

P13-15

PENDING AMENDMENT

Town of Eastover

Zoning Ordinance

Article IV Permitted, Conditional and Special Uses; Section 403 Use Matrix
Zero Lot Line Developments as Conditional Zoning

CURRENT MEETING INFORMATION:

County Joint Planning Board, April 16, 2013 at 7:00 pm, Historic Courthouse, 130 Gillespie Street, Fayetteville, 2nd floor hearing room

CASE HEADING:

P13-15. REVISION AND AMENDMENT TO ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, AS ADOPTED BY THE TOWN OF EASTOVER ON NOVEMBER 6, 2012 AND APPLICABLE ONLY TO PROPERTIES WITHIN THE CORPORATE LIMITS OF THE TOWN, AMENDING SECTION 403 USE MATRIX BY INSERTING IN ALPHABETICAL ORDER *ZERO LOT LINE DEVELOPMENT* IN THE LAND USE COLUMN AND REQUIRING APPROVAL OF ALL ZERO LOT LINE DEVELOPMENTS AS CONDITIONAL ZONING INDICATED BY INSERTING A "Z" IN EACH OF THE ZONING CLASSIFICATIONS COLUMNS TO BE IMPLEMENTED WITHIN THE TOWN AS A SUPPLEMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE PROVISIONS UNTIL SUCH TIME THAT THE TOWN ADOPTS A COMPLETE EASTOVER ZONING ORDINANCE. (EASTOVER)

ADDITIONAL INFORMATION:

Complete text is attached.

CONTACT INFORMATION:

Patti Speicher at 910-678-7605, email: pspeicher@co.cumberland.nc.us or
Matt Rooney at 910-678-7625, email: mrooney@co.cumberland.nc.us

P13-15

Town of Eastover Supplement to County Zoning Ordinance

ZERO LOT LINE DEVELOPMENTS AS CONDITIONAL ZONING

P13-15. REVISION AND AMENDMENT TO ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, AS ADOPTED BY THE TOWN OF EASTOVER ON NOVEMBER 6, 2012 AND APPLICABLE ONLY TO PROPERTIES WITHIN THE CORPORATE LIMITS OF THE TOWN, AMENDING SECTION 403 USE MATRIX BY INSERTING IN ALPHABETICAL ORDER *ZERO LOT LINE DEVELOPMENT* IN THE LAND USE COLUMN AND REQUIRING APPROVAL OF ALL ZERO LOT LINE DEVELOPMENTS AS CONDITIONAL ZONING INDICATED BY INSERTING A “Z” IN EACH OF THE ZONING CLASSIFICATIONS COLUMNS TO BE IMPLEMENTED WITHIN THE TOWN AS A SUPPLEMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE PROVISIONS UNTIL SUCH TIME THAT THE TOWN ADOPTS A COMPLETE EASTOVER ZONING ORDINANCE. (EASTOVER)

AMEND a Town of Eastover supplement to the County Zoning Ordinance adopted by the Town Council on November 6, 2012; specifically ARTICLE IV Permitted, Conditional and Special Uses; Section 403 Use Matrix, by establishing that all **Zero Lot Line Developments** proposed for properties within the corporate limits of the town be submitted as **Conditional Zoning** request in the same manner as the current conditional zoning application process for Eastover. The proposed ordinance text amendment is on the following page.

SECTION 403 USE MATRIX

P = PERMITTED USE
S = SPECIAL USE (Sec. 1606 – Bd of Adj approval required)
Z = CONDITIONAL ZONING (Art V – Town Council approval required)

LAND USES	ZONING CLASSIFICATIONS																			
	CD	A1	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
TRADES CONTRACTOR ACTIVITIES, with or without outside storage of equipment or supplies																	P	P	P	P
TRAILER RENTALS, including terminal activities, hauling and/or storage, incidental to same, but excluding mini-warehousing as defined herein																		P	P	p
TRUCK TERMINAL ACTIVITIES, repair & hauling and/or storage																		P	P	P
UPHOLSTERING OR FURNITURE REFINISHING																	P	P	P	P
VARIETY, GIFT AND HOBBY SUPPLY SALES																P	P	P		
VENDING MACHINE RENTAL																		P	P	P
VETERINARIAN (Sec. 916)		P	P	P			P									P	P	P		
WHOLESALE SALES, with operations conducted and merchandise stored entirely within a building and not otherwise listed herein																		P	P	P
WIRELESS COMMUNICATIONS & ACCESSORY SALES																P	P	P		
<u>ZERO LOT LINE Development (Subdivision Ordinance)</u>	<u>Z⁵</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z⁶</u>	<u>Z⁷</u>	<u>Z⁷</u>	<u>Z⁷</u>	<u>Z⁷</u>	<u>Z</u>	<u>Z</u>									

⁵ See Sec. 1101.H, Lot Area Exceptions in Conservancy Districts

⁶ Except for townhouse developments, single family residential zero lot line developments shall be submitted under Article VIII, Density Development-Conditional Zoning District

⁷ All residential uses shall be submitted under Article VI, Mixed Use Development-Conditional Zoning District or Sec. 914.1, Mixed Use Building; if located within Eastover Commercial Core Overlay District, Article VIII.I governs

Town of Eastover
Explanatory Notes
for
Zero Lot Line Developments as Conditional Zoning

1. Currently zero lot line (ZLL) developments are regulated only by the subdivision ordinance, adding *Zero Lot Line Development* to Section 403, Use Matrix of the zoning ordinance will allow the town to require conditional zoning for all proposed ZLL developments – residential and non-residential. The current subdivision regulations leave it up to the developer to choose whether or not to propose a ZLL development. (Plats submitted under the state statute exemptions, commonly referred to as *No Approval Required (or NAR)* cannot qualify as a ZLL unless the lots were originally approved as part of a ZLL development.)

As drafted, the proposed amendment will not require conditional zoning for any standard (non-ZLL) subdivision. Therefore, residential developments with existing zoning of R30, R20, R15, R10 (R7.5), R6, or R5A could be developed at the ordinance specified size and meeting yard setbacks after receiving Town Council subdivision approval as currently occurs for non-public hearing items.

Clarification Note: A ZLL development cannot exceed the maximum density for the zoning district of the property where the development is proposed to be located. ZLL gives benefit to the developer only for interior yard setbacks not adjacent to public streets – all ordinance required setbacks around the periphery of the proposed development and along public streets must be complied with – and lots may vary in size so long as the overall average number of lots (or units) allowed is not exceeded.

2. The “Z” indicating conditional zoning in the CD zoning district on the matrix will allow that portion of the development zoned CD to be calculated for density and park, recreation & open space; however, other than boat piers, picnic tables and similar structures, the land area zoned CD cannot be developed. *Footnote 5* refers to Section 1101.H of the Zoning Ordinance, this section reads:

H. Lot Area Exception in Conservancy Districts. In the CD Conservancy District, the area may be used as part of any contiguous zoning district for calculating density of an entire development and satisfying setback requirements for lots within the development. That portion of such lots within the development falling within the CD District shall only be used for open space uses, and no principal or accessory structures shall be permitted, except boat landing piers when permitted by applicable Federal, State, or local regulations.

3. The request to process this amendment was specifically addressing developments for lot sizes proposed at less than the R40 zoning requirements. Mandating that all ZLL developments require conditional zoning approval will prevent a property owner/developer from circumventing the ordinance. Circumvention could be possible when an individual proposes a ZLL subdivision (not as conditional zoning) on a track zoned A1 or R40, with public utilities available and one-quarter acre (or less) lots with one remaining large track – see *Attachment 1* as an example. There is no minimum size for a ZLL development under the subdivision ordinance provisions so long as the overall density is not exceeded and other ordinance standards can be complied with. There are numerous

instances of developments similar to the example attached located within Cumberland County, which is why the proposed amendment includes a “Z” for conditional zoning for all ZLL developments proposed within the A1 and R40 zoning districts as well as other districts.

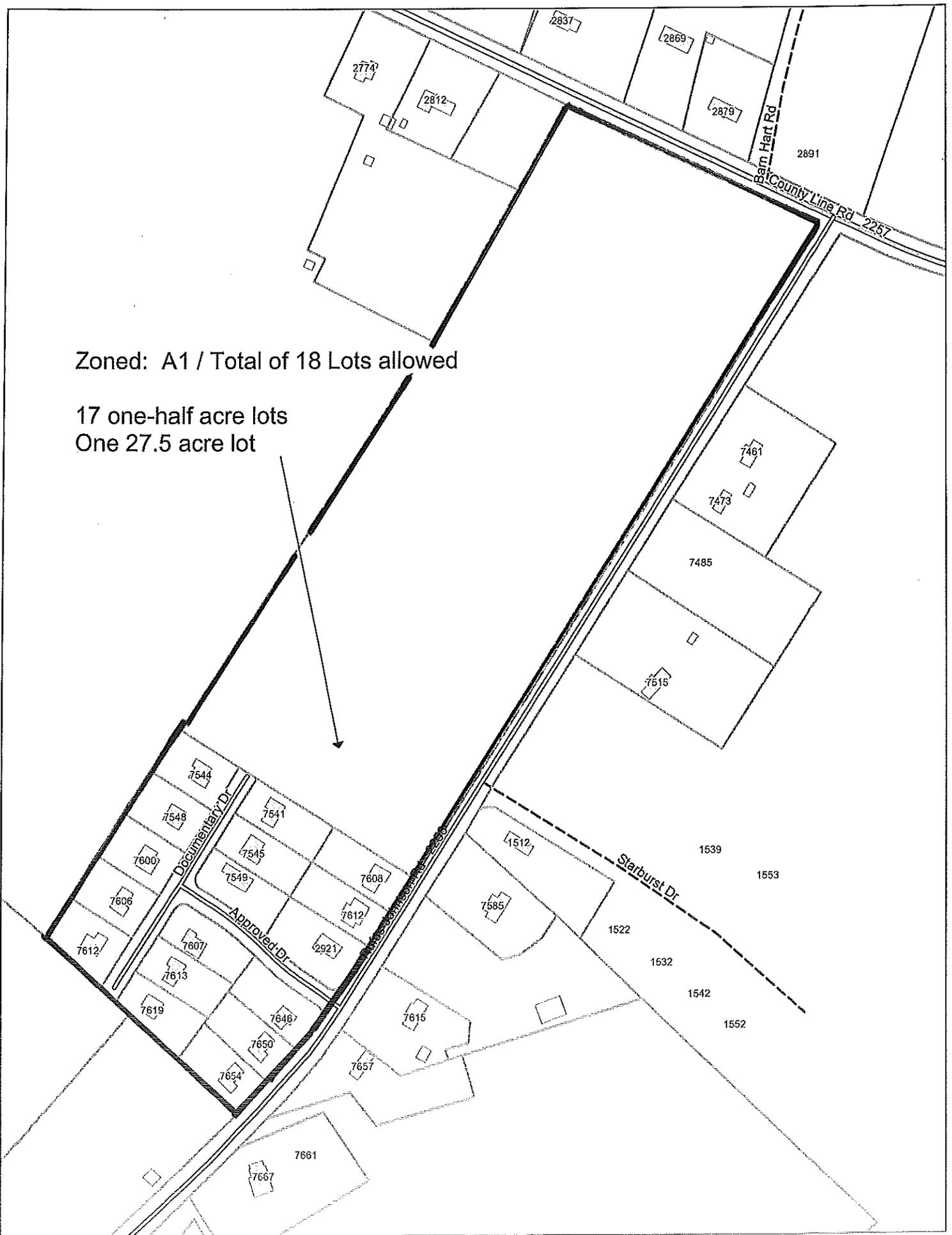
4. *Footnote 6* applies to proposed ZLL developments in the R30 to R5A residential zoning districts and requires all single family developments to be considered by submission of a Density Development - Conditional Zoning application. This requirement would not apply to multi-family (rental) units since they are approved as a “group development” project. It also does not include condominium proposals. Both multi-family and condo plans would continue to be presented to the Town Council for consideration of approval as non-public hearing items. With multi-family and condominium plans, the developer has to comply with all adopted periphery yard setbacks.

Townhouse developments could be excluded from the proposed Density Development -Conditional Zoning requirements in these districts because they are inherently ZLL developments – other than the common walls between individual units, the developer will be required to comply with the applicable yard setbacks for the current zoning of the property as well density maximums.

5. *Footnote 7* clarifies that because residential uses are allowed as part of a Mixed Use Development – Conditional Zoning or as a “mixed use building” in the office/institutional and commercial districts, that this amendment would still allow plans to be submitted as such. In addition, it is noted that the standards for the recently adopted Eastover Commercial Core Overlay would have to be complied with for developments proposed within the overlay district.
6. Timing and costs: Currently for standard and ZLL subdivisions, the process from time of submission of the application takes approximately thirty to 45 days for the request to be presented to the Town Council. The preliminary plan fee is \$100 for five or less lots and \$200 for more than five.

If required to submit ZLL plans as conditional zoning application, the process would take 60 to 90 days, must be presented to the Planning Board for a recommendation and then to the Town Council. The fees vary depending on size of tract and type of development. Residential ZLL conditional zoning (including Density Developments) are \$500. Commercial (includes Mixed Use) are \$700 for less than five acres, \$800 for five acres and up in size.

A final plat fee of \$25 is charged at the time of the plat approval for recording. This fee is charged regardless of the type of approval.



Zoned: A1 / Total of 18 Lots allowed

17 one-half acre lots
One 27.5 acre lot



Town of Eastover - Town Council Meeting

Monday, May 7, 2013, 7:00 p.m.

Eastover Community Center

**x☐Mayor Charles G. McLaurin, Presiding Council Members: x☐Lawrence Buffaloe,
x☐Willie Geddie, x☐Cheryl Hudson, x☐Donald Hudson, x☐Benny Pearce,
and x☐Sara Piland**

MINUTES OF MEETING – May 7, 2013

Mayor Charles G. McLaurin, Council Members Sara Piland, Cheryl Hudson, Donald Hudson, Lawrence Buffaloe, Willie Geddie, and Benny Pearce were in attendance at the May 7, 2013, Eastover Town Council Meeting. A quorum was present. Also in attendance were Attorney John Jackson, Ms. Patti Speicher from the Cumberland County Planning & Inspections Department, Mr. Kim Nazarchyk Town Manager, and Ms. Jane Faircloth Town Clerk.

I. Call to Order:

Mayor Charles McLaurin called the May 7, 2013 meeting of the Eastover Town Council to Order at 7:00 p.m., and welcomed all in attendance.

II. Invocation / Pledge of Allegiance:

Council Member Benny Pearce asked all in attendance to have a moment of silent prayer, and led in the Pledge of Allegiance.

III. Approval of Agenda:

Council Member Donald Hudson made a motion to approve the Agenda as stated. The motion was 2nd by Cheryl Hudson. The vote was unanimous for approval.

IV. Public Comments:

There were two individuals signed up to speak in the public comments section.

They are as follows: Mr. Dharam Paul Singula, 3353 Dunn Road, Eastover, NC, and Ms. Amy Baker 3353 Dunn Road, Eastover, NC.

Mr. Singula spoke about the building at 3353 Dunn Road, Eastover, NC. He stated that it is an existing building and sidewalks and landscaping do not need to be done. He stated that all the tenant is planning to do is to paint the building. He stated that the tenant is going to open a dress shop. The Council informed Mr. Singula that this was not the proper place in the meeting to discuss this issue. The Council stated that they would discuss further into the meeting at the end of the Discussion Agenda.

Ms. Amy Baker, 3353 Dunn Road, Eastover, NC stated that she is the tenant and is planning to open a dress shop. She stated that she does not own the building and cannot put

in sidewalks and landscaping. She stated the parking area is paved all the way to the highway.

V. Consent Agenda:

1. Consider approval of the March 13, 2013 Minutes.
2. Consider approval of the April 2, 2013 Minutes.
2. Consider approval of the April 9, 2013 Minutes.
3. Consider approval of the March 31, 2013 Financial Report.

Council Member Cheryl Hudson made a motion to approve the Consent Agenda with an amendment to correct a name on the March 13, 2013 Minutes. The motion was 2nd by Council Member Lawrence Buffaloe. The vote was unanimous for approval.

VI. Discussion Agenda:

Agenda Item #1:

1. PUBLIC HEARING: CASE P13-15. REVISION AND AMENDMENT TO ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, AS ADOPTED BY THE TOWN OF EASTOVER ON NOVEMBER 6, 2012 AND APPLICABLE ONLY TO PROPERTIES WITHIN THE CORPORATE LIMITS OF THE TOWN, AMENDING SECTION 403 USE MATRIX BY INSERTING IN ALPHEBETICAL ORDER "ZERO LOT LINE DEVELOPMENT" IN THE LAND USE COLUMN AND REQUIRING APPROVAL OF ALL ZERO LOT LINE DEVELOPMENTS AS CONDITIONAL ZONING INDICATED BY INSERTING A "Z" IN EACH OF THE ZONING CLASSIFICATIONS COLUMNS TO BE IMPLEMENTED WITHIN THE TOWN AS A SUPPLEMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE PROVISIONS UNTIL SUCH TIME THAT THE TOWN ADOPTS A COMPLETE EASTOVER ZONING ORDINANCE. (EASTOVER)

Mayor Charles McLaurin **opened** the Public Hearing on Case No. P13-15.

Ms. Pattie Speicher from the Cumberland County Planning & Inspections Department briefed the Council on Case No. P13-15. She stated that the Planning & Inspections Staff recommends approval of the proposed zero lot line text amendment as a supplement to the County Zoning Ordinance for the Town of Eastover. She stated the amendment will require all proposed zero lot line development plans to be submitted with a rezoning application affording the opportunity for the town council to ensure that the rural character of the area is retained, which is the stated primary goal of the Eastover Area Detailed Land Use Plan.

Ms. Speicher stated that since incorporation, the Town Council's vision has been to ensure growth is consistent with the community values that include preserving the rural character, protecting existing trees and wet lands where possible, and development patterns that provide mostly one to three acre single family lots. She stated that this amendment requires the developer to address these values through the rezoning application process; and this amendment was requested by the Town of Eastover.

Mayor McLaurin asked the Clerk if anyone had signed up to speak for or against this Case No. P13-15. The Clerk replied no.

Mayor McLaurin asked if there were any further discussions among the Council.

Mayor McLaurin asked for a motion to **close** the Public Hearing on Case No. P13-15.

Council Member Cheryl Hudson made a motion to Close the Public Hearing. The motion was 2nd by Council Member Donald Hudson. The motion was unanimously approved by Council.

Mayor McLaurin asked for a motion to **approve** the revision and amendment to Article IV Permitted, Conditional and Special Uses, as adopted by the Town of Eastover. Council Member Sara Piland made a motion to approve Case No. P13-15 as presented. The motion was 2nd by Council Member Donald Hudson. The motion was unanimously approved by Council.

Agenda Item #2:

CASE NO. 13-039. CONSIDERATION OF THE CATHERINE H. PEARCE PROPERTY, REQUEST FOR A SUBDIVISION REVIEW, COUNTY SUBDIVISION ORDINANCE; ZONING: A1; TOTAL ACREAGE: 14.61 +/-; LOCATION: 1850 & 1862 MIDDLE ROAD (SR1728). (EASTOVER)

Council Member Benny Pearce requested that he be recused from discussion and voting on this Case No. 13-039, as this is he and his wife's property. Council Member Sara Piland made a motion to recuse Mr. Pearce from this case. The motion was 2nd by Council Member Cheryl Hudson. The motion was unanimously approved by Council.

Ms. Patti Speicher from the Cumberland County Planning & Inspections Department briefed the Council on Case No 13-039. She stated the developer is requesting approval of a two lot subdivision in conjunction with a recombination of an existing lot. The proposed Lot 3 and the existing recombined Lot 1A have existing dwellings on them; proposed Lot 2 is vacant. The subject property has 822.65' feet of road frontage along SR 1728 (Middle Road). She stated that water will be provided by the Eastover Sanitary District and the septic must be approved by the Cumberland Health Department. She stated that the condition sheet is included in your packet.