

Clarence Grier
County Manager

Sally Shutt
Assistant County
Manager



Rawls Howard
Director

David Moon
Deputy Director

CUMBERLAND COUNTY JOINT PLANNING BOARD

AGENDA October 15, 2024 6:00 PM Hearing Room #3

- I. INVOCATION AND PLEDGE OF ALLEGIANCE
- II. ADJUSTMENTS TO / APPROVAL OF AGENDA
- III. PUBLIC MEETING WITHDRAWALS / DEFERRALS
- IV. ABSTENTIONS BY BOARD MEMBERS
- V. APPROVAL OF THE MINUTES
- VI. CHAIRMAN'S WELCOME AND RULES OF PROCEDURE
- VII. Public Meeting Item(s)
- VIII. PUBLIC MEETING CONSENT ITEMS
 - A. **CASE # ZON-24-0034: Conditional Rezoning from A1 Agricultural District to A1/CZ Agricultural District/ Conditional Zoning or to a more restrictive zoning district for two parcels comprising 200.46 +/- acres; located on the east side of McBryde Street and approximately 4,000 feet south of the Town of Linden, submitted by Seth Thompson (Agent) on behalf of Tart & Fairchild Investments, LLC (Owners).**
 - B. **CASE # ZON-24-0036: Rezoning from A1 Agricultural District to R40 Residential District or to a more restrictive zoning district for one parcel comprising of 14.50 +/- acres; located at 908 Mary McCall Road, submitted by Anthony and Peggy White (Owner).**
 - C. **CASE # ZNG-010-24: Text Amendment to the Town of Hope Mills Zoning Ordinance to amend regulations related to the Historic Overlay District, submitted by Town of Hope Mills (Applicant). (Hope Mills).**
- IX. PUBLIC MEETING CONTESTED ITEMS
- X. PUBLIC MEETING ITEM
- XI. DISCUSSION
- XII. ADJOURNMENT

Fayetteville, North Carolina 28301 | Phone: 910-678-7600 | Fax: 910-678-7631
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PLANNING AND INSPECTIONS DEPARTMENT

MEMORANDUM FOR JOINT PLANNING BOARD AGENDA OF OCTOBER 15, 2024

TO: JOINT PLANNING BOARD

**FROM: CUMBERLAND COUNTY PLANNING AND INSPECTIONS
DEPARTMENT**

DATE: 10/15/2024

**SUBJECT: CASE # ZON-24-0034: CONDITIONAL REZONING FROM A1
AGRICULTURAL DISTRICT TO A1/CZ AGRICULTURAL DISTRICT/
CONDITIONAL ZONING OR TO A MORE RESTRICTIVE ZONING
DISTRICT FOR TWO PARCELS COMPRISING 200.46 +/- ACRES;
LOCATED ON THE EAST SIDE OF MCBRYDE STREET AND
APPROXIMATELY 4,000 FEET SOUTH OF THE TOWN OF LINDEN,
SUBMITTED BY SETH THOMPSON (AGENT) ON BEHALF OF TART &
FAIRCHILD INVESTMENTS, LLC (OWNERS).**

ATTACHMENTS:

Description

ZON-24-0034

Type

Backup Material



PLANNING & INSPECTIONS

PLANNING STAFF REPORT
REZONING CASE # ZON-24-0034
Planning Board Meeting: October 15, 2024

Location: East of McBryde St & South of the
Town of Linden.
Jurisdiction: County-Unincorporated

REQUEST

Rezoning A1 to A1/CZ

Applicant requests a rezoning from A1 Agricultural District to A1/CZ Agricultural District Conditional Zoning or to a more restrictive zoning district for two parcels comprising 200.00 +/- acres and located east of McBryde St, approximately 4,000 feet south of the Town of Linden corporate limits. The intent of the applicant is to have a sand quarry operation on the subject properties. (Conditional Zoning Site plan is provided to the CZ Conditions of Approval, which is found in Exhibit "F" (attached)). The property abuts a Norfolk-Southern Railroad line that separates the parcel from McBryde St. This would require coordination with Norfolk-Southern to acquire permission to cross over the railroad tracks to access McBryde St. Per Section 403, Use Matrix, of the County Zoning Ordinance, a quarry use must be approved as a conditional zoning and must meet the requirements set forth in Section 919, Quarry standards, both of which are provided in the Appendix. If the Zoning is approved, a final site plan will be required prior to any excavation activity.

PROPERTY INFORMATION

OWNER/APPLICANT: Seth Thompson (Applicant) on behalf of Tart & Fairchild Investments LLC (Owner).

ADDRESS/LOCATION: Located east of McBryde St and ~4,000 ft south of the Town of Linden. Refer to Exhibit "A", Location and Zoning Map. REID number: 0574500676000 & 0574432215000.

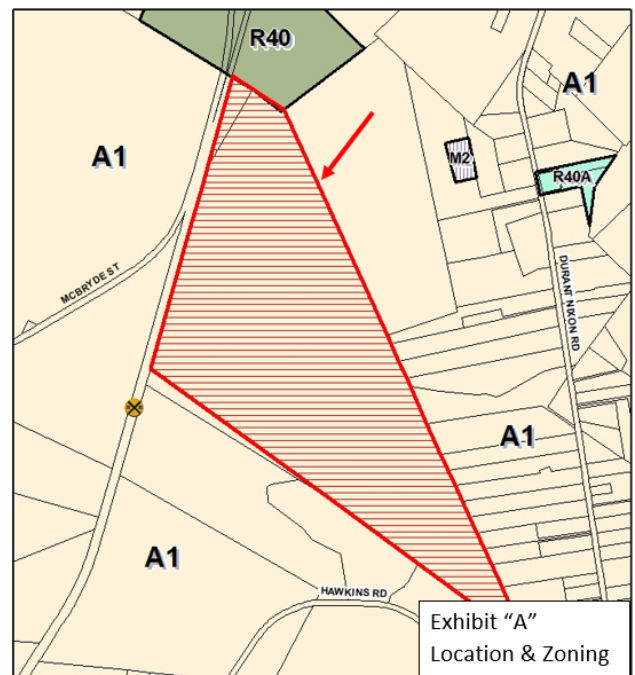
SIZE: The parcel contains approximately 200.00 +/- acres. Road frontage along McBryde St is 1,450 +/- feet. The property is approximately 5,700 +/- feet in length at its deepest point.

EXISTING ZONING: The subject property is currently zoned A1 Agricultural District. This district is designed to promote and protect agricultural lands, including woodland, within the County. The general intent of the district is to permit all agricultural uses to exist free from most private urban development except for large lot, single-family development. Some public and/or semi-public uses, as well as a limited list of convenient commercial uses are permitted to ensure essential services for the residents.

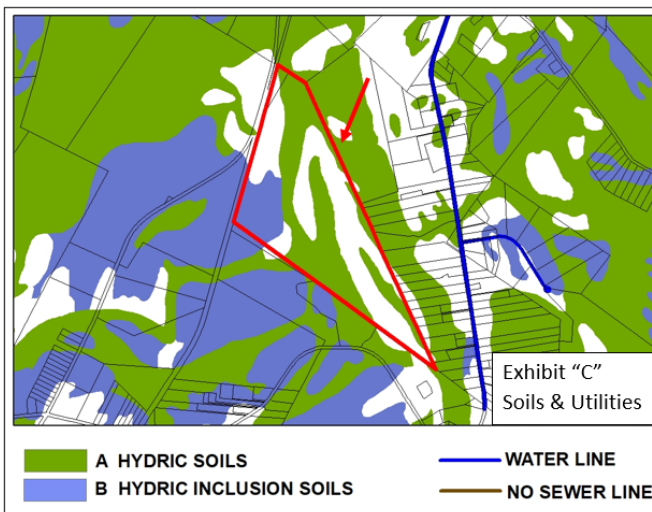
EXISTING LAND USE: The subject parcel is currently predominantly undeveloped wooded lands with some farmland. Exhibit "B" shows the existing use of the subject property.

SURROUNDING LAND USE: Exhibit "B" illustrates the following:

- **North:** Undeveloped wooded lands.
- **East:** Wooded lands and single-family homes
- **West:** Undeveloped wooded lands and Norfolk-Southern railroad tracks.
- **South:** Undeveloped wooded lands and pond.



OTHER SITE CHARACTERISTICS: The site is not located in a Watershed nor within a Flood Zone Hazard Area. The subject property, as delineated in Exhibit “C”, illustrates the presence of both hydric and hydric inclusion soils at the property.



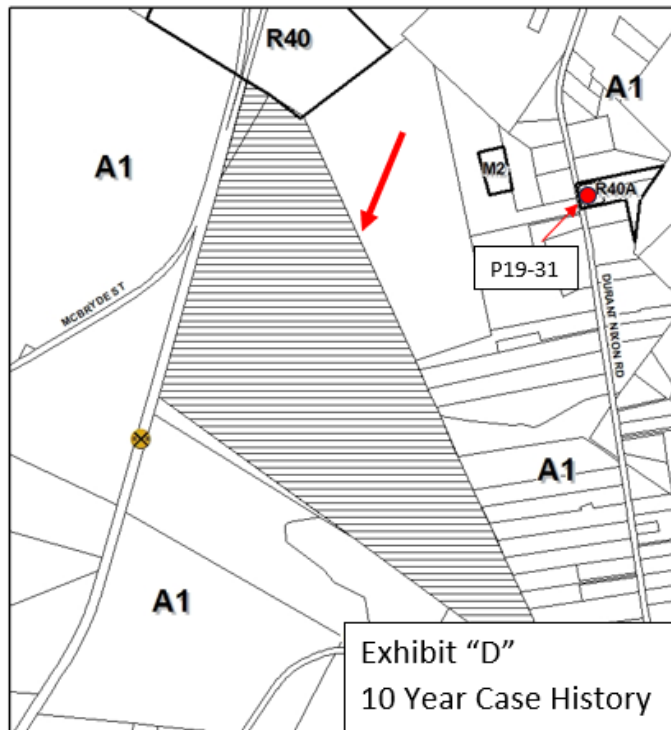
TEN YEAR ZONE CASE HISTORY:

Exhibit “D” denotes that there has been one rezoning case history within the most recent 10-year period.

- P19-31: A1 to R40A; Approved

DEVELOPMENT REVIEW:

A site plan review and approval will be required via the Current Planning Division prior to commencement of operations on site. All appropriate mining and excavation permits, including reclamation plans, must be obtained from the North Carolina Department of Environmental Quality, Division of Energy, Mineral and Land Resources, Mining Program. Authorization must be obtained from Norfolk Southern Railroad to cross the railroad right-of-way.



DIMENSIONAL PROVISIONS FOR REQUESTED DISTRICT:

Minimum Standard	A1 (Existing)	A1/CZ (Proposed)
Front Yard Setback	50 feet	50 feet
Side Yard Setback	20 feet	20 feet
Rear Yard Setback	50 feet	50 feet
Lot Area	2 Acres	2 Acres
Lot Width	100'	100'

Development Potential:

Existing Zoning (A1)	Proposed Zoning (A1/CZ)
100 dwelling units	0 dwelling units

- Lot count may be rounded-up when a fraction occurs. When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit, and a fraction of less than one-half shall be disregarded.

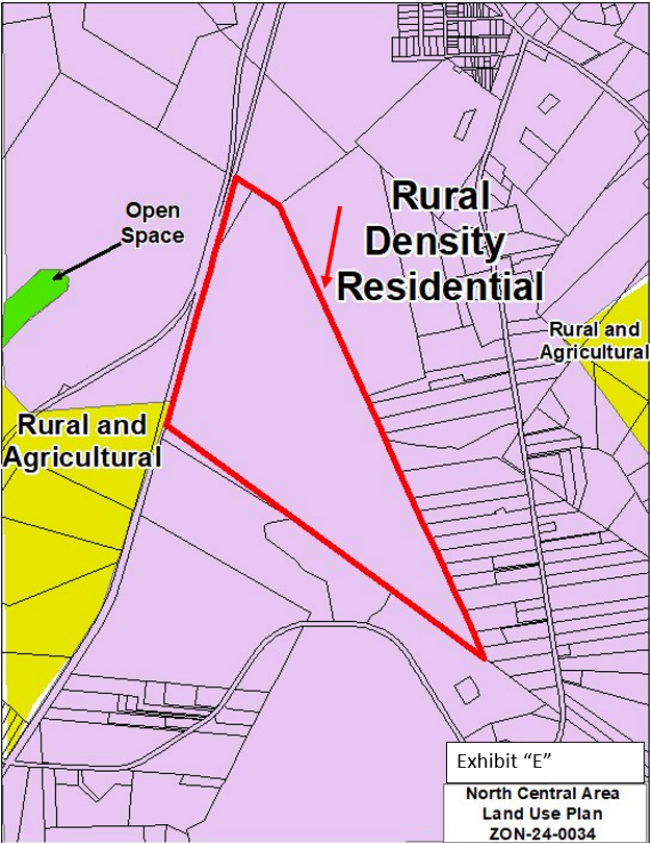
COMPREHENSIVE PLANS:

This property is located in the North Central Area Land Use Plan (2024), as shown in Exhibit “E”. The future land use classification of the property is “Rural Density Residential”. The associated zoning districts for Rural Density Residential are RR, R40, R40A, A1, A1A.

The proposed rezoning request is consistent with the future land use plan.

FUTURE LAND USE CLASSIFICATION Development Goals, Objectives, and Notes:

- Encourage the use of existing and/or native vegetation as well as open spaces as buffers between uses, road frontage, and along all waterways.
- Preserve rural character and lifestyle.
- Large open spaces and/or wide natural buffers between uses and along roadways are encouraged.
- Protect designated prime farmland/state and locally important farmland soils.



IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

UTILITIES: Water and sewer lines are not immediately available near the subject property, as shown on Exhibit “C”.

TRAFFIC: According to the Fayetteville Area Metropolitan Planning Organization (FAMPO), the subject property on McBryde St is located outside of FAMPO boundaries. Both McBride Road and Hawkins Road are designated a “local street” on the NCDOT road functional classification system.

ECONOMIC DEVELOPMENT: Fayetteville Cumberland County Economic Development Corporation has reviewed the request and had no objection to the proposal.

EMERGENCY SERVICES: Cumberland County Fire Marshal’s office has reviewed the request and stated the proposed use would require a commercial building permit.

SPECIAL DISTRICTS/ OVERLAY DISTRICTS:

Special Districts			
Fayetteville Regional Airport Overlay:	n/a	Averasboro Battlefield Corridor:	n/a
Five Mile Distance of Fort Liberty:	n/a	Eastover Commercial Core Overlay District:	n/a
Voluntary Agricultural District (VAD):	n/a	Spring Lake Main Street Overlay District:	n/a
VAD Half Mile Buffer:	n/a	Coliseum Tourism Overlay District:	n/a

n/a – not applicable

CONDITIONS OF APPROVAL: The proposed conditions of approval and conditional zoning site plan are attached to this report, which is found in Exhibit “F”.

STAFF RECOMMENDATION

In Case ZON-24-0034, Planning and Inspections staff **recommends approval** of the rezoning request from A1 Agricultural District to A1/CZ Agricultural District Conditional Zoning. Staff finds that the request is consistent with the North Central Area Land Use Plan which calls for “Rural Density Residential” at this location. Staff also finds that the request is reasonable and in the public interest as it is compatible to and in harmony with the surrounding land use activities and zoning.

Attachments:

Conditions of Approval

Conditional Zoning Site Plan

Notification Mailing List

Application

Exhibit "F" Conditions of Approval

General Address: McBryde St Road Site	Acres: 200.00 +/-
REID: 0574432215000 & 0574500676000	Approval Date: TBD
Effective Date: TBD	Issued to: Seth Thompson, Applicant

A1 Agricultural / CZ Conditional Zoning District Case ZON-24-0034 Ordinance Related Conditions for Quarry Use of Property

Applicability: Applicant requests a rezoning from A1 Agricultural District to A1/CZ Agricultural Conditional Zoning District for 200.00 +/- acres; located east of McBryde St, approximately 4,000 ft south of the Town of Linden. This Conditional Zoning is only applicable to the property delineated in Exhibit "A".

A. Permitted and Prohibited Uses.

1. A final site plan shall be submitted to the Current Planning division of the Cumberland County Planning and Inspections Department for review and approval in compliance with the conditions set forth and the County Zoning and Subdivision Ordinances and in compliance with the conditions set forth herein.
2. Use and development of the quarry shall occur consistent with the Conditional Zoning Site Plan within Exhibit "A" of the Conditions of Approval, the Conditions set forth herein, and the County Zoning and Subdivision Ordinances. Where any conflicts occur between the Conditions of Approval herein, including the Site Plan, with the County Zoning and Subdivision Ordinances, the Conditions of Approval and Site Plan shall supersede.
3. The conditional use site plan (Exhibit "A") does not show or propose any temporary erection and operation of plants and equipment necessary for crushing, polishing, dressing or otherwise physically or chemically processing the material extracted on the site. If such plants and equipment are proposed at any time, the final site plan must show location and site design for such facilities and operation. At the discretion of the Planning Director, such proposed plants and equipment may be deemed a substantial change to the conditional use permit, requiring an amendment to the conditional zoning site plan.

B. Development Standards.

1. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any should be 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. In addition, applicant is responsible to obtain all other federal, state, and local permits required for quarry operations.
 - a. Note: This conditional approval is not approval of the permitting of any structures for this site; re- submittal of the site plan for staff review and approval is required prior to application for permits for any structure to be located on this site.
2. The applicant must keep an updated copy of all State permits and conditions on record with the County Planning & Inspections Department.

3. Prior to issuance of a zoning permit, the applicant must provide to Code Enforcement an acknowledged copy- to include the County Manager - of the *Affidavit of Notification* which is required as part of the state application for a mining permit and a copy of the state mining permit application.
4. The temporary erection and operation of plants and equipment necessary for crushing, polishing, dressing, or otherwise physically or chemically processing the material extracted on the site shall comply with the district dimensional requirements of the M(P) zoning district.
5. All excavations shall be made either to a depth of five feet below a water producing level, or graded or back-filled with non-noxious and non-inflammable solids to assure that the excavated area will not collect and retain stagnant water or that the graded or back-filled surface will create a gentle rolling topography to minimize erosion by wind or rain and substantially conform with the contour of the surrounding area. The final site plan shall provide a cross-section to demonstrate the quarry depth.
6. Whenever the floor of a quarry is five feet or more below the grade of adjacent land, the property containing the quarry shall be completely enclosed by a barrier either consisting of a mound of earth not less than six feet high located at least 25 feet from any street right-of-way and planted with a double row of quick growing vegetative landscaping, or shall be enclosed with a chain link fence or its equivalent in strength and protective character to a height of six feet along the property line. The final site plan shall illustrate the location and type of barrier, including a cross-section of said barrier.
7. No excavation shall occur 100 feet or more from a street right-of-way shall be backfilled to 150 feet from a street right-of-way line as part of the reclamation plan. As shown on the final site plan, quarrying operations shall be located 50 feet or more from a street right-of-way line and to any property boundary line. With approval by the County Engineer, such excavation or quarrying may be permitted inside these limits in order to reduce the ground elevation to the established street grade.
8. A minimum fifty-foot-wide buffer shall be maintained around the perimeter of the quarry site, as shown within the conditional zoning site plan, unless where otherwise specified herein.
9. A reclamation plan shall be submitted along with the final site plan and the application. All such reclamation plans shall include the following:
 - a. A grading plan showing existing contours in the area to be extracted and proposed future contours showing the topography of the area after completion. Such plans shall include the surrounding area within 500 feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five feet or less.
 - b. Existing and proposed drainage of the area
 - c. Details of re-grading and re-vegetation of the site during and at conclusion of the operation. The following are the minimum requirements to be met at the conclusion of the operation:
 - i. The banks of all extraction, when not backfilled, shall be sloped at a grade of not less than two feet horizontal to one foot vertical. This slope shall be maintained 20 feet beyond the water line if such exists.
 - ii. Spoil banks shall be graded to a level suiting the existing terrain.
 - iii. All banks and extracted areas shall be surfaced with at least six inches of suitable soil, except exposed rock surfaces, and shall be planted or seeded with trees, shrubs, legumes or grasses and maintained until the soil is stabilized and approved by the County Engineer.
10. This conditional zoning approval is not approval of any freestanding signs. If a freestanding sign is desired as stated in the written application, re-submittal of the site plan 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.)

11. The owner/developer is responsible and liable for maintenance and upkeep of this site, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers/berms and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing.
12. Noise levels shall not exceed 60 dB(A) between the hours of 10:00 pm and 7:00 am. In any event, the noise level, regardless of the time of day, shall not become a nuisance to neighboring properties and strict compliance with the County's Noise Ordinance is required.
13. The developer must contact the County Engineer's office at the conclusion of operations to inspect the site for compliance with the provisions of Section 919, County Zoning Ordinance and that the site must be reclaimed in accordance with the reclamation plan included in the case file.
14. All equipment and structures shall be removed within three months of the completion of the extraction of materials.

C. Infrastructure and Utilities:

1. 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:

The following standards are applicable to all properties:

- i. All lights shall be shielded in such a way as to direct all light toward the Earth's surface and away from reflective surfaces;
 - ii. Light fixtures or lamps shall be shielded/shaded in such a manner as to direct incident rays away from all adjacent property and any light on a pole, stand, or mounted on a building must have a shield, and adjustable reflector and non-protruding diffuser;
 - iii. Any facilities, which may require floodlighting, may not arrange the light in such a way that it will shine toward roadways, on adjacent residential property or residentially zoned property or into the night sky;
 - iv. Any interior lighted signs may not be lit at night when any face of the sign is removed or damaged in such a way that the light may distract pedestrians or drivers or become a nuisance to homeowners;
 - v. Any light fixture must be placed in such a manner that no light-emitting surface is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at the ground level.
2. For new development, all utilities, except for 25k or greater electrical lines, must be located underground.

D. Fire Marshal and Fire Inspections:

1. For any buildings or structures constructed or any existing structures used, a commercial building permit will be required.
2. Developer must ensure fire protection water supply requirements are met in accordance with Section 507 of the 2018 NC Fire Code. Developer is required to provide advanced

coordination and contact with the County Fire Marshal Office prior to final site plan submittal as well as during site construction. Submit plans for any permits required in Section 105 of the 2018 Fire Code.

3. All fire department access requirements shall be met in accordance with Section 503 of the 2018 NC Fire Code and demonstrated at the time of final site plan and permit applications, as applicable.

E. Stormwater and Drainage:

1. 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 Environmental Quality (NCDEQ) sedimentation and erosion control plan(S&E). If any retention/detention basins are required for state approval of this plan, a formal revision application must be filed with Current Planning for review and approval.
2. 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 Environmental Quality. If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy.
3. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environmental Quality (NCDEQ) *Manual on Best Management Practices* and all drainage ways must be kept clean of free and debris (Section 2306, D., County Subdivision Ordinance).
4. In the event a stormwater utility structure is required by the NC Department of Environmental Quality (NCDEQ), the owner/developer must demonstrate on the revised plan the placement of a four-foot-high fence with a lockable gate for the security of the stormwater utility structure. The owner/developer is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
4. The applicant is advised to consult an expert on wetlands before proceeding with any development. The Cumberland County GIS mapping system has identified wetlands on a portion of the property. All wetland and stream boundaries must be delineated on the final site plan.
5. Developer must consult with the U.S. Army Corps of Engineers to determine if any permits from the Corps are necessary prior to submittal of a final site plan.

F. Environmental:

1. The developer must provide the Code Enforcement Section with an approved NC Department of Environmental Quality mining permit prior to any application for permits. A copy of the NCDEQ approval must be provided to Code Enforcement at the time of application for any zoning permits. Proper erosion and sediment control measures shall be installed and maintained in accordance with North Carolina State standards during mining/quarry operations.
2. When any extraction has been completed, such area shall either be left as a permanent spring-fed lake, or the floor thereof shall be leveled in such manner as to prevent the

collection and stagnation of water and to provide proper drainage without excessive soil erosion. The reclamation plan shall demonstrate compliance with this condition.

4. The facility must be permitted by the North Carolina Department of Environmental Quality Division of Energy, Mineral and Land Resources, Mining Program. and/or other applicable Federal, State, and local agencies. All state permits shall be submitted to the Dept. of Planning & Inspections prior to any clearing or grading activities associated with a mining operation.
5. The final site plan shall identify all wetlands and streams located on the property. No excavation shall occur closer than 200 feet from the bank of any river, stream, creek, or waterway except 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.

G. Landscaping:

1. At the time of the final site plan, more intensive buffering than the normal standard shall be required where residentially zoned areas with residential homes are determined to receive potential impacts from the mining activity by visual or other nuisances.
2. The final site plan shall include a detailed landscaping plan addressing the regulatory requirements set forth in section 1102 of the County Zoning Code.

H. Roads/Access/Parking:

1. Access to the site shall only occur to and from McBryde Street. Access to and from Hawkins Road for mining operation use. At the discretion of the County Fire Marshal, an emergency access to Hawkins Road may be required at the time of the final site plan.
2. All NCDOT permits must be obtained and submitted to the Code Enforcement Division prior to any issuance of a building permit or commencement of any development activity or change in property usage. Per NCDOT comments for this rezoning, 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.
3. Turn lanes may be required by the NC Department of Transportation (NCDOT) during review of the driveway permit or construction plans. Any NCDOT required improvements shall be completed prior to issuance of a certificate of occupancy unless otherwise indicated by NCDOT.
4. Access ways or drives within the premises shall be maintained in a dust-free condition through surfacing or such other treatment as may be necessary.
5. All proposed traffic generated by the quarry operations shall be limited to State owned roadways. The applicant is responsible for coordination with NCDOT pertaining to roadway maintenance and impact.
6. Applicant shall coordinate with Norfolk-Southern Railroad to obtain access across the existing railroad tracks abutting the property to access the site from McBryde Street. Prior to any use of the property for a mining operation, owner must submit to the County Planning & Inspections Department a letter of authorization or other document from Norfolk-Southern that authorizes crossing of the railroad right-of-way.

I. Development Review Process:

1. A final site plan, including a detailed lighting plan, landscaping plan, reclamation plan, and above referenced cross-sections, shall be provided to the County Planning & Inspections Department with a written transmittal with a brief narrative of the plans provided.
2. Authorization to cross the Norfolk-Southern railroad right-of-way must be obtained and submitted to the Planning & Inspections Department prior to commencing any mining operations. Such authorization regarding the railroad right-of-way is not required if access to Hawkins Road is obtained as described herein and access will not occur from McBryde Road.
3. In the event the requirements or conditions from a State or Federal Agency or utility provider creates an inconsistency with the conditional zoning site plan in any manner, a revised conditional site plan must be submitted to the Current Planning Division for review. Any change determined by the County to represent a substantial change to the conditional zoning site plan, Board of County Commission approval may be required, as shall be determined by the Planning Director.
4. Developer must coordinate with the Current Planning Division prior to making any changes to the conditional zoning site plan. Any changes to the conditional zoning site plan must be reviewed by the Current Planning Division to determine if any change is considered an insubstantial or substantial modification.
5. A copy of all permits from the North Carolina Department of Environmental Quality (Mining and Stormwater) and North Carolina Department of Transportation permits must be submitted to the County Department of Planning & Inspections prior to either commencing any mining operations or issuance of permits for any equipment or structures requiring a building permit, whichever occurs first.

J. Other Conditions:

1. 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.
2. All equipment used for excavation, quarrying, and permitted processing shall 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.
3. Any substantial modification made to this approved conditional zoning site plan or conditions of approval, other than those set forth in the above conditions, must be approved by the Board of Commissioners as set forth by Section 506 of the Zoning Ordinance.
4. No clearing or grading shall occur until authorized by the Code Enforcement Manager.
5. All applications and plan submittals shall be submitted via the County online permitting self-service portal at the following website address:
https://selfservice.co.cumberland.nc.us/EnerGod_Prod/SelfService#/home

K. Time Limitation

At the end of two years from the date of approval of this Conditional Zoning by the Board of County Commissioners, the Planning Board may examine progress made to determine if active efforts are proceeding. If the Planning Board determines that active efforts to develop are not proceeding, it may institute proceedings to rezone the property to its previous zoning classification.

Property Owner/Agent Acceptance of Conditions

(Print Name)

(Signature)

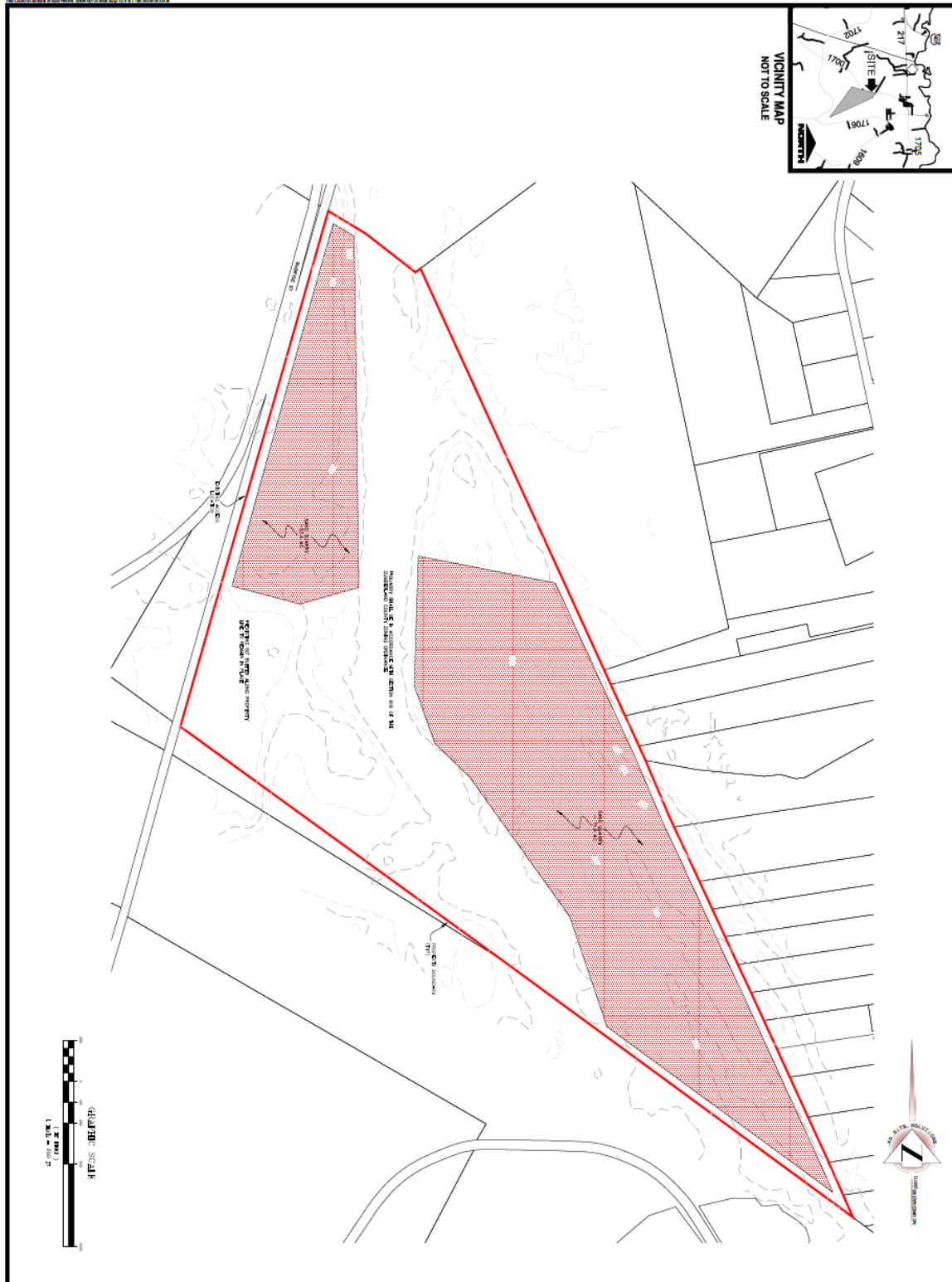
Date

Issued by:

David B. Moon, AICP, NC-CZO

Date

Exhibit "A" of the Conditions of Approval
Conditional Zoning Site Plan (ZON-24-0034)



ATTACHMENT – MAILING LIST

MCCULLEY, BETTY WILLIS
90 GROVE AVE
CHRISTIANSBURG, VA 24073

VLS REAL ESTATE LLC
PO BOX 3463
GREENSBORO, NC 27402

MCLAMB, JOE III
3871 N NC 50 HWY
BENSON, NC 27504

CAMPBELL, JENIS
835 POLLY WATSON RD
FREMONT, NC 27830

CAMPBELL, JENIS
835 POLLY WATSON RD
FREMONT, NC 27830

TRIPLE K INVESTMENTS LLC
121 S COOL SPRING ST
FAYETTEVILLE, NC 28301

MALDONADO, JOSE R;MALDONADO, N
471 SHORELINE DR
FAYETTEVILLE, NC 28311

TART & FAIRCHILD INVESTMENTS LLC
173 WATERPOINT RD
AUTRYVILLE, NC 28318

TART & FAIRCHILD INVESTMENTS LLC
173 WATERPOINT RD
AUTRYVILLE, NC 28318

TART & FAIRCHILD INVESTMENTS LLC
173 WATERPOINT RD
AUTRYVILLE, NC 28318

ALBERT, PAULETTE WEST
715 ANDERSON CRK SCHOOL RD
BUNNLEVEL, NC 28323

JERNIGAN, CLAYTON LINWOOD
9828 TIMOTHY RD
DUNN, NC 28334

ROBINSON, SAUL JR
602 S WASHINGTON
DUNN, NC 28334

IRIZARRY, SHIRLEY A
8588 DURANT NIXON RD
LINDEN, NC 28356

MORRIS, MAURICIO;MORRIS, DENISE
PO BOX 214
LINDEN, NC 28356

AMMONS, BENJAMIN J;KENNETH, E JR
8294 HAWKINS RD
LINDEN, NC 28356

B&K INVESTMENT PROPERTIES LLC
8294 HAWKINS RD
LINDEN, NC 28356

HAFFLY, CHRISTOPHER;HAFFLY, JODY
8637 DURANT NIXON ROAD
LINDEN, NC 28356

ARMSTRONG, ESSIE LEE LIFE ESTATE
PO BOX 144
LINDEN, NC 28356

WILLIAMS, JAMES H;WILLIAMS,
BERTHA ANN
PO BOX 214
LINDEN, NC 28356

MORRIS, PHILIP L
8606 DURANT NIXON RD
LINDEN, NC 28356

ROBERTS, WILLIAM
9656 LUKES RD
LINDEN, NC 28356

AMMONS, BENJAMIN;KENNETH, E JR
8294 HAWKINS RD
LINDEN, NC 28356

TRACY, TERRY MILTON;TRACY, LENA
BLACKWELL
8611 DURANT NIXON RD
LINDEN, NC 28356

CAMPBELL, NELSON F;DARLENE, N
PO BOX 283
LINDEN, NC 28356

HAIRE, STARLING JUNIOR;HAIRE,
CAROLYN A
8618 DURANT NIXON RD
LINDEN, NC 28356

B & K INVESTMENT PROPERTIES LLC
8294 HAWKINS RD
LINDEN, NC 28356

ROBERTS, WILLIAM
9656 LUKES RD
LINDEN, NC 28356

HORNE, TRACY
8575 DURANT NIXON RD
LINDEN, NC 28356

AMMONS, SCOTTIE WAYNE;AMMONS,
MARGARET JOAN
8751 DURANT NIXON RD
LINDEN, NC 28356

BIGGS, MARY C
8935 DURANT NIXON RD
LINDEN, NC 28356

S & D INVESTMENTS PROPERTIES LLC
PO BOX 70
LINDEN, NC 28356

MENDEZ, TAIDE OZUNA
8981 DURANT NIXON RD
LINDEN, NC 28356

S & D INVESTMENTS PROPERTIES LLC
PO BOX 70
LINDEN, NC 28356

MASON, RICHARD
8634 DURANT NIXON RD
LINDEN, NC 28356

SEABERRY, WILLIAM DAVID
8681 DURANT NIXON RD
LINDEN, NC 28356

WANG, JIZHAO
9013 DURANT NIXON ROAD
LINDEN, NC 28356

HAFFLY, CHRISTOPHER;HAFFLY, JODY
8637 DURANT NIXON ROAD
LINDEN, NC 28356

AMMONS, BENJAMIN J
8294 HAWKINS RD
LINDEN, NC 28356

ROBERTS, WILLIAM
9656 LUKES RD
LINDEN, NC 28356

TURNAGE, CHARLES
TIMOTHY;TURNAGE, MAY LOU
9099 DURANT NIXON ROAD
LINDEN, NC 28356

BUIE, GEORGE MARVIN III
8857 DURANT NIXON RD
LINDEN, NC 28356

DUKES, FREDRICK LEE;DUKES, SUSAN
8743 DURANT NIXON RD
LINDEN, NC 28356

AMMONS, STONEY WAYNE;AMMONS,
VICKIE IRENE
8739 DURANT NIXON RD
LINDEN, NC 28356

CAMERON, CARNELL LIFE ESTATE
PO BOX 355
LINDEN, NC 28356

SEABERRY, WILLIAM DAVID
8681 DURANT NIXON RD
LINDEN, NC 28356

WILLIAMS, CHARLES A
8533 DURANT NIXON ROAD
LINDEN, NC 28356

QUICK, ANDREW WILLIAM;QUICK,
CAROLYN ANN
8651 DURANT NIXON RD
LINDEN, NC 28356

BRYANT, ROY LIFE ESTATE;BRYANT,
JOHNNY
8556 DURANT NIXON RD
LINDEN, NC 28356

HAIR, KENNETH WAYNE;HAIR,
RHONDA LYNN
8614 DURANT NIXON RD
LINDEN, NC 28356

DUKES, FREDRICK LEE;DUKES, SUSAN
IRENE
8743 DURANT NIXON RD
LINDEN, NC 28356

PRICE, LEROY C
8661 DURANT NIXON RD
LINDEN, NC 28356

BRYANT, BRYAN ADAM
8592 DURANT NIXON RD
LINDEN, NC 28356

BOWDEN, CAROLYN
2267 STRAW POND SCHOOL RD
ROSEBORO, NC 28382

BLOUNT, ERSKINE A JR
3245 SEACREST AVE SW
SUPPLY, NC 28462

WALTERS, MICHAEL P;WORLEY,
DENNIS T
PO BOX 457
TABOR CITY, NC 28463

MCCORKLE, SARA TRUSTEE
940 TAMIAMI TRL S APT 302
VENICE, FL 34285

ATTACHMENT: APPLICATION



County of Cumberland

Planning & Inspections Department

APPLICATION FOR CONDITIONAL ZONING DISTRICT REZONING REQUEST CUMBERLAND COUNTY ZONING ORDINANCE

CASE #: _____

PLANNING BOARD
MEETING DATE: _____

DATE APPLICATION
SUBMITTED: _____

RECEIPT #: _____

RECEIVED BY: _____

Upon receipt of this application (petition), the Planning and Inspections Staff will present to the Planning Board the application at a hearing. In accordance with state law and board's policy, a notice of the hearing will be mailed to the owners of the adjacent and surrounding properties, which may be affected by the proposed Conditional Zoning. In addition, a sign will be posted on the property.

The Planning Board will make a recommendation to the Cumberland County Board of Commissioners concerning the request. The Board of Commissioners will schedule a public hearing and issue a final decision on the matter. Generally, the Commissioners will hold the public hearing four weeks following the Planning Board meeting. The Conditional Zoning District is not effective until the request is heard and approval granted by the Board of Commissioners.

The following items are to be submitted with the completed application:

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract is/are being submitted for rezoning, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to an engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. A check made payable to the "Cumberland County" in the amount of \$ _____ (See attached Fee Schedule)

NOTE: Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board meeting according to the Board's meeting schedule. Also, the application fee is *nonrefundable*.

The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application or preparation of the site plan. For questions call (910)678-7603 or (910) 678-7602. Hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.

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 Seth Thompson
2. Address: 510 N. Powell Ave, Dunn, NC Zip Code 28334
3. Telephone: (Home) 919-868-1733 (Work) _____
4. Location of Property: McBryde Street
5. Parcel Identification Number (PIN #) of subject property: 0574500676000 & 0574432215000
(also known as Tax ID Number or Property Tax ID)
6. Acreage: 200 Frontage: 1,450' Depth: 5,700'
7. Water Provider: Private well Septage Provider: Private septic
8. Deed Book ³⁷ 7655 & 8755 ³⁷ 11994, Page(s) 605 & 761 224, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: Woods & farm land
10. Proposed use(s) of the property: Sand quarry

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 X _____
12. Has a violation been issued on this property? Yes _____ No X _____
13. It is requested that the foregoing property be rezoned FROM: A1

TO: (Select one)

- X Conditional Zoning District, with an underlying zoning district of A1
(Article V)
- Mixed Use District/Conditional Zoning District (Article VI)
- General 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.)

A portion of the property will be used for a sand quarry per the proposed site plan.

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

N/A

2. DIMENSIONAL REQUIREMENTS:

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

Use A1 requirements

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

N/A

3. SIGN REQUIREMENTS: N/A

Reference the district sign regulations proposed from Article XIII.

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.**

N/A. Existing buffer will be left in place along McBryde Street.

- 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.**

Existing 30' buffer along McBryde Street will be left in place.

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.

6. SITE PLAN REQUIREMENTS:

The application must include a site plan drawn to the specifications of Sec. 1402. If the proposed use involves 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 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 (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.

Donna McDonald & Mary Picard

NAME OF OWNER(S) (PRINT OR TYPE)

~~4900x Creek Rd, Weaverville, NC 28787~~ Tart & Fairchild Investment
ADDRESS OF OWNER(S)

173 Waterpointed Actyville
E-MAIL

waterpointed@att.net 910-890-9073
HOME TELEPHONE WORK TELEPHONE

Joseph A. Tart
SIGNATURE OF OWNER(S) SIGNATURE OF OWNER(S)

Seth Thompson

NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

510 N Powell Avenue, Dunn, NC 28334

ADDRESS OF AGENT, ATTORNEY, APPLICANT

919-868-1733
HOME TELEPHONE WORK TELEPHONE

seth@wellonsconstruction.com
E-MAIL ADDRESS FAX NUMBER

Seth Thompson
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

From: [Scott Brown](#)
To: [David Moon](#); ["Seth Thompson"](#)
Subject: RE: ZON-24-0034 Final Draft of Conditions of Approval
Date: Tuesday, October 8, 2024 1:58:30 PM
Attachments: [image001.png](#)

CAUTION: This email originated from outside of the County. Do not open attachments, click on links, or reply unless you trust the sender or are expecting it.

The conditions appear to be agreeable. I will send revised site plan tomorrow morning.

thanks,

Scott Brown, PE
4D Site Solutions, Inc
409 Chicago Drive
Suite 112
Fayetteville, NC 28306

[910-426-6777](tel:910-426-6777)

----- Original message -----

From: David Moon <dmoon@cumberlandcountync.gov>
Date: 10/8/24 11:50 AM (GMT-05:00)
To: 'Seth Thompson' <setht@wellonsconstruction.com>, Scott Brown
<sbrown@4dsitesolutions.com>
Subject: ZON-24-0034 Final Draft of Conditions of Approval

Seth:

Attached is the draft conditions of approval. The condition addressing potential access to Hawkins Road was removed per your request this morning. I need Scott to send a revised site plan with the removal of the note regarding "potential access" to Hawkins Road. Please send the revised conditional zoning site plan as soon as practical. And provide an email stating that you agree to the Conditions of Approval.



PLANNING AND INSPECTIONS DEPARTMENT

MEMORANDUM FOR JOINT PLANNING BOARD AGENDA OF OCTOBER 15, 2024

TO: JOINT PLANNING BOARD

**FROM: CUMBERLAND COUNTY PLANNING AND INSPECTIONS
DEPARTMENT**

DATE: 10/15/2024

**SUBJECT: CASE # ZON-24-0036: REZONING FROM A1 AGRICULTURAL
DISTRICT TO R40 RESIDENTIAL DISTRICT OR TO A MORE
RESTRICTIVE ZONING DISTRICT FOR ONE PARCEL COMPRISING
OF 14.50 +/- ACRES; LOCATED AT 908 MARY MCCALL ROAD,
SUBMITTED BY ANTHONY AND PEGGY WHITE (OWNER).**

ATTACHMENTS:

Description

ZON-24-0036

Type

Backup Material



PLANNING STAFF REPORT
REZONING CASE # ZON-24-0036
Planning Board Meeting: Oct. 15, 2024

Location: 908 Mary McCall Rd.
Jurisdiction: County-Unincorporated

REQUEST

Rezoning A1 to R40

Applicant requests a rezoning from A1 Agricultural District to R40 Residential District for approximately 14.50 +/- acres located at 908 Mary McCall Road as shown in Exhibit "A". The parcel contains farmland and woodlands. The applicant intends to subdivide the parcel into ten to twelve single-family residential units with a "Class A private street".

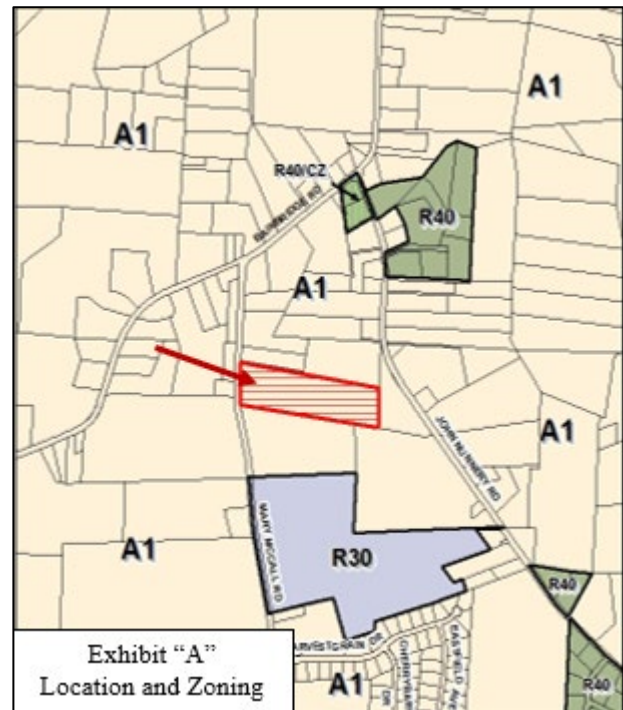
PROPERTY INFORMATION

OWNER/APPLICANT: Anthony and Peggy White
(Owners)

ADDRESS/LOCATION: Located at 908 Mary McCall Rd. Refer to Exhibit "A", Location and Zoning Map. REID number(s): 0496743860000.

SIZE: Parcel 0496743860000 has approximately 14.50 +/- acres and 417.6 feet +/- of street frontage and is 1,529 feet +/- in length at its deepest point.

EXISTING ZONING: The subject property is currently zoned A1 Agricultural District. The A1 Agricultural District is designed to promote and protect agricultural lands, including woodlands, within the County. The general intent of the district is to permit all agricultural uses to exist free from most private urban development except for large lot, single-family development. Some public and/or semi-public uses as well as a limited list of convenient commercial uses are permitted to ensure essential services for the residents.

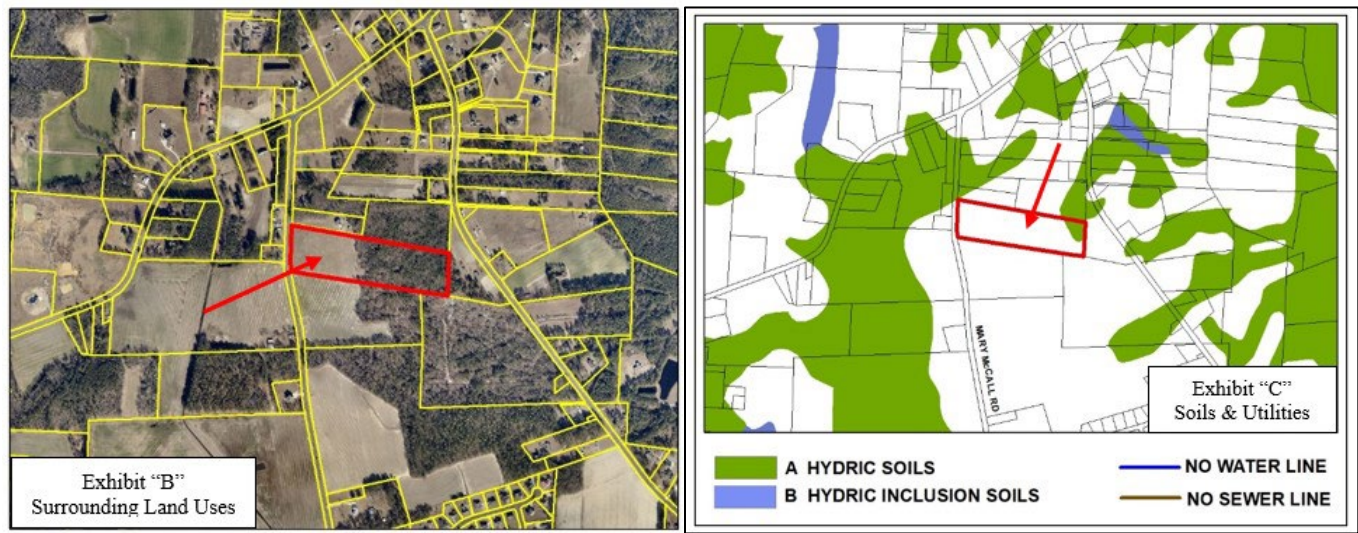


EXISTING LAND USE: The subject site consists of undeveloped farmland and woodlands.

SURROUNDING LAND USE: Exhibit "B" illustrates the following:

- **North:** Single-family homes and Woodlands
- **East:** Single-family homes, Manufactured Homes, and Woodlands
- **West:** Single-family homes, Manufactured Homes, and Undeveloped land (Farmland)
- **South:** Woodlands and Undeveloped land (Farmland)

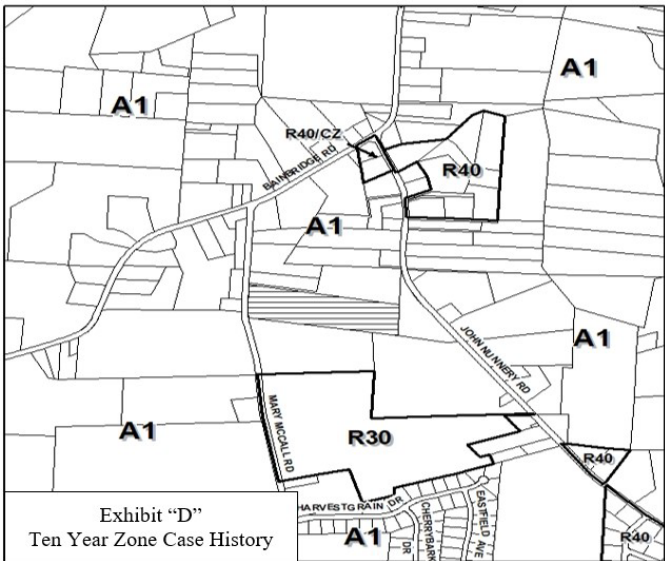
OTHER SITE CHARACTERISTICS: The site is not located in a Watershed Protection Area or within a Flood Zone Hazard Area. The subject property, as delineated in Exhibit “C”, illustrates hydric or hydric inclusion soils are present on the northeast corner of the property.



TEN YEAR ZONE CASE HISTORY:

Exhibit “D” denotes no previous case history within the past ten years for properties within the nearby surrounding area.

DEVELOPMENT REVIEW: Should the request be approved, a preliminary plan for any subdivision or site plan for development will need to be submitted for review and approval to the Current Planning Division to ensure conformance with the County Subdivision and Zoning Ordinances.



DIMENSIONAL PROVISIONS FOR REQUESTED DISTRICT:

Minimum Standard	A1 (Existing Zoning)	R40 (Proposed Zoning)
Front Yard Setback	50 feet	30 feet
Side Yard Setback	20 feet	15 feet
Rear Yard Setback	50 feet	35 feet
Lot Area	2 Acres	40,000 sq. ft.
Lot Width	100 feet	100 feet

DEVELOPMENT POTENTIAL:

Existing Zoning (A1)	Proposed Zoning (R40)
7 dwelling units	16 dwelling units

- Lot count may be rounded-up when a fraction occurs. When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit, and a fraction of less than one-half shall be disregarded.

COMPREHENSIVE PLANS:

This property is located within the Stedman Area Land Use Plan (2020), as shown in Exhibit "E". The future land use classification of the property is "Rural Density Residential". Associated zoning districts for Rural Residential are R30, R30A, R40, R40A, A1, A1A, and CD.

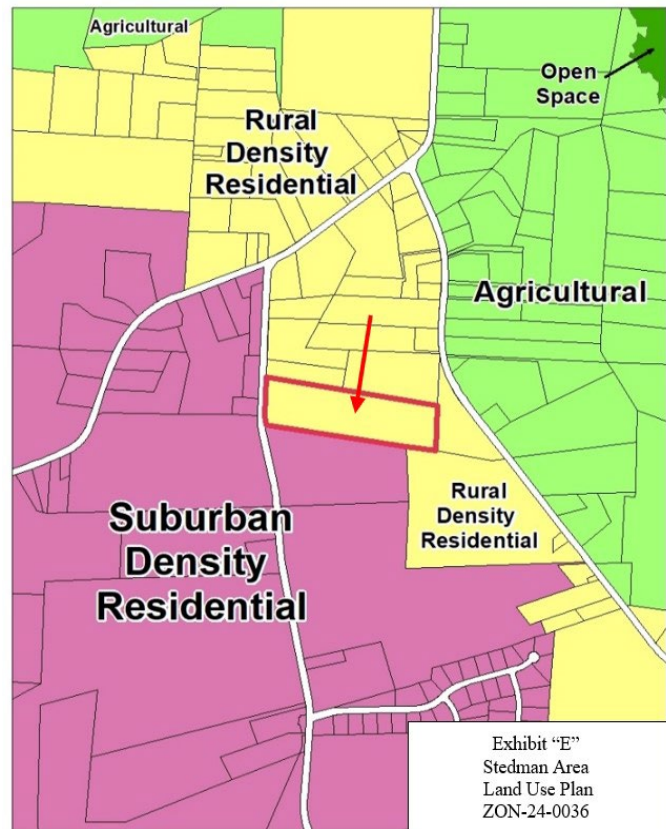
The proposed rezoning request is consistent with the adopted land use plan.

Rural Residential Summary:

The Rural Density Residential land use classification represents land used for a mix of agricultural and residential while preserving the rural character of the area. This classification is designed for residential uses that are supported by individual septic and well systems and must have access to a public or approved private street.

Future Land Use Classification Development Goals:

- Protect working agricultural operations through site design (Stedman Area Land Use Plan, p. 57)
- Density Developments and planning techniques that preserve rural character and appearance are highly recommended (Stedman Area Land Use Plan, p. 42).
- Encourage useable open space in residential developments (Stedman Area Land Use Plan, p. 64).



IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

UTILITIES: No water or sewer utility lines are immediately available along the subject property as shown on Exhibit "C". The applicant will need to secure permits for on-site well and septic systems through Cumberland County Environmental Health prior to any construction.

SCHOOLS CAPACITY/ENROLLMENT:

School	Capacity	Enrollment
Stedman Primary	162	146
Stedman Elementary	358	268
Mac Williams Middle	1164	1174
Cape Fear High	1476	1598

ECONOMIC DEVELOPMENT: Fayetteville Cumberland County Economic Development Corporation has reviewed the request and has no objection to the proposal.

EMERGENCY SERVICES: Cumberland County Fire Marshal's office has reviewed the request and has no objection to the proposal.

SPECIAL DISTRICTS/ OVERLAY DISTRICTS:

Special Districts			
Fayetteville Regional Airport Overlay:	n/a	Averasboro Battlefield Corridor:	n/a
Five Mile Distance of Fort Liberty:	n/a	Eastover Commercial Core Overlay District:	n/a
Voluntary Agricultural District (VAD):	n/a	Spring Lake Main Street Overlay District:	n/a
VAD Half Mile Buffer:	n/a	Coliseum Tourism Overlay District:	n/a

n/a – not applicable

CONDITIONS OF APPROVAL: This is a conventional rezoning. There are no conditions proposed at this time.

STAFF RECOMMENDATION

In Case ZON-24-0036, Planning and Inspections staff **recommends approval** of the rezoning request from A1 Agricultural District to R40 Residential District. Staff finds that the request is consistent with the Stedman Area Land Use Plan which calls for "Rural Density Residential" at this location. Staff also finds that the request is reasonable and in the public interest as it is compatible to and in harmony with the surrounding land use activities and zoning.

Attachments:
Notification Mailing List
Application
Deed Information

ATTACHMENT – MAILING LIST

MCLAURIN, JAMES H JR
1330 MASSACHUSETTS AVE NW APT 707
WASHINGTON, DC 20005

WHITE, ARIZONA
PO BOX 295
LENEXA, VA 23089

HUBBARD, DAVID MITCHEL
PO BOX 1538
FAYETTEVILLE, NC 28302

HUBBARD, DAVID MITCHEL;TEACHEY,
NANCY HUBBARD
2848 SKYE DR
FAYETTEVILLE, NC 28303

MOLCIE FARMS, LLC
PO BOX 53943
FAYETTEVILLE, NC 28305

MOLCIE FARMS, LLC
PO BOX 53943
FAYETTEVILLE, NC 28305

GREAT SOUTHEASTERN PROPERTIES
PO BOX 58375
FAYETTEVILLE, NC 28305

MOLCIE FARMS, LLC
PO BOX 53943
FAYETTEVILLE, NC 28305

WHITTED, JAMES OTIS
1424 SEABROOK SCHOOL RD
FAYETTEVILLE, NC 28312

NORDWALL, ANDREW M
1206 JOHN NUNNERY
STEDMAN, NC 28391

WHITE, JAMES H JR;WHITE, MELANIE C
1363 BAINBRIDGE RD
STEDMAN, NC 28391

COLEMAN, WILLIAM WAYNE
PO BOX 586
STEDMAN, NC 28391

GARLAND, RISA
921 BAINBRIDGE RD
STEDMAN, NC 28391

CASHWELL, JERRY P II
1012 JOHN NUNNERY RD
STEDMAN, NC 28391

SMITH, KIMBERLY DAWN
MORRIS;PRUITT, SHELLY DIANE
MORRIS
6726 OAK GROVE CHURCH RD
STEDMAN, NC 28391

WHITTED, JAMES ANTWAN;WHITTED,
SERENA V
1165 BAINBRIDGE RD
STEDMAN, NC 28391

AUTRY, EDDIE DEAN JR
948 MARY MCCALL RD
STEDMAN, NC 28391

WHITE, ANTHONY LYNN;WHITE,
PEGGY ROSSER
1207 BAINBRIDGE RD
STEDMAN, NC 28391

BLAKE, MICHELLE STEWART;BLAKE,
CHRISTOPHER COLLINS
1418 JOHN NUNNERY RD
STEDMAN, NC 28391

PARKS, BRIAN
1064 BAINBRIDGE RD
STEDMAN, NC 28391

CULBRETH, MELISSA;CULBRETH,
BRIAN
1413 JOHN NUNNERY RD
STEDMAN, NC 28391

SMITH, JOHNNY MINSON
1365 JOHN NUNNERY RD
STEDMAN, NC 28391

AUTRY, BOBBY DALE;AUTRY,
SAMANTHA RING
938 MARY MCCALL ROAD
STEDMAN, NC 28391

AUTRY, BELIVIA WHITE;AUTRY, EDDIE
DEAN JR
1034 MARY MCCALL ROAD
STEDMAN, NC 28391

JOHNSON, CYNTHIA N;DERRICK, .
483 JOHN NUNNERY RD
STEDMAN, NC 28391

MCNEILL, CALVIN;MCNEILL, CHERYLL
DENISE RAEFORD
PO BOX 627
STEDMAN, NC 28391

FREEMAN, RICHARD E
1164 JOHN NUNNERY RD
STEDMAN, NC 28391

SCOTT, APRIL MARIE WHITE;SCOTT,
CLAUDE WINFORD IV
1347 BAINBRIDGE RD
STEDMAN, NC 28391

JACKSON, ROBERT W;JACKSON,
SUSAN H
1386 JOHN NUNNERY RD
STEDMAN, NC 28391

JACKSON, RANDALL LEE
PO BOX 502
STEDMAN, NC 28391

SMITH, JOHNNY M LIFE ESTATE
1365 JOHN NUNNERY RD
STEDMAN, NC 28391

PHILLIPS, GEORGE ROBERT
1032 BAINBRIDGE RD
STEDMAN, NC 28391

SMITH, JOHNNY M LIFE ESTATE
1365 JOHN NUNNERY RD
STEDMAN, NC 28391

DANDENEAU, TONYA J
PO BOX 849
STEDMAN, NC 28391

HENDERSON, MARILU
ANN;HENDERSON, LARRY BRUCE S
1352 JOHN NUNNERY RD
STEDMAN, NC 28391

VINSON, KIMBERLY MORRIS
1344 JOHN NUNNERY RD
STEDMAN, NC 28391

LANGLEY, JOSHUA C;LANGLEY,
STEPHANIE D
954 BAINBRIDGE ROAD
STEDMAN, NC 28391

LOCKLEAR, JULIA DARLENE
PLEASANTS LIFE ESTATE
1409 JOHN NUNNERY RD
STEDMAN, NC 28391

POPE, CELESTE PECORA;SNEED,
WENDY;SNEED, DANIELLE CELESTE
1130 BAINBRIDGE RD
STEDMAN, NC 28391

CULBRETH, BRIAN;CULBRETH,
MELISSA
1413 JOHN NUNNERY RD
STEDMAN, NC 28391

WHITE, JAMES H JR;WHITE, MELANIE C
1363 BAINBRIDGE RD
STEDMAN, NC 28391

COLEMAN, WILLIAM WAYNE
PO BOX 586
STEDMAN, NC 28391

POPE, CELESTE PECORA;SNEED,
WENDY;SNEED, DANIELLE CELESTE
1130 BAINBRIDGE RD
STEDMAN, NC 28391

VINSON, KIMBERLY MORRIS
1344 JOHN NUNNERY RD
STEDMAN, NC 28391

CULBRETH, MELISSA;CULBRETH,
BRIAN
1413 JOHN NUNNERY RD
STEDMAN, NC 28391

FREEMAN, RICHARD G;FREEMAN,
EMILY HONEYCUTT
7308 CLINTON RD
STEDMAN, NC 28391

WHITE, ANTHONY LYNN;WHITE,
PEGGY ROSSER
1207 BAINBRIDGE RD
STEDMAN, NC 28391

AUTRY, BOBBY DALE;AUTRY,
SAMANTHA RING
1289 BAINBRIDGE RD
STEDMAN, NC 28391

MORRIS, MARGARET HALL
1744 WADE STEDMAN RD
STEDMAN, NC 28391

MAYKOVICH, ANNETTE
M.;MAYKOVICH, ANDREW E.
6232 AZELIA DRIVE
STEDMAN, NC 28391

JACKSON, ROBERT WAYNE;JACKSON,
SUSAN M
1386 JOHN NUNNERY RD
STEDMAN, NC 28391

WATSON, IDA KAY TAYLOR
3417 WARPATH RD
MACON, GA 31201

ATTACHMENT: APPLICATION



CASE #: 20N-24-0036

PLANNING BOARD
MEETING DATE: October 15, 2024

DATE APPLICATION
SUBMITTED: September 9, 2024

APPLICATION FOR REZONING REQUEST CUMBERLAND COUNTY ZONING ORDINANCE

The following items are to be submitted with the completed application:

1. A copy of the *recorded* deed and/or plat.
2. If a portion(s) of the property is being considered for rezoning, an accurate written legal description of only the area to be considered.
3. A check made payable to "Cumberland County" in the amount of \$ 450.
(See County Fee Schedule).

Rezoning Procedure:

1. Completed application submitted by the applicant.
2. Notification to surrounding property owners.
3. Planning Board hearing.
4. Re-notification of interested parties / public hearing advertisement in the newspaper.
5. County Commissioners' public hearing (approximately four weeks after Planning Board public hearing)
6. If approved by the County Commissioners, rezoning becomes effective immediately.

The Planning & Inspections Staff will advise on zoning options, inform applicants of development requirement and answer questions regarding the application and rezoning process. For further questions, call (910)678-7627 or (910)678-7609. Hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.

NOTE: Any revisions, inaccuracies or errors to the application may cause the case to be delayed and will be scheduled for the next available board meeting according to the board's meeting schedule. Also, the application fee is *nonrefundable*.

**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:

1. Requested Rezoning from A1 to R-40
2. Address of Property to be Rezoned: 908 Mary McCall Rd. Stedman
3. Location of Property, details: 14.5 Acres
4. Parcel Identification Number (PIN #) of subject property: 0496743860
(also known as Tax ID Number or Property Tax ID) 0496858576 ALW
5. Acreage: 14.5 Frontage: 417.6 Ft Depth: 1,529 Ft
6. Water Provider: Well: X PWC: _____ Other (name): _____
7. Septage Provider: Septic Tank X PWC _____
8. Deed Book 5402, Page(s) 0451, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: Hay Field and Woods
10. Proposed use(s) of the property: Residential Housing
11. Do you own any property adjacent to or across the street from this property?
Yes _____ No X If yes, where? _____
12. Has a violation been issued on this property? Yes _____ No X

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.

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.

Anthony Lynn White / Peggy Rosser White
NAME OF OWNER(S) (PRINT OR TYPE)

1207 Bainbridge Rd Stedman, NC 28391
ADDRESS OF OWNER(S)

910-483-3958
HOME TELEPHONE #

910-489-3363
WORK TELEPHONE #

Anthony Lynn White / Peggy Rosser White
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

1207 Bainbridge Rd Stedman, NC 28391
ADDRESS OF AGENT, ATTORNEY, APPLICANT

alwhite0211@gmail.com
E-MAIL

910-818-1844
HOME TELEPHONE #

910-489-3363
WORK TELEPHONE #

Anthony Lynn White
SIGNATURE OF OWNER(S)

Anthony Lynn White
SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

Peggy Rosser White
SIGNATURE OF OWNER(S)

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

Prepared By and
Return to:

Cyrus J. Faircloth, Attorney
300 First Citizens Bank Bldg.
P.O. Box 1883
Fayetteville, NC 28302

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED, made this 19th day of January, 2001, by and between,

GRANTOR

JAMES H. WHITE, SR. and wife,
BETTY P. WHITE
1293 Bainbridge Road
Stedman, NC 28391

GRANTEE

ANTHONY LYNN WHITE and
wife, PEGGY ROSSER WHITE
1207 Bainbridge Road
Stedman, NC 28391

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include the singular, plural, masculine, feminine, or neuter as required by context.

W I T N E S S E T H

The Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple (with the exceptions hereinafter stated, if any), all the certain tract or parcel of land situated in Cedar Creek Township, Cumberland County, North Carolina, and more particularly described as follows:

Being all of Lot No. 5 consisting of 14.50 acres, more or less, of the property of James Howard White, Sr. according to a plat of same duly recorded in Book of Plats 103, Page 115, Cumberland County Registry, reference to which is hereby made and incorporated herein by reference as though fully set out herein. Being a part of the land in Book 5204, Page 284, Cumberland County Registry.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple; that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated, if any.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, the date set opposite their respective names.

DATE: 1/31/01

James H. White Sr. (SEAL)
JAMES H. WHITE, SR., Grantor

DATE: 1-31-01

Betty P. White (SEAL)
BETTY P. WHITE, Grantor

* * * * *

NORTH CAROLINA

CUMBERLAND COUNTY

I, Tracy Wilson, a Notary Public of the County and State aforesaid, certify that James H. White, Sr. and wife, Betty P. White, Grantors, each personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 31st day of January, 2001.

(NOTARY SEAL)

Tracy Wilson
NOTARY PUBLIC

My Commission Expires: 6-2-01

* * * * *

NORTH CAROLINA

CUMBERLAND COUNTY

The foregoing Certificate(s) of _____

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

George E. Tatum Register of Deeds for Cumberland County,

By _____ Deputy/Assistant - Register of Deeds.



PLANNING AND INSPECTIONS DEPARTMENT

MEMORANDUM FOR JOINT PLANNING BOARD AGENDA OF OCTOBER 15, 2024

TO: JOINT PLANNING BOARD

**FROM: CUMBERLAND COUNTY PLANNING AND INSPECTIONS
DEPARTMENT**

DATE: 10/15/2024

**SUBJECT: CASE # ZNG-010-24: TEXT AMENDMENT TO THE TOWN OF HOPE
MILLS ZONING ORDINANCE TO AMEND REGULATIONS RELATED
TO THE HISTORIC OVERLAY DISTRICT, SUBMITTED BY TOWN OF
HOPE MILLS (APPLICANT). (HOPE MILLS).**

ATTACHMENTS:

Description	Type
ZNG-010-24	Backup Material
ZNG-010-24.2	Backup Material



October 15, 2024

TO: Chancer McLaughlin, Town Manager

FROM: Emily Weidner, Planning & Economic Development Director

REPORT: STAFF REPORT

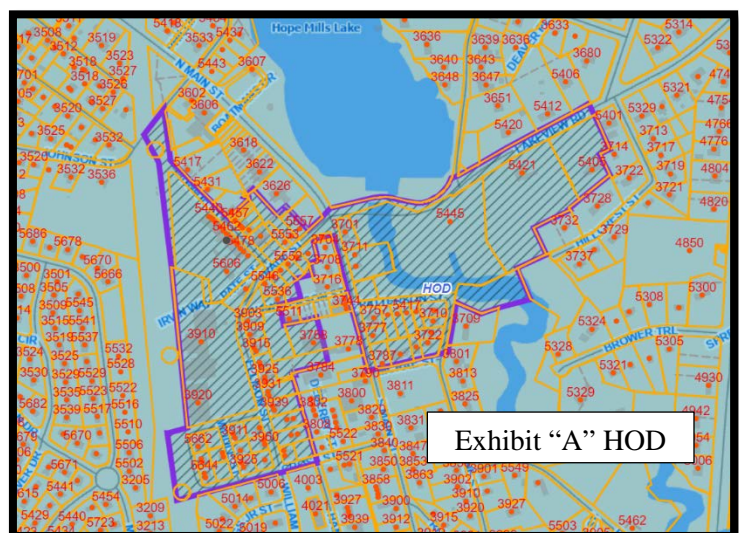
REQUEST: Recommission the Historic Preservation Commission: ZNG-010-24
Address: Historic District of Hope Mills

REQUEST

The following memo outlines a request to review and approve the Historic Overlay District within the Town of Hope Mills Zoning Ordinance.

BACKGROUND

During a special meeting on July 29, 2024 The Board of Commissioners voted to begin the process of reinstating the Hope Mills Preservation Commission. The first step in that process is to have the zoning ordinance updated to reflect this change. Illustrated in Exhibit “A.”



PROPOSED DEVELOPMENT

The Town wishes to do a Text Amendment to the Zoning Ordinance with the attached document.

COMMENTS

STAFF RECOMMENDATION: Approval

AN ORDINANCE ESTABLISHING THE HOPE MILLS HISTORIC PRESERVATION COMMISSION

THE BOARD OF COMMISSIONERS OF THE TOWN OF HOPE MILLS, NORTH CAROLINA, DOES ORDAIN:

~~Section 1. The Hope Mills Historic Advisory Committee is hereby dissolved, and the members of said committee shall serve as the initial members of the Hope Mills Historic Preservation Commission until such time as the Board of Commissioners appoints members to the Historic Preservation Commission.~~

~~Section 2.~~ Hope Mills Code of Ordinances Chapter 2, Article IV, "Boards, Commissions and Committees," is amended as follows:

ARTICLE IV. - BOARDS, COMMISSIONS AND COMMITTEES DIVISION 1. - GENERALLY

Sec. 2-171. - Sunset; exceptions.

All boards, commissions, committees, and agencies created by the board of commissioners, ~~with the exception of the~~ **Historic Preservation Commission**, community appearance commission, parks and recreation commission, water and sanitary sewer review committee, and zoning board of adjustment, whether by ordinance or by informal appointment by the mayor or board of commissioners, and all future boards, commissions, committees, and agencies created by ordinance or by informal action of the mayor or board of commissioners, which have been or shall be created for the purpose of serving in an advisory capacity, and which are not official-line departments of the town under existing law, shall expire one year from the date of passage of an ordinance creating such a board, commission, committee, or agency, or one year from appointment by the mayor or board of commissioners.

(Code 1985, 32.01)

Secs. 2-172—2-190. - Reserved.

DIVISION 3. - COMMUNITY APPEARANCE COMMISSION [Section 2-191 through 2-192 are not amended.]

DIVISION 3. - HISTORIC PRESERVATION COMMISSION Sec. 2-193. - The Historic Preservation Commission.

(1) There is hereby established a Hope Mills Historic Preservation Commission (the "Commission") under the authority of G.S. Chpt. ~~160A.Art.19, Part3C~~ 160D-303.

(2) The commission shall consist of five (5) members appointed by the Board of Commissioners.

All members shall reside within the corporate limits of the Town of Hope Mills. A majority of the members of the Commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The Commission may appoint advisory bodies and committees as appropriate.

(3) Members of the Commission shall serve terms of four (4) years, except that two (2) of the initial members shall be appointed to initial terms of two (2) years. Terms shall be staggered.

(4) The powers of the Historic Preservation Commission, G.S. 160D-942, are as follows:

- a. Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance;
- b. Recommend to the Board of Commissioners areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks;"
- c. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property;
- d. Restore, preserve, and operate historic properties;
- e. Recommend to the Board of Commissioners that designation of any area as a historic district or part thereof, or designation of anything, structure, site, area, or object as a landmark, be revoked for cause;
- f. Conduct an educational program regarding historic properties and districts within its jurisdiction;
- g. Cooperate with the State, federal and local governments in pursuance of the purposes of this Part. The Board of Commissioners or the Commission, when authorized by the Board of Commissioners, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law;
- h. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Commission may enter any private building or structure without express consent of the owner or occupant thereof;
- i. Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan;
- j. Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part; and

- k. Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonable necessary or appropriate.
- (5) Prior to any official action, the Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the appointment of members, terms of office, the election of officers and related matters. A public record shall be kept of the Commission's resolutions, proceedings and actions. The Commission shall also prepare, adopt, and amend as needed principles and guidelines for altering, restoring, moving or demolishing properties designated as landmarks or within historic districts. Said guidelines are not considered a part of the Hope Mills Code of Ordinances or Zoning Ordinance and, as such, do not require Planning Board review or the Board of Commissioners' approval before being adopted or amended.

Section 3 Hope Mills Zoning Ordinance Section 102A-302 (g)(3)

- (3) *Historic overlay district (HOD).* This overlay district is designed to promote the preservation and restoration of structures and landscape features within specified areas and/or neighborhoods of the Town that are of historical, architectural, and cultural importance, having significant character, design, setting, materials, or value for their association with the Town, Cumberland County, North Carolina, or the nation. This district is designed to protect buildings, structures and sites, and their environs through guidelines and Certificates of Appropriateness issued through the Town's Historic Preservation Commission ~~administered by the Town's Historic Advisory Committee.~~

Section 3 Hope Mills Zoning Ordinance Section 102A-904, "Historic Overlay District," is amended as follows:

Sec. 102A-904. Historic overlay district ("HOD").

(a) *Purpose and intent.* The historic overlay district ("HOD") is created for the purpose of promoting the general welfare, education, economic prosperity, and recreational pleasure of the public, through the identification, preservation, and enhancement of those buildings, structures, neighborhoods, landscapes, places, and areas that have special historical significance and which have been officially designated by the Board of Commissioners. The regulations herein are intended to protect against destruction of or encroachment upon such areas, structures, and premises; to encourage uses which will lead to their continuance, conservation, and improvement; and to promote the upkeep and rehabilitation of significant older structures and encourage appropriate land use planning and development that will enhance both the economic viability and historic character of the district. All actions within the HOD section of the ordinance must adhere to the current North Carolina General Statutes.

(b) *Designated district area.* The provisions of this section shall apply within the

area designated by the Board of Commissioners after their determination of the area that is intended to be preserved due to the area's historical significance and as may be amended from time to time, is hereby officially adopted, as shown on a map entitled: *Hope Mills Historic Overlay District*, and is incorporated herewith.

(c) *Allowed uses.* All uses, including signs, allowed in the underlying zoning district under the provisions of this ordinance and in the district as shown on the officially adopted zoning map are allowed uses within the historic overlay district; however, before any exterior structural changes, modifications, additions or demolitions are made to any property within this overlay district or a new structure is built, a *Certificate of Appropriateness* issued through the auspices of the Town's Historic Advisory Committee must first be obtained signifying that the proposed exterior structural changes, modifications, additions or demolitions and/or new construction is consistent with the provisions of the *Hope Mills Heritage Preservation Plan* (September, 1995) or subsequent comparable document, specifically the provisions of the ordinance entitled *Rehabilitation Guidelines for Properties in the Historic District*. In the event, the proposed development requires approval from the Board of Commissioners, the *Certificate of Appropriateness* must be obtained prior to presentation of the plan for the Commissioners' consideration.

(d) *Dimensional requirements and exceptions.* In addition to the provisions of the *Hope Mills Heritage Preservation Plan*, or subsequent comparable amendment, development shall comply with the regulations of the underlying zoning district, except as follows:

(1) Structures erected in the historic overlay district shall use the prevailing setback of structures in the same underlying zoning district on the same side of the street;

(2) All applicable zoning regulations shall apply to property within a historic overlay district unless a variance is approved by the Board of Adjustment. The said variance shall be granted only if the request complies with the intent of the architectural and historic guidelines of the historic overlay district, if the request first receives a favorable recommendation from the Historic Advisory Committee and the request is not for a use of the property.

(e) *Certain Changes Not Prohibited.* The provisions of this section shall not be construed to prevent the following:

(1) The ordinary maintenance or repair of any exterior architectural feature in a historic district which does not involve a change in design, material, or outer appearance thereof;

(2) The construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the Chief Building Inspector or the inspector's designee shall certify in writing to the committee is required to protect the public safety because of unsafe or dangerous conditions; and

(3) The ordinary maintenance or repair of streets, sidewalks, pavement markings, utility service lines, street signs, traffic signs and/or replacement of street light fixtures in the event of equipment failure, accidental damage, or natural occurrences such as electrical storms tornadoes, ice storms, and the like.

(f) *Appeal of Historic Advisory Committee Commission decision.* In any action granting or denying a *Certificate of Appropriateness*, an appeal by an aggrieved party may be taken to the Board of Adjustment. Written notice of the intent to appeal and the reasons therefore must be delivered to the County Planning Department and the appeal shall be scheduled for the next available Board of Adjustment meeting. The appeal process shall be the same as for an appeal of an administrative officer's decision as established in this ordinance.

(b) Certificate of Appropriateness Required G.S.160D-947.

- (a) *Certificate Required.* After the designation of a landmark or a historic district, no exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features, nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on the landmark or within the district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The local government shall require such a certificate to be issued by the Commission prior to the issuance of a building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness is required whether or not a building or other permit is required. For purposes of this Part, "exterior features" include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area. Except as provided in subsection (b) of this section, the commission has no jurisdiction over interior arrangement. The commission shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district that would be incongruous with the special character of the landmark or district. In making decisions on *Certificates of Appropriateness*, the Commission shall apply the rules and standards adopted pursuant to subsection (c) of this section.
- (b) *Interior Spaces.* Notwithstanding subsection (a) of this section, jurisdiction of the Commission over interior spaces is limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks and of

- privately owned historic landmarks for which consent for interior review has been given by the owner. The consent of an owner for interior review binds future owners and/or successors in if the consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.
- (c) *Rules and Standards.* – Prior to any action to enforce a landmark or historic district regulation, the commission shall (i) prepare and adopt rules of procedure and (ii) prepare and adopt principles and standards not inconsistent with this Part to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition. The landmark or historic district regulation may provide, subject to prior adoption by the preservation commission of detailed standards, for staff review and approval as an administrative decision of applications for a certificate of appropriateness for minor work or activity as defined by the regulation; provided, however, that no application for a certificate of appropriateness may be denied without formal action by the preservation commission. Other than these administrative decisions on minor works, decisions on certificates of appropriateness are quasi-judicial and shall follow the procedures of G.S. 160D-406
- (d) *Time for Review.* – All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the regulation or the G.S. 160D-947 Page 2 commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.
- (e) *Appeals.* –
1. Appeals of administrative decisions allowed by regulation may be made to the Commission.
 2. All decisions of the Commission in granting or denying a *Certificate of Appropriateness* may, if so provided in the regulation, be appealed to the Board of Adjustment in the nature of certiorari within times prescribed for appeals of administrative decisions in G.S. 160D-405(d). To the extent applicable, the provisions of G.S. 160D-1402 apply to appeals in the nature of certiorari to the Board of Adjustment.
 3. Appeals from the Board of Adjustment may be made pursuant to G.S. 160D-1402.
 4. If the regulation does not provide for an appeal to the board of adjustment, appeals of decisions on *Certificates of Appropriateness* may be made to the Superior Court as provided in G.S. 160D-1402.
 5. Petitions for judicial review shall be taken within times prescribed for appeal of quasi-judicial decisions in G.S. 160D-1405. Appeals in any such case shall be heard by the Superior Court of Cumberland County.
- (f) *Public Buildings.* – All of the provisions of this Part are hereby made applicable to construction, alteration, moving, and demolition by the State of North Carolina, its political subdivisions, agencies, and instrumentalities, provided, however, they do not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies may appeal to the North Carolina Historical

Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of a local preservation commission. The North Carolina Historical Commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the North Carolina Historical Commission is final and binding upon both the State and the preservation commission.

- a. From and after the designation the designation of HOD and adoption of guidelines by the Historic Preservation Commission (the "Commission"), no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features), nor any above-ground utility structure, nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the HOD until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Commission. Such a certificate is required to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the process of this ordinance. In the event the proposed development plan requires approval from the Board of Commissioners or the Board of Adjustment under the terms of the zoning and/or subdivision regulations, the application for either board's consideration, a Certificate of Appropriateness shall be required whether or not a building or other permit is required.
- b. For purposes of this ordinance, "exterior features" shall include architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. Exterior features may also include historic signs, color, and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs.
- c. The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the Town of Hope Mills and all public utilities shall be required to obtain a Certificate of Appropriateness for construction, alteration, moving or demolition within the HOD.

(c) Application for Certificate of Appropriateness. Applications for a Certificate of Appropriateness shall be obtained from and when completed, filed with the Town Planner. The application shall be filed not less than twenty-one (21) calendar days prior to the next regularly scheduled meeting of the Commission. Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction. The names and mailing addresses of property owners filing and/or subject to the application and the addresses of all adjacent properties on all

sides of the property which is the subject of the application must also be filed. The Commission shall adopt, through its rules and procedures, appropriate procedures for pre-application meetings.

(d) Action on Application for Certificate of Appropriateness.

- a. The Town Planner shall, by a mailing that is sent not less than seven (7) days prior to the meeting at which the matter is to be heard, provide notification of the application to the adjacent owners of the subject property.
- b. Applications for Certificates of Appropriateness shall be acted upon within ninety (90) days after filing, otherwise the application shall be deemed to be approved and the certificate shall be issued. An extension of time may be granted by mutual consent of the Commission and the applicant.
- c. As part of the review procedures, the Commission may view the premises and seek the advice of the North Carolina Department of Natural and Cultural Resources or other such expert advice as it may be deemed necessary under the circumstances. The Commission shall hold a quasi-judicial hearing on each application, other than one for approval as minor work.
- d. The action on an application shall be approval, approval with conditions, or denial, and the decision of the Commission must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with the special character of the HOD.
- e. Once issued, a Certificate of Appropriateness shall be void after six (6) months from the date of issue unless work has begun on the project by that time. The Town Planner may from the date of issue one six (6) month extension on the time to begin work. If, after work commences, it stops for a period of six (6) months or more, the Certificate of Appropriateness shall expire.

(e) Hearings for Certificate of Appropriateness.

- a. Prior to the issuance or denial of a Certificate of Appropriateness, the applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. All meetings of the Commission shall be open to the public in accordance with the North Carolina Open Meetings Law, G.S. Chapter 143, Article 33C.
- b. The commission shall have no jurisdiction over interior arrangement, except as provided below, and shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features which would be incongruous with the special character of the HOD.

- c. In any action granting or denying a *Certificate of Appropriateness*, an appeal by an aggrieved party may be taken to the Board of Adjustment.
- d. Written notice of the intent to appeal must be sent to the Commission via the Town Planning Department, postmarked within 30 days following the decision. Appeals shall be in the nature of the certiorari. Appeals of decisions of the Board of Adjustment shall be heard by the Superior Court of Cumberland County.
- e. The State of North Carolina shall have a right to appeal the North Carolina Historical Commission, which shall render its decision within thirty (30) days from the date that a notice of appeal by the State is received by the Historical Commission. The decision of the Historical Commission shall be final and binding upon both the State and the Commission.

(f) *Administrative Approval of Minor Works.*

- a. Notwithstanding subsection 102A-904(c) above, upon receipt of a complicated application, the Town Planner may issue a *Certificate of Appropriateness* for minor works that are consistent with the provisions of subsection and the Design Principles and Guidelines adopted by the Commission. If the Town Planner determines that an applicant seeks a *Certificate of Appropriateness* for a minor work as defined herein, he or she may waive the requirement that the application be submitted twenty one (21) days prior to the next Commission meeting and the requirement that the application contain the names and addresses of all adjacent property owners.
- b. Minor works are defined as those exterior changes that do not involve a change to the visual character of the property and do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or district as a whole. The Town Planner shall make the determination as to whether the application involves a minor work as defined herein.
- c. The Town Planner may approve but may not deny an application for a *Certificate of Appropriateness* for minor works. If the Town Planner decides not to issue a *Certificate of Appropriateness* for a minor work, the application shall be referred to the Commission for action.
- d. A decision by the Town Planner to issue a *Certificate of Appropriateness* for minor works may be appealed to the Board of Adjustment in the same manner as other decisions are appealable to the board.

(g) *Review Criteria.*

- a. No *Certificate of Appropriateness* shall be granted unless the Commission finds that the application complies with the principles and guidelines adopted by the Commission for review of changes. It is the intent of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration,

moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or other significant features in the HOD shall be congruous with the special character of the district. Notwithstanding foregoing, the Commission may apply the above-mentioned principles and guidelines in a manner that is consistent with their spirit, rather than literally, when it concludes that the benefit derived from strict adherence to the principles and guidelines is outweighed by the practical or financial hardships imposed on an applicant by such literal application on noncontributing structures.

b. In addition to the principles and guidelines, the following features or elements of design shall be considered in reviewing applications for *Certificates of Appropriateness*:

- (a) Lot coverage, defined as the percentage of the lot area covered by primary structures;
- (b) Setback, defined as the distance from the lot lines to the building;
- (c) Building height;
- (d) Spacing of buildings, defined as the distance between adjacent buildings;
- (e) Proportion, shape, positioning, location, pattern, sizes and style of all elements of fenestration and entry doors;
- (f) Surface materials and textures;
- (g) Roof shapes, forms and materials;
- (h) Use of regional or local architectural traditions;
- (i) General form and proportion of buildings and structures and the relationship of additions to the main structure;
- (j) Expression of architectural traditions;
- (k) Orientation of the building to the street;
- (l) Scale, determined by the size of the unites of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures, maintenance of pedestrian scale;
- (m) Proportion of width to height of the total building façade;
- (n) Archaeological sites and resources associated with standing structures;
- (o) Effect of trees and other landscape elements;
- (p) Major landscaping which would impact known archaeological sites;
- (q) Style, material, size and location of all outdoor advertisement signs;
- (r) Appurtenant features and fixtures, such as lighting;
- (s) Structural condition and soundness;
- (t) Walls – physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses;
- (u) Ground cover or paving; and
- (v) Significant landscape, archaeological and natural features.

c. The United States Secretary of the Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” shall be the sole principles of and guidelines used in reviewing applications of the State of North Carolina for *Certificates of Appropriateness*.

(h) *Certain Changes Not Prohibited*. Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district

or of a landmark which does not involve a change in design, materials or out appearance thereof; the ordinary maintenance or repair of streets, sidewalks, pavement markings, street signs or traffic signs; or the construction, reconstruction, alteration, restoration or demolition of an such feature which the Building Inspector shall certify is required for the public safety because of an unsafe or dangerous condition. None of the foregoing work shall require a *Certificates of Appropriateness*. Nothing herein shall be construed to prevent (1) the maintenance or (2) in the event of an emergency, the immediate restoration of the existing above ground utility structure without the approval by the Commission.

(i) *Enforcement and Remedies.*

- a. Compliance with the terms of the *Certificates of Appropriateness* shall be enforced by the Town. Failure to comply with the certificate shall be a violation of the provisions of this ordinance that pertain to zoning and shall be punishable according to established procedures and penalties for such violations.
- b. In case any building, structure, site, area or object designated as being within the HOD is about to be demolished, whether as a result of deliberate neglect or otherwise materially altered, remodeled, removed or destroyed except in compliance with this ordinance, the Board of Commissioners, the Commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal to restrain, correct or abate such violation or to prevent any illegal act or conduct with respect to such a building or structure.

(j) *Delay in Demolition within the HOD.*

- a. An application for a *Certificate of Appropriateness* authorizing the demolition, removal or destruction of a building, structure or site within a historic district may no be denied except as provided herein. However, the effective date of such a certificate may be delayed for up to 365 days from the date of approval. The period of delay shall be reduced by the Commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period, the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure or site. If the Commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay an authorize earlier demolition or removal.
- b. If the Commission has voted to recommend the designation of a landmark or the designation of an area as a historic and final designation has not been made by the Board of Commissioners, the demolition or destruction of any building, structure or site in the proposed district or on the property of the designated landmark may be delayed by the Commission for up to 180 days or until the Board of Commissioners takes final action on the designation, whichever occurs first.

- c. An application for Certificate of Appropriateness authorizing the demolition of a building, structure or site determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(k) Prevention of Demolition by Neglect.

- a. Intent. The purpose of this section is to permit the Town of Hope Mills, through the Commission and the Town staff, to protect the Town's historic resources by intervening when a contributing property is undergoing demolition by neglect.
- b. Definitions.
 - (a) Contributing Property. Any property, building or structure, or part thereof, that has been designated as "contributing" to the Hope Mills Historic District.
 - (b) Demolition by Neglect. The deterioration of any contributing property to such an extent that the structural integrity of its architectural details of historic value or other important historic aspects of the property may be lost to current and future generations.
 - (c) Owner. For the purposes of this section, the "owner" shall include the legal owner of record of a property, building or structure, as indicated by the Cumberland County tax records and the Cumberland County Registry. The owner shall also include any other person exercising lawful control over a property, building or structure (for example, a tenant or other occupant) who can be discovered by the Town staff using reasonable diligence.
 - (d) Undue Economic Hardship. An owner's financial inability to make the repairs specified in an order issued pursuant to this subsection.
 - c. Standards. The owner of a contributing property shall prevent the demolition by neglect of the property, including the preservation of exterior architectural features and the prevention and/or correction of structural defects. The following non-exhaustive list includes examples of defects which may constitute demolition by neglect:
 - (a) Deterioration of exterior walls, foundations, or other vertical supports which result in leaning, sagging, splitting, listing, or buckling;
 - (b) Deterioration of flooring or floor supports, roofs, or other horizontal members which results in leaning, sagging, splitting, listing, or buckling;
 - (c) Deterioration of an external chimney which results in leaning, sagging, splitting, listing, or buckling of the chimney;
 - (d) Deterioration or crumbling of exterior plasters or mortars where there is evidence that such condition exposes structural elements to decay;
 - (e) Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors or broken or malfunctioning gutters;

- (f) Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or excessive weathering due to lack of paint or other protective covering;
- (g) Rotting, holes, and other forms of decay where there is evidence that such conditions have exposed structural elements;
- (h) Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling;
- (i) Deterioration of contributing accessory structures; and
- (j) Overgrown plants/landscaping features which threaten the structural integrity or relevant, significant architectural detail of a structure.

d. Procedure for Enforcement.

- (a) Any citizen who believes that a contributing property is undergoing demolition by neglect may make a written complaint to the Town Planner. The complaint must include a description of the property, including a street address, and the nature of the deterioration claimed to constitute demolition by neglect.
- (b) Upon the receipt of the complaint or where there is otherwise a reasonable basis to believe that demolition by neglect may be occurring, the Town Planner or other person designated by the Town Manager will conduct a preliminary investigation, and if upon investigation, the staff person determines that a contributing property may be undergoing demolition by neglect, he or she shall provide the owner written notice that the matter will be brought before the Commission at its next regularly scheduled meeting that is at least ten (10) days from the date of notice.
- (c) The written notice shall include the following:
 - 1. A summary of the defects alleged to constitute demolition by neglect;
 - 2. The date, time, and location for when and where the Commission will here and consider the matter;
 - 3. Any reports prepared by the Town staff;
 - 4. A summary description of the demolition by neglect review process;
 - 5. A statement that during the hearing the owner and any other interested persons have the right to be represented by an attorney and present evidence at the hearing, including evidence of any undue economic hardship that repairing the alleged demolition by neglect would cause; and
 - 6. A statement that additional information can be obtained from the Town during regular business hours to be given in a reasonable time frame
- (d) The Commission shall conduct a quasi-judicial hearing of the matter, and if it finds that a contributing property is undergoing demolition by neglect, it shall prepare a written order directing the owner to take corrective action within a reasonable period of time. The order shall include findings of fact; conclusions of law; and when possible, reference to applicable HOD design guidelines.
- (e) If the Commission issues an order requiring the repair of any demolition by neglect, the owner may file a claim stating that complying with the order would cause the owner undue economic hardship. A claim of undue economic hardship must be submitted in writing to the Town Planner no later than ten (10) days after the date the written order to repair is issued. An applicant must include with a claim, all available supporting evidence and a statement of what specific relief is requested (i.e. more time to comply, waiving of certain repair work, etc.). Should additional evidence become available after a claim is made but

before the Commission considers the matter, it shall be the duty of the owner to provide this additional evidence to the Town Planner immediately. The order to repair the demolition by neglect shall be stayed while the claim of undue economic hardship is pending.

- (f) Using a quasi-judicial hearing, the Commission shall consider a claim of undue economic hardship at least ten (10) days after the filing of said claim. The order approving or denying some or all requested relief shall be in writing, include relevant findings of fact, and shall specify the relief granted.

e. Methods of Service.

- (a) Notices and orders issued by the Town in connection with a demolition by neglect complaint shall be served by first class mail upon the owner of record at the most recent mailing address listed in the Cumberland County tax records
- (b) If, after using reasonable diligence, the Town staff determine that a person other than the legal owner has lawful control and/or custody of the property, building or structure, the staff shall also serve a copy of all notices and orders on said property by first class mail to the person's last known mailing address.
- (c) The Town staff shall also serve a copy of all notices and orders by first class mail upon any lienholders of record and holders of deeds of trust or mortgages of record. Failure to comply with this subsection shall in no way affect the validity of any notice or order that has otherwise been properly served.

f. Safeguards from Undue Economic Hardship.

- (a) When a claim of undue economic hardship is made, the owner must provide evidence describing the circumstances of the hardship. The owner shall provide, at a minimum, the following information:
1. The nature of the ownership (individual, business, nonprofit) of the property, building or structure and a statement of the legal relationship of the owner of the property (i.e. fee simple ownership, tenant, etc.)
 2. If the owner has legal title to all or some part of the property, building or structure, the owner shall also state how much was paid for the property, building or structure; the date of acquisition; from whom the property, building or structure was purchased, including a description of the relationship between the owner and the person from whom the property, building or structure was acquired; and whether the property, building or structure was acquired by other means such as by gift or inheritance;
 3. The financial resources of the owner;
 4. The estimated cost of repairs necessary to comply with an order to repair. Whenever possible, these estimates should be in the form of written estimates by a contractor, engineer or architect licensed in North Carolina;
 5. Assessed value of the land and improvements;
 6. Annual debt service (i.e., mortgage payments), if any, for the previous two years; and
 7. Any listing of the property for sale or rent, price asked, and offers received, if any.

Additionally for income-producing properties, the owner shall provide the following information:

8. Annual gross income from the property for the previous two years;

9. Itemized operating and maintenance expense for the previous two years;
 10. Proof that adequate and competent management procedures have been used for the management of the property, building or structure; and
 11. Annual cash flow for the previous two years.
- (b) The Commission may require any additional evidence that it deems relevant to the questions of whether undue economic hardship exists and the appropriateness of the relief proposed to be granted.

g. Appeals.

Any order to repair and any order pertaining to a claim of undue economic hardship may be appealed by an aggrieved party to the Board of Adjustment within the same time, in the same manner and for the same filing fee as appeals of decisions to grant or deny a *Certificate of Appropriateness*. Such appeals shall be in the nature of the *certiorari* and not *de novo*.

h. Enforcement.

Failure to comply with an order to repair or, if applicable, an order granting relief from undue economic hardship shall be a violation of the Hope Mills Zoning Ordinance and shall be punishable according to established procedures and penalties for such violations. The Town's remedies shall include, but not be limited to, the levying of civil penalties, with each day that violation continues being deemed a separate violation; the seeking of an injunction and/or an order of abatement; and such order equitable relief as may be available.

i. Other Town Powers.

Nothing in this ordinance shall diminish the Town's power to declare a property, building or structure to be a public nuisance or otherwise in violation of the North Carolina State Building Code or the Hope Mills Minimum Housing Code.