



Cumberland County Joint Planning Board

MINUTES

July 15, 2025

| Members Present | Members Absent | Others Present |
|-----------------------------|----------------------|--------------------------------------|
| Mr. Tom Lloyd, Chair | Ms. Kasandra Herbert | Mr. Rawls Howard, Director |
| Mr. James Baker, Vice Chair | Mr. Charles Jones | Mr. David Moon, Deputy Director |
| Mr. Stan Crumpler | | Mr. Chris Carr, Ass. County Attorney |
| Mr. Todd Mobley | | Ms. Cherice Hill, Admin Professional |
| Mr. Mark Williams | | Mr. Richard Fagan, Planner II |
| Ms. Betty Lynd | | Mr. Timothy Doersam, Planner II |
| Mr. William Walters | | |
| Ms. Jamie McLaughlin | | |

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Lloyd called the meeting to order at 6:03 PM. Mr. Crumpler delivered the invocation and led those present in the Pledge of Allegiance.

II. ADJUSTMENTS TO / APPROVAL OF AGENDA

Mr. Lloyd asked if there were any proposed adjustments to the agenda.

Mr. Howard informed the Board that cases ZON-25-0011 and ZON-25-0023 received signups in opposition from citizens. As a result, both cases need to be moved to the Contested portion of the agenda.

Mr. Crumpler made a motion, seconded by Mr. Baker, to approve the agenda with the noted adjustments. Unanimous approval.

III. PUBLIC MEETING WITHDRAWAL/DEFERRALS

There were none.

IV. ABSTENTIONS BY BOARD MEMBERS

Mr. Lloyd advised the Board that, due to his affiliation with case ZON-25-0023, he would abstain from both the discussion and the vote on the matter due to a noted conflict of interest.

Mr. Crumpler made a motion, seconded by Mr. Baker, to approve the abstention. Unanimous approval.

V. APPROVAL OF THE MINUTES OF JUNE 17, 2025

Ms. Lynd made a motion, seconded by Mr. Baker, to approve the minutes, as submitted. Unanimous approval.

VI. CHAIRMAN'S WELCOME AND RULES OF PROCEDURE

Mr. Lloyd opened the meeting at 6:03 PM by reading the Welcome and Rules of Procedure.

VII. PUBLIC MEETING CONSENT ITEMS

REZONING CASES

- A. **ZON-25-0028:** Text Amendment to amend the boundary lines of the Eastover Commercial Core Overlay District Map appearing as Exhibit "A" of Article VIII.I Subsection 801 of the Town's Zoning Ordinance; submitted by the Town of Eastover (Applicant). **(Eastover)**

In Case ZON-25-0028, Planning & Inspections staff recommends approval of the text amendment and finds the request consistent with the intent and goals of the Town of Eastover Commercial Core Overlay District and the policies of the Eastover Area Land Use Plan. Approval of this text amendment is also reasonable and in the public interest as it is an update to clarify the boundaries of the overlay district and to better distinguish which properties shall be subject to all rules and regulations of the Eastover Commercial Core Overlay District.

In Case ZON-25-0028, Ms. McLaughlin made a motion, seconded by Ms. Lynd to recommend approval of the text amendment and finds the request consistent with the intent and goals of the Town of Eastover Commercial Core Overlay District and the policies of the Eastover Area Land Use Plan. The Board also finds that approval of this text amendment is also reasonable and in the public interest as it is an update to clarify the boundaries of the overlay district and to better distinguish which properties shall be subject to all rules and regulations of the Eastover Commercial Core Overlay District. Unanimous approval.

- B. **ZON-25-0024:** Rezoning from A1 Agricultural District to R40A Residential District or to a more restrictive zoning district for a parcel comprising 2.85 +/- acres; located at 6512 Cedar Creek Road; submitted by Juanita Philyaw (Agent) on behalf of Beulah Mae Johnson Heirs (Owners).

In Case ZON-25-0024, Planning and Inspections staff recommends approval of the rezoning request from A1 Agricultural District to R40A Residential District. Staff finds that the request is consistent with the Southeast Cumberland Land Use Plan which calls for "One Acre Lots without Public Water, 1/2 Acre Lots with Public Water" 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.

In Case ZON-25-0024, Ms. McLaughlin made a motion, seconded by Ms. Lynd to recommend approval of the rezoning request from A1 Agricultural District to R40A Residential District. The Board finds that the request is consistent with the Southeast Cumberland Land Use Plan which calls for "One Acre Lots without Public Water, 1/2 Acre Lots with Public Water" at this location. The Board 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. Unanimous approval.

- C. **ZON-25-0025:** Rezoning from R6A Residential District and RR Rural Residential District to R6A Residential District or to a more restrictive zoning district for a parcel comprising 2.74 +/- acres; located at 169 Snow Hill Rd; submitted by Jazmine Scott (Agent) on behalf of Tweety Enterprise, LLC (Owners).

In Case ZON-25-0025, Planning and Inspections staff recommends approval of the rezoning request from R6A Residential District and RR Rural Residential District to R6A Residential District. Staff finds that the request is consistent with the South-Central Land Use Plan which calls for "Medium 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.

In Case ZON-25-0025, Ms. McLaughlin made a motion, seconded by Ms. Lynd to recommend approval of the rezoning request from R6A Residential District and RR Rural Residential District to R6A Residential District. The Board finds that the request is consistent with the South-Central Land Use Plan which calls for "Medium Density Residential" at this location. The Board 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. Unanimous approval.

- D. **ZON-25-0027:** Rezoning from A1 Agricultural District to R20 Residential District or to a more restrictive zoning district for a parcel comprising 5.11 +/- acres; located at 487 Palestine Rd; submitted by Ernest and Barbara Smith (Owners).

In Case ZON-25-0027, Planning and Inspections staff recommends approval of the rezoning request from A1 Agricultural District to R20 Residential District. Staff finds that the request is consistent with the North Central Area Land Use Plan which calls for "Suburban 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.

In Case ZON-25-0027, Ms. McLaughlin made a motion, seconded by Ms. Lynd to recommend approval of the rezoning request from A1 Agricultural District to R20 Residential District. The Board finds that the request is consistent with the North Central Area Land Use Plan which calls for "Suburban Density Residential" at this location. The Board 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. Unanimous approval.

VIII. PUBLIC MEETING CONTESTED ITEMS

- E. **ZON-25-0011:** Rezoning from RR Rural Residential District to R7.5 Residential District or to a more restrictive zoning district for a parcel comprising 0.56 +/- acres; located at 4080 School Street; submitted by Timothy Evans (Agent) on behalf of Rockfish Run Land and Development LLC (Owners). (**Eastover**).

In Case ZON-25-0011, Planning and Inspections staff recommends approval of the rezoning request from RR Rural Residential District to R7.5 Residential District and find that: 1. Approval is an amendment to the adopted, current Eastover Area Land Use Plan and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request. 2. The subject property is abutting lots designated as Suburban Density Residential in the land use plan, which assigns R7.5 as an associated zoning district. 3. The site is located directly in an area of the Eastover Core that promotes both mixing of land use and residential types via the associated, adopted land use plan. 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.

Mr. Moon introduced Timothy Doersam, Planner II, as the presenter.

Mr. Doersam introduced himself to the Board and presented the details of the case.

Mr. Lloyd asked the Board if there were any questions for the presenter. No questions were raised.

Mr. Howard then noted that two members of the public were present to speak on the case.

Mr. Lloyd formally opened the public meeting.

Mr. Howard introduced Mr. Tim Evans, who was signed up to speak in favor of the rezoning request. Mr. Evans declined to speak at that time.

Mr. Howard then announced that Ms. Alice Cannon was signed up to speak in opposition to the rezoning request. Ms. Cannon also declined to speak.

Mr. Howard stated that there were no additional speakers.

Mr. Lloyd closed the public meeting and opened the floor for Board discussion. There was no discussion noted.

In Case ZON-25-0011, Mr. Williams made a motion, seconded by Mr. Baker to recommend approval of the rezoning request from RR Rural Residential District to R7.5 Residential District and find that: 1. Approval is an amendment to the adopted, current Eastover Area Land Use Plan and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request. 2. The subject property is abutting lots designated as Suburban Density Residential in the land use plan, which assigns R7.5 as an associated zoning district. 3. The Board finds that the site is located directly in an area of the Eastover Core that promotes both mixing of land use and residential types via the associated, adopted land use plan. The Board 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. Unanimous approval.

- F. **ZON-25-0023:** Rezoning from A1 Agricultural District to R40/CZ Residential District Conditional Zoning or to a more restrictive zoning district for a parcel comprising 10.16 +/- acres; located at the northwest corner of the intersection of Hayfield Rd and South River School Rd; submitted by Mike Adams (Agent) on behalf of JF Johnson Family Farms LLC (Owner/Applicant).

In Case ZON-25-0023, Planning and Inspections staff recommends approval of the rezoning request from A1 Agricultural District to R40/CZ Residential District Conditional Zoning and find that the request is consistent with the Bethany Area Land Use Plan which calls for "Rural" 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.

Mr. Lloyd exited the hearing room due to his previously stated conflict of interest with the case. Mr. Baker, as Vice-Chair, stood in to chair the discussion on this case.

Mr. Moon introduced Richard Fagan, Planner II, as the presenter for the staff presentation to the Board.

Mr. Fagan acknowledged the Board and proceeded with the staff presentation.

Following the conclusion of Mr. Fagan's presentation, Mr. Baker asked why staff was recommending approval of the rezoning request.

Mr. Moon responded that staff found the request to rezone the property to R40, with the proposed conditions of approval, to be consistent with the character of the surrounding area. He further explained that the surrounding lot sizes were comparable to the proposed site, making the request reasonable. Mr. Moon also noted that public water service is available to the property.

Mr. Williams inquired how the six homes—each situated on approximately 0.6-acre lots—were built on property zoned A1, referencing the development as a zero-lot line project. He questioned how four acres were developed in a zoning district that typically requires a minimum of 12 acres and asked where the remaining eight acres were accounted for.

Ms. Lynd, referencing the site map displayed on the screen, pointed out a narrow strip of land she believed to be the additional acreage referenced by Mr. Williams.

Mr. Mobley expressed concern regarding the manner in which the case was presented to the Board, specifically questioning why it was initially placed on the consent agenda.

Mr. Howard explained that when a case complies with the adopted land use plan and receives a favorable staff recommendation, it is standard practice to place it on the consent agenda. He further clarified that if a Board member raises a concern or if there is public opposition, the case is subsequently moved to the contested agenda.

Mr. Mobley then inquired about the acreage figures listed on the plat included in the case packet, noting that the full plat had not been provided to the Board. He proceeded to present a complete physical copy of the plat for the Board and staff to review.

Mr. Baker stated that if any Board members had questions regarding the case, now would be the appropriate time to ask.

Mr. Mobley further questioned staff regarding the completeness of the packets provided to the Board, specifically inquiring why certain documents were omitted. He echoed Mr. Williams' concerns about the lot's acreage and the allowable development based on its size. Mr. Mobley expressed concern that inaccurate information contained in the staff packet may have led the Board to receive misleading or incomplete details. He also voiced his disagreement with staff's assessment that the proposed rezoning request was consistent with the adopted land use plan.

Mr. Moon stated that in order to satisfy the intent of the land use plan, a conditional zoning designation was required. Through conditional zoning, specific policies can be applied to the property to promote and preserve the rural character of the area, consistent with the plan's objectives. He further noted that staff had not yet provided detailed information regarding the conditional zoning site plan. Mr. Moon then directed the Board back to the presentation and provided a detailed visual overview of the proposed rezoning location and the site plan.

The Board and staff further discussed the zoning in the area and addressed confusion related to the land use plan.

Mr. Moon noted that the staff's recommendation was based on guidance from the County's legal counsel regarding the plat, specifically clarifying that, after internal review among staff and with the County Attorney's office, it was not considered to be a zero-lot line plat as it was originally submitted. He further stated that he would defer to the County Attorney for additional details on that determination.

Mr. Baker asked Assistant County Attorney Carr if he had discussed the matter with the County Attorney.

Assistant Attorney Carr confirmed Mr. Moon's statement, noting that he had reviewed email correspondence to verify the guidance provided.

Mr. Crumpler inquired about how the County Attorney reached the conclusion regarding the lot sizes and conditions of the proposed rezoning site, specifically noting that approval of the request could potentially result in the creation of six non-conforming houses on the opposite side, as occurred in 2018.

Mr. Howard provided a general overview of the history related to the prior rezoning in the effort to clarify the applicant's request. He explained that while certain developments were permitted under previous ordinances, those regulations have since been updated and are no longer applicable.

under current standards. Mr. Howard concluded by stating that, due to the confusion and ongoing discussion surrounding the zero-lot line issue as part of this application submission, he referred the matter to the County Attorney for a formal opinion.

The Board and staff further discussed the issue regarding the amount of lots, zero lot line, and the history of the previous approval.

Mr. Baker noted that further discussion on this case would not be productive as it was weighed heavily on the opinion of the County Attorney who was not currently present at the meeting. He noted that it would be best to defer the case to the August meeting at which time the County Attorney could clarify his opinion on this matter.

In Case ZON-25-0023, Ms. Lynd made a motion, seconded by Mr. Williams to recommend deferring the case to the regular August meeting to seek clarification from the County Attorney on concerns and to provide a presentation on his reading of the issue. Unanimous approval.

After the vote, Mr. Baker inquired to Mr. Carr if the County Attorney's office can indeed provide a presentation regarding their reading of the ordinance.

Mr. Carr stated that he made a note for the County Attorney who needed to provide a basis for his legal opinion prior to the date of the August meeting. Mr. Carr asked for the August meeting date to be put on the record.

Staff stated that the next meeting was on August 19, 2025.

G. PUBLIC HEARINGS

DEV-0066-25: Consideration of Subdivision Waiver from Section 2304.C.3, Upgrading Street Classification, Cumberland County Subdivision Ord., to allow an existing lot comprising 10.21 +/- acres to be subdivided into two residential lots without upgrading the existing Sunny Dale Drive Class "C" private street to a Class "A" private street, located at 3411 and 3461 Sunny Dale Dr; Charles and Ellen Jarvis (Owners).

In Case DEV-0066-25: The Planning Board has the authority to approve, deny, or approved with conditions a subdivision waiver. In granting waivers through a quasi-judicial hearing and decision, any condition approved by the Planning Board must be reasonable and practical. Any waiver, thus granted, is required to be entered in writing in the minutes of the Planning Board and the reasoning upon which departure was justified set forth. The property owner, as evidenced in the "applicant's response" in Exhibit "C", has agreed to a condition that Lot 1 and 1a cannot be further subdivided and each lot limited to one single family unit.

Mr. Lloyd reentered the meeting following his recusal from the previous case.

Mr. Howard provided a brief overview of Subdivision Waiver 2304-C3, which involves upgrading the street classification to allow the subdivision of an existing 10.2-acre lot into two residential lots. The property is currently located on a Class C Street. There are limitations on the amount of lots and units that you can have on a Class C Street. The applicant is requesting the reclassification to facilitate further subdivision, which is basically a subdivision waiver to those standards.

Mr. Howard advised that the hearing is quasi-judicial in nature; therefore, any staff or members of the public wishing to speak must be sworn in prior to offering comments.

Assistant County Attorney Chris Carr administered the oath to the members of the Planning Staff prior to their presentation regarding the subdivision waiver request before the Board.

Mr. Moon advised the Board that due to this particular case being quasi-judicial, the Board has the power to approve, deny, or approve with conditions, and is the final authority on this case. He

further provided the Board and audience a statement regarding the appeal process for this case.

Mr. Moon advised that Mr. Tim Doersam, Planner II of the Current Planning Division, will provide the case information.

Mr. Doersam introduced himself to the Board and delivered a presentation on the case.

Mr. Baker inquired whether the Planning Staff had refrained from providing a recommendation—either in favor or against the case—because it is a quasi-judicial hearing.

Mr. Howard confirmed that, yes, because this is a quasi-judicial case, Planning staff does not provide a recommendation and only presents the facts contained in the report. Staff can walk the Board through the report, but it is ultimately up to the Board to make the final decision. He emphasized that Planning staff does not want to influence the Board's decision-making in this type of hearing, unlike a rezoning case, where a formal recommendation is typically provided.

Ms. Lynd stated that back in 2020, as a member of the Planning staff at that time, she remembered pulling up all those plats because neighbors were complaining about this exact same area. She further stated that, during the presentation, there was a 2020 plat shown that had been further subdivided. She then asked whether a subdivision waiver had been approved at that time, or how the plat was recorded subdividing it otherwise.

Mr. Moon interjected, stating that the current Planning staff cannot recall how the prior staff interpreted the ordinance at that time. However, it is his belief that the previous staff interpreted it under an earlier ordinance which allowed up to eight lots on a Class “C” street. This, he explained, is why there are currently eight lots with access to Sunnydale Road. He clarified that this is his interpretation of the ruling, but emphasized that he cannot speak on behalf of the former staff.

Mr. Moon further stated that either way we interpret it, being 8 lots of 4 lots, one additional lot is going to trigger the need for an upgraded street.

Mr. Crumpler stated that he had three questions. He began by noting that the applicant currently has residences on the same lot and asked, first, whether this constituted a group development.

Mr. Howard confirmed that there was a group development.

Mr. Crumpler's second question was whether this Class “C” street is the same as other Class C streets, where each property owner owns to the centerline of the road.

Mr. Moon responded by stating that the answer is both yes and no. He explained that some of the lots had been replatted and referred to a historical slide from the presentation to show that some lots indeed extend to the middle of the road, while others do not.

Mr. Moon then provided a visual explanation depicting the history of when the lots were replatted and illustrated how one particular lot extends to the center of the travel way.

Mr. Crumpler then asked who owns the road in front of those lots.

Mr. Howard responded that staff were unsure.

Mr. Lloyd followed up by asking whether there were any legal documents indicating who is responsible for maintaining the road.

Mr. Moon stated that Planning staff could not locate any legal documents addressing the maintenance responsibility for the street.

Ms. Lynd noted that, typically, property owners would own to the middle of the street.

Mr. Howard agreed, stating that is generally the case.

The Board then briefly discussed the issue amongst themselves.

Mr. Williams stated that granting this variance is significant, because if the Board does not approve

it and the applicant proceeds with development, it may trigger the requirement to bring in outside road maintenance. He further asked whether an engineer would then be required to prepare the deeds and handle related matters.

Mr. Howard stated that Staff's interpretation is that the County has numerous roads and travel ways of this type, with no identifiable maintenance responsibility. He explained that, based on his discussions with the County Attorney, in situations like these—where ownership extends to the centerline of the road—neither the County nor the Department of Transportation (DOT) is responsible for maintenance. The only parties who would bear that responsibility are the adjoining property owners.

Mr. Howard further explained that, in this particular case, whether the property line runs to the middle or along the edge, the property owners along the road would need to come together collectively to maintain, surface, or otherwise treat the roadway.

Mr. Lloyd then asked, "That means it's an easement, right?"

Mr. Howard responded that Class "C" streets, by definition, are considered easements as defined in the County's code. That is why property lines extend to the center of the road. He added that a formal right-of-way would not be configured in the same manner.

Mr. Crumpler asked whether everyone else on the street would need to sign a statement agreeing not to sell for the purpose of subdivision, noting that if another large lot were to be sold, the Board could be faced with another subdivision waiver request in the future.

Mr. Howard replied that Staff would have to address that on a case-by-case basis as the applications come in.

Mr. Crumpler stated that this would continue to be the case if the property owners kept subdividing these lots. He went on to ask, "If there's already a group development on it—so there are two homes on it now—what's the point of subdividing it?"

Mr. Moon responded that the owner wants to sell off the other lot, and that the owner is present and available to speak with the Board. He further stated that he believes the owner intends to sell or transfer the property to a relative.

Mr. Mobley asked whether this particular property was also included in the consent vote scheduled for that evening.

Mr. Howard stated no, and that this is a public hearing. He went on to explain the difference between a public hearing and a public meeting.

Mr. Mobley then asked specifics about the street location to get a better understanding of the current zoning.

Mr. Moon further explained that, under the Subdivision Ordinance regarding waivers, the Planning Board may waive the requirements of the ordinance where it finds by resolution that: A. Because of the size of the tract to be subdivided or developed, its topographic conditions, the nature of the adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of the ordinance would cause a special hardship to the property owner and be inequitable; B. The public purpose of the ordinance and the County ordinances will be served to an equal or greater degree, and C. The property owner would not be afforded a special privilege denied to others.

Mr. Lloyd asked that, in the application—or in any waiver application—the applicant provide a written response to those three criteria, as outlined in the packet.

Mr. Howard confirmed that was correct.

Mr. Moon further stated that the Board can approve the request with conditions. He added that the applicant has agreed to testify shortly and has also agreed to a condition stating he would not further subdivide the property and would prohibit group development.

Mr. Howard stated that staff's concern is that, without such a condition, if the property is split from ten acres into two five-acre lots, it would allow for new development on both the new parcels. He noted that there are already two houses on the property and, if it were divided into two lots, each with a house, that could raise issues. He stated he believes the applicant proposed that condition specifically to address that concern. He emphasized that, physically, nothing on the property would change beyond what is currently there.

Mr. Lloyd said that, essentially, this could be setting a precedent, for example, if someone else later buys one of those lots and wants to build a second house, they could come back to the Planning Board and request the same type of waiver, since the Board had already approved it once.

Mr. Howard confirmed that that is a possibility.

Mr. Crumpler interjected, saying this was exactly the question he raised earlier. He asked whether everyone else on the street, considering the lots are fairly large—would be willing to agree to the same condition. He cautioned that, eventually, everyone might want the same opportunity.

Mr. Moon stated that this would only apply if those other property owners came before the Planning Board and requested a subdivision waiver.

Ms. Lynd stated that this was exactly why she brought up the 2020 ruling—because property owners had come in asking about splitting lots or pulling permits, which is what brought this back up in the first place. She further stated that if the people who got a plat recorded in 2020 didn't have to request a subdivision waiver, then why is this Board now being asked to approve one? She concluded by reiterating that a plat had been recorded at that time.

Mr. Mobley asked for clarification, stating that the applicant said he would not further subdivide the property, but questioned whether the purpose of the subdivision was to sell one of the lots.

Mr. Howard responded that was his understanding of the applicant's intent was to sell or transfer it to another party.

Mr. Mobley then asked how that could be controlled if the Board cannot regulate a zero-lot line.

Mr. Howard replied that, because this is not a legislative hearing, he did not want to speak on behalf of the County Attorney or anyone else. He stated that the Board would need to open the public hearing to allow the applicant to speak and clarify his intentions, particularly since this is not a rezoning case. Mr. Howard added that, per the protocol of a quasi-judicial hearing, he did not want to put words in the applicant's mouth. He suggested that, if the Board wished to proceed with further clarification, it would be appropriate to open the public hearing and allow the applicant to come forward and answer questions.

Mr. Mobley asked how the condition would be enforced.

Ms. Lynd noted that it had been mentioned that one of the proposed conditions from staff was that the applicant would not construct a group development on the lots. She requested confirmation from staff that this was indeed the case although they would speak with the applicant shortly.

Mr. Howard confirmed that the applicant has proposed the condition for one residential unit on each lot with no further subdivision or group development of both of those lots

Mr. Moon advised that the Board, through a condition, could require that those conditions be placed on both the preliminary plan and the final plat.

Mr. Howard advised that the applicant would need to be sworn in before speaking, as it would constitute sworn testimony.

Mr. Howard then informed the Board that Mr. Charles Jarvis, the applicant, was the only individual signed up to speak on the case.

Mr. Lloyd opened the public hearing.

Assistant County Attorney Kris Carr administered the oath to Mr. Jarvis, the applicant.

Mr. Jarvis testified that his intent was not to sell the lot, and that the reason he wanted to split the lot was to alleviate the tax burden shared with his brother. He further stated that they purchased the 10-acre lot together. Mr. Jarvis explained that his brother had received a settlement and was able to pay cash for his portion of the property, while he had to finance both the house and the property. He went on to say that the entire property is currently in his name.

Mr. Jarvis stated that once he paid off his loan, he approached his brother about contributing to the property taxes, which his brother refused to do. He said that he has been paying the taxes on the property for 21 years, and that if he splits the property and titles 5 acres to his brother, then his brother would assume tax responsibility for that portion. He emphasized again that his intent was not to sell the property.

Mr. Jarvis also noted that, according to the Cumberland County GIS map, there are already 11 properties on the street, which exceeds the typical limit. He stated that there would be no additional burden on County services or on the property itself, since there would be no increase in the number of residences.

Mr. Jarvis explained that there is already a water well, a driveway, and a septic system for each of the two residences that currently exist on the property. In conclusion, he reiterated that he only wishes to divide the property and title the other half to his brother for tax purposes—not with the intent to sell.

Ms. Lynd stated that Mr. Jarvis cannot control what his brother chooses to do with his half of the property once it is titled to him.

Mr. Jarvis responded that he does not intend to control what his brother does with his half, as it is his property.

Mr. Moon stated that the property would be subject to any conditions placed on the plat.

Mr. Mobley asked if the Board were to approve the request without conditions, any further action on the property would still require the applicant to come back before the Board.

Mr. Howard answered that, without conditions, the applicant would be able to establish a group development on each of the two five-acre tracts, as allowed by ordinance.

Mr. Lloyd stated that splitting the lot or not would not cause any more burden than they are already afforded by the land.

Mr. Howard stated that he believes they would be limited to four total residences with the condition in place. He further noted that, when it comes to tracking such matters, the systems currently in place are capable of monitoring these kinds of changes.

Mr. Howard emphasized that the conditions—specifically, the notes placed on plats—would be enforced by Planning staff. He explained that staff would ensure those conditions were enforced by verifying that the required note appeared on the recorded plat.

Mr. Lloyd confirmed with the applicant that intention for the subdivision waiver request was for tax purposes only.

Mr. Jarvis confirmed that lifting the tax burden off of himself was indeed the sole intent of his request. He went on to state that his neighbors who own the property directly across the street from his had their property split in 2020. As he understands it, the ordinance requiring an upgrade to a Class “A” road was already in place at that time, based on the line of their property.

Mr. Lloyd confirmed that the current road classification is Class “C”.

Mr. Jarvis agreed, stating that is correct. He further explained that it was his understanding that the road would need to be reclassified to Class "A" in order to support the number of residents currently living on the block.

Mr. Jarvis said he had spoken with the other residents and that they are not willing to support such a reclassification because they do not want increased traffic. He added that it is a very quiet area and none of the residents have any intent to sell.

Mr. Mobley inquired whether the County participated in the State' Powell Bill program.

Mr. Howard responded that they do not, explaining that the County has no authority over roads. He clarified that participation in the Powell Bill is primarily a municipal function.

Ms. Lynd stated that, considering that the two houses are already there, this request isn't going to create any additional impact. She added that what confuses her is why there were no applicants in 2020, yet now the Board is requiring someone to obtain a waiver, even though people have been subdividing lots in that area since 1985.

Mr. Mobley stated that because they are family, he is willing to make a motion to approve the subdivision waiver request.

Mr. Howard informed the Board that the public hearing would need to be closed before a motion could be made. He then explained that the Board would need to go into discussion and make a ruling on each of the findings of fact, with or without conditions.

He further advised that, because this is a quasi-judicial hearing, the Board does not need the landowner's consent to apply conditions. It is up to the Board to decide how to approve the request, in what manner, and with what conditions.

Mr. Lloyd asked if the applicant had any further questions. As there were none, he closed the public hearing.

The Board and staff discussed the findings of fact presented in the case and included in their packets.

Mr. Crumpler made a motion seconded by Mr. Mobley to approve the subdivision waiver request and agree that each of the finding of facts were met: A. Because of the size of the tract to be subdivided or developed, its topographic conditions, the nature of the adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of the ordinance would cause a special hardship to the property owner and be inequitable; B. The public purpose of the ordinance and the County ordinances will be served to an equal or greater degree, and C. The property owner would not be afforded a special privilege denied to others.

In addition, the following conditions will be placed on the approval: 1. If the property is subdivided as proposed, it would be limited to one residential structure per newly created lot, 2. No further group development or further subdivision of those resulting lots shall occur, 3. The limitations of use and further subdivision, as stated herein, shall be noted on the plat when recorded, and 4. If the road is upgraded in the future to a higher classification of street that can allow further subdivisions in accordance with ordinance standards, the use and subdivision limitations, as stated herein, shall be nullified. Unanimous approval

H. ITEMS OF BUSINESS

NONE

I. DISCUSSION

- Mr. Howard informed the Board of an opportunity for members to participate in UNC School of Government training over the coming months, with lunch to be provided by the Planning staff.

Ms. Lynd inquired whether the training would be available online, as she would be unable to participate during working hours.

Mr. Howard responded that he would look into the matter and follow up with an answer as soon as possible. However, staff would be willing to accommodate non-traditional or off-hours for training, if requested and convenient.

- Mr. Howard introduced two new members of the Planning Department to the Board: Matthew Mottinger, Planner I, and Danielle Dawson, an intern with the Ignite Internship Program.

J. ADJOURNMENT

There being no further business, the meeting adjourned at 7:32 pm.