

Lori Epler,
Chair
Cumberland County

Roy Turner,
Vice-Chair
Cumberland County

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



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Walter Clark,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

MINUTES

August 17, 2010

Members Present

Mrs. Lori Epler, Chair
Mr. Roy Turner, Vice Chair
Mr. Garland Hostetter
Mr. Benny Pearce
Mr. Walter Clark
Ms. Patricia Hall
Mr. Charles Morris
Mrs. Sara Piland
Mr. Donovan McLaurin

Members Absent

Mr. Harvey Cain, Jr.

Others Present

Mr. Tom Lloyd
Mrs. Laverne Howard
Ms. Donna McFayden
Ms. Patricia Speicher
Mr. Rick Moorefield
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Hall delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that case P10-37 would be pulled from Consent Items to a Public Hearing Item.

III. PUBLIC HEARING WITHDRAWAL

P10-36: CONSIDERATION OF A REQUEST FOR EXPANSION OF THE SEWER SERVICE AREA TO INCLUDE 302 +/- ACRES CONSISTING OF NINE PARCELS ON THE SOUTH SIDE OF SR 2221 (GAINEY ROAD), WEST OF SR 2223 (MCFAYDEN ROAD) WITH PROPOSED PUBLIC SEWER PROVIDED BY A REGIONAL LIFT STATION TO BE SERVED BY THE GRAYS CREEK WATER AND SEWER DISTRICT; SUBMITTED BY LAWRENCE H. WALSH, PRESIDENT OF RIVER LANDING CENTER, LLC.

Mr. Lloyd explained that when the Interlocal Agreement between the City and County was written any provider that was to receive PWC sewer would have to go through various steps that wouldn't pertain at the Planning Board level. If in fact you were going to get your seRvices from another provider, you would have to go through two public hearings, the Planning Board and the Commissioners with this proposal which is joint with a future case it would be another provider. The other provider would be the Grays Creek Water and Sewer District. This district was formed back in October 2009 through a public hearing. We didn't have water and sewer districts back then; we did have a sanitary district. Because the Commissioner's approved the water and sewer district back in October which is implicit then that water and sewer are desirable to the County Commissioners for that, they made their recommendation, so unfortunately, at this time, the Planning Board doesn't need to make a

recommendation, as the Commissioner's have already voted to allow the provision of sewer as well as water into that Grays Creek Water and Sewer district.

Just to reiterate the water and sewer district would own the lines not PWC and that's what makes this another provider.

IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF JULY 20, 2010

Vice-Chair Turner made a motion to accept the minutes as submitted, seconded by Mrs. Piland. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P10-33:** REZONING OF .43+/- ACRES FROM R10 RESIDENTIAL TO R6A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2826 GEORGE OWEN ROAD, SUBMITTED BY TERESA BAREFOOT SPELL (OWNER).

The Planning & Inspections Staff recommends approval of the R6A Residential district for this request based on the following:

1. Although the request is not consistent with location criteria for "medium density residential" because public sewer is not available, it is consistent with the 2030 Growth Vision Plan, which calls for "urban" at this location;
2. The request for the residential zoning district is a logical extension of the R6A district; and
3. The request is consistent with the surrounding land use.

There are no other districts considered suitable for this request.

A motion was made by Vice-Chair Turner, seconded by Mr. Hostetter, to follow the staff recommendation and approve case P10-33 as submitted. Unanimous approval.

- B. **P10-34:** REZONING OF 12.38+/- ACRES FROM A1 AGRICULTURAL TO R15 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF SR 2238 (SAND HILL ROAD), EAST OF SR 2376 (SOUTH FORTY DRIVE); SUBMITTED BY MARY L. MONTGOMERY (OWNER).

The Planning & Inspections Staff recommends denial of the request for R15 Residential district but approval of R20 Residential district based on the following:

1. The request for R15 Residential is not consistent with the location criteria for “low density residential” as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan as public sewer is required, the recommendation of R20 Residential does meet the location criteria for the Policies Plan;
2. The request is consistent with surrounding zoning and land uses.

The R30 and R40 Residential districts could also be considered suitable for this request.

The applicant has verbally agreed to the Staff recommendation of R20 Residential.

A motion was made by Vice-Chair Turner, seconded by Mr. Hostetter, to follow the staff recommendation and approve case P10-34 for R20. Unanimous approval

VIII. PUBLIC HEARING CONTESTED ITEMS

CONDITIONAL USE DISTRICT AND PERMIT

- C. **P10-37:** REZONING OF 302+/- ACRES FROM A1 AGRICULTURAL AND R40 RESIDENTIAL TO R20 RESIDENTIAL/CUD CONDITIONAL USE DISTRICT FOR A 565 LOT RESIDENTIAL DEVELOPMENT AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF SR 2221 (GAINEY ROAD), WEST OF SR 2223 (MCFAYDEN ROAD); SUBMITTED BY MOORMAN, KIZER & REITZEL, INC., ROBERT L. TOWNSEND, WELDON J. JACKSON AND SARAH J. MATTHEWS (OWNERS) AND JOHN KOENIG FOR RIVER LANDING CENTER, LLC.

Chair Epler called all speakers forward to be sworn in.

Chair Epler asked the board members if there were any disclosures and offered the opportunity to withdraw from the proceedings if needed.

Mr. Clark disclosed that he had been contacted by two individuals in the Grays Creek community regarding the case, had a light discussion but no conclusions were reached, but stated that he could make a fair and impartial consideration of the case.

Mrs. Piland also received a telephone call regarding the case, but after advising the caller that this proceeding was a quasi-judicial hearing they did not have a conversation.

Chair Epler stated that she received a phone call and after disclosing that the case could not be discussed the conversation ended.

Public Hearing opened.

Mr. Lloyd stated that the proposal was for 565 lots which calculated to 1.9 units per acre below the 2.2 units per acre identified as rural in both the Land Use Policies Plan as well as the Interlocal Agreement with the City. It is located within the Grays Creek Water and Sewer District. If sewer is provided to this development the lines will belong to the County, they will not belong to PWC, the County will own the lines. Mr. Lloyd stated that if there were any questions, the Public Utilities Director was present to answer questions.

Mr. Lloyd stated that the Planning & Inspections Staff recommends approval of the requested rezoning to R20 Residential/ Conditional Use District (R20/CUD) for a 565 lot residential development based on the following:

1. The request for an average lot size of 20,000 square feet is consistent with the 2030 Growth Vision Plan, which calls for “rural areas” at this location; and
2. The request is reasonable because with the voluntary extension of public water and sewer it exceeds the location criteria for “suburban density residential” as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan and would meet the criteria of the plan without the extension of public sewer – the location criteria supports approval of up to 664 residential lots for this tract.

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

1. The use will not materially endanger the public health or safety if located according to the plan submitted, the proposed site layout is designed in such a manner that at a minimum the development standards of the ordinances are met or exceeded;
2. The use and proposed development will meet or exceed all required conditions and specifications if developed according to the site plan, application and the attached *Ordinance Related Conditions*;
3. The use will maintain or enhance the value of adjoining or abutting properties if developed as proposed, this proposal is for a high quality residential development on approximately one half acre lots, including neighborhood amenities such as a regulation sized soccer field, clubhouse, neighborhood pool and the preservation of approximately 33 percent of the tract (97+/- acres) as green space;
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located – most residential lots in the general area range from one half acre to one acre lots - and in general will be developed in conformance with the development ordinances and adopted planning policies.

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

All attached *Ordinance Related Conditions* have been agreed to.

Mr. Richard Wiggins spoke in favor and stated that he had previously been sworn in, and is present representing the petitioners. Mr. Wiggins stated that the subject property consisted of nine tracts of land that had been combined for the purpose of this rezoning request. The location of the subject property is very close to Highway 53 [Hwy 87], a four lane divided highway, providing great access to Fayetteville. Mr. Wiggins went back and looked at the 2030 Plan, it seems that perhaps what they were asking didn't fit back then the 2010 Plan, but the vision statements establish a clear picture of where they want to be in Cumberland County in 2030, and of course it's always a look back to see what should have been done back when you could of done it. We in this County have experienced a great deal of regret that we didn't do certain things back when we could, water and sewer, for example, Mr. Wiggins can't imagine why anyone would oppose extension of water and

sewer to this particular area. It would be a great aspect to the Grays Creek community. The water in the Grays Creek community is atrocious and has been for many years. People don't want to drink it and do not drink it; a lot of people don't want to take a bath in it. But, be that as it may, that is the proposal of the developer in this case, which is River Landing, a lot of people have said to me that "you are going to bring us into the City", well as Mr. Lloyd said at the very beginning these lines will not be owned by the City, the Public Works Commission, they will be owned by the Grays Creek Water and Sewer District. They will be the ones to control this, they were set up for this very purpose, this will be the initial beginning of that district and feels this would be a good asset to this community. Of course the policy statements that are continued in the 2030 Plan as outlined in that plan is really the heart of what they are about and what they need to be doing in this County. Policies of the Land Use Plan have been debated in various forms of development, and of course when we look at these things, water, sewer, and transportation, drainage, all of these factors go into determining whether or not a project is good or bad. This is a good project; it is an asset to the community and ought to be approved.

Mr. John Koenig spoke in favor and stated that he had previously been sworn in. Mr. Koenig stated that this was a joint project with River Landing, and Larry Walsh. This project is actually close to Highway 87. It is 565 lots, and as you can tell there is a CD Conservancy District all the way around, you do not see the development. There will be a 20 foot or more buffer promptly into the association so no one can timber, alter or change it. There will be a clubhouse with exercise facilities, swimming pool, soccer field, and do a community unlike any others in Cumberland County right now. If you look at the other communities Mr. Koenig has developed this one will be the nicest. This will take a number of years to develop so there will not immediately be a school problem or traffic problem.

Ms. Hall asked about the CD Conservancy district

Mr. Koenig stated that there are 93 acres that will remain green space or untouched on the property. The border around it will be put into the association and they will administer whatever the members choose to do.

Mr. Jim Kizer spoke in favor and stated that he had previously been sworn in. Mr. Kizer stated that he wanted to expand on a few things that had been talked about. We do have some 97 acres of green space planned within this development. The 20 foot buffer that goes around the exterior that's a minimum buffer, in many places its 200, 300 feet or more. There's almost 4 miles of perimeter on this site, just to put it in perspective. The water and sewer that's to be extended up Gainey Road will be extended for more than a mile. All of the ponds are stormwater ponds that are required. What they do are 2 things, they control the runoff off of the site to the pre existing that were there prior to any development and secondly, they do cleanse the water also. We do have a proviso from NCDOT that they are required to have a traffic impact analysis which we are certainly willing to do. There will be sidewalks along all of the streets within this development. So that everyone will understand, where this greenspace is, is not just an idea, we had the wetlands delineated, suRVeyed, and approved by the Corps of Engineers and that is how they are reflected on the plan with the addition of greenspace.

Mr. Clark asked who maintains the stormwater runoff areas.

Mr. Kizer stated that the Homeowners Association would maintain them. The developer maintains them during construction then transfers over to the association.

Mr. Dick Fox spoke in opposition and stated that he had previously been sworn in. Mr. Fox stated that he and his wife own outright or with other people approximately three times the acreage that is up for rezoning (indicated on the map the property he owns). About 50 of acres actually abuts the subject property. They farm and raise horses. He and his wife moved to the area after a lifelong residency in Fayetteville. Mr. Fox stated that he had been on the other side of rezoning issues and has used Mr. Kizer on more than one project and is not anti growth and has never done a development or project that would destroy the character of a neighborhood. If you go throwing 500 houses in that area, you guys might just as well set a torch to the area, because you are going to destroy that segment of this community. Mr. Fox stated that he doesn't really understand the Land Use Plan and understands that this is in compliance with the 2010 and 2030 Land Use Plan because it has a half acre lot and that gives it a rural characteristic, but what he doesn't understand is that he lived in Haymont on an acre and nobody ever called that rural. That doesn't make a lot of sense. This is a quality of life issue, we moved out there, and that wouldn't be right to our neighbors or the people who have bought houses here wanting a rural environment. It's just not the thing to do. Financially we would probably be better off, but it's a quality of life issue for all of us. This would have an impact on traffic, the green space that was talked about, about one third that's very admirable, but they don't have much choice in because it's wetlands.

Mr. Morris asked if the land Mr. Fox had pointed out earlier was initially zoned R40 or was it done by request.

Mr. Fox stated that it was not by request that was when they bought the property. The area shown as A1 was purchased 9 years ago, the R40 area was purchased about a year and a half ago and was already zoned R40.

Ms. Hazel Nixon spoke in opposition and stated that she had previously been sworn in. Ms. Nixon stated presented exhibit 1, letters from Alderman School, Grays Creek Middle School, and Grays Creek High School, which tell how many bus stops are on Gainey Road and how many students use those stops. Ms. Nixon indicated on the map where her residence was located in relation to the subject property. Ms. Nixon stated that Gainey Road was a 2 lane highway, 2.7 miles long and a dead-end road. When you get to the end you have to turn right to get on McFayden Road in order to get off the road unless you turn around to go the other way. If this project were located 1.1 miles down this dead-end road with 1.1 mile of a double yellow line, which is a no passing zone, this is due to the cuRVes on Gainey Road. School children stand alongside of this road at bus stops; there are 13 bus stops according to the 2009-2010 school year. They will be put in grave danger with the heavy equipment trucks that will be using this road. Not only that, we live along the side of the river, and in the fall, winter, and spring there is dense fog, this would also endanger the children waiting for the bus. The road is not wide enough to handle the increased traffic.

Mr. Kenneth Ashworth (Chair Epler swore in Mr. Ashworth) spoke in opposition. Mr. Ashworth stated that he lives directly across from the opening space of the subject property. Mr. Ashworth stated that he moved from Fayetteville to get away from all of the traffic. He is opposed to this project due to the traffic issues and the quality of life issues.

Mr. Jason Thomas spoke in opposition and stated that he had previously been sworn in. Mr. Thomas stated that his concern was the quality of life issue. He moved to Grays Creek from Fayetteville to get away from the traffic and for the tranquility of the area. They're yards will be torn up to put sewer lines in that they can't even tie into. Mr. Thomas asked that the board take into consideration the opposition that was present to this rezoning.

Ms. Donna Cannon spoke in opposition and stated that she had previously been sworn in. Ms. Cannon stated that she chose the Grays Creek area because of the covenants that were provided. Mr. Kizer offered a covenant that provided some protection from what was being requested. Ms. Cannon read a portion of the covenant that was written October 14, 1988.

Chair Epler asked Ms. Cannon if that covenant was for her subdivision on Kingsland Drive.

Ms. Cannon stated that is adjoining to the subject property that is proposed entranceway also. Ms. Cannon continued reading the covenant. Ms. Cannon stated that she chose to purchase the land because there was some protection as to what would happen to the land around her. She has moved her handicapped sister in with her because of the peace on her street. Ms. Cannon is opposed to the rezoning and opposed to the increased traffic.

Mr. Herbert Bryant spoke in opposition and stated that he had previously been sworn in. Mr. Bryant stated that he moved to Grays Creek in 1977 because he wanted to live in the country. Mr. Bryant suggested making photos of what is proposed available so they can be viewed before a meeting. Mr. Bryant talked about his experience with Moorman, Kizer & Little, in the development of Rockfish Creek Estates which is where he lives, there were all kinds of things that didn't work out as planned in particular the roads.

Chair Epler stated to Mr. Bryant that the County's Ordinance and the standards now are such that this is a Conditional Use District and there are conditions on the permit that they have to comply with.

Mr. Lloyd read the condition of the permit that stated the developer must formally notify NC Department of Transportation once construction of the public streets are complete and initiate the process of transferring the responsibility of road maintenance to NCDOT, if application to NCDOT engineer has not been formally submitted by the time building permits have been issued for 75 percent of the lots, shown on the platted portion of the development no additional building permits can be issued until NCDOT district engineer notifies the developer of receipt of the application.

Chair Epler stated that standards are in place now to keep from what happened in your neighborhood from happening again.

Mr. Bryant stated that he understood, but in those days they had provisions also. The State took over the roads. Any way they built the roads and in about three to five years there were potholes all over the place and so they got enough houses in there that the State came in and took over and came in and capped the road and it's been in pretty good shape, and after 25 years we are beginning to have typical country road problems. This sounds like a special project that may be funded with extra money from the government, is that true.

Chair Epler stated that that hadn't been discussed and really will not be discussed.

Mr. Bryant stated that nothing is guaranteed and there could be problems. Mr. Bryant addressed water runoff and asked what kind of elevation the buffer was going to have?

Chair Epler stated that the engineering plans for this project, unlike 20 years ago, there are standards that have to be complied with, permits will have to be issued from government agencies, civil plans will have to be reviewed and approved by those agencies to include the North Carolina Department of Environmental and Natural Resources, they control stormwater runoff and those ponds that you see on that property will have to be maintained on a regular basis and there is an agreement that will be recorded that will have to be done; as far as the elevations go, those engineering plans will be approved by a government agency.

Mr. Bryant stated that he noticed there is a water plan that encompasses a 100 year flood plain. Would that project include a 10 in rain over an hour?

Chair Epler stated yes, that is one of the things that the stormwater regulatory authority looks at and they will have to do calculations and meet those criteria for their permit to be issued.

Mr. Bryant asked if the residents in the area have a chance to see this.

Chair Epler stated once it is submitted to DENR it will be public knowledge.

Mr. Bryant asked if the public would have access to it.

Chair Epler stated yes.

Mr. Bryant asked again what the elevation for the buffer zone was going to be.

Chair Epler asked Mr. Kizer about the buffer.

Mr. Kizer stated that the only verticality would be the trees and natural grade.

Mr. Bryant stated that was very important when you have a 10 inch rain. Mr. Bryant said since he lives in the subdivision adjacent to this it was supposed to be ditched too, if they get an inch or inch and a half rain the ditches are full. He understands all the planning and organizing but hopefully the board will consider reality, that's what the people in that community have got to live with. Mr. Bryant asked about the Grays Creek Water and Sewer District.

Mr. Lloyd explained the Grays Creek Water and Sewer District for Mr. Bryant, and explained that the County Commissioners have made it a priority to try and work towards Countywide water through our Public Utilities department and they voted on it to try and have water throughout the County.

Mr. Bryant asked if they would be using the PWC processing plant.

Tom Cooney, Public Utilities Director, stated that the County would be wholesale customers for their services.

Mr. Bryant asked if they were due for an expansion. Do they have the capabilities of handling something like this?

Mr. Cooney stated that they have excess capacity.

Mr. Bryant asked what kinds of capacity they estimate.

Mr. Cooney stated that he didn't have an answer for that.

Chair Epler those are calculations that are part of a permitting process that government agencies are here to oversee and protect us from. Chair Epler apologized for what has happened in his neighborhood, but these safeguards are in place now to protect people from what happened to you in your neighborhood, but as far as those details go, that's not for this board to consider. It is as far as the impact it has on your neighborhood, but PWC has the capacity or they wouldn't issue the permits.

Mr. Bryant apologized and said he didn't mean to obstinate, but the questions he asks are the questions people have to deal with everyday and just to say it's going to be planned is good and it's not here now, and assumes they are ready to go to work if they get approval.

Chair Epler advised Mr. Bryant that he was present to address the board and to finish his comments.

Mr. Bryant stated that he was trying to raise some questions that he feels are pertinent and may have to be dealt with in the future.

Mr. Bryant asked if this had been done in other areas.

Mr. Lloyd stated the other areas where this type of development had been done which were in the Grays Creek area.

Mr. Bryant asked if there was any feedback on how successful they were.

Ms. Leslie Koch spoke in opposition and stated that she had previously been sworn in. Ms. Cook stated that she left a neighborhood like what is being proposed to be in the country. Ms. Cook presented statistics on classifications of this proposed development in terms of size and population. Ms. Cook proposed that studies be done on impact on local schools would be.

Mr. Norman Harris spoke in opposition and stated that he had previously been sworn in. Mr. Harris indicated where his property is in relation to the subject property. Mr. Harris's concern is about density, the area is basically zoned R40. Mr. Harris stated that buffers are important and when this project starts he will lose 250 feet use of his property. Mr. Harris is not opposed to growth, but it is in terms of looking at managed growth and staying in keeping with what is already there. Mr. Harris stated that he needed more buffering than what was being proposed.

Mr. Richard Trogden (Chair Epler swore in Mr. Trogden) spoke in opposition. Mr. Trogden stated that the traffic on Gainey Road was horrendous already. It takes about an hour for the authorities to arrive for an accident. This development will make the traffic situation a lot worse.

Ms. Melissa Ince spoke in opposition and stated that she had previously been sworn in. Ms. Ince stated that she was the very last house on Kingsland Drive. They left Carolina Lakes a community much like the one being proposed, to be in a nice rural community. Ms. Ince stated that if this development went up she would sell her house, because there is no way she can have that kind of traffic and be happy there.

Mr. Gregory Whitley spoke in opposition and stated that he had previously been sworn in. Mr. Whitley stated that he was present representing the residents of Kingsland Drive as an attorney. Mr. Whitley pointed all the people present in opposition because they are concerned about their environment and their surroundings. Mr. Whitley commented on the earlier statement about the water quality being atrocious in Grays Creek, but if you asked everyone's opinion, they seem to be doing alright with that. All of the speakers have talked about why they are in this area, to get away from Fayetteville or big city traffic. These are the people who have to live with what goes in out here; these are the people that we need to listen to. As a few of the speakers have mentioned, they bought lots that at one point in time came from the Moorman Kizer profit sharing plan all of these lots on Kingsland Drive and some others around all were at one point owned by that group, they were sold off at different times. Mr. Whitley presented Exhibit 2- Subdivision covenants (4) that were signed by the residents of Kingsland Drive when they bought their lots. Of the 16 lots 9 of them are under one restrictive covenant which restricts their development to lot sizes no smaller than one acre, two of the lots are under a covenant that allows no subdivision of the lot size as they bought it, another four lots were in a separate part, but it is the same restriction, no subdivision of lots. Finally, there are two lots where there is a size limit no smaller than $\frac{3}{4}$ of an acre per lot. The homeowners understand these covenants apply to their lots and not the subject property, but it's a do as I say, not as I do. These people moved here under the impression that this was the plan for the area, this was the plan for not only their lots, but if any of this is ever developed, subsequent land owners would be given the same considerations and covenants. The smallest lots on Kingsland Drive, two of the lots are 1.03 acres the rest of the lots are bigger than that up to $3\frac{1}{4}$ acres. The same people who sold them the land and put the covenants and restrictions on their land back down the road are now saying we are going to do what we want to here, which is something completely out of character with what your land is. As for the nature and character of the area, you can see it is predominately R40, of course the subject property and some of the bigger, surrounding areas are A1 and most of the residential stuff is R40. The 2030 Growth Strategy Map defines this area as a rural area, now it says development density is as high as 2 units per acre may be permitted provided the soils and topography do not have severe limitations for development. However, much lower densities and larger lots are preferred in rural areas. From the 2010 Land Use Plan the Farmland Protection area this area is within what was designated the Farmland Protection area seems like development on half acre lots, while arguably within a legal definition here does not meet the obvious definition of farmland protection. Again, with the nature and character of the area, this area is on the edge of a flood plain it's in a bend in the river, basically the whole right half of this thing close to or actually in the flood plain from the river this is a low area and there are drainage ponds to be created for this very purpose. Right now Kingsland Drive is a dead end drive and there are 16 lots, and it dead ends into the edge of this wilderness right now, and we're talking about making this two entrances for 565 homes. These people are going to lose the character of their neighborhood; it's not going to be a small neighborhood anymore. The residents would not be opposed to R40 zoning, they are reasonable people.

Ms. Hall asked Mr. Whitley if Kingsland Drive would remain a dead-end street.

Mr. Whitley stated that it was his understanding that that would be one of two entrances.

Mr. Morris asked Mr. Lloyd if any connectivity showed at the end of the road in the subdivisions on the current Kingsland subdivision.

Mr. Lloyd stated it was a stub, not a cul-de-sac. Which means usually requires any adjacent development to connect. It's not terminated with a cul-de-sac.

Chair Epler asked if the restrictive covenants, we're hearing everyone refer to this as Kingsland Drive, are these different sets of restrictive covenants all for those fifteen houses that are on Kingsland Drive?

Mr. Whitley responded that the lots were sold off in four different parts so there are four different sets of covenants. They are for the lots on Kingsland Drive.

Mr. Garris Neil Yarborough spoke in opposition and stated that he had previously been sworn in. Mr. Yarborough stated that he was an attorney and present representing some of the residents but there is a certain commonality among all of the residents of this area. Mr. Yarborough stated that the board had heard a lot of compelling evidence as to why this project should not be approved and stated that the board needed to focus on Section 504 of the County Ordinance and that the board needed to find on the findings of fact (1) the use will not materially endanger the public or health or safety if located according to the plan as submitted and recommended (2) the use meets all the requirements and specifications (3) the use will maintain or enhance the value of adjoining or abutting properties (4) the use is a public necessity and (5) the location and character of the use if developed according to the plan as submitted and recommended will be in harmony with the area in which it is to be located and in general conformity with Cumberland County's most recent Land Use Plan and adopting planning policies. For the board to find that the burden of proof is on the applicant and that they must prove that that is the case. We all understand that some development is going to occur here. Many of the things discussed relate to the fact at some point in time some development is going to come here, but what we're talking about is density, is this compatible use with the area? If you look at the zoning, and look at the area, its R40 and A1, if you look at the bottom of Gaaney Road and look at the zoning and adjoining zoning classifications. If this was a rezoning you could rezone to R40, you can't approve any type of plan because the plan that has been presented to you is on an R20, if it was R40, much of what was heard here would be less of an impact, not all of the opposition would go away, but it would be minimized if this request was planned and developed in keeping with the existing land use pattern, which the board is charged to protect basically by the Conditional Use Permit requirement.

Because of the quasi-judicial nature of this proceeding Mr. Yarborough stated he would focus in on what must be found and will try to direct comments to the various things that the applicants must prove to the board, and that they will not be able to. The horrible traffic problems have already been discussed. If you look at the development you see the roads around it, but there is one road in and one road out. That road is at an unsignaled intersection on a four lane road which at 5:30 pm was backed up to the city limits.

Next issue, the use meets all requirements and specifications that is a technical consideration that the planning staff is in a position to make some type of recommendation. With Moorman and Kizer being involved in this there is technical compliance with most of the specification aspects of this, remember, they need to prove all four findings.

Next issue, the use will enhance value - this refers to the rural environment to these neighbors who like to sit out on their porch and listen to crickets, instead of listening to traffic. Mr. Yarborough referred back to the Ordinance that refers to residential districts, the whole purpose for residential districts, is where similar residential development should be encouraged. The regulations of these districts are designed to stabilize and protect the essential characteristics of each district. The essential characteristic of this district is rural and agricultural in nature, to the extent that you can see hayfields within shouting distance of this property.

Mr. Yarborough went on to discuss the restrictive covenants. He understands very well that these restrictive covenants that were placed on the adjoining properties by the owners of this property, are not legally binding on the subject property. But, when you understand that the reason that in 1992 there was a restriction on this property to one acre size lots, and when you look at the zoning of A1 and you read the preambles to these restrictive covenants that the reason they are doing that is harmonious growth to protect property values, then its clear that an acre lot, or in some circumstances a ¾ acre lot, which under the right design could still come in an R40 context. That was what the applicants themselves have said, preseRVes the value of this area.

Mr. Yarborough talked briefly about the traffic. He stated that his understanding that one household generates 10 traffic trips a day, that is information from DOT, times 560 dwellings that is 5,600 traffic trips down that one road that leads to NC 87 in one day.

Chair Epler reminded Mr. Yarborough that those statistics was not in an affidavit from DOT.

Mr. Yarborough stated he did not have an affidavit stating those statistics, but that is the information that he was given.

Mr. Yarborough addressed the soils in the area. There are hydric soils which are sometimes indicative of wetlands. Mr. Yarborough listed the types of soils located on the subject property. Mr. Yarborough presented Exhibit 3 – topography map which shows that the subject property is relatively flat and most of the water that will go into the retention ponds will be coming off of impervious surfaces that are created by the roads, rooftops, the patios, and the sidewalks. But where does it go? Once the retention ponds are full, where does it go in a relatively flat area that is known for a high water table? Are we creating another problem like there was in Sunnyside? Where the water might ultimately go to one place but it's got to get off the property and how is it getting off of the property?

Mr. Yarborough stated that we needed to think about harmony. Think about the concerns of the neighborhood as part of that harmony and part of that value. We have to look at the sentiments of the neighborhood. Mr. Yarborough presented Exhibit 4 – Petitions signed by hundreds of people in the neighborhood say the proposed project is out of character with the neighborhood, will cause traffic congestion, and will destroy the rural nature and development pattern of the community. It is relevant if you are talking about community harmony. When talking about community harmony which is one of the key factors to consider and which the applicant must prove, is being met before the permit can be issued. Mr. Yarborough asked for the residents of the neighborhood who feel that the rezoning was not in keeping with the harmony of the neighborhood to stand. (The audience stood).

Mr. Moorefield stated that the board was bound by evidence of circumstance, and that the petitions are not certified unless Mr. Yarborough could identify the people who he actually represents on the petition.

Mr. Yarborough asked everyone in the audience who was present that signed the petition. (Audience members who signed the petition and are represented by Mr. Yarborough indicated who they were)

Mr. Lloyd stated that most of what had been discussed was addressed on the conditions in the board members packets.

Mr. Greg West (Chair Epler swore in Mr. West) spoke in favor. Mr. West is the Chief of Staff at H & H Homes and was speaking as a consumer. Mr. West stated that there is a demand for neighborhoods and developments like the subject property and understands the sentiments. Everybody is for growth but not in their backyard. Quality of life is subjective, but 565 families and children will be riding their bikes on sidewalks and having the amenities that this neighborhood will provide them. Mr. West said that many people served on the 2030 Growth Vision Task Force and this is the kind of subdivision and planned development, thoughtful well executed development that we wanted this community to have and to offer its citizens going forward. In fact, this development exceeds the standards that were outlined before. It's also a fact there are neighboring counties that have developments like this and we're building them in Westgate at Hoke, Lexington in Harnett County, and Anderson Creek in Harnett County, and sees from his perspective how well they have turned out and that is drawing people away from Cumberland County to those communities. Mr. West stated that he was also on the Board of Education and with all of the growth that has been experienced, the school enrollment is flat. We've got superior schools to those neighboring counties, but it's the fact that the housing we are talking about here is available in those counties and not in Cumberland. So, if this was built we would buy lots here and we would build fine homes. There are already traffic problems it will bring attention whether its faster response time from emergency services or better traffic studies to improve some of the problems discussed. Mr. West stated that he supports this project.

Mr. Jimmy Page (Chair Epler swore in Mr. Page) spoke in opposition. Mr. Page stated that he purchased property right next to the subject property, and it would really be right in his backyard. The land is wet and he is curious as to how they will handle the water problem.

Mr. Kizer stated that the soils have been delineated and surveyed and got approval from the Corps of Engineers on the wetlands themselves. There are 41 acres of wetlands on this project, in addition to that Mr. Mike Aker, Soil Scientist to perform a soil survey on the tract of land to identify and classify the soils rather than just taking the Cumberland County soils map, and yes there are some hydric soils and the hydric soils do have some wetlands in them but they were all delineated. We also have some tarborough soils which are very sandy, good soils. In the new stormwater regulations every piece of land that is within this development has to be contained and the runoff from it has to be directed to required stormwater ponds. These stormwater ponds will be wetted detention ponds they will maintain a water level in them at all times and the storm drainage will be picked up in the streets and along the back of the lot lines and carried to the ponds. The outflow will be restricted by a pipe that allows no more water exiting the pond than what was originally going into the area prior to the development. We have calculated that we will have approximately 19 acres in stormwater ponds. That is the way we will handle stormwater.

Mrs. Piland asked for clarification, we're talking about 300 acres, 41.6 are wet and they are proposing 565 units, will some lots be less than ½ acre?

Mr. Kizer responded yes, but the average area will be that, a lot of the area of these lots is in common area green space, with 97 acres of green space each lot owns a portion of those 97 acres and can use it at their discretion, because it is all in their homeowners association. Not every lot is 20,000 square feet, but they all average 20,000 square feet.

Mr. McLaurin stated that they were talking about Kingsland Drive as it is now, is a stub street, because there is no stub cul-de-sac at the end, if you go into the development going up towards McFayden Road there is a wish bone, one side is a cul-de-sac, is the other side a stub street to that adjoining property?

Mr. Kizer responded that it was.

Mr. McLaurin asked Mr. Kizer if he owned that property.

Mr. Kizer stated that he did not.

Mr. McLaurin said that that would be a stub street if that area was ever to be developed, would traffic come down through there.

Mr. Kizer stated that was correct.

Mr. McLaurin asked how many acres that was.

Mr. Kizer stated that he didn't know right off hand but thought it might be 30-40 acres. There was some conversation concerning traffic, this particular road according to statistics on Gainey Road has a traffic count of somewhere around 1,000 cars per day. Mr. Kizer compared other properties that had entrances off of a two lane non rutted road, but a two lane road and compared to this project to the Gates Four Subdivision from a standpoint of number of residences. Lakewood Road has an entrance to the Gates Four Subdivision which has 540 lots, also off of Gates Four Road is the entrance to Birch Creek Subdivision, the Woods at Birch Creek, and named a few other subdivisions. Mr. Kizer said that when you totalize everything that is coming into that two lane road there's over 1200 residences and is still a two lane road, and it might be busy at times but it is still operating and working.

Chair Epler asked Mr. Moorefield, County Attorney, if the information presented by Mr. Kizer could be allowed into the record.

Mr. Moorefield stated that Mr. Kizer was speaking in rebuttal and the information that he presented was appropriate.

Mr. Kizer stated that he was making a comparison of the number of residences on a two lane road.

Mr. Yarborough spoke in response to Mr. Kizer's rebuttal and stated that in deference to Mr. West's desire to sell homes in this area that is not the issue. By the way there were some questions about the petitions presented where there are names, addresses, and signatures. Mr. Yarborough stated that he hadn't heard a single name of those 565 potential buyers that Mr. West is talking about. If there were 565 potential buyers it would

not be relevant to the decision the board has to make on this case. There is not one thing that says is there a demand for this. The reason that the board should vote to deny this, if for no other reason, you want to argue safety, we can argue safety, the one thing that is absolutely irrefutable is that it is not in harmony with the area to which it is to be located. Many times when people are rezoning that Mr. Yarborough is involved in, they have moved to a zone, an area which is one way and wants to move it to something else. These people who have spoken here today, moved to the area because it was zoned A1 and R40, it was the restrictive covenants of the surrounding areas and indicated one acre lots or $\frac{3}{4}$ acre lots. If for no other reason this case should be denied because it is not in harmony with the area in which it is located.

Chair Epler gave the applicants side a chance to rebut Mr. Yarborough's statements. No one wanted to rebut.

Public Hearing closed.

Mr. Lloyd stated that in a meeting that staff was at including the Public Utilities Director that anybody that the lines ran past would be able to tap into the water. That's what we were told at PWC.

Mr. Cooney stated that the comment from the audience was that sewer with a forced main typically does not allow residents to tap into it.

Mrs. Piland stated that she appreciates the planning that has gone into this project and knows that Mr. Kizer has quality development and quality development working with him and has no question about that. But she is not convinced on a couple of issues, such as the $\frac{1}{2}$ acre lots being allowed in a rural area, she does recall questions about that while going through the 2030 process however, the $\frac{1}{2}$ acre lots remained in the 2030 plan and believes the reason it states the $\frac{1}{2}$ acre lots are possible but not preferred is because there was some disagreement about that, so in this particular case when talking about $\frac{1}{2}$ acre lots that may be possible in some areas but is not necessarily preferred in a rural area and in Mrs. Piland's opinion probably not in the magnitude of this project, the second issue that Mrs. Piland questions and believes that has failed to have been shown that this project is in harmony with the character of the area, she does not see this project being in harmony with the area. Mrs. Piland stated that she does think there is a public safety question, maybe if this was phased in those public safety questions would not rise so quickly, but we have to assume that this would happen overnight, so she does believe there are some public safety issues.

Mr. McLaurin stated that he would question the permit portion of the proceedings, he has not seen anything here that would say that the use would maintain or enhance the value of the adjoining or abutting properties on Kingsland Drive and as far as the uses, we do have $\frac{1}{2}$ acre lots, RR, to one side on Gainey Road and on this side of Gainey Road we have basically one acre lots and A1, probably very few A1 lots. But keeping that in mind we're talking about the deeded or average deeded tract of land on one side of Gainey Road is about 20,000 square feet or more, the actual deeded land on the other side of Gainey Road would probably be 40,000 square feet, a little less or a more. But if you look at the subdivision when you take out approximately 100 acres for common area, but the actual deeded portion would be on an average of about .35 acres based on this density and he doesn't see how that is in harmony with everything else that is out there.

Ms. Hall stated her three concerns first, the County made it a priority to have public water and sewer throughout the County and is abashed that you can run sewer lines through someone's yard and then say you cannot tap into it. Secondly, the conditions don't address the density, a lot of these concerns are addressed in the conditional use conditions, but density is not one of them, Ms. Hall feels that R40 is better suited than R20, and the final concern, do written covenants mean anything. She understands that the covenants don't pertain here, but also understands the understanding that a homebuyer has of covenants when they buy their home.

Mr. Morris stated that he had been on the board for quite a few years, and had seen the County do different things and has been a part of the different plans. When we came up with these density developments, these conditional use districts, we set it up looking to the future and trying to attract the right kind of neighborhoods. Not going out and taking a rural farm field and laying a grid out over it and say here's your new home. The open space is the buffered areas, the green space is the infrastructure, the amenities, and we're trying to build communities. This is a prime example of exactly what we tried to shoot for. Mr. Morris said that he had some issues and the biggest issue is the connectivity on Kingsland Drive, he's sat on the board for years and fought connectivity because no one knows what's going to go on the other side of that road. Mr. Morris stated that he believes that if we proceed with this as presented, that it will affect the values of the people on that road. So he understands their feelings and also shares Mr. McLaurin's view that basically these are less than 1/2 acre lots and the harmony of the community around it is basically a 3/4 acre to one acre. So he will not support it. But again we need to look real close at these things, because these are the things that are going to bring the new people and the jobs to the community. It will enhance the values of those adjacent properties over time. But the question is, is this the right place and the right time for this development? If these are the things that are innovative and these are the things that will compel us and that will grow our County. So as we look at them we have to discuss them, we have to digest them, and we have to determine if they are right for the County. In that case this board will determine that and the Commissioners will ultimately support our decision or revoke our decision, but again this is what we are trying to hit here. When we look at it we need to take in everything as we try to make decisions up here.

Chair Epler said that Mr. Kizer made reference to Gates Four and if any of us had been in this same situation 25 years ago when Gates Four Country Club was Iron Gate and J.P. Riddle owned a little bit of that land out there and he had the vision to see what is now Gates Four and that neighborhood. If any of us had been in that situation and Mr. Riddle told us that he wanted to take that property that he had invested in and create 600 single family lots, multi-family townhouses and condominiums, he would have been thrown out of town. But we see what Gates Four is today, we see what kind of neighborhood it is and we see how it's an asset to that side of the community. We have to be very careful, we have tried as a Planning Board and as a County to plan for the future and have that vision and not only have it ourselves but create guidelines that help other people develop that kind of vision. That's what our Ordinance is and at the same time, she does have reservations.

Mr. Lloyd stated that the input from County staff is one, when we talk about enhance the value, the value has made the commitment to water, countywide water. When and if the time comes that that happens, what better way to provide water than at the expense of a developer and not an assessment to the citizens. One of the reasons the County is committed to County-wide water is because for as many people that may be here against water, the Commissioners were inundated with that many people that wanted drinking

water or they certainly wouldn't have made that commitment. Secondly, when we went over lot sizes, but from the farmland committee up, before the 2030 Plan was done we were all in agreement to these types of development, not necessarily the lot size were the best way to protect land, not farmland but all land. The worst way to use up farmland is to cut out one acre lots down the road. This type of development preserves more land than cutting up lots of any size down the road.

Chair Epler asked Mr. Lloyd when this theory was generated and this Ordinance was written that was one of the incentives for developers to maintain that open space and have those buffers to allow them that smaller lot size so it would be financially feasible for them to build that neighborhood, am I correct?

Mr. Lloyd said that to preserve and protect was really the main reason on the planning end. It wasn't so much a financial thing, of course it did help, you want developers to do this type. But it was to protect the surrounding area as best we could with the buffers and to contain the neighborhoods with the amenities within so as to not go out on the roads as many times.

Mr. Morris stated that typically when we see these big A1 tracts somebody will come in and put sewer and water and they'll go for R10 and most times they will get it. If they can't get any other structure in there we're looking at rural residential. There are a lot of uses that we always hear that people don't like. These type of situations have been presented to us today those uses are very controlled and very conducive to the residential environment. Mr. Morris stated that he hoped the community worked a little bit with the developer so that they all have a little bit of what goes on in their area. This is a good plan, it just not be the right time. But everybody needs to work together within these communities. The Grays Creek community is the place where people want to be.

Mr. McLaurin asked if the petitioner could postpone this to make changes.

Mr. Lloyd stated that he could ask the petitioner if he wanted to do that.

Mr. Koenig came to the podium so that Mr. McLaurin could ask him if he wanted to defer his case. Mr. Koenig said he did not want to defer.

Mrs. Piland made a motion, seconded by Mr. Pearce that the Joint Planning Board fails to find that this conditional use district application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that it therefore be denied. The motion passed with Chair Epler voting in opposition.

REZONING CASE

- D. **P10-35:** REZONING OF 2.36+/- ACRES FROM R10 RESIDENTIAL TO O&I(P) PLANNED OFFICE AND INSTITUTIONAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON BOTH SIDES OF SR 2950 (BUIE AVENUE), NORTHWEST OF SR 1132 (LEGION ROAD); SUBMITTED BY WILLIAM VINES ON BEHALF OF CHURCH OF GOD OF PROPHECY (OWNER) AND BETTY ALLEE.

Mr. Lloyd stated that the Planning & Inspections Staff recommends denial of the O&I(P) Planned Office and Institutional district based on the following:

1. The district requested is not consistent with the location criteria for Office and Institutional development as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan as it does not serve as a transition between commercial and residential use;
2. The request, if approved, will allow for the encroachment of non-residential zoning into a residential area;
3. The request, if approved, would lead to strip non-residential development going south down Legion Road with no logical end until Ireland Drive; and
4. The request is not consistent with the surrounding land use.

There are no other districts considered suitable for this request.

Mr. Lloyd added that this is a use that could be done through the Board of Adjustment in a Special Use such as the others have been done.

Betty Allee, the applicant, spoke in favor. Ms. Allee stated that the day care has been running since 1970, when the church moved out they had the big sanctuary. Their plans are to get it licensed because the other facilities is a three star license and working towards a four star license. They wanted to license the larger area for afterschool children and also so in inclement weather the younger children will have a place to play. When they started the application process it was recommended to apply for rezoning just to make things easier. That's why we are making this request.

Kathy Cranford spoke in opposition. Ms. Cranford stated that she lived on Myrtle Drive and has lived there for 38 years and has watched the church grow. This is about being able to get out of my property without sitting there for 15 minutes to get on to Legion Road. There was a man and woman approach many homes in the neighborhood recently, wanting everyone to sign paperwork saying that they could close Buie Street down. That's what I thought this meeting was about the closing of Buie Street and incorporate it into their church, and not make it so that the two people that still live on Buie Street could use that as an access anymore and that would reduce her neighborhood that began as Breezewood Acres, but now travels all the way down Legion Road. Then there would only be access to two ways out, that would be Ireland and Myrtle Drives. If anyone is familiar with Bruce & Mickey's Restaurant on Legion Road, at any given day it is wall to wall parking and you can hardly get in or out of Myrtle Drive. We were also told that the reason they wanted to close down Buie Drive, because the police were fussing at them about blockage on the road from the people picking up and dropping off their daycare children. There are no sidewalks in the neighborhood and it is very hard to walk through the neighborhood, traffic is getting completely out of sight, Legion Road is going to widen soon. If an event, like happened a year ago when the natural gas plant had an explosion that requires evacuation we would not be able to move out in a timely order. Ms. Cranford stated that she wasn't really concerned about another daycare, as long as it's not right beside her.

Public Hearing closed.

Mr. Morris asked why a religious institution needed to ask for rezoning.

Mr. Lloyd said that they don't. It can be done as a Special Use through the Board of Adjustment. It's a special use in this district; it's just not a permitted use in the existing district.

Mr. Morris stated that he agreed with staff, if we vote on this we will set a precedent on that side of the road. If we don't have to, I'd rather the petitioner withdraw the request and go through the Board of Adjustment.

Mr. Lloyd stated that he thought the applicant would be agreeable to that.

Mr. Morris explained to the applicant that she could go through the Board of Adjustment and ask for special use permit.

Mr. Lloyd stated that it is easier to rezone, due to the fact that every time they want to increase the size it has to go back to the board. Then again it will come a point in time when it will be up to the Board of Adjustment to say that's enough.

The applicant voluntarily withdrew the case.

CONDITIONAL USE DISTRICT AND PERMIT

- E. **P10-28:** REZONING OF 1.05+/- ACRES FROM R6 RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 612 MONT DRIVE; SUBMITTED BY CHARLES W. AND GWENDOLYN B. WORTHY (OWNERS).

Mr. Lloyd stated that at the July 20, 2010 Joint Planning Board meeting, the property owner voluntarily agreed to a deferral in order to give him time to consider amending the request for rezoning to a Conditional Use District and Permit (CUD) application. Since that time the property owner has submitted the amended application and is now requesting approval of a C(P)/CUD for a towing / motor vehicle storage business and approval of the Permit. The County Planning Staff recommends denial of the requested rezoning to C(P) Planned Commercial/CUD based on the following:

1. Approval of the request for the area in which the subject property is located is not consistent with the location criteria for heavy commercial uses as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan – subject property does not have direct access to a collector street, is located in an area that is primarily residential, and is not located within an Activity Node – and is not consistent with the Spring Lake Area Detailed Land Use Plan which calls for medium density residential at this location;
2. The nearby existing commercially zoned properties front on and take access from NC Hwy 87 N, which is a major thoroughfare, Mont Drive and Hickory Street, still town owned and maintained streets, were not designed to serve heavy commercial traffic and are not designated business streets;
3. Consideration of the C(P) district at this location is arbitrary and would not serve a viable public purpose, rather if approved would allow for the encroachment of commercial zoning into a residential area; and

4. The degree of difference in uses allowed on the immediately existing surrounding properties served by the same streets and the uses allowed in the requested district qualify this request as being unreasonable.

The County Planning Staff also recommends denial of the Conditional Use Permit based on the following:

1. The location and character of the use, if developed according to the plan as submitted and recommended, will not be in harmony with the area in which it is to be located and will not be developed in conformance with the development ordinances – the immediate area is zoned for and used as residential properties served by residential streets and although the adjacent property is under the same ownership, the owner is requesting to deviate from the buffer requirements between the subject property and the adjacent lot;
2. The request for the subject property is not in accordance with the adopted Land Use Policies location criteria for heavy commercial, specifically: subject property does not have direct access to a collector street, is located in an area that is primarily residential, and is not located within an Activity Node;
3. This development most likely would endanger the public safety if located according to plan submitted because neither Mont Drive nor Hickory Street are major or minor thoroughfares, both streets provide access for residential properties and therefore, are not suitable nor intended to serve commercial operations;
4. The use is not in harmony with the area in which it is located, the subject property and the immediate adjacent properties are served by residential streets that were not designed or intended to serve commercial traffic, while the nearby commercial properties are served by a major thoroughfare; and
5. The degree of difference in this specific use requested and the site layout as related to the existing surrounding residential uses on residential streets qualifies this request as being unreasonable.

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

Chair Epler asked if there were any disclosure from board members. There were none.

Mr. Worthy, the applicant spoke in favor and had previously been sworn in. Mr. Worthy stated that there were only four single family homes on the street where the subject property is located, other than the multi-family units. This land has been in his family for 70 years, the tow truck operation has been there for quite a while and they are only trying to protect their equipment and don't see any other way to do that without parking the vehicles where they are. Mr. Worthy stated that he'd listened to deterrence to the neighborhood, of course there's no endangerment because we've been there and there are no recorded incidents in the past 10-15 years. He also wanted to talk about buffering, any buffering that maintains or enhances the value of the property, and he wouldn't do anything that would deteriorate the value of the property because it's his property that is adjacent. Mr. Worthy wants to use the land to the best that he can, and keep his employees working. Mr. Worthy stated that he owns other homes, one has tow trucks, and another one has a tour bus operation, another with moving and storage. Mr. Worthy

presented Exhibit 1 photos of his properties. Mr. Worthy said that he is trying to be a good citizen and do the right thing by coming before the board and make his request, but at the same time it looks like he is the one being penalized for trying to do what's right when the other's don't do anything. So he just wanted to say that the board has a job to do and hoped and prayed that they would do the right thing. There is no endangerment and no decrease in value, and will agree to the issue of zoning. There is no one from the neighborhood present in opposition.

Public Hearing closed.

Chair Epler asked Mr. Lloyd about the deviation from the buffer requirements.

Mr. Lloyd indicated where the house was located and stated that the buffer requirements state when there is a non-residential use next to a residential use, you buffer that use.

Chair Epler asked if the Ordinance required a fence to be on the subject tract, is that part of the buffer requirement?

Mr. Lloyd responded no.

Chair Epler stated that the vegetative buffer would be enough.

Mr. Lloyd said that the vegetative buffer is part of the buffer requirement not the chain link fence.

Mr. Hostetter made a motion, seconded by Mr. McLaurin that the Joint Planning Board fails to find that this conditional use district application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that it therefore be denied. The motion passed with Ms. Hall voting in opposition.

- F. **P10-32:** REZONING OF 20.87+/- ACRES FROM RR RURAL RESIDENTIAL, R10 RESIDENTIAL AND R6A RESIDENTIAL TO RR RURAL RESIDENTIAL/CUD CONDITIONAL USE DISTRICT FOR A RV PARK/CAMPGROUND AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTHEAST SIDE OF SR 1003 (CAMDEN ROAD), SOUTHWEST OF NC HWY 162 (ELK ROAD); SUBMITTED BY ROY L. AND CHOM CHU DEAN (OWNERS).

Mr. Lloyd stated that the Planning & Inspections Staff recommends denial of the requested rezoning to RR Rural Residential/ Conditional Use District (RR/CUD) for a RV park/campground based on the following:

1. Although the area in which the subject property is located could be deemed consistent with the Land Use Policies Plan location criteria for "suburban density residential", the specific requested use - RV park/campground - is not consistent with "urban development" in which this area has been designated on the Growth Strategy Map of the 2030 Growth Vision Plan;
2. Consideration of the RR district for this use at this location is arbitrary and would not serve a viable public purpose, RV parks/campgrounds are more appropriate when located within an area that either provides recreational activities or near an interstate or other major road for travelers, not in close proximity to a growing urban area;

3. The degree of difference in uses allowed on the immediate existing surrounding properties and the specific use requested, coupled with the highly probable creation of the long term nonconformity of the existing manufactured home park, qualify this request as being unreasonable; and
4. Believing that RV parks, like other commercial entities are market driven, staff data shows that the mean occupancy rate in the six existing RV parks is 29 percent, thus no current public necessity exists.

Note: In the event the Planning Board considers granting this application a favorable recommendation, the staff requests the board's consideration of CD Conservancy zoning for all land within the Special Flood Hazard Area (SFHA).

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

1. The use could materially endanger the public safety if located according to the plan submitted considering that a large portion of this site is located within a Special Flood Hazard Area (SFHA), has flooded in the past and is likely to flood in the future;
2. The use does not meet all required specifications – the property owner is requesting numerous deviations from the ordinance standards to include relief from proper turnarounds at street endings, numerous setback variances, and use of off-site vegetation to satisfy the on-site buffer requirements;
3. This development could likely diminish the value of adjoining or abutting properties with the creation of a nonconforming manufactured home park that is comingled with transient temporary housing and the use is not a public necessity since there are a total of six existing RV parks/campgrounds in Cumberland County with an occupancy rate of 29 percent, four of the six are located in the Hope Mills area; and
4. The location and character of the use if developed according to the plan as submitted will not be in harmony with the area in which it is to be located and will not be in conformity with the 2030 Growth Vision Plan and adopted planning policies as addressed above.

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

David Averitte spoke in favor (Chair Epler swore in Mr. Averitte). Mr. Averitte stated that he called Ms. Speicher and discussed going through the same process that they used for the 4.02 acre tract to the rear of the subject property, which was to rezone it with a Special Use Permit from the Board of Adjustment, which had been approved in April of 2006. After discussion it was decided that the easiest route to go was to request rezoning to RR with a Conditional Use District Permit. On Friday, August 13, he received the news that the Planning Staff was recommending denial. When the property to the rear of the subject property was rezoned, they said that even though it did not necessarily comply with the Land Use Plan it was compatible with the surrounding area. So he wanted to make the point that it could be close to according to the staff's recommendation and it's by the board's vote they have proven that it is compatible. The adjacent 4.02 acre tract was zoned by the County in 2006, this campground that we have now will have recreation. It will have a swimming pool and fishing will be on, or as close to Hope Mills Lake when it is there. This property is also surrounded by three creeks on three sides and Camden Road

is on the other side. The property is surrounded by creeks, low areas, 100 year flood areas on all sides except Camden Road which is a major thoroughfare which is under construction. Mr. Dean has worked with DOT to support the construction, to include the relocation of his office and an entrance. Mr. Dean has worked with everybody to do what he had to do, and has accomplished a nice mobile home park right now. Mr. Dean has other mobile home parks and is happy with the occupancy rate he is getting and expects to get the same here. Please note that the 90 space mobile home park is only about 50 percent occupied now with more moving out each month. This is an existing mobile home park, he's ready to do away with the mobile home units, get them out as soon as possible. He has no intentions on bringing anymore back in there and none of them are going to come back in there because it's in a flood area. Mr. Averitte pointed out that in 2007 FEMA updated their maps resulting in a portion of this property falling into the 100 year flood zone, therefore if a mobile home is removed, the new mobile home brought in to replace it would have to be 1 foot above the new flood elevation, which would require some mobile homes to be raised 4 ft above the existing ground. The new tenants don't want to do that. If we put RV's in there they can be put below the flood zone because they're temporary. With single wide mobile homes, banks won't finance them now. So people are not bringing single wide mobile homes into a mobile home park anymore. So the mobile home park business is going away. Mr. Averitte stated that they have requested a variance on the turnarounds at cul-de-sacs, and said that he would change his drawings to include the cul-de-sacs.

Mr. Lloyd advised the board that they could approve or disapprove the plan that they have before them.

Ms. Speicher added that they could add a condition that staff review and approve the turnarounds.

Mr. Lloyd stated that they were asking staff to review putting in cul-de-sacs thus taking away spaces; and every one of these manufactured home spaces is supposed to turn into an RV space. So there are going to be a lot more changes than just adding cul-de-sacs, spaces will be taken out.

Chair Epler said that she understood what Mr. Lloyd was saying, according to the drawing there is a street that when coming into the development off of Camden Road and take that first right you go all the way back, there may be a cul-de-sac there but doesn't believe he would be able to get a cul-de-sac on the drawing and keep it all on his property.

Mr. Averitte said to realize that the spaces that are shown are not RV spaces, they are existing mobile homes, and some of them are 60 feet long.

Chair Epler stated that she understood that, but if he was asking for the board to grant a Conditional Use District and Permit on an RV park, and we need to see where the RV spaces are going to be. So if you're not going to use these same pads that are there for mobile homes now for RV sites and your saying that you are going to make whatever changes you have to in order to put your cul-de-sacs in. We're getting into changes there that this board probably can't consider minor anymore, because it has to do with your layout and the size of your sites.

Mr. Lloyd stated that this points out that the existing mobile home site to be converted to a campground site. One of the problems here is this is a transition, when are these spaces going to be here, when are the mobile homes moving out and if the spaces as Mr. Averitte

said aren't the same, how do we know what it's going to look like until the mobile homes move out.

Chair Epler stated that the board could review the case and make a recommendation with the variance still in the application, but if he's asking the board to take the variance out of the application and change the RV sites from where the mobile home sites are in order not to need the variance anymore, she's inclined to say that the board can't rule on that.

Mr. Lloyd stated that as a staff, he thinks the board can rule on it. The staff doesn't have a problem, if the board deems, that this site is appropriate on what's been presented for an RV site, staff will go ahead and review it as it comes in. The staff's main concern is if it's appropriate for an RV site.

Mr. Averitte finished his testimony. The natural buffer referred to is both on property and on the adjacent property. There is a creek all around three sides and a main highway on Camden Road that is under construction. They already have the additional right-of-way, they will change the driveway entrance and it's all on the plan. The office is going to be moved so that it will meet the setback requirement. This natural vegetation is already there, what else can we do to screen it? The only other piece of property that is residential that is adjacent to this is one house on Camden Road; there is a major creek between this property and ours. The use will be in harmony with the area, according to our plan, we're going from a mobile home park that dates back to the 1987, now we're going to put in a campground that's going to have people with campers coming in there.

Mr. Roy Dean, the applicant, spoke in favor. Mr. Dean stated in 2007 FEMA changed the flood zone elevations, in 1987 he built this manufactured home park and had it approved with the engineers of this County and everything was stamped and approved. In 2007 they condemned half of the park with the flood zone, meaning that the mobile homes had to be jacked up to comply. But this took half of my park away, and has tried to live with this since 2007. The mobile home park is weak at best with single wides because they're not being financed anymore. Mr. Dean stated that this has financially crippled him, because he can't make a profit the way it is now, an RV park is the only way he can do it. The worst flood that we had was when the Hope Mills Dam broke, and the water level naturally rose behind the park, but it never took one space out, not one family had to leave. Mr. Dean stated that he hopes that the board will allow him to place an RV park on the site because of the circumstances.

Ms. Hall asked Mr. Dean what the length of time of occupancy when people come to the RV park.

Mr. Dean stated basically 90 days or less.

Ms. Hall asked if some stayed longer than 90 days in the current park.

Mr. Lloyd stated that the Ordinance stated 90 days, this poses an extreme problem for the inspectors, which another problem with RV parks. We can't be sure when an RV moves in or out and traditionally what we've seen in the County is people live in these and it's very hard to enforce the Ordinance.

Mr. Dean stated that it has happened where they have stayed longer than 90 days.

Ms. Hall asked if there were four other mobile home parks in the area and if they were profitable.

Mr. Dean stated that they were. An RV space brings more income than a mobile home space will.

Public Hearing closed.

Mr. Morris stated that he didn't have enough information and would like to defer to the next meeting when there is an actual plat of where everything is going to be and the time frame.

A motion was made by Mr. Morris, seconded by Mr. McLaurin, to defer case P10-32 for 30 days so the applicant could come back with more information and to include a time frame and include the actual locations of the proposed RV sites. Unanimous approval.

IX. DISCUSSION

Mr. Lloyd presented the work programs from the municipalities.

Mrs. Piland made a motion, seconded by Chair Epler to approve the work program as submitted. Unanimous approval.

X. FOR YOUR INFORMATION

DIRECTORS UPDATE

There was none.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 10:45 p.m.