

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
Vice-Chair
Cumberland County

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



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

COUNTY of CUMBERLAND

Planning & Inspections Department

March 11, 2008

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for March 18, 2008 Board Meeting

P08-10: REZONING OF 166+/- ACRES FROM A1 AGRICULTURAL DISTRICT TO A1/CUD CONDITIONAL USE DISTRICT, ADDITION TO AN EXISTING ADJACENT QUARRY, AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF RIVER ROAD, NORTHEAST OF GAME ROAD; SUBMITTED BY GARY T. BIZZELL, PRESIDENT, AMERICAN MATERIALS COMPANY, L.L.C.; OWNED BY FORKS, L.L.C.

The Planning & Inspections Staff recommends approval of the requested rezoning to A1 Agricultural/ Conditional Use District (A1/CUD), with the applicant/property owner voluntarily restricting the allowable use of the subject property to an expansion and addition to an existing quarry and one existing residential dwelling unit; prohibiting all other uses allowed within the A1 Agricultural district, based on the following:

- Although the request is not consistent with the Wade Area Detailed Land Use Plan, which calls for one acre residential lots at this location, the request is consistent with the existing use of the adjacent properties and is reasonable with the use being setback from the public right-of-way and surrounding properties a sufficient width so that the adjacent and abutting properties should not be detrimentally affected.

The Planning & Inspections Staff also recommends approval of the Conditional Use Permit, based on the following:

1. The use will not materially endanger the public health or safety if located according to the plan submitted, though this type of operation is strictly monitored by the State and outside the scope of zoning, the applicant/property owner has agreed to all ordinance requirements;
2. The use will meet all required conditions and specifications if developed according to the site plan, application and conditions – a copy of the *Ordinance-Related Conditions* pertaining to this site is attached;

3. The use will maintain or enhance the value of adjoining or abutting properties in that the use is a continuation of the adjacent use and upon conclusion of the quarry operation, the developer/property owner is required by both local regulations and the State to reclaim the property restoring it to a suitable condition for use and the developer has agreed to construct or put in place all zoning measures intended to protect adjacent properties – see attached *Ordinance-Related Conditions*; 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 in general will be in conformance with the development ordinances and adopted planning policies.

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

The *Ordinance-Related Conditions* have been explained to the applicant and he has verbally agreed with them.

Attachments:

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

P08-10
SITE PROFILE

P08-10: REZONING OF 166+/- ACRES FROM A1 AGRICULTURAL DISTRICT TO A1/CUD CONDITIONAL USE DISTRICT, ADDITION TO AN EXISTING ADJACENT QUARRY, AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF RIVER ROAD, NORTHEAST OF GAME ROAD; SUBMITTED BY GARY T. BIZZELL, PRESIDENT, AMERICAN MATERIALS COMPANY, L.L.C.; OWNED BY FORKS, L.L.C.

Site Information:

Frontage & Location: 1,200'+/- on south side SR 1714 (River Road)

Depth: 4,300'+/-

Adjacent Property: No (not listed under same name)

Current Use: Residential and woodlands

Initial Zoning: A1 – October 24, 1990 (Area 18)

Zoning Violation(s): None

Surrounding Zoning: North: A1 & CD; East & West: A1 & A1; South: A1/CU (quarry);

Surrounding Land Use: Residential (including manufactured homes), farmland, quarry and woodlands

Wade Area Detailed Land Use Plan: One acre residential lots

Designated *Special Flood Hazard Area* or Floodway: None

Urban Services Area: No

Water/Sewer Availability: Well/Septic

Soil Limitations: Yes, hydric and hydric inclusion: Ro Roanoke and Wahee loams (Roanoke part)

Subdivision/Site Plan: See attached *Ordinance-Related Conditions*

Average Daily Traffic County (2006): 420 on SR 1714 (River Road)

Highway Plan: River Road is identified in the Highway Plan as a Major Thoroughfare This proposal calls for widening to a multi-lane facility (4 lane-divided). Road improvements are not included in the 2007-2013 MTIP. This is a Priority One Project under the LRTP.

Notes:

- If approved, the *Ordinance-Related Conditions* are attached; particular attention should be paid to conditions 1 - 3, 11, and 17.

First Class Mailed Notice Certification

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

P08-10
Conditional Use District & Permit
Ordinance-Related Conditions

Pre-Permit Related:

1. A sealed survey must be submitted to Land Use Codes prior to application for any permits and/or commencement of the quarry operations; this survey is required due to the questionable location of the Progress Energy power line easement. This survey must also show the location of all existing power poles located on this property. Upon locating the power easement, the site plan may have to be revised to reflect the proper location. If the surveyed easement is not in the same location as shown on the site plan, the applicant must submit a revised site plan and receive staff approval prior to application for any permits and/or commencement of the quarry operations.
2. A revised site plan must be submitted for staff review and approval showing the existing stream located on the subject property and that no excavation shall be made closer than 200 feet from the banks of the stream, except where by submission of documentation, verified by the County Engineer, that such excavation or quarrying shall not impair the lateral support needed for permanent stream levees.
3. Prior to application for local permits and/or prior to commencement of the quarry operations, the applicant must submit a notarized *Affidavit of Notification* and the *Notice* required by NC Department of Environment and Natural Resources, Land Quality Section to the attention of the County Manager, Mr. James Martin; also must provide a copy of said documents to the Land Use Codes staff.

Watershed-Related:

4. An application for a Watershed "No Approval Required" development must be submitted to the Watershed Review Officer (WRO) and plans must be approved by the WRO prior to final plat approval and/or prior to application for any building/zoning permits, site plan approval is required. A copy of the WRO's approval of this plat/plan must be submitted to Code Enforcement at the time of application for any permits.

Permit-Related:

5. 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.
6. If applicable, 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.)

Note: This development is located within the Eastover Sanitary District's (ESD) Phase Two area and public water/sewer should be available in 2008. Contact the ESD for more information regarding this condition.

7. New development that will disturb one acre or more of land or is part of a larger plan that will disturb at least an acre of land is subject to the post-construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources.
8. 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 (3) 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.
9. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.

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10. Three (3) copies of a revised site plan must be submitted to Land Use Codes for review and approval depicting the minimum required landscaping. The minimum standards for landscaping this site are 24 large shade trees or 48 small ornamental trees planted within the front yard setback area along SR 1714 (River Rd). In addition,
 - a. All required plant materials shall be maintained by the property owners, including replacing dead or unhealthy trees and shrubs;
 - b. Existing healthy trees may be counted if shown on the site plan to satisfy this requirement; and
 - c. All planting areas shall be kept free of weeds and debris.

Wetland-Related:

11. The project may impact waters of the US and wetlands that are subject to jurisdiction under Section 404 of the Clean Water Act. If the project will involve a discharge of fill material into waters of the US or wetlands, a permit must be obtained to avoid a violation of Federal law. A wetland delineation will be required for any activity that will impact a water or wetland. The US Army Corps of Engineers recommend the applicant hire an environmental consultant to obtain a timely identification/delineation of the waters and wetlands that may be on the property.

Site-Related:

12. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the A1/CUD in addition to the conditions of the Permit, this condition also specifically includes that all provisions of Section 919 of the County Zoning Ordinance be complied with a copy of which has been provided to the applicant.
13. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, re-submittal of the site plan for staff review and approval is required prior to application for any freestanding sign permits. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.)
14. 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.
15. All utilities, except for 25kv or greater electrical lines, must be located underground.
16. The owner/developer shall secure and maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
17. 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. The NCDOT has stated that no additional access will be allowed and the entrance shown on the site plan CANNOT be used to access the 166+/- acre quarry – the access to the existing quarry must be used to gain entrance to this site.

Note: The NCDOT has stated that if the developers/owners are willing to participate in the upgrade of SR 1714 (River Road) then an additional access would be allowed. The reason is that the quarries have caused significant damage to SR 1714 (River Road) and the NCDOT has considerable increased costs to maintain and repair sections of SR 1714 (River Road).

18. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
19. The drives within the premises shall be maintained in a dust-free condition through surfacing or such other treatment as may be necessary.
20. A solid buffer must be provided and maintained along the entire perimeter of the development , except where this site is adjacent to the existing quarry, as reflected on the proposed site plan in accordance with the provisions of Section 1102 G, Buffer

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Requirements, County Zoning Ordinance. In addition, the area labeled as "Plant and Stock Pile Area" must be completely screened from view from SR 1714 (River Road).

- 21. Any dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
- 22. All notes and calculations as shown on the site plan are to be considered as a part of this conditional approval.

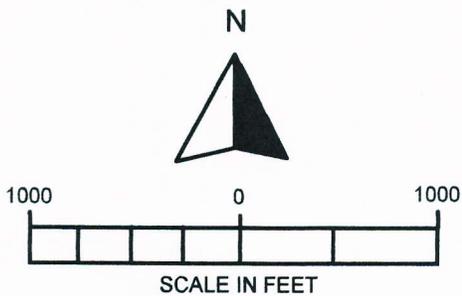
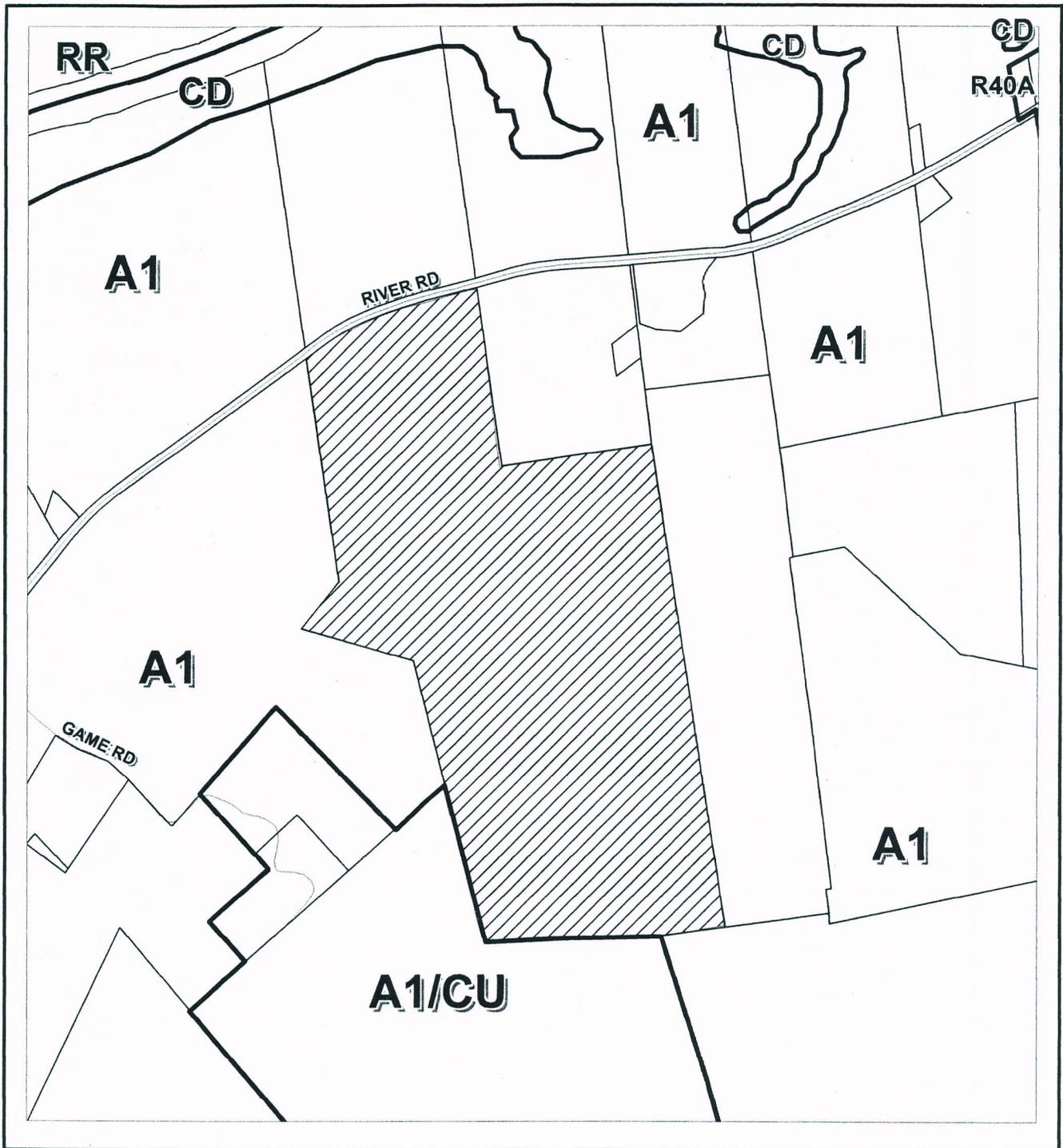
Other Relevant Conditions:

- 23. The applicant is advised to consult an expert on wetlands before proceeding with any development.
- 24. The applicant must comply with all provisions of the *Transmission Line Use Guidelines*, a copy of which has been provided to the applicant attached to a letter from Progress Energy, dated October 29, 2007, a copy of which is included in the case file and made a part of this record.
- 25. All equipment used for excavation, quarrying and permitted processing must be constructed, maintained and operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which would injure or annoy persons living or working in the vicinity.
- 26. 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.

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):

Watershed Review Officer:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Danny Soles	433-3685
Eastover Sanitary District:	Morgan Johnson	323-3973
Town of Wade:	Cindy Burchett	485-3502
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NC DENR (E&S):	Jody Pace	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
NC Division of Water Quality	Mike Randall	(910) 733-5083 ext. 545



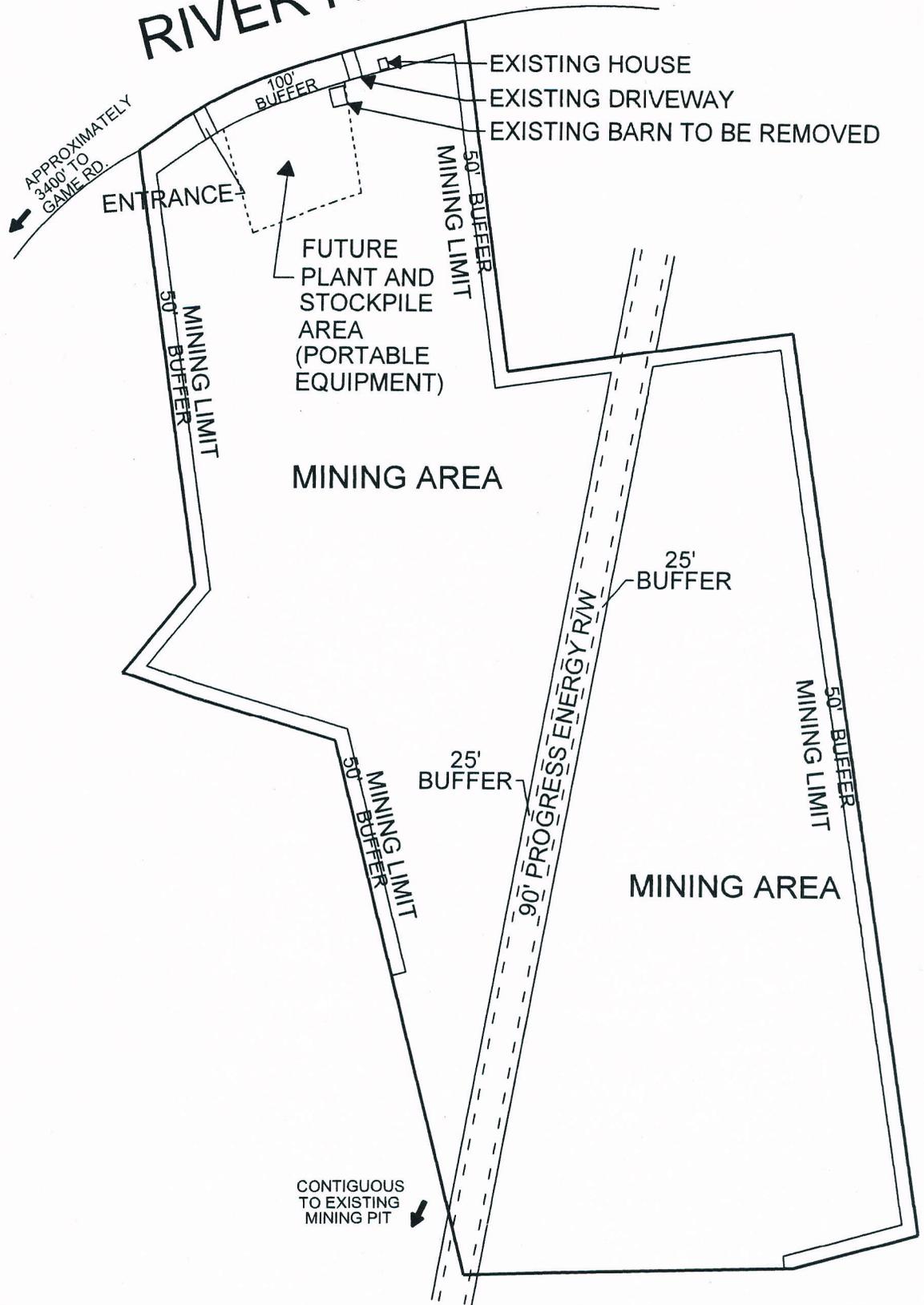
PIN: 0551-95-5580

REQUESTED REZONING A1 TO A1/CU

ACREAGE: 166 AC.+/-		HEARING NO: P08-10	
ORDINANCE: COUNTY	HEARING DATE	ACTION	
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			



RIVER RD



CONDITIONAL USE DISTRICT AND PERMIT
REQUEST: FOR ADDITION TO AN EXISTING ADJACENT QUARRY, AND THE PERMIT OR TO A
MORE RESTRICTIVE ZONING DISTRICT

CASE: P08-10 ACREAGE: 166±
ZONED: A1 SCALE: NTS

900

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: FORKS, LLC
- 2. ADDRESS: PO Box 872, CLINTON NC ZIP CODE: 28329
- 3. TELEPHONE: (Home) _____ (Work) _____
- 4. Location of Property: ALONG RIVER Rd. (SR 1714)
APPROX. 3400' NORTHEAST OF INTERSECTION WITH GAME Rd.
- 5. Parcel Identification Number (PIN #) of subject property: 0551-88-5693
(also known as Tax ID Number or Property Tax ID) 0551-95-2034
0551-04-1970
- 6. Acreage: ~~165.93~~ 166 Frontage: 1219.51' Depth: 4376.63'
- 7. Water Provider: N/A
- 8. Septage Provider: N/A
- 9. Deed Book 7768, Page(s) 196,199, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- 10. Existing use of property: AGRICULTURE
- 11. Proposed use(s) of the property: QUARRYING

EXPANSION OF EXISTING SAND MINE

NOTE: Be specific and list all intended uses.

- 12. It is requested that the foregoing property be rezoned FROM: A-1

TO: (select one)

- Conditional Use District, with an underlying zoning district of A-1
(Article V)
- _____ Mixed Use/Conditional Use District (Article VI)
- _____ Planned Neighborhood District/Conditional Use District (Article VII)
- _____ Density Development/Conditional Use District, at the _____ Density
(Article VIII)

verified 1-22-08 pss

S side SR 1714 (River Rd)
NE of Game Rd

APPLICATION FOR
CONDITIONAL USE DISTRICT AND PERMIT

1. PROPOSED USE(S):

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

QUARRING
- EXPANSION OF EXISTING SAND PIT

- 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.

¹⁶⁶
- ~~165.93~~ ACRES TOTAL FOR MINING AND UNDISTURBED BUFFERS
- APPROXIMATELY 1/2 OF THIS AREA TO BE DISTURBED

2. DIMENSIONAL REQUIREMENTS:

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

- 50 FT. SETBACKS FROM PROPERTY LINES
- 100 FT. SETBACK FROM RIVER ROAD R/W
- 25 FT. SETBACK FROM POWER LINE R/W

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

NO PARKING OR LOADING

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Sec. 1306.

NO SIGNS

4. LANDSCAPE AND BUFFER REQUIREMENTS:

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

100' BUFFER ALONG RIVER ROAD - NATURAL VEGETATION

- B. Indicate the type of buffering and approximate location.

50' BUFFER UNDISTURBED - PARALLEL TO PROPERTY LINE
100' BUFFER - UNDISTURBED - PARALLEL TO RIVER ROAD

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.

AS PER REQUIREMENTS OF EXISTING CONDITIONAL USE
PERMIT ON ADJACENT PROPERTY

6. SITE PLAN REQUIREMENTS:

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

7. ACKNOWLEDGEMENT:

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 (change) rests with the petitioner.

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

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

FORKS, LLC

NAME OF OWNERS (PRINT OR TYPE)

PO Box 872, CLINTON NC 28329

ADDRESS OF OWNER(S)

HOME TELEPHONE #

910 592-1733

WORK TELEPHONE #

American Materials Company LLC
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

P.O. Box 88 Clinton NC 28329

ADDRESS OF AGENT, ATTORNEY, APPLICANT

HOME TELEPHONE #

910 592-2176

WORK TELEPHONE # ~~703 700 6000~~


SIGNATURE OF OWNER(S)


SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

SIGNATURE OF OWNER(S)

* ALL record property owners must sign this petition.

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

Gary Bizzel

703-604-1441 - cell

592-2176-office 5 of 6

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

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Benny Pearce,
Town of Eastover

COUNTY of CUMBERLAND

Planning & Inspections Department

March 11, 2008

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for March 18, 2008 Board Meeting

P08-13: INITIAL ZONING OF 0.98+/- ACRES TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 737 AND 739 BLAWELL STREET, OWNED BY DWAYNE MAXWELL, INCORPORATED. (STEDMAN)

The Planning & Inspections Staff recommends approval of the R15 zoning district based on the following:

1. The R15 zoning district is consistent with the Stedman Area Detailed Land Use Plan, which calls for low density residential at this location and is consistent with the zoning in the area; and
2. This request was initiated by the Town of Stedman.

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

Attachments:

- 1 - Site Profile
- 2 - Rezoning Sketch Map

P08-13
SITE PROFILE

P08-13: INITIAL ZONING OF 0.98+/- ACRES TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 737 AND 739 BLAWELL STREET, OWNED BY DWAYNE MAXWELL, INCORPORATED. (STEDMAN)

Site Information:

Total Tract Acreage: 0.98+/-

Frontage & Location: 100'+/- on Blawell St

Depth: 200'+/- on Blawell St

Adjacent Property: No

Current Use: 1 vacant lot/1 lot residential dwelling under construction

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

Zoning Violation(s): None

Surrounding Zoning: North & West: R15 & A1; East: RR, C3 & A1; South: A1, R10, C1 & C3

Surrounding Land Use: Residential, woodland, farmland, and steeple/woodworking shop

Stedman Area Detailed Land Use Plan: Low density residential

Designated 100-Year Floodplain or Floodway: No

Water/Sewer Availability: Both Stedman, connection required

Soil Limitations: Yes, hydric inclusion: Ly Lynchburg sandy loam

School Capacity/Enrolled: Stedman Primary (K-1) 136/146; Stedman Elementary 303/318; Mac Williams 1,274/1,162; Cape Fear 1,400/1,470

Subdivision/Site Plan: Lots platted on February 2, 2007, Plat Book 0119, Page 0039

Average Daily Traffic Count (2006): 1,883 on Blawell Street, 13,000 on NC HWY 24 (Clinton Road)

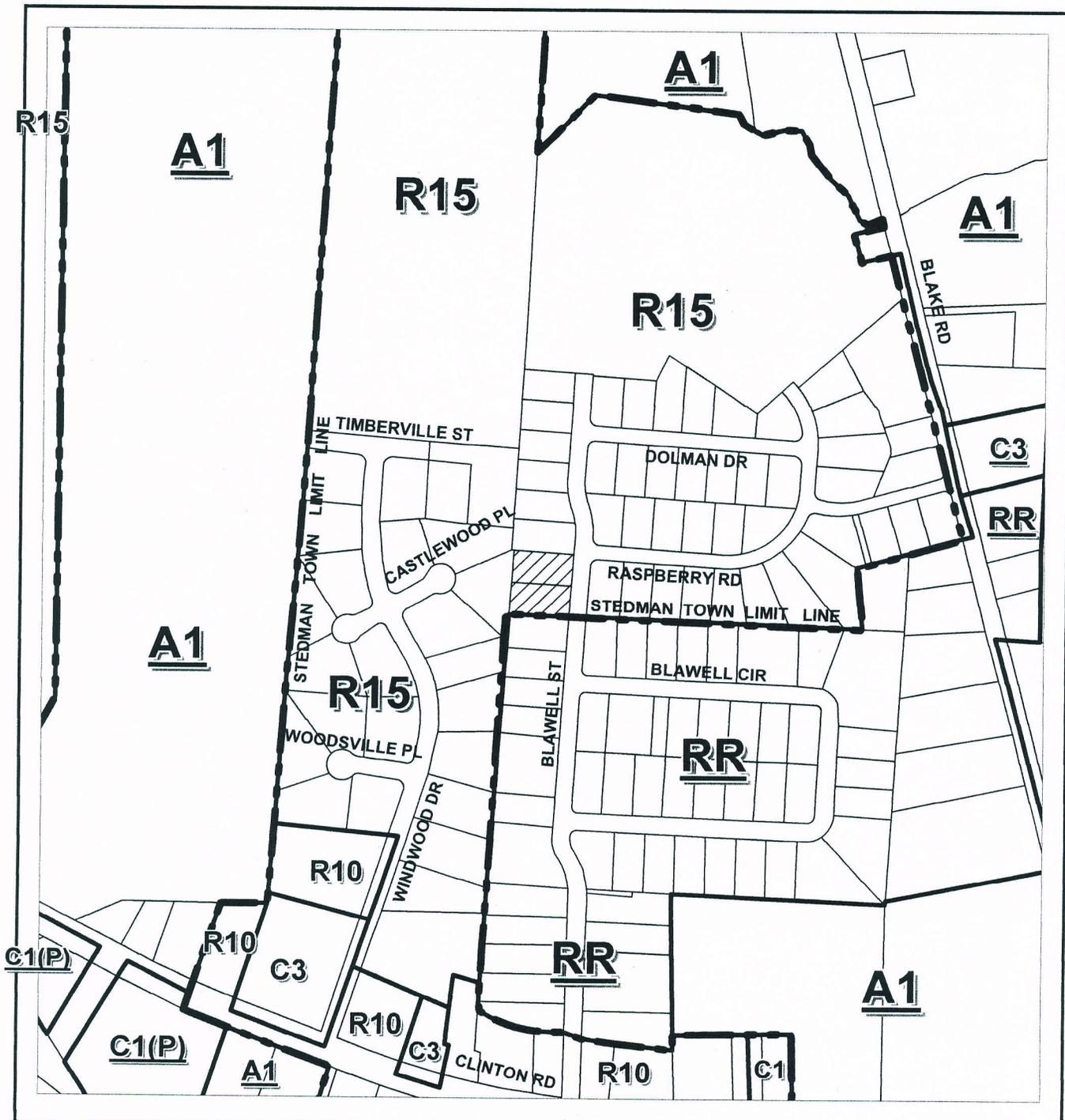
Highway Plan: There are no road improvements/constructions specified for this area.

Notes:

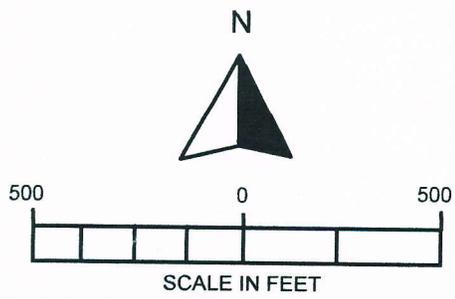
Density: R15 – 2 lots/3units

First Class Mailed Notice Certification

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



INITIAL ZONING TO R15



ACREAGE: 0.98 AC.+/-	HEARING NO: P08-13	
ORDINANCE: STEDMAN	HEARING DATE	ACTION
STAFF RECOMMENDATION		
PLANNING BOARD		
GOVERNING BOARD		

PIN: 0486-53-7381
PIN: 0486-53-7270

Donovan McLaurin,
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COUNTY of CUMBERLAND

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March 11, 2008

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Cumberland County

Benny Pearce,
Town of Eastover

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for March 18, 2008 Board Meeting

P08-14: REZONING OF 10.57+/- ACRES FROM R10 TO R5A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF SOUTH PINE TREE LANE, SOUTH OF SPRING AVENUE, SUBMITTED BY DENVER LEE MCCULLOUGH FOR GEORGE YASMINE, OWNED BY MCCORMICK FARMS LTD. (COUNTY/SPRING LAKE)

The Planning & Inspections Staff recommends approval of the R5A Residential district based on the following:

1. Even though the request is not consistent with the Spring Lake Land Use Plan, the request is consistent with the zoning and land uses in the general area; and
2. Public utilities are available to the site.

The R6 Residential district could also be considered suitable for this location.

The Town of Spring Lake Staff also recommends approval of this request.

Attachments:

- 1 - Site Profile
- 2 - Rezoning Sketch Map

P08-14
SITE PROFILE

P08-14: REZONING OF 10.57+/- ACRES FROM R10 TO R5A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF SOUTH PINE TREE LANE, SOUTH OF SPRING AVENUE, SUBMITTED BY DENVER LEE MCCULLOUGH FOR GEORGE YASMINE, OWNED BY MCCORMICK FARMS LTD. (COUNTY & SPRING LAKE)

Site Information:

Total Tract Acreage: 73.95+/-

Frontage & Location: 576 +/- on South Pine Tree Lane

Depth: 663'+/-

Jurisdiction: Cumberland County & Spring Lake (Note: Annexation petition required for utility extension)

Adjacent Property: Yes, adjacent property ownership to the north

Current Use: Vacant

Initial Zoning: R10 - January 7, 1977 (Area 11)

Zoning Violation(s): None

Surrounding Zoning: North: R5A, R10 & R6A; East: R10, R10/CU (manufactured home) & R6A; South & West: R10

Surrounding Land Use: School, manufactured home parks (one abandoned park), duplexes, and open storage of junk

Spring Lake Area Land Use Plan: Low density residential

Designated 100-Year Floodplain or Floodway: No

Urban Services Area: Yes, County portion

Water/Sewer Availability: Both Spring Lake; connection required

Soil Limitations: None

School Capacity/Enrolled: Manchester Elementary: 349/369; Spring Lake Middle: 706/480; Pine Forest High: 1,750/1,637

Subdivision/Site Plan: Upon development, subdivision/group development review and approval required

Average Daily Traffic Count (2006): 2,900 on Spring Avenue, 1,300 on South Pine Tree Lane

Accident Potential Zone (APZ): The property is not located within an Accident Potential Zone (APZ) or critical noise area. For any structures, construction cranes or communications towers of significant height associated with this case, applicant is advised to file FAA Form 7460-1 with the Federal Aviation Administration to determine any potential impact to Pope AFB/Fort Bragg flying operations.

US Fish & Wildlife: If inactive woodpecker colony, recommend approval; scheduling survey of property

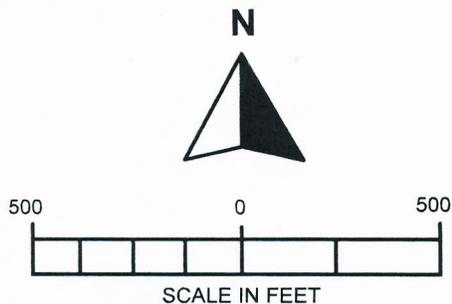
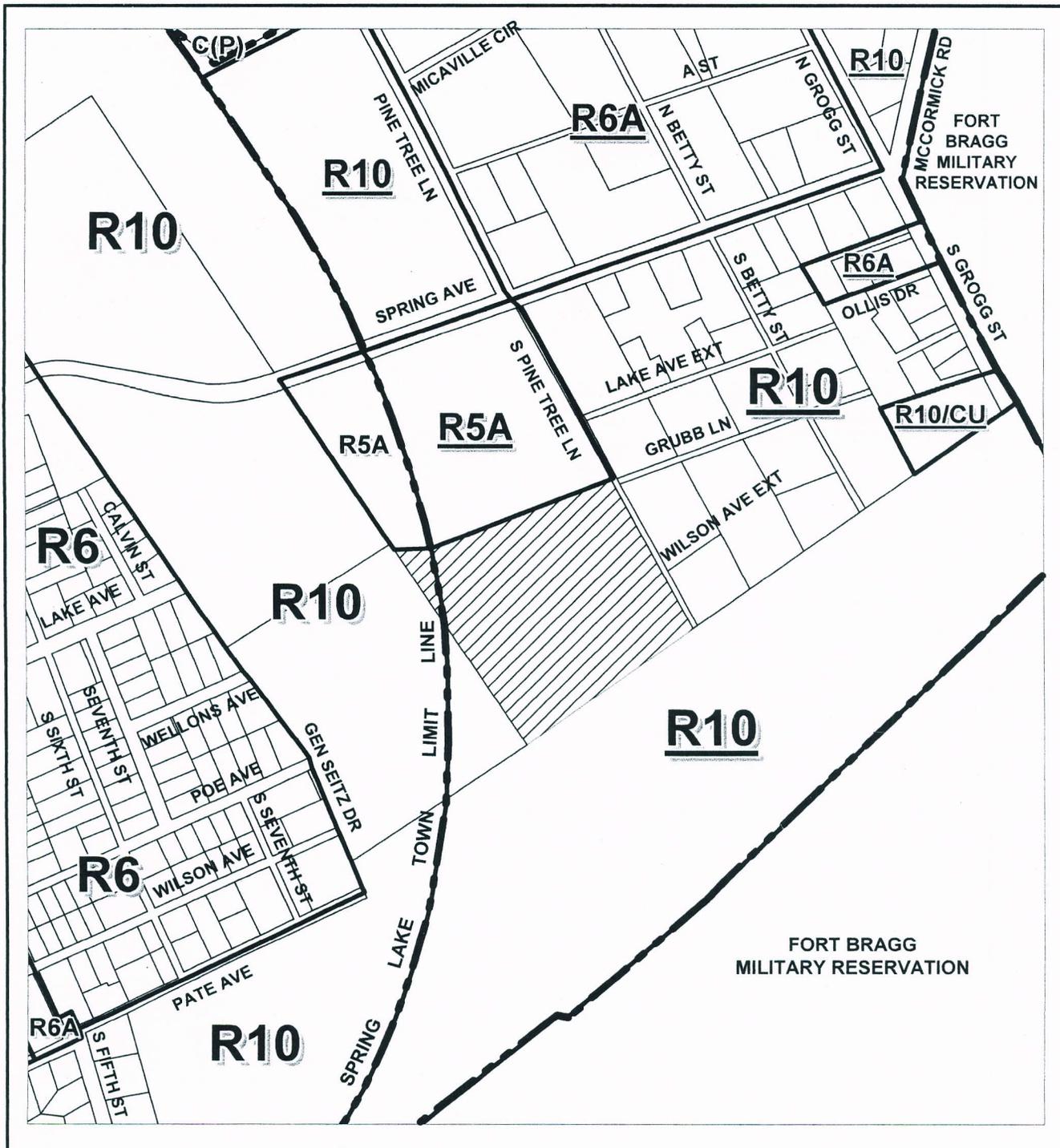
RLUAC: Recommends denial based on USF&W recommendation

Notes: (All density calculations are based on Spring Lake Zoning Code)

Density: R10 - 46 lots/61 units	Density (minus 15% for r/w): R10 - 39 lots/52 units
R6 - 76 lots/92 units	R6 - 65 lots/78 units
R5A - 76 lots/153 units	5A - 65 lots/129 units

First Class Mailed Notice Certification

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



REQUESTED REZONING: R10 TO R5A

ACREAGE: 10.57 AC.+/-	HEARING NO: P08-14	
ORDINANCE: COUNTY/SPRING LAKE	HEARING DATE	ACTION
STAFF RECOMMENDATION		
PLANNING BOARD		
GOVERNING BOARD		

PORT. OF PIN: 0501-97-4543,
0511-07-6534

JM
3/03/08

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
Vice-Chair
Cumberland County

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



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

COUNTY of CUMBERLAND

Planning & Inspections Department

March 12, 2008

MEMORANDUM

TO: County Joint Planning Board

FROM: Edward M. Byrne, Planner II, Land Use Codes

SUBJECT: CASE NO. 08-033. CONSIDERATION OF A WAIVER FOR THE BOBBY GLEN JACKSON PROPERTY, SUBDIVISION REVIEW, SECTION 4.2.C, PRIVATE STREETS, COUNTY SUBDIVISION ORDINANCE, REQUEST FOR APPROVAL OF A NINTH LOT TO BE SERVED BY A CLASS C PRIVATE STREET; ZONING: A1; TOTAL ACREAGE: 2.65 +/-, LOCATED ON THE SOUTH SIDE OF LINA DRIVE, SOUTH OF SR 1848 (FAIRCLOTH BRIDGE ROAD).

The developer is requesting a waiver to subdivide an existing 2.65 +/- acre lot into two separate lots; if approved, the additional lot would be the ninth lot served by the Class "C" private (dirt) street. Under current standards, Class "C" private streets can serve a maximum of four lots with not more than two principal structures per lot.

The existing lot has two dwelling units; both homes were existing at this location prior to the 1996 initial zoning of the subject property to A1 Agricultural. The subdivision, if approved, would create one lot with the two existing dwelling units and a vacant lot for a future dwelling unit.

In addition to receiving a favorable decision on this request and prior to any additional development of the subject property and/or any final plat approval, the developer has been made aware and understands that a rezoning to a less dense zoning district must also be accomplished.

In accordance with Section 6.1, Waivers, Cumberland County Subdivision Ordinance, the Planning Board may waive the requirements of this Ordinance, where it finds by resolution that:

- a. **Because of the size of the tract to be subdivided, its topography, the condition or nature of the adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this Ordinance would cause a special hardship to the property owner and be inequitable, and**
- b. **The public purposes of the Subdivision Ordinance and the Zoning Ordinance would be served to an equal or greater degree, and**

c. The property owner would not be afforded a special privilege denied to others.

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

1. Because the nature of the subject lot and the adjoining area – eight existing lots, some with more than one dwelling unit – the development in this area served by the previously approved Class “C” private street doubles the acceptable number of lots allowed to be served by a dirt street, far exceeding the minimum standards of the ordinances and the number of lots should not be increased until such time that suitable access is made available;
2. The waiver, if granted, would not serve the public purposes of the ordinances specifically those provisions intended to ensure that adequate and safe access to every lot is present especially in the event of an emergency; and
3. If the request is approved, the developer would be receiving a special privilege which could not be granted to individuals in instances of similar circumstances with the same or similar facts.

Attached you will find the waiver request, draft conditions of approval (if necessary), subdivision sketch plan, area parcel map and vicinity map. If you have any questions regarding this memorandum, please contact me at 678-7609, email: ebyrnc@co.cumberland.nc.us

cc: Bobby G. Jackson, Owner
Mike Tate, Land Surveyor
Grainger Barrett, County Attorney
Cecil B. Combs, Planning & Inspections Deputy Director
Patti Speicher, Planner III – Land Use Codes



Date Request Submitted: 2-12-08

Planning Board Meeting Date: 3-18-08

Received by: EMB

Cumberland County Subdivision Ordinance

Request for Waiver

Case No.: 08-033 Case Name: BOBBY GLEN JACKSON

Related Ordinance Section Number(s): SECTION 4.2 c. c.

Summary of Request: REQUEST ADDITIONAL LOT ON CLASS "C" PRIVATE STREET

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

Section 6.1. Waivers

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

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

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

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

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

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

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

THE TRACT TO BE SUBDIVIDED IS LARGER THAN ADJOINING TRACTS AND ONCE DIVIDED WILL BE MORE IN LINE AS FAR AS SIZE WITH THE ADJOINING TRACTS.

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

CONTINUE TO MAINTAIN THE CLASS "C" STREET AS HE HAS DONE IN THE PAST SINCE HIS PARENTS MOVED TO THIS LOCATION.

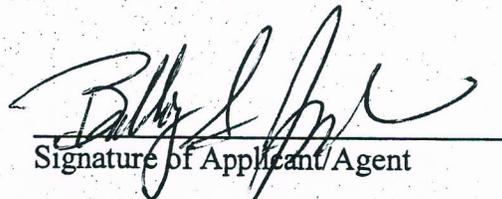
3. The property owner would not be afforded a special privilege denied to others, because:

APPLICANT IS REQUESTING AN ADDITIONAL LOT ON THE CLASS "C" BELVOTE STREET IN ORDER TO MOVE NEXT TO HIS ELDERLY PARENTS TO CARE FOR THEM & THEIR PROPERTY IN THEIR LATER YEARS IN LIFE.

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

BOBBY GLENN JACKSON
Printed Name of Applicant/Agent

910-364-7410
Daytime Phone Number


Signature of Applicant/Agent

2-12-08
Date Signed

DRAFT

Case No. 08-033 Bobby Jackson Property

Typical conditions that would apply in the event of the developer being granted approval of the waiver request for a ninth lot on a Class "C" private street from the Joint Planning Board:

1. Prior to submission for final plat approval and/or prior to locating any additional principal structures on the subject property, an application for rezoning must be submitted and subsequently approved by the Board of Commissioners, prior to submission for final plat approval and/or prior to locating any additional principal structures on the subject property.

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.)
4. New development that will disturb one acre or more of land or is part of a larger plan that will disturb at least an acre of land is subject to the post-construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. Prior to the issuance of any permits for this site, evidence must be provided to County Code Enforcement indicating that compliance with these regulations has been achieved.
5. The developer may have to provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three (3) 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.
6. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
7. Any manufactured home that may be located on this property must have been constructed on or after July 1, 1976 in order for the home to qualify for permits.

Site-Related:

8. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
9. 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.
10. All utilities, except for 25kv or greater electrical lines, must be located underground.

Plat-Related:

DRAFT

11. Prior to final plat approval of any portion of this development, the developer is required to submit a check or cash in the amount of \$83.39 (one lot) payable to "Cumberland County". This condition is in accordance with Section 3.13.1, Parks, Open Space, Recreation Provisions, County Subdivision Ordinance, which requires every residential dwelling unit to provide a portion of land, in certain instances, or pay a fee in lieu of dedication, for the purposes of providing park, recreation and open space areas. (Park District # 2)
12. 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.
13. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the final plat when submitted for final approval.
14. The final plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

Plat-Required Statements:

15. Since this development does not have public water/sewer, the following disclosure statement is required to be provided on the final plat:

"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."

16. Since this development is located within the *Farmland Protection Area* as defined on the current Land Use Plan map, the following disclosure statement is required to be provided on the final plat:

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

17. All structures shall be shown on the final plat or the final plat shall reflect the following statement:

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

Advisories:

18. The applicant is advised to consult an expert on wetlands before proceeding with any development.
19. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.

Other Relevant Conditions:

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

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

77. The owner/developer be aware that every deed created for the purpose of conveying a lot served by a private street must contain the following disclosure statement at the time of recordation with the County Register of Deeds:

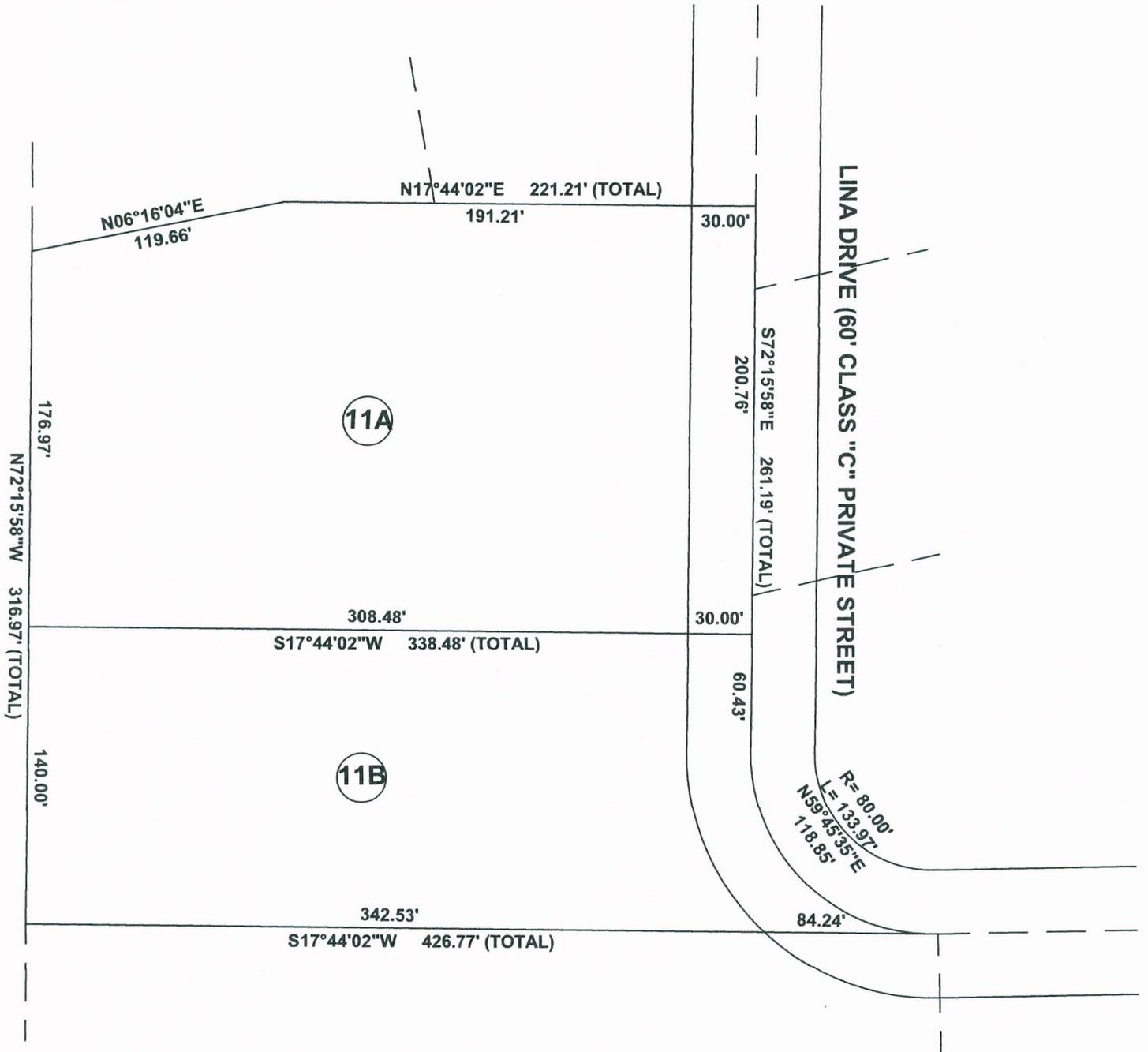
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“It is hereby acknowledged that a subdivision streets disclosure statement has been executed in accordance with N.C.G.S 136-102.6(f).”

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

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

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Danny Soles	433-3685
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NCDENR (E&S):	Jodi Pace	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
N.C. Division of Water Quality:	Mike Randall	(910) 733-5083 Ext.- 545



BOBBY GLENN JACKSON PROPERTY
SUBDIVISION REVIEW
REQUEST: A WAIVER FROM SECTION 4.2.c.C
CASE: 08-033 ACREAGE: 2.65 AC±
ZONED: A1 SCALE: NTS



SUBJECT PROPERTY

FAIRCLOTH BRIDGE RD

ARCO CIR

MCCALL DR

HALLINA DR

LINA DR



CASE: 08-033

ACREAGE: 2.65+-

SCALE: 1"=200'

3/06/08

**BOBBY GLEN JACKSON PROPERTY
SUBDIVISION REVIEW
CASE NO. 08 - 033**



PIN(S): 00497-55-1130-
Prepared by GJB - CCJPB
FEBRUARY 12, 2008

Map not to scale

