesd@ncrrbiz.com</a>
Town of Eastover:	Matt Rooney (Staff Rep)	678-7625	<a href="mailto:mrooney@co.cumberland.nc.us">mrooney@co.cumberland.nc.us</a>
Town of Eastover:	Kim Nazarchyk (Manager)	323-0707	<a href="mailto:townmanager@eastovernc.com">townmanager@eastovernc.com</a>
Town of Eastover	Jane Faircloth (Town Clerk)	323-0707	<a href="mailto:townclerk@eastovernc.com">townclerk@eastovernc.com</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.cottrell@ncdenr.gov">leland.cottrell@ncdenr.gov</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>
Tax Parcel Numbers:		678-7549	
NCDOT (driveways/curb-cuts):	Troy Baker	486-1496	<a href="mailto:tlbaker@ncdot.gov">tlbaker@ncdot.gov</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: Kim Nazarchyk, Town of Eastover  
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, the following facts are submitted:

- C3 and*
1. Requested Rezoning from Residential R6A to Commercial CP / CZ
  2. Address of Property to be Rezoned: 2541 Ballpark Road
  3. Location of Property: Eastover, NC 28312
  
  4. Parcel Identification Number (PIN #) of subject property: 0469-41-~~4725~~, 4725, 4653, 6630  
(also known as Tax ID Number or Property Tax ID) 6763
  5. Acreage: 2.13 RD. ~~5.67~~ 4.32 Frontage: 145.19 Depth: ~~279.65~~ 351.4-RD
  6. Water Provider: Well: \_\_\_\_\_ PWC: \_\_\_\_\_ Other (name): Eastover Sanitary
  7. Septage Provider: Septic Tank  PWC \_\_\_\_\_
  8. Deed Book 9930-0040-0041, Page(s) 9391-0242-0249, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry). 7272-0495-0497
  9. Existing use of property: none
  10. Proposed use(s) of the property: parking, new building  
Motor vehicle Repair & Body Works
  11. Do you own any property adjacent to or across the street from this property?  
Yes  No \_\_\_\_\_ If yes, where? \_\_\_\_\_
  12. Has a violation been issued on this property? Yes \_\_\_\_\_ No

A copy of the recorded deed(s) and/or recorded plat map(s) must be provided. If the area is a portion of a parcel, a written legal description by metes and bounds, showing acreage must accompany the deeds and/or plat. If more than one zoning classification is requested, a correct metes and bounds legal description, including acreage, for each bounded area must be submitted.

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

APPLICATION FOR  
CONDITIONAL ZONING

1. PROPOSED USE(S):

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

Motor vehicle Repair  
Body work

- 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.

Commercial - 4.89

2. DIMENSIONAL REQUIREMENTS:

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

See site plan

Requesting two sideyard  
set variances:

- 1: 19-22 ft variance for existing building
- 2: ~~20 ft variance for proposed building~~ RD

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

See site plan

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIII.

One free standing sign (2x3)  
(existing)

4. LANDSCAPE AND BUFFER REQUIREMENTS:

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

*See site plan*

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

*See site plan*

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.

*Hours of operation 8:00 A.M. to 5:00 P.M.  
Mon thru Fri*

*5 employees requesting a 5ft @ 2'6" variance  
from SEC. 1102G to allow existing  
accessory structures to remain in  
place.*

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.

The undersigned hereby acknowledge that the County Planning Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

✓✓ Michael Andrew Longhany  
NAME OF OWNER(S) (PRINT OR TYPE)

✓ 5205 Stewart Rd. Wade Nc 28395  
ADDRESS OF OWNER(S)

910-850-1910  
HOME TELEPHONE #

910-485-6004  
WORK TELEPHONE #

\_\_\_\_\_  
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

\_\_\_\_\_  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

\_\_\_\_\_  
E-MAIL

\_\_\_\_\_  
HOME TELEPHONE #

\_\_\_\_\_  
WORK TELEPHONE #

X   
SIGNATURE OF OWNER(S)

\_\_\_\_\_  
SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

\_\_\_\_\_  
SIGNATURE OF OWNER(S)

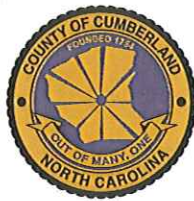
**The contents of this application, upon submission, become "public record."**

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

April 11, 2017

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the April 18, 2017 Board Meeting

**P17-13.** REZONING OF 3.08+/- ACRES FROM RR RURAL RESIDENTIAL TO C1(P) PLANNED LOCAL BUSINESS/CZ CONDITIONAL ZONING FOR CONVENIENCE RETAIL WITH GASOLINE SALES & RESTAURANT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 6020 US HWY 301 S; SUBMITTED BY A. MAURICE ELLIOT & HELEN ELLIOT SMITH ON BEHALF OF MADIE ELLIOT HEIRS, DANIEL & DEBORA MCPHAUL (OWNERS), DAVID L. PAIT (APPLICANT) AND WILLIAM R. DAVIS, ATTORNEY (AGENT).

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

The Planning and Inspections Staff recommends the board find this request inconsistent with the 2030 Joint Growth Vision Plan (April 2009), specifically Policy Areas 2, *Well-Managed Growth and Development* and 3, *Infrastructure That Keeps Pace*. At this location, US Highway 301 South is a two-lane highway with no turn lanes. Even if the North Carolina Department of Transportation requires the installation of turn lanes, the opportunity for traffic congestion and accidents exists. The subject property is proposed to be served by an individual well and septic system, which is not ideal for a restaurant. The request is also not consistent with the Southwest Cumberland Land Use Plan which calls for "suburban residential" at this location.

The staff recommends the board further find that approval of this rezoning is not reasonable or in the public interest because the district requested for the subject property does not meet the following location criteria of the adopted Land Use Policies Plan, in that: *public water and sewer required*, public water and sewer are not available; *should serve as a transition between heavy commercial, office & institutional or residential development*, this area is not transitional; *may be located along a street that is in transition from residential to non-residential through redevelopment and physical improvements*, per comments received from the Fayetteville Area Metropolitan Planning Organization, this section of US HWY 301 S is not scheduled for any improvements.

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

In addition to the above information, the Planning and Inspections Staff recommends the board deny Case No. P17-13 for C1(P)/CZ for convenience retail with gasoline sales & restaurant based on the following:

- There are already several vacant commercially zoned properties in the area that could potentially be suitable for the applicant's requested land use.

If the property owner voluntarily agrees to eliminate the use as a restaurant, this request at this location could be considered suitable for the A1 Agricultural district. In the event the board is inclined to recommend approval of this request, please make the recommendation subject to the conditions of approval.

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

**P17-13**  
**SITE PROFILE**

**P17-13.** REZONING OF 3.08+/- ACRES FROM RR RURAL RESIDENTIAL TO C1(P) PLANNED LOCAL BUSINESS/CZ CONDITIONAL ZONING FOR CONVENIENCE RETAIL WITH GASOLINE SALES & RESTAURANT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 6020 US HWY 301 S; SUBMITTED BY A. MAURICE ELLIOT & HELEN ELLIOT SMITH ON BEHALF OF MADIE ELLIOT HEIRS, DANIEL & DEBORA MCPHAUL (OWNERS), DAVID L. PAIT (APPLICANT) AND WILLIAM R. DAVIS, ATTORNEY (AGENT).

**Site Information:**

**Frontage & Location:** 654'+/- on US HWY 301 S

**Depth:** 287'+/-

**Jurisdiction:** County

**Adjacent Property:** No

**Current Use:** Vacant

**Initial Zoning:** RR – February 3, 1977 (Area 7)

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: C(P), C3 & RR; South: C1(P), C1(P)/CU (allow mobile home) & RR ; East & West: RR

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

**2030 Growth Vision Plan:** Urban fringe

**Southwest Cumberland Land Use Plan:** Suburban residential

**Town of Hope Mills (MIA):** Staff does not object to the request

**School Capacity/Enrolled:** Gallberry Farm Elementary: 900/972; Gray's Creek Middle: 1100/1066; Gray's Creek High: 1470/1448

**Special Flood Hazard Area (SFHA):** No

**Water/Sewer Availability:** Well/Septic

**Soil Limitations:** None

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

**Average Daily Traffic Count (2014):** 10,000 on US HWY 301 S

**Highway Plan:** At the location of the subject property, US 301 South is identified as an existing thoroughfare in the 2040 Metropolitan Transportation Plan with no construction/improvements planned. The subject property will have no impact on the Transportation Improvement Plan

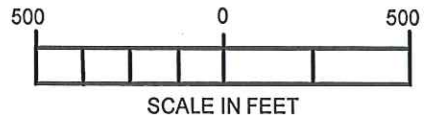
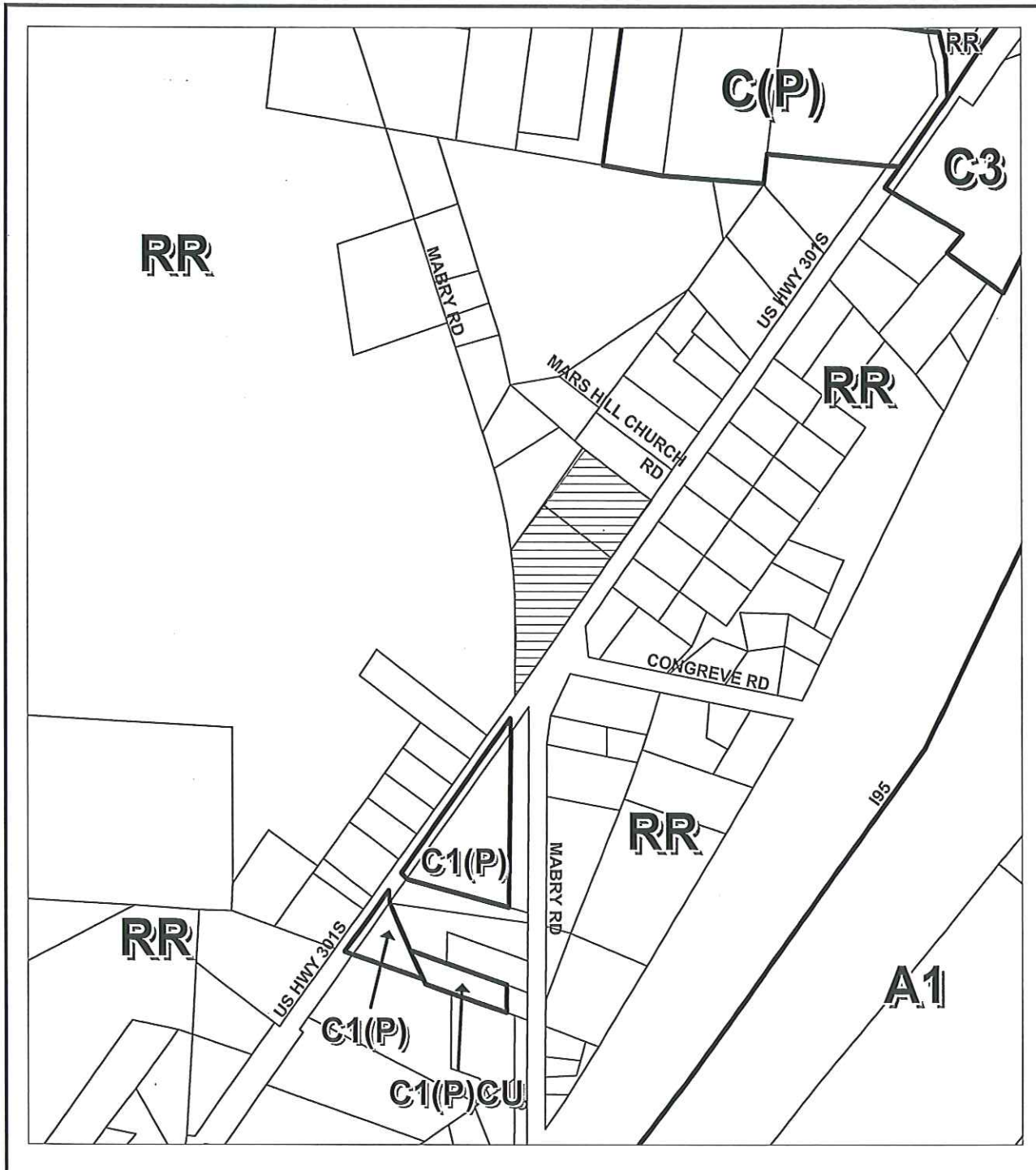
**Notes:**

1. Density (minus 15% for R/W)  
RR – 5 lots/ 6 units
  
2. Minimum Yard Setbacks:

<b><u>C1(P)</u></b>	<b><u>RR</u></b>
Front yard: 45'	Front yard: 30'
Side yard: 15'	Side yard: 15'
Rear yard: 20'	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.*

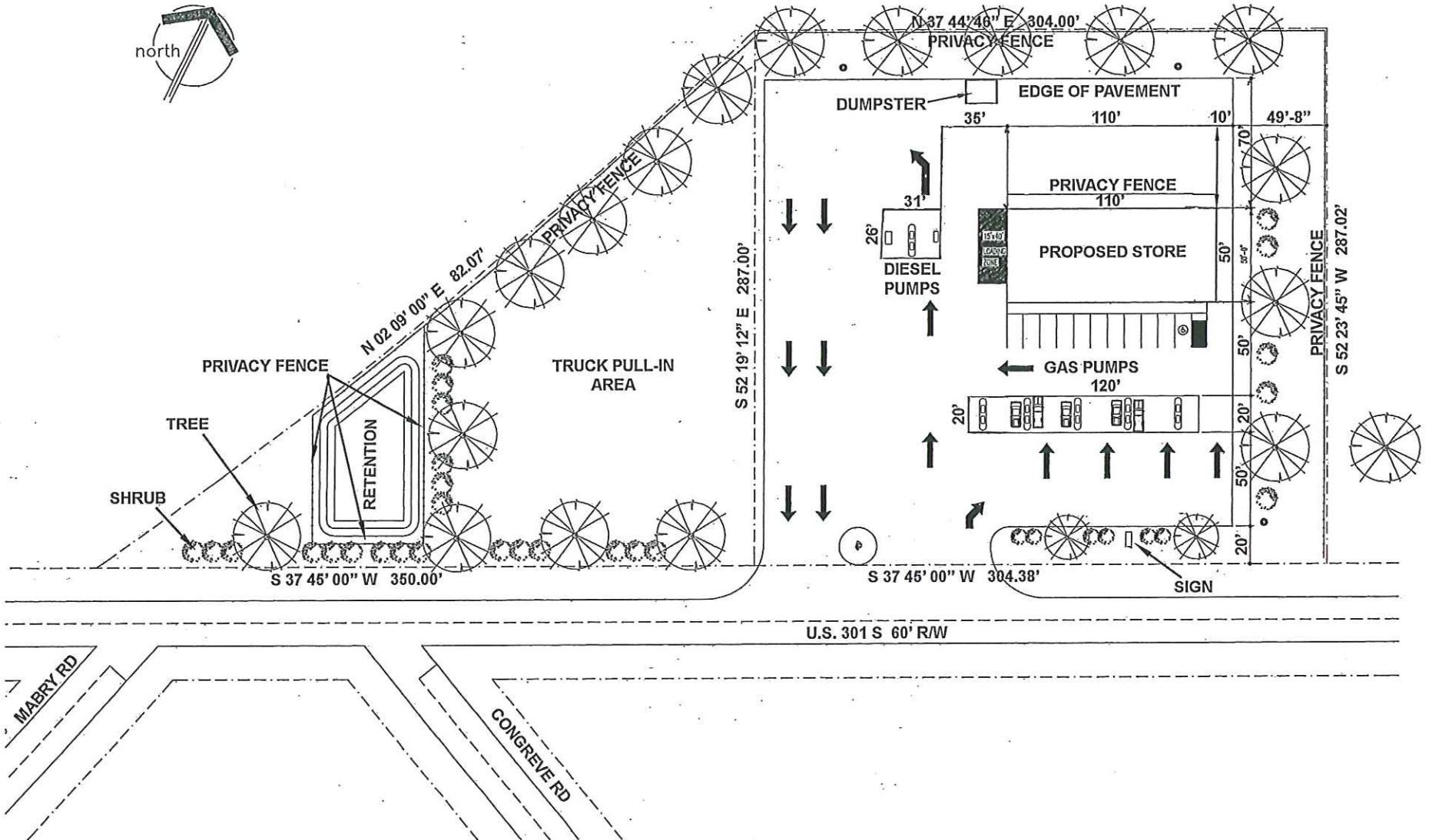


## REQUESTED REZONING RR TO C1(P)/CZ

<b>ACREAGE: 3.08 AC.+/-</b>	<b>HEARING NO: P17-13</b>	
ORDINANCE: COUNTY	HEARING DATE	ACTION
STAFF RECOMMENDATION		
PLANNING BOARD		
GOVERNING BOARD		

PIN: 0412-69-5174  
0412-69-6396

MB



**C1(P) PLANNED LOCAL BUSINESS/CZ CONDITIONAL ZONING  
 REQUEST: CONVENIENCE RETAIL WITH GASOLINE  
 SALES AND RESTAURANT**

**CASE: P17-13 ACREAGE: 3.08 AC +/-**

**ZONED: RR SCALE: NTS PARKING: AS SHOWN**

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



**C1(P) PLANNED LOCAL BUSINESS/CZ CONDITIONAL ZONING DISTRICT**

**DRAFT**

Ordinance Related Conditions  
for  
Convenience Retail w/ Gasoline Sales & Restaurant

**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 water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision and Development Ordinance)
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. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. The following are the minimum standards for the required landscaping of this site:
  - a. Thirteen large shade trees or 26 small ornamental trees within the front yard setback area along US HWY 301 S;
  - b. Two ornamental trees and 24 shrubs are required in the building yard area; and
  - c. One large shade tree or 2 small ornamental trees are required within the parking 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.
8. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.
9. 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:**

10. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the C1(P)/CZ zoning district for convenience retail with gasoline sales and a restaurant, to include the contents of the application and the site plan, must be complied with, as applicable.
11. This conditional approval is not approval of the permit for the freestanding sign. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is not approval of the size, shape, or location of any signs.)
12. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision and Development Ordinance)
13. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
14. In the event a stormwater utility structure is required by the NC Department of Environment and Natural Resources (NCDENR), the owner/developer must secure the structure with a four foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
15. Turn lanes may be required by the NC Department of Transportation (NCDOT).
16. 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.
17. A solid buffer must be provided and maintained along both sides and the rear property lines where this tract/site abuts residentially zoned property in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)
18. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
19. All required off-street parking spaces are required to be a minimum of 9' x 20'; a minimum of 13 off-street parking spaces is required for this development.
20. A minimum of 1 off-street loading spaces(s) measuring 12' x 25' with 14' overhead clearance must be provided for the convenience store & restaurant area.
21. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing.

**Plat-Related:**

22. If “Mabry Road” is included on the recombination plat, it must be labeled as “SR 2331 (Mabry Road).”
23. If “Congreve Road” is included on the recombination plat, it must be labeled as “SR 2271 (Congreve Road).”
24. 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.
25. 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 approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision and Development Ordinance)
26. The recombination plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

**Plat-Required Statements:**

27. Since this development does not have public water/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 and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private wells at the date of this recording.”

28. All structures are required to 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:**

29. The applicant is advised to consult an expert on wetlands before proceeding with any development.
30. The subject property is located within the Town of Hope Mills Municipal Influence Area (MIA). The following comments were submitted by the town staff:
  - a. *Town of Hope Mills Storm Water Department:* No Comment
  - b. *Town of Hope Mills Planning Department:* Staff does not object to the request.
  - c. *Town of Hope Mills Public Works Department:* No Comment.
  - d. *Town of Hope Mills Fire Department:* No Comment.
31. At the location of the subject property, US 301 South is identified as an existing thoroughfare in the 2040 Metropolitan Transportation Plan with no constructions/improvements planned. The subject property will have no impact on the Transportation Improvement Plan. For more information related to this condition, please contact Transportation Planning.
32. The subject property is located within the Town of Hope Mills Municipal Influence Area (MIA) and the town has tree preservation standards in their ordinances. The developer is encouraged to retain as many of the existing trees as possibly on this site.
33. 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.
34. 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.

35. This conditional approval is not approval of the pond shown on the site plan. Cumberland County is not responsible for maintenance and does not assume any liability for the construction, maintenance or structural integrity of the pond and/or earth dam.

*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>
Food & Lodging Env. Health:	Daniel Ortiz	433-3680	<a href="mailto:dortiz@co.cumberland.nc.us">dortiz@co.cumberland.nc.us</a>
Ground Water Issues:	Matt Rooney	678-7625	<a href="mailto:mrooney@co.cumberland.nc.us">mrooney@co.cumberland.nc.us</a>
Town of Hope Mills:		424-4555*	
Town Clerk:	Deborah Holland		<a href="mailto:dholland@townofhopemills.com">dholland@townofhopemills.com</a>
Planner – Zoning Permits	Chancer McLaughlin		<a href="mailto:cmclaughlin@townofhopemills.com">cmclaughlin@townofhopemills.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.cottrell@ncdenr.gov">leland.cottrell@ncdenr.gov</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>
Tax Parcel Numbers:		678-7549	
NCDOT (driveways/curb-cuts):	Troy Baker	486-1496	<a href="mailto:tlbaker@ncdot.gov">tlbaker@ncdot.gov</a>
Transportation Planning:	Joel Strickland	678-7622	<a href="mailto:jstrickland@co.cumberland.nc.us">jstrickland@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>

\*This is the main telephone number for the Town of Hope Mills; once connected, the caller will be directed to the various departments.

cc: Chancer McLaughlin, Town of Hope Mills

**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 David L. Pait
2. Address: 3670 Heartpine Dr., Fayetteville, NC, Zip Code 28306
3. Telephone: (Home) (910) 624-8281 (Work) \_\_\_\_\_
4. Location of Property: U.S. Hwy 301-South, Hope Mills, NC 28348
5. Parcel Identification Number (PIN #) of subject property: 0412-69-5174 and 0412-69-6396  
(also known as Tax ID Number or Property Tax ID)
6. Acreage: ~~2.34 ac~~ 3.08 ac Frontage: 654' Depth: 287'
7. Water Provider: Well Septage Provider: Septic Tank
8. Deed Book 414 4139 4615, Page(s) 366 443 523, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: Vacant Lot / Residential
10. Proposed use(s) of the property: Convenience Store / Fuel Stop / Restaurant

**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: RR

TO: (Select one)

- Conditional Zoning District, with an underlying zoning district of C-1(P) (Article V)
- Mixed Use District/Conditional Zoning District (Article VI)
- ~~C-1(P)~~  Planned Neighborhood District/Conditional Zoning District (Article VII)
- Density Development/Conditional Zoning District, at the \_\_\_\_\_ Density (Article VIII)

WRD

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.)

Convenience store with gasoline (and diesel)  
Sales and restaurant. 3 tables 12 chairs

- 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.

All to be commercial.

2. DIMENSIONAL REQUIREMENTS:

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

See Site Plan.

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

11 parking spaces - concrete/asphalt

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIII.

See Site Plan.

4. LANDSCAPE AND BUFFER REQUIREMENTS:

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

*See Site Plan.*

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

*See Site Plan.*

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.

*24 hrs., 7 days per week.*

*4-6 employees.*

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.

7. STATEMENT OF ACKNOWLEDGMENT:

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

It is the responsibility of the petitioner (personally or by agent) to submit to the Planning and Inspections Department a valid request within a complete application.

I further understand I must voluntarily agree to all ordinance related conditions prior to the first hearing on the case or any disagreement may be cause for an unfavorable recommendation. The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

✓ A. Maurice Elliott and Helen Elliott Smith (Hers of Modie Elliott)  
NAME OF OWNER(S) (PRINT OR TYPE)

✓ 6083 Gallberry Rd, Hope Mills, NC 28348  
ADDRESS OF OWNER(S)

hesmith7779@gmail.com  
E-MAIL

(910)322-6558  
HOME TELEPHONE

WORK TELEPHONE

Alton M. Elliott by Helen E. Smith AIF  
SIGNATURE OF OWNER(S)

Helen E. Smith  
SIGNATURE OF OWNER(S)

✓ William R. Davis, Attorney  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

✓ P.O. Box 566  
Hope Mills, N.C. 28348  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

910-424-2024  
HOME TELEPHONE

910-424-3234  
WORK TELEPHONE

Cooperanddavis@aol.com  
E-MAIL ADDRESS

910-424-3373  
FAX NUMBER

William R. Davis  
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT



7. STATEMENT OF ACKNOWLEDGMENT:

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

It is the responsibility of the petitioner (personally or by agent) to submit to the Planning and Inspections Department a valid request within a complete application.

I further understand I must voluntarily agree to all ordinance related conditions prior to the first hearing on the case or any disagreement may be cause for an unfavorable recommendation. The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

✓ Daniel McPhaul / Debra G. McPhaul  
NAME OF OWNER(S) (PRINT OR TYPE)

✓ 122 Breckenridge Drive Rayford, Nc 28376  
ADDRESS OF OWNER(S)

debramephaul@ccg.k12.nc.us  
E-MAIL

(910) 875-8449 HOME TELEPHONE (910) 322-1027 WORK TELEPHONE

David McPhaul SIGNATURE OF OWNER(S) Debra G. McPhaul SIGNATURE OF OWNER(S)

✓ William R. Davis, Attorney  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

✓ P.O. Box 566  
Hope Mills, N.C. 28348  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

HOME TELEPHONE 910-424-3234 WORK TELEPHONE

cooperanddavis@aol.com E-MAIL ADDRESS 910-424-3373 FAX NUMBER

William R. Davis  
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

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

April 11, 2017

**MEMORANDUM**

**TO:** Cumberland County Joint Planning Board  
**FROM:** Planning and Inspections Staff  
**SUBJECT:** Staff Recommendation for the April 18, 2017 Board Meeting

**P17-14.** REZONING OF .70+/- ACRES FROM C3 HEAVY COMMERCIAL TO M(P) PLANNED INDUSTRIAL/CZ CONDITIONAL ZONING FOR OPEN STORAGE AND WAREHOUSING OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 5417 TRADE STREET; SUBMITTED BY LOUISE M. AUTRY AND JAMES A. MCLEAN ON BEHALF OF AUTRY & MCLEAN, LLC (OWNER) AND TERRY C. FAIRCLOTH, PLS (AGENT). (HOPE MILLS)

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

The Planning and Inspections Staff recommends the board deny Case No. P17-14 for M(P)/CZ for open storage and warehousing based on the following:

- The proposed use could become an environmental hazard and an eyesore for those in the community and would defeat the town's efforts in restoring and stabilizing a vibrant local business area.

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

The Planning and Inspections Staff recommends the board find this request inconsistent with the 2030 Joint Growth Vision Plan (April 2009), specifically Policy Areas 2, *Well-Managed Growth and Development* and 10, *Attractive Community Appearance & Image*. The open storage of lawn mowers and other related equipment can lend itself to the leakage of fluids and contamination of ground water. The request is also not consistent with the Southwest Cumberland Land Use Plan which specifically mentions "Trade Street Enhancement" as a plan action. This property is located in the heart of Downtown Hope Mills and borders the Historic District, which the Town has worked hard to create and preserve. The intention of the request would not further the goal of making downtown "the hub of cultural and governmental activities for the Town's residents and other adjacent residential areas."

The staff recommends the board further find that approval of this rezoning is not reasonable or in the public interest because the district requested for the subject property does not meet the following location criteria of the adopted Land Use Policies Plan, in that: *should have minimum direct access to an arterial street*, Trade Street is not an arterial street; *& must be located on large tracts that provide adequate area for buffering, screening, and landscaping unless located in an existing proposed heavy industrial/manufacturing area*, the subject property is only .70+/- acres and is not in an existing proposed heavy industrial/manufacturing area.

No other district could be considered suitable for this request at this location.

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

**P17-14**  
**SITE PROFILE**

**P17-14.** REZONING OF .70+/- ACRES FROM C3 HEAVY COMMERCIAL TO M(P) PLANNED INDUSTRIAL/CZ CONDITIONAL ZONING FOR OPEN STORAGE AND WAREHOUSING OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 5417 TRADE STREET; SUBMITTED BY LOUISE M. AUTRY AND JAMES A. MCLEAN ON BEHALF OF AUTRY & MCLEAN, LLC (OWNER) AND TERRY C. FAIRCLOTH, PLS (AGENT). (HOPE MILLS)

**Site Information:**

**Frontage & Location:** 144'+/- on Trade Street

**Depth:** 242'+/-

**Jurisdiction:** Town of Hope Mills

**Adjacent Property:** No – family owns adjacent commercial properties

**Current Use:** Outside storage

**Initial Zoning:** C3 – 1985 (exact date not available)

**Nonconformities:** Yes – existing building does not meet front yard setbacks

**Zoning Violation(s):** Yes – Town of Hope Mills has asked that rezoning be allowed to continue as approval would resolve the violation

**Surrounding Zoning:** North: C(P), C3, C2(P)/CUD (to allow residence), C1(P), O&I(P), R15, R10, R6 & R5; South: M2, C3, C(P), C2(P)/CZ (antique and collectable sales & tea room), O&I(P), PND ; East: C3, O&I(P), R15 & R10; West: M2, C1(P) & R6

**Surrounding Land Use:** Residential, religious worship, medical office, bank, retail shopping center (2), professional office space (3), retailing or servicing (3), restaurant (2), & second hand sales

**2030 Growth Vision Plan:** Urban

**Southwest Cumberland Land Use Plan:** Mixed use development

**Town of Hope Mills Planning:** Staff does not oppose the requested rezoning

**School Capacity/Enrolled:** Rockfish Elementary: 725/678; Hope Mills Middle: 740/571; South View High: 1800/1775

**Special Flood Hazard Area (SFHA):** No

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

**Soil Limitations:** Yes – Hydric, Wo Woodington loamy sand

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

**Average Daily Traffic Count (2014):** 20,000 on NC HWY 59

**Highway Plan:** Trade Street is identified as a local road in the 2040 Metropolitan Transportation Plan with no constructions/improvements planned. The subject property will have no impact on the Highway Plan or the Transportation Improvement Plan

**Notes:**

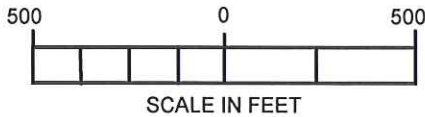
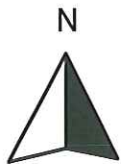
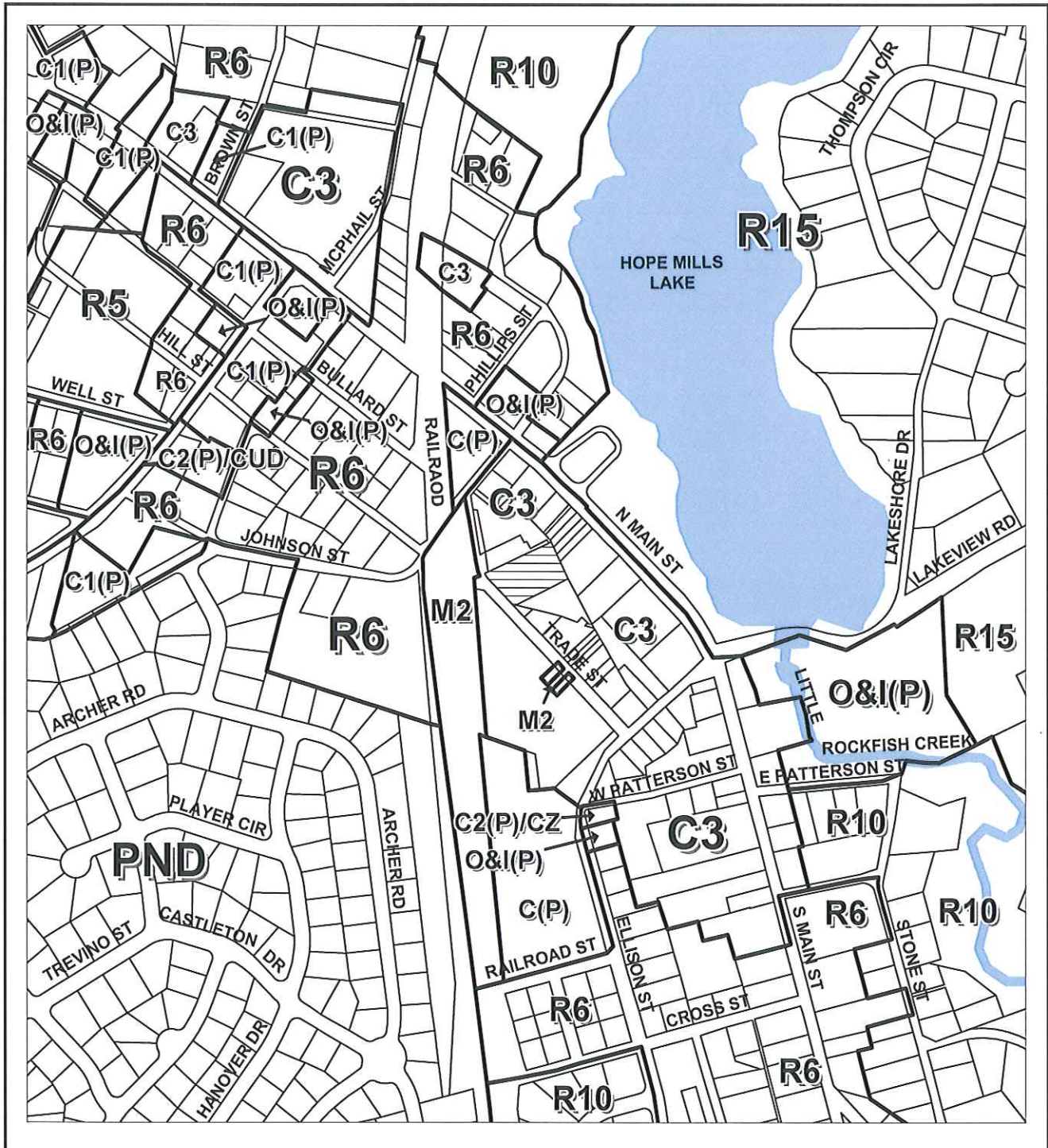
1. C3 Heavy Commercial District is now dormant and corresponds to C(P) Planned Commercial District

2. Minimum Yard Setbacks:

<u>M(P)</u>	<u>M1(P)</u>	<u>C(P)</u>
Front yard: 100'	Front yard: 50'	Front yard: 50'
Side yard: 50'	Side yard: 30'	Side yard: 30'
Rear yard: 50'	Rear yard: 30'	Rear yard: 30'

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

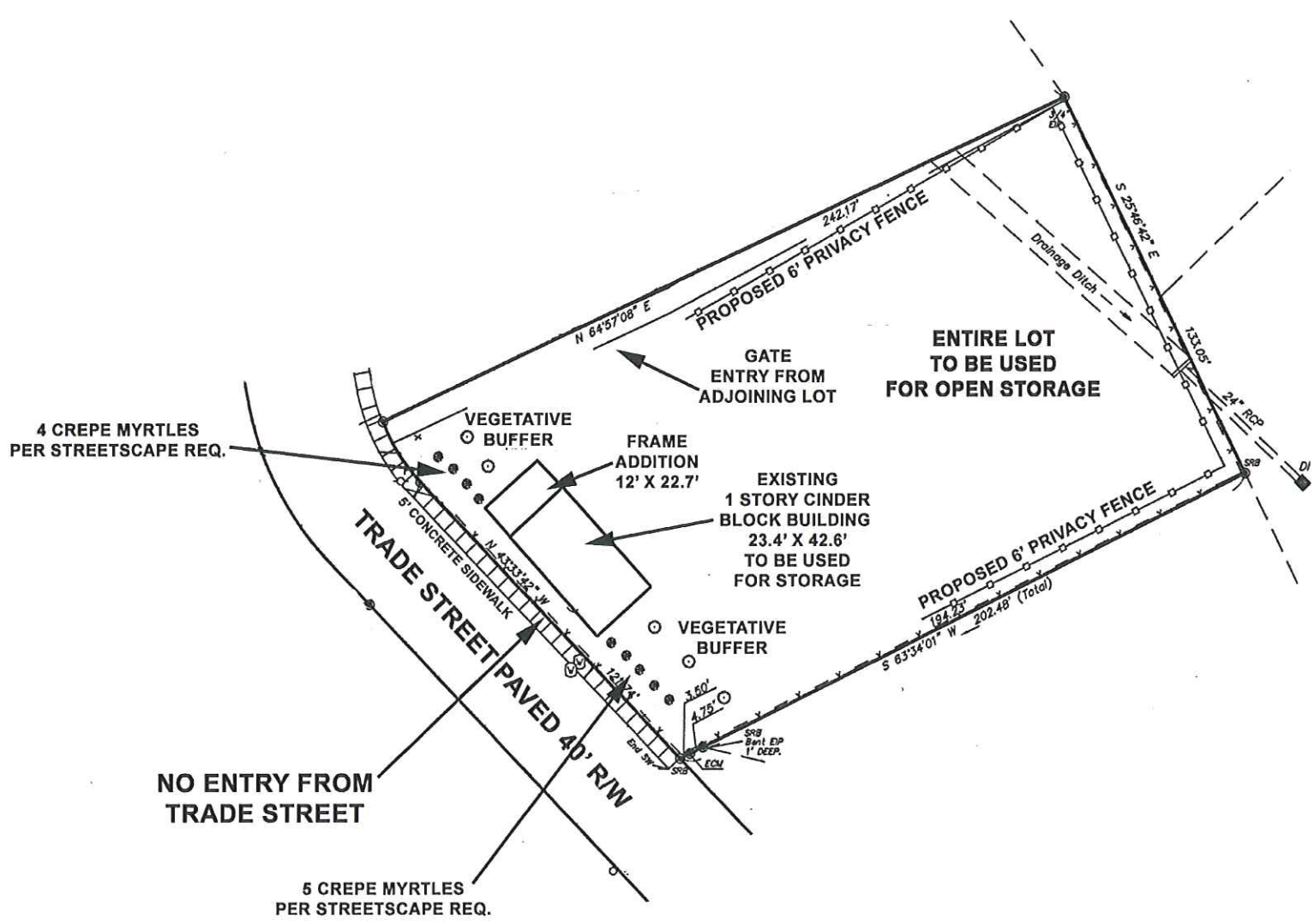
*A certified copy of the listing with the tax record owner(s) of the subject and adjacent properties, along with their tax record mailing addresses, is contained within the case file and incorporated by reference as if delivered herewith.*



PIN: 0414-55-5048

## REQUESTED REZONING C3 TO M(P)/CZ

<b>ACREAGE: 0.70 AC.+/-</b>	<b>HEARING NO: P17-14</b>	
<b>ORDINANCE: HOPE MILLS</b>	<b>HEARING DATE</b>	<b>ACTION</b>
<b>STAFF RECOMMENDATION</b>		
<b>PLANNING BOARD</b>		
<b>GOVERNING BOARD</b>		



**M(P) PLANNED INDUSTRIAL/CZ CONDITIONAL ZONING  
REQUEST: FOR OPEN STORAGE AND WAREHOUSING**

**CASE: P17-14 ACREAGE: 0.70 AC+/-**

**SCALE: NTS**

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

**M(P) PLANNED INDUSTRIAL/CZ CONDITIONAL ZONING DISTRICT**

**DRAFT**

Ordinance Related Conditions  
for  
Open Storage & Warehousing

**Pre- Permit Related:**

1. The Town of Hope Mills has tree preservation provisions in their ordinance; the developer must contact Chancer McLaughlin, Hope Mills Town Planner concerning the removal of trees from this site prior to obtaining a tree removal permit.
2. Five copies of a revised plan must be submitted for staff review and approval. The revision must address the following:
  - a. Because this site has recently been clear cut, the minimum landscaping requirements are doubled. Landscaping must be provided in accordance with Section 102A-1202(n), Landscaping, Hope Mills Zoning Ordinance. The following are the minimum standards for the required landscaping of this site:
    - Six large shade trees or 18 small ornamental trees within the front yard setback area.

In addition:

1. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
  2. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
- b. Regarding yard setbacks along the sides and rear, the property owner must modify this application requesting side and rear setback variances, re-design the plan so that the required setbacks are provided for, or the revision must include the subject and surrounding properties as a Zero Lot Line development.

**Permit-Related:**

3. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the Hope Mills Zoning Ordinance and building/zoning permits required to place any structure within this development from the Hope Mills Inspection Department/ Planning Department, in Town Hall at 5770 Rockfish Road. For additional information, the developer should contact a Town Planner.
4. The Town's Plan Review Committee requirements must be complied with and in the event any significant changes to the site plan are necessary to satisfy the Plan Review Committee's requirements, re-submittal of the site plan may be required. The following comments were submitted by the town staff:
  - a. *Town of Hope Mills Storm Water Department:* Storm Water Treatment is not required.
  - b. *Town of Hope Mills Planning Department:* The 2030 Growth Plan calls for Urban at this location and the SW Cumberland Land Use Plan calls for mixed use at this location. Staff does not oppose the requested rezoning.
  - c. *Town of Hope Mills Public Works Department:* No Comment.
  - d. *Town of Hope Mills Fire Department:* No objections
5. Connection to public water and sewer is required, the Public Works Commission (PWC) must approve water and sewer plans prior to application for any permits. A copy of the PWC approval must be provided to the Hope Mills Inspections Department/Planning Department at the time of application for building/zoning permits. (Section 86A-406 (1), Public Water and Sewer Systems Hope Mills Subdivision Ordinance)
6. New development that will disturb one acre or more of land or is part of a larger common plan of development that will disturb one acre or more of land is subject to the Post-Construction Stormwater Management Permitting Program administered by the

Hope Mills Stormwater Department. 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 Town's Stormwater Management Permit must be provided to the Hope Mills Inspections Department/Planning Department.

7. For any new development, the developer must/may have to provide the Hope Mills Inspections Department/Planning Department with an approved NC Department of Environmental Quality (NCDEQ) 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 NCDEQ approval must be provided to the Hope Mills Town Inspections Department/Planning Department at the time of application for any building/zoning permits.
8. The developer must provide a site-specific address and tax parcel number to the Hope Mills Inspections Department/Planning Department at the time of building/zoning permit application.
9. A Certificate of Occupancy will not be issued until the Hope Mills Stormwater Department inspects the site and certifies that it has been developed in accordance with the approved drainage plans.
10. A *Certificate of Occupancy* will not be issued until the Town Planner inspects the site and certifies that the site is developed in accordance with the approved plans.
11. There are no driveways approved for access to this site. The site plan indicates access is to be internally between family owned properties.

**Site-Related:**

12. All uses, dimensions, setbacks and other related provisions of the Hope Mills Subdivision Ordinance and Zoning Ordinance for the M(P)/CZ zoning district for open storage and parts warehousing, to include the contents of the application and site plan, must be complied with, as applicable.
13. Storage of junked equipment, vehicles or other debris on this site is not permitted. In addition, all fluids must be properly drained, stored and/or discarded prior to storage of merchandise, equipment and parts.
14. This conditional approval is not approval of any freestanding signs. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIV of the Hope Mills 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.)
15. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 86A-406(c), Underground utilities required, Hope Mills Subdivision Ordinance)
16. All lighting is required to be directed internally within this development and comply with the provisions of Section 102A-1202(m), Outdoor Lighting, Hope Mills Zoning Ordinance.
17. A solid screening buffer must be provided and maintained along the front property line where this tract/site abuts Trade Street in accordance with the provisions of Section 102A-1202(g), Buffer Requirements, Hope Mills Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)
18. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.

**Other Relevant Conditions:**

19. The applicant is advised to consult an expert on wetlands before proceeding with any development.
20. 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.

21. Trade Street is identified as a local road in the 2040 Metropolitan Transportation Plan with no constructions/improvements planned. The subject property will have no impact on the Transportation Improvement Plan. For any questions related to this condition, please contact Transportation Planning.
22. 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.

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

Contact Information (Area Code is 910 unless otherwise stated):

CCP&I Hope Mills Representative:	Ed Byrne	678-7609	<a href="mailto:ebyrne@co.cumberland.nc.us">ebyrne@co.cumberland.nc.us</a>
PWC:	Joe Glass	223-4740	<a href="mailto:joe.glass@faypwc.com">joe.glass@faypwc.com</a>
Town of Hope Mills:		424-4555*	
Town Clerk:	Melissa P. Adams		<a href="mailto:mpadams@townofhopemills.com">mpadams@townofhopemills.com</a>
Planner – Zoning Permits	Chancer McLaughlin		<a href="mailto:cmclaughlin@townofhopemills.com">cmclaughlin@townofhopemills.com</a>
Chief Building Inspector:	David Reeves		<a href="mailto:dreeves@townofhopemills.com">dreeves@townofhopemills.com</a>
Stormwater/Flood Administrator:	Beth Brown		<a href="mailto:eabrown@townofhopemills.com">eabrown@townofhopemills.com</a>
Zoning Inspector:	David (Ray) Reeves		<a href="mailto:dreeves@townofhopemills.com">dreeves@townofhopemills.com</a>
Fire Marshal	Brett A. Ham		<a href="mailto:baham@townofhopemills.com">baham@townofhopemills.com</a>
Public Works – Streets/sidewalks	Hector A Cruz-Alicea		<a href="mailto:hacruz@townofhopemills.com">hacruz@townofhopemills.com</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.cottrell@ncdenr.gov">leland.cottrell@ncdenr.gov</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>
Tax Parcel Numbers:		678-7549	
Transportation Planning:	Joel Strickland	678 7622	<a href="mailto:jstrickland@co.cumberland.nc.us">jstrickland@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>

\*This is the main telephone number for the Town of Hope Mills; once connected, the caller will be directed to the various departments.

cc: Chancer McLaughlin, Town of Hope Mills



**TO THE ZONING BOARD AND TOWN BOARD OF COMMISSIONERS OF HOPE MILLS, NC:**

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

1. Applicant/Agent Autra & McLean LLC
2. Address: 3606 N. Main St, HM Zip Code 28348
3. Telephone: (Home) 910-624-3632 (Work) 910-6252143
4. Location of Property: 5417 TRADE ST - HM
5. Parcel Identification Number (PIN #) of subject property: 0414.11.55-5048  
(also known as Tax ID Number or Property Tax ID)
6. Acreage: .70 Frontage: 144.55 Depth: 242.17
7. Water Provider: PWC Septage Provider: PWC
8. Deed Book 00137, Page(s) 0085, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: outside storage & parking Repaired Equipment
10. Proposed use(s) of the property: outside storage, new used of equipment for sale  
and repaired equipment for pickup - inside storage for parts

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 heirs No to property
12. Has a violation been issued on this property? Yes  No
13. It is requested that the foregoing property be rezoned FROM: \_\_\_\_\_

TO: (Select one)

Conditional Zoning District, with an underlying zoning district of M(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.)

Outside Storage  
Storage of parts in building AS warehouse  
parking of employee vehicles  
parking of repaired equipment

- 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.

0.70 Acres

30,492.00 sq. ft.

2. DIMENSIONAL REQUIREMENTS:

- A. Reference either the dimensional requirements of the district, Sec. 102A-1204 or list the proposed setbacks.

M(P) 100' Front  
50' Rear + sides

- B. Off-street parking and loading, Sec. 102A-1301 & 102A-1303: List the number of spaces, type of surfacing material and any other pertinent information.

N/A

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIV.

N/A

