

P17-07

PENDING AMENDMENT

County Subdivision Ordinance
(Hope Mills Sidewalks in MIA & MIA Provisions)

CURRENT MEETING INFORMATION:

County Joint Planning Board, May 16, 2017 at 7:00 pm, Historic Courthouse, 130 Gillespie Street, Fayetteville, 2nd floor hearing room

CASE HEADING:

(HEADING HAS CHANGED)

P17-07. REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY SUBDIVISION ORDINANCE AMENDING ARTICLE XXIII, IMPROVEMENT AND DESIGN STANDARDS, SECTION 2302. AREA-SPECIFIC STANDARDS, A. MUNICIPAL INFLUENCE AREAS; AND APPENDIXES EXHIBIT 4, OFFICIAL MUNICIPAL INFLUENCE AREA AND SEWER SERVICE AREA MAP, AND EXHIBIT 5 MUNICIPAL INFLUENCE AREA DEVELOPMENT STANDARDS, HOPE MILLS COLUMN, ROW ENTITLED *SIDEWALKS* (PAGE E5-E).

ADDITIONAL INFORMATION:

At their April 18, 2017 Joint Planning Board regular meeting the board members present voted to deferred action on this case until their May 2017 meeting. The board requested that staff get with the Hope Mills Board of Commissioners and see if the staff and town could come to an agreement.

The attached amendment was initially sent out as a request from the Town of Hope Mills so that the town's recently adopted sidewalk provisions would apply to County properties within the town's MIA when those properties are developed. The Code Committee's recommendation is that if the new town standards are to apply, the MIA should be reduced to a reasonable area.

CONTACT INFORMATION:

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P17-07
COUNTY SUBDIVISION ORDINANCE TEXT AMENDMENT
[Municipal Influence Area (MIA) and Hope Mills Sidewalks in MIA]

HEADING HAS CHANGED

P17-07. REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY SUBDIVISION ORDINANCE AMENDING ARTICLE XXIII, IMPROVEMENT AND DESIGN STANDARDS, SECTION 2302. AREA-SPECIFIC STANDARDS, A. MUNICIPAL INFLUENCE AREAS; AND APPENDIXES EXHIBIT 4, OFFICIAL MUNICIPAL INFLUENCE AREA AND SEWER SERVICE AREA MAP, AND EXHIBIT 5 MUNICIPAL INFLUENCE AREA DEVELOPMENT STANDARDS, HOPE MILLS COLUMN, ROW ENTITLED *SIDEWALKS* (PAGE E5-E).

ARTICLE XXIII
IMPROVEMENT AND DESIGN STANDARDS

SECTION 2302. AREA-SPECIFIC STANDARDS.

A. Municipal Influence Areas.

1. *Municipal Influence Area Application.* The Board of Commissioners may approve and establish a *Municipal Influence Area* (MIA) for a municipality. All subdivisions or developments with four or more proposed lots/units derived from the same parent tract as of the date of this ordinance and located within a municipality's MIA shall be designed and constructed in accordance with the subdivision design standards officially adopted by the municipality and explicitly listed in this ordinance, except that no payment in lieu for any required improvement may be charged as a condition of approval of the proposed development for the benefit of any municipality. ~~as provided in any~~ The terms of any interlocal agreement adopted by the County Commissioners and affected governing bodies shall prevail in the event of conflict between the provisions of this ordinance and the agreed upon terms of the interlocal agreement. The subdivision design standards for each municipality are attached to this ordinance as "Exhibit 5" and entitled *MIA Subdivision Design Standards*.

(Amd. 12-19-11)

2. *Municipal Influence Area Map.* Upon annexation of property or properties within a municipality's *Municipal Influence Area* (MIA), the MIA boundary shall automatically extend approximately the same width and in the same general area as the property being annexed. The newly established MIA boundary shall follow natural barriers, major roadways, railroads, or property boundaries as appropriate. In the event the governing body of the municipality and the Planning Staff do not agree on the location of the boundary as extended, the matter will be scheduled for

final determination by the Board of Commissioners upon the commissioners' receipt of a recommendation from the Joint Planning Board. The official MIA map – see Exhibit 4 – shall be maintained by the Planning and Inspections Department and kept on file with the office of the Clerk to the County Board of Commissioners.

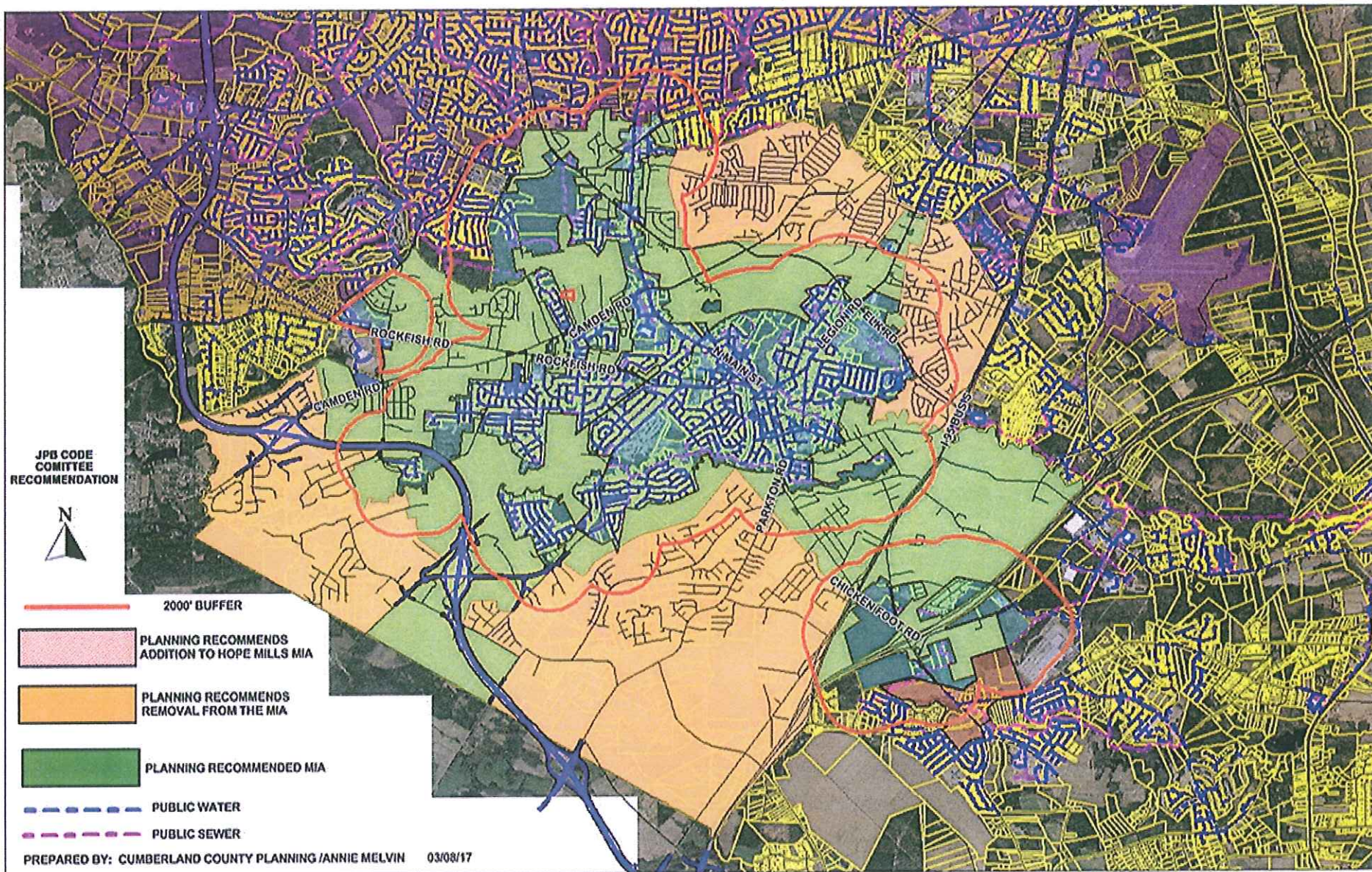


Exhibit 1 - MIA Development Standards

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
<p>Sidewalks (complying w/ ADA standards)</p> <p>Sidewalks (complying w/ ADA standards), <i>continued</i></p>	<p>One side of all streets w/in development; Along existing collector or arterial street adjacent to development [Sec. 25-61(5)] [Per interlocal agreement, in SSA on one side of collector streets (serves/intended to serve at least 100 dwelling units) and both sides of all thoroughfares]</p>	<p>Both Density-equal to or greater than 2 units-per-acre, both sides of all proposed streets, internal drives for non-residential & multi-family -- required-only-when curb-&-gutter-type street-cross-section exists; and along Along existing collector-or-arterial street(s) adjacent to development; sidewalks standards shall not apply in the Cumberland Industrial Center [Sec. 86A-405 86-122(g)]</p>	<p>One side of street, location determined by Town Building Inspector [§155.67(F)]</p>	<p>Pending -- currently same as County</p>	<p>4' wide along all streets whether proposed (new) or existing, except cul-de-sac serving 8 or less lots/units</p> <p>When adjacent to parking area, 6' wide (Sec. 4.3.g)</p>	<p>4' paved sidewalks on one side of all new streets adjacent to curb and gutter (Sec.4.1.h)</p>	<p>Not applicable; however, sidewalks cannot be located over Town-owned water lines & Town will not accept existing system with sidewalks over lines</p>		
Group Development Provisions	Same as County	<p>Min. size of tract 40,000 sq ft;</p> <p>Setbacks comply with zoning of site</p> <p>40' access point</p> <p>1/35 acre per unit on site recreation</p>	<p>Min. size of tract 40,000 sq ft;</p> <p>Setbacks comply with zoning of site</p> <p>40' access point</p>	Pending -- currently same as County	Same as County (Sec. 3.21)	Same as County (Sec. 3.21)	Not applicable	Same as County (Sec. 3.21)	Same as County (Sec. 3.21)

P17-07: Timeline and Background Information

May 1, 1995	2010 Land Use Plan was adopted by the Board of Commissioners. Included in the plan was the creation of the Municipal Influence Area (MIA) concept. A MIA was established for each municipality with the intent to facilitate annexation by ensuring the minimum development standards of the affected municipality were met as properties were developed. This concept was intended to ensure that annexations were more efficient and less expensive. (pp. 4-1 to 4-2)
May 16, 2011	Over the years, the MIA boundaries were changed and/or removed due to non-participation in the joint planning process and ultimately reinstated. The MIA boundaries as they exist today were last modified in 2011 by the County Commissioners. (p. 4-3)
June & July 2011 & May 2012	The North Carolina General Assembly vastly changed the laws governing involuntary annexations of properties which have had the effect of municipalities finding it difficult to successfully involuntarily annex properties. (Rather than including the various bills, a blog from the UNC School of Government is included, pp. 4-4 to 4-6)
November 18, 2013	The County Board of Commissioners adopted the Southwest Cumberland Land Use Plan (SW LUP) which included the SW Land Use Map. The map as adopted includes a considerable amount of properties within the Hope Mills MIA designated as either for "farmland" (preserve rural character, promote measures that protect farmland from urban development and encroachment, one unit per acre or more) or "suburban" (allowable density of less than two units per acre) (p. 4-7)
March 17, 2014	The Town of Hope Mills' Board of Commissioners adopted the SW LUP as addressed above.
June 22, 2015	The Hope Mills Board of Commissioners approved text amendments to the town's subdivision and zoning ordinances related to their sidewalk requirements. (The zoning ordinance amendments are irrelevant to this current case.) The text amendment was made applicable to development of properties within the town immediately. (pp. 4-8 to 4-10)
June 29, 2016	The General Assembly ratified changes to the Public Works Commission's Charter, among the changes is the declaration forbidding Fayetteville Council to request annexation in order to receive water service. (pp. 4-11 to 4-13)
December 9, 2016	The Hope Mills Town Manager hand delivered a letter to the County Manager requesting that the MIA provisions concerning sidewalks be amended so that when properties within the Hope Mills MIA were developed, the June 2015 sidewalk regulations would apply. A courtesy copy of the letter was delivered to the County Planning Staff on the same day. (p. 4-14)

January 2017 EOM	The County Planning Staff met with the then Interim Town Manager (now Manager) and the Town Planner explaining that the County Staff could only support the requested sidewalk amendment if the MIA boundaries for the town were revised. The County Staff's position was based on the adopted SW Land Use Plan and the General Assembly's Session Laws amending the annexation laws, which resulted in the staff recommending that the areas designated as farmland and suburban in addition to the developed areas being removed from the MIA.
February 2017 BOM	The County Staff met with the Hope Mills Mayor, one Commissioner, and the Manager and Planner with the town representatives explaining their requested changes to the proposed MIA boundaries. The County Staff was agreeable to some of the requested changes.
February 21, 2017	The County Planning Staff presented the Hope Mills requested MIA amendment to the Joint Planning Board's Codes Committee. Staff explained the proposed modification to the MIA boundary, the Land Use Plan and the town representative's position. The committee voted to recommend that the Planning Board not take action on the amendment until the staff brings back the proposed changes to the MIA.
February 21, 2017	The Joint Planning Board voted unanimously to send the sidewalk text amendment back to the Codes Committee.
March 6, 2017	The Hope Mills Board of Commissioners adopted a resolution indicating their specific requested boundaries and the reasoning for said boundaries. (p. 4-15 to 4-17)
March 14, 2017	The Planning Staff re-visited the Hope Mills Commissioners' request and made some minor modifications to the proposed boundary. In addition, staff agreed that if the proposed staff version was adopted, that upon annexation the boundaries should automatically shift a similar distance.
March 21, 2017	The Codes Committee considered the Hope Mills' Commissioners request and the County Staff's proposal. By unanimous vote, the committee recommended approval of the Hope Mills request for the town's June 2015 sidewalk regulations to apply within the town's MIA provided that the staff version of the proposed MIA boundary along with the text amendment for MIA boundaries to automatically shift was approved.

GENERAL RECOMMENDATIONS

The Plan contains some recommendations which are broad concepts applicable to all development in the County. This Section outlines these general recommendations, which include the Urban Services Area/Municipal Influence Area Concept, "Designated Entrance Corridors" Concept, the Nodal/Corridor Urban Form Concept, the 2010 Land Use Plan Map, and the Transitional Use and Zoning Policy Concept.

THE URBAN SERVICES AREA/MUNICIPAL INFLUENCE AREA (MIA) CONCEPT

Early planning efforts in Cumberland County recognized the need to address urban sprawl. This was addressed in 1973 through the Urban Services Area Concept. Over the years, the concept was used as a planning tool by the Planning Staff in its deliberations on rezoning cases. Recently, the Board of County Commissioners adopted the policy of enforcing new development standards within the Urban Services Area. This action is a step toward developing uniform development standards throughout Cumberland County.

The Cumberland County 2010 Land Use Plan revisited this concept and found it to be conceptually sound and currently applicable. The Urban Services Area is defined in **Exhibit 3** - Urban Services Area Map. During the Plan development process, it was found that some municipalities wanted the flexibility to be unique and maintain their identity. To meet this goal, since none of the municipalities in the County have extra-territorial jurisdiction, a concept called the Municipal Influence

Area (MIA) was incorporated into the Urban Services Area Concept. The Municipal Influence Area (MIA) Concept was developed primarily to designate portions of the Urban Services Area that were to be developed to specific municipal standards. The Municipal Influence Areas are shown in **Exhibit 4** - Municipal Influence Areas Map. The advantages of the MIA Concept are that it allows each governing body to be unique; it motivates them to plan and program the extension of public services and facilities in an effective and efficient manner; and it forces the municipalities to address future annexation and growth plans, and intra-municipal boundaries before they become issues; and makes future annexations into the municipality more efficient and cheaper.

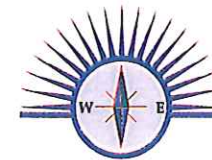
The disadvantages are that the municipalities will not have approval authority for any changes, revisions, additions, or adoption of any standards they wish to implement within their municipal influence area. This approval authority rests with the Board of County Commissioners. The standards would also have to be part of the County's Zoning Ordinance or Subdivision Regulations and would be enforced by the County Inspections Department. This makes the concept somewhat cumbersome and it will not be successful unless there is good cooperation between the Board of County Commissioners and the municipal governing bodies.

The Municipal Influence Areas for Fayetteville, Hope Mills, Spring Lake, and Stedman include large areas outside their corporate limits. Changes in each Municipal Influence Area are projected to be minor because their projected growth areas are included within their defined Municipal Influence Areas.

EXHIBIT 4 MUNICIPAL INFLUENCE AREAS MAP

LEGEND

- CITY OF FAYETTEVILLE MUNICIPAL INFLUENCE AREA
- TOWN OF HOPE MILLS MUNICIPAL INFLUENCE AREA
- TOWN OF SPRING LAKE MUNICIPAL INFLUENCE AREA
- TOWN OF STEDMAN MUNICIPAL INFLUENCE AREA
- TOWN OF WADE MUNICIPAL INFLUENCE AREA
- TOWN OF LINDEN MUNICIPAL INFLUENCE AREA
- TOWNS OF FALCON AND GODWIN MUNICIPAL INFLUENCE AREA
- URBAN SERVICES AREA BOUNDARY

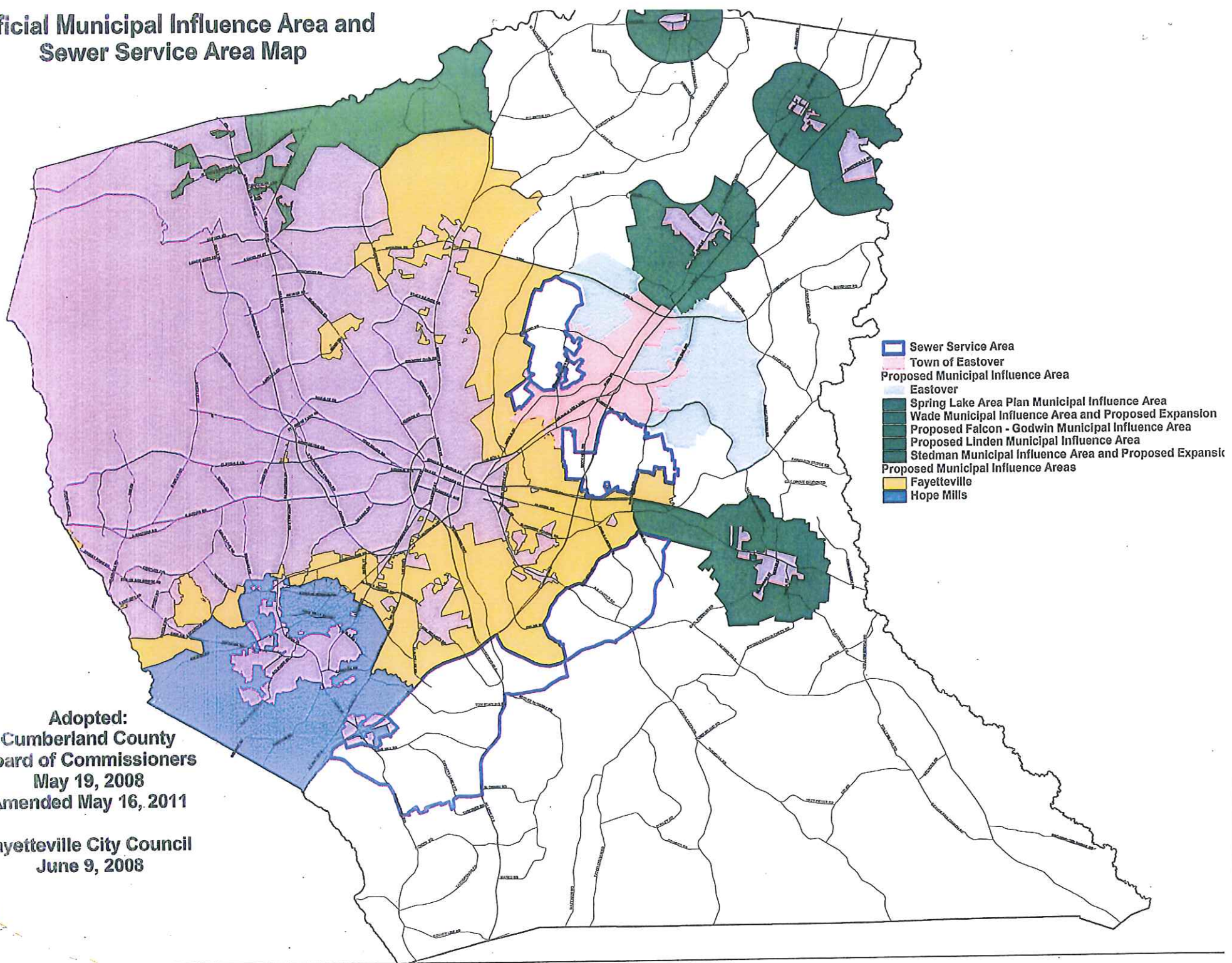


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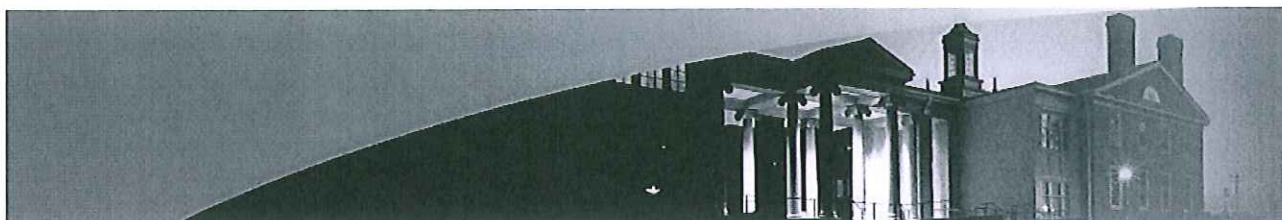
SOURCE: CUMBERLAND COUNTY JOINT PLANNING BOARD, 1996

Official Municipal Influence Area and Sewer Service Area Map



Adopted:
Cumberland County
Board of Commissioners
May 19, 2008
Amended May 16, 2011

Fayetteville City Council
June 9, 2008



Coates' Canons:
NC Local Government Law



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Annexation Reform: A Summary of the New Law

About the author

Frayda Bluestein



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This entry was posted on July 15th, 2011 and is filed under [Annexation](#), [Finance & Tax](#), [General Local Government \(Miscellaneous\)](#), [Miscellaneous](#).



UPDATE August 2013: In 2012, the legislature replaced the petition process described below with a referendum requirement. The current law is summarized [here](#).

Nearly 40 annexation-related bills were introduced during this legislative session. Included in this number were identical [House](#) and [Senate](#) bills that would have imposed a one-year moratorium on involuntary annexation, as well as several local bills undoing specific annexations that had been adopted but had not yet become effective. The legislature opted for reform instead of a moratorium and enacted [S.L. 2011-396 \(HB 845\)](#). In addition, the legislature has created an exclusion from annexation for land used for farm purposes, as set forth in a separate act, [S.L. 2011-363](#), which also affects authority over farm property in the ETJ. Local bills to repeal certain completed annexations were revised and combined in two separate acts, [S.L. 2011-173 \(SB 27\)](#) and [2011-177 \(HB 56\)](#). These acts allow completed annexations in nine cities to be terminated by petition of the owners of 60% of the annexed parcels. This post updates and replaces my earlier post about the statewide bill, and provides a summary of the new annexation law (which became effective without the Governor's signature on July 1, 2011), and of the other related legislation.

Overview of Key Provisions

There are several significant changes in the new statewide law. First, an annexation can now be terminated if the owners of 60% of the parcels in the area to be annexed sign petitions to deny the annexation. Second, cities that provide water and sewer services are required to extend water and sewer services to properties in the annexed areas within 3 and 1/2 years of the annexation at no cost to the property owners, if the owners of a majority of the parcels request services within the timeframe set out in the law. Third, the new law amends the voluntary annexation law to allow petitions for voluntary annexation of contiguous property in high poverty areas, modifying the 100% petition requirement, and allowing petitions by residents in addition to property owners. The section pertaining petitions by property owners in high poverty areas *requires* the city to annex the property and to provide water and sewer services to the area.

Decoding the Session Law

The new law reorganizes the annexation provisions in the statutes, which are codified in Article 4A of Chapter 160A. The voluntary annexation provisions are in Part 1 (contiguous) and Part 4 (satellite). Part 2 contained the involuntary annexation provisions for cities of less than 5,000, and Part 3 contained the

involuntary provisions for cities of 5,000 or more. The new law repeals Parts 2 and 3 and enacts a new Part 7 containing the requirements for involuntary annexation by all cities. The new part incorporates the same urbanization standards (the requirements for qualifying areas that may be annexed) that applied to cities of 5,000 or more, which now apply to all cities. The new part also includes changes in various sections that reflect interpretations in court cases and clarification of existing law. The basic structure of the process remains the same, beginning with a resolution of consideration, then the resolution of intent, preparation of an annexation report, public informational meeting, public hearing, and adoption of the ordinance. New components are added to provide the opportunity for property owners to request water and sewer service, and to deny the annexation by petition, so the process also includes procedures and time frames for providing notice and receiving responses as to each of these new options.

Water and Sewer Services

The city's obligation to provide water and sewer service is set out in new G.S. 160A-58.56. Under this provision, at an early stage of the annexation procedure – just after the adoption of the resolution of intent to annex – the city must provide notice to the property owners in the annexed area describing their right to have water and sewer lines and connections installed and extended to their property at no cost to them (other than user fees). Property owners have 65 days to request service. The city's obligation to extend lines to these properties at no cost kicks in only if a the owners of a majority of parcels in the area to be annexed request service. (If a majority opt in, the law requires a second notice to those who didn't, in case they want to change their minds.) If the obligation to extend service is triggered, the city is required to complete all of the improvements necessary to provide water and sewer service to each property within 3 1/2 years of the effective date of the ordinance. The language of the new law indicates that the required improvements include service to and within the property, including the part of the extension that becomes the private property of the owner.

If a the owners of a majority of parcels do not request service within the initial time frame, the city is not required to extend service. If the city does extend the lines, and property owners request service, the law sets a sliding scale (based on how much later the requests come in), which limits how much the city may charge these customers, expressed as a percentage of the total cost of connecting under the policies then in effect. This limitation on the amounts that may be charged applies to requests received within the first five years following annexation, after which property owners requesting service may be charged according the policies in effect at the time of the request.

The obligation to provide water and sewer services relates back the provision that requires provision of services “on substantially the same basis and in the same manner as such services are provided in the rest of the municipality.” So if a city doesn't provide or contract for the provision of water and sewer services, it would not apply. G.S. 160A-58.56(a) also provides that the city has no financial responsibility for the extension of lines if water and sewer services are provided under contract with another water or sewer system, and the contract does not require the city to pay for extensions to annexed areas.

Petitions to Deny Annexation

Under new G.S. 160A-58.55(i), after the city completes the entire process and adopts an ordinance annexing property, owners of property in the area to be annexed have the opportunity to sign a petition to terminate the annexation. If the owners of at least 60% of the parcels in the annexation area sign petitions to deny the annexation, it is terminated, and the city is prohibited from considering annexation of the property for at least 36 months. For a property with multiple owners to count toward the 60%, a majority of the owners must sign a petition.

The statute gives the county board of elections the responsibility for distributing and collecting the pre-printed petitions for denial. The process begins with the county tax assessor providing to the board of elections a list of property owners in the area proposed for annexation. The board of elections prepares and mails pre-printed petitions. Detailed procedures and time frames are specified for the contents, mailing, receipt, and review of petitions. Results are determined and certified by the board of elections. The statute calls for observation of this determination by three property owners, chosen by the board of elections from among those who volunteer, and three people designated by the city. If the 60% requirement is met, the annexation is terminated by operation of law, without any action by the city.

Exception for Land Used for Farm Purposes

The annexation laws previously provided for special treatment of land subject to present use value taxation under G.S. 105-277.3, allowing annexation but limiting the extent of regulation and taxation of this type of property. These provisions are not included in the new involuntary annexation provisions. Instead, the legislature has created an exception to the city's annexation authority for land used for bona fide farm purposes. In S.L. 2011-363 the legislature adopted G.S. 160A-58.54 (in the new Part 7 of the annexation laws), which provides that, “Property that is being used for bona fide farm purposes on the date of the resolution of intent to consider annexation may not be annexed without the written consent of the owner or owners of the property.” Although the language is a bit confusing, the pertinent date is probably the date of the resolution of consideration. Under a separate section of this session law the legislature lists evidence that may be provided to demonstrate that property is being used for bona fide farm purposes. I refer readers to the session law for the list, which effectively exempts from annexation a significantly larger category of property than was covered by the prior “present use value” provisions.

Amendments to Voluntary Annexation Laws

Under existing law, petitions for voluntary annexation (whether contiguous or satellite) must be signed by 100% of the property owners in the area to be annexed, and the city has no legal obligation to annex the property upon receipt of a valid petition. The new law creates two exceptions to the 100% petition requirement and creates a new requirement to annex upon receipt of a petition. These new provisions apply only to contiguous – not to satellite – annexations.

The new law adds a new subsection (b1) to G.S. 160A-31, to allow *property owners* in high poverty areas to petition for voluntary annexation. High poverty is defined as an area in which 51% of the households have incomes that are 200% or less than the most recent US Census Bureau poverty thresholds. If the owners of 75% of the parcels in such areas petition for annexation, the city *must* annex the property. The population in the area to be annexed must not exceed 10% of the existing city population, and the area must have a minimum 1/8 contiguity with the existing city limits. A city is not required to annex more than one of these areas within a 36-month period.

A second provision (new subsection (j) of G.S. 160A-31), allows *residents* in “distressed areas” – defined the same way as in (b1) described above – to petition for voluntary annexation. Under this provision, the city may consider annexation if it receives petitions signed by at least one adult resident of at least two-thirds of the resident households in the area to be annexed. The statute allows the city to require reasonable proof that the petitioner actually resides at the address indicated. The area must be contiguous, but no minimum amount of contiguity is specified. This provision *does not require* the city to annex upon receipt of a valid petition.

Cities annexing under either of these provisions must provide services to the annexed areas in accordance with the provisions in Part 7 (the new involuntary annexation provisions). This means that if the annexing city provides water and sewer services, lines must be extended at no cost to the annexed areas. The

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voluntary annexation statute does allow a city to deny a petition under subsection (b1) if the cost of extending lines is too high, as determined by a formula set out in the statute (new G.S. 160A-31(d2)), and subject to review by the Local Government Commission. If a petition is denied, another request may not be filed within the next 36 months, but during that time, the law requires the city to make ongoing efforts to secure funding sufficient to make the extension feasible. The law also requires the relevant state agencies to give priority consideration to grant requests for water and sewer projects in these areas.

Annexing State Rights of Way

Another change to the voluntary annexation laws appears to address a narrow circumstance involving annexation of state maintained streets. [S.L. 2011-57 \(HB 171\)](#) prohibits a city from petitioning itself for annexation of property it doesn't own (including a state-maintained right of way in which the city does not own a fee simple interest). Ownership of an easement in a state-owned right of way is not sufficient to support a self-annexation petition. It also prohibits the acceptance of a petition that is not signed, or that does not require a signature (which is the case for tax exempt or utility property) and the property owner objects to the annexation.

For some insights into the tax effects of these changes, check out Chris McLaughlin's [latest blog post](#).

For more information about this and other recent legislation consider attending or purchasing the archive version of our [legislative webinar](#).

«

Property Tax Implications of the New Annexation Law

Legislation Affecting Environmental Health Programs

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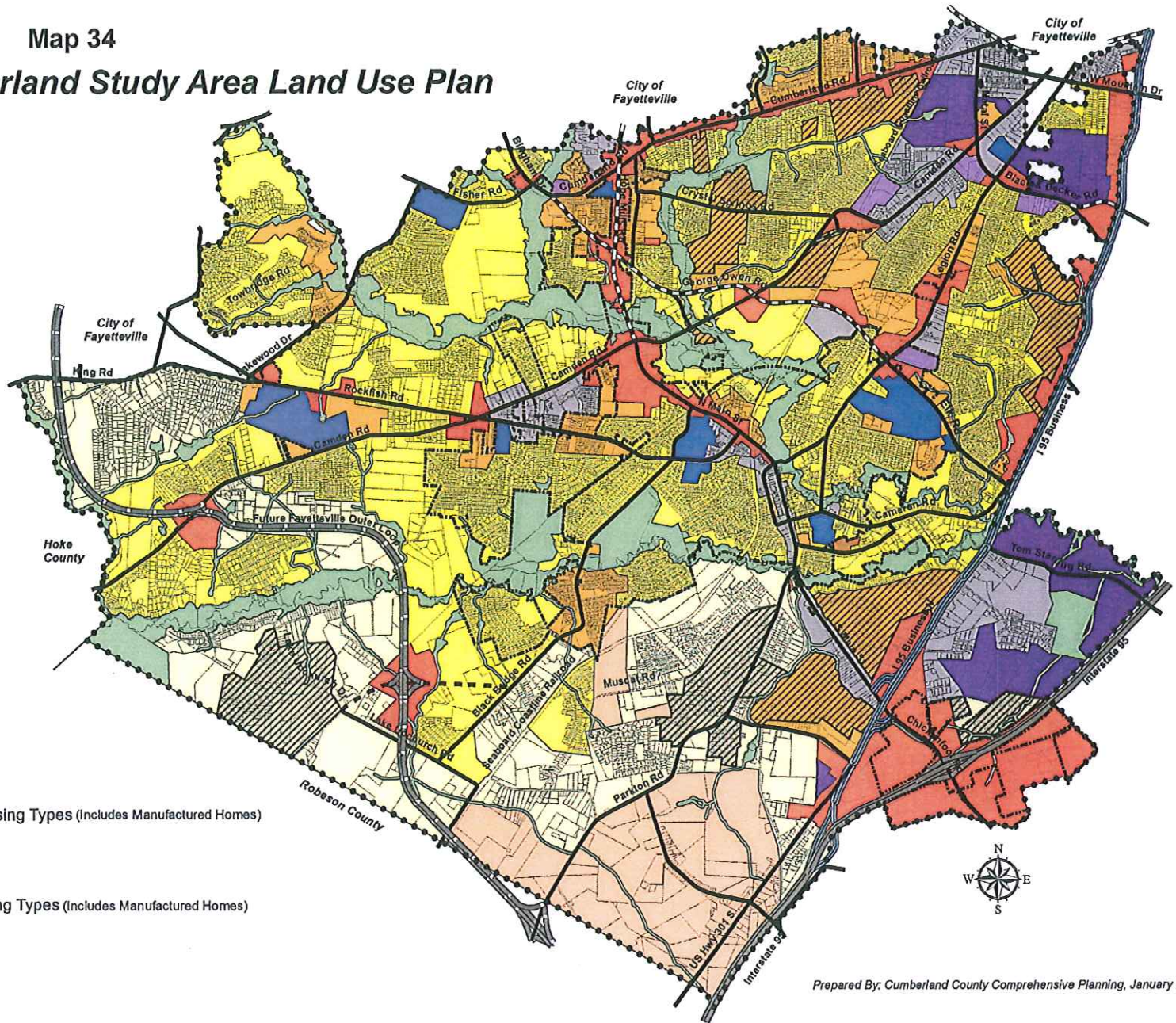
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Map 34

Southwest Cumberland Study Area Land Use Plan

Legend

- Study Area Boundary
- Hope Mills Town Limit
- Existing Freeway
- Future Freeway
- Existing Expressway
- Existing Boulevard
- Existing Thoroughfare
- Future Thoroughfare
- Office Institutional & Parks
- Heavy Commercial
- Industrial
- Light Industrial
- Farmland
- Open Space
- Suburban Density Residential
- Suburban Density Mixed Housing Types (Includes Manufactured Homes)
- Low Density Residential
- Medium Density Residential
- Medium Density Mixed Housing Types (Includes Manufactured Homes)
- High Density Residential
- Mixed Use Development



Prepared By: Cumberland County Comprehensive Planning, January 2013

4-7

Approved
6-22-15

ATTACHMENT B

P15-29

Town of Hope Mills

Subdivision and Zoning Ordinances

(Sidewalks & Walkways)

P15-29. REVISION AND AMENDMENT TO THE TOWN OF HOPE MILLS SUBDIVISION AND ZONING ORDINANCES TO MODIFY THE SIDEWALK PROVISIONS PERTAINING TO DEVELOPMENTS WITHIN THE TOWN; SPECIFICALLY AMENDING THE HOPE MILLS SUBDIVISION ORDINANCE, ARTICLE IV DEVELOPMENT IMPROVEMENT AND DESIGN STANDARDS, SECTION 86A-405. SIDEWALKS AND WALKWAYS; AND AMENDING THE HOPE MILLS ZONING ORDINANCE, ARTICLE I ADMINISTRATIVE PROVISIONS, SECTION 102A-107. ZONING PERMIT AND ARTICLE XV PLANNED DISTRICTS, SECTIONS 102A-1501. GENERAL OBJECTIVES, 102A-1502. DETAILED SITE PLAN SPECIFICATIONS, 102A-1503. SITE PLAN REVIEW, 102A-1504. BOARD OF COMMISSIONERS' CONSIDERATION; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (HOPE MILLS)

AMEND the Hope Mills Subdivision Ordinance, Article IV Development Improvement and Design Standards, Section 86A-405. Sidewalks and walkways, as indicated below:

HOPE MILLS SUBDIVISION ORDINANCE

ARTICLE IV

DEVELOPMENT IMPROVEMENT AND DESIGN STANDARDS

Sec. 86A-405. Sidewalks and walkways.

(a) *Sidewalks and walkways required.*

(1) Except as described herein, sidewalks shall be installed along public and private right(s)-of-way within and adjacent to any development located in the town's jurisdiction, and shall be constructed in accordance with the town's sidewalk specifications and construction standards, and good engineering practices. Sidewalks shall be located according to the following:

a. For proposed residential subdivisions or developments, sidewalks shall be installed on both sides of all proposed streets and drives, and along the existing street right-of-way to which the project abuts. For multi-family developments, sidewalks shall be provided along the building side of the off-street parking area in addition to other sidewalk requirements of this ordinance.

~~b. For existing residential subdivisions or developments, if a sidewalk exists along the same side of the street abutting the new development or redevelopment of a principal structure, including situations where a principal structure is destroyed by more than 50%, regardless of distance away from the proposed development, a sidewalk shall be required along the lot to be developed; if no sidewalk exists on the same street side, payment of a fee in lieu of sidewalk construction shall be mandatory as regulated in sub-section (b) of this section.~~

be. For all non-residential development with no new streets proposed, sidewalks are required along internal drives and along the existing street(s) adjacent to the subject property. Where new streets are proposed in conjunction with any non-residential development, sidewalks are required along all proposed street(s) and internal drives, and along the existing street(s) adjacent to the subject property. For non-residential developments, sidewalks shall be provided along the building side of the off-street parking area in addition to other sidewalk requirements of this ordinance.

(2) A walkway shall be installed when any subdivision or development proposed is adjacent to an existing or proposed public school or park property. The shall construct and offer for dedication to the affected public agency owning the affected park or school property a walkway not less than ten feet in width in such a location as to facilitate direct convenient access to the adjacent school or park property from the proposed subdivision or development.

(3) Sidewalks and walkways shall be constructed by the developer and inspected by the town staff prior to the completion of any building final inspection or submission of final plat approval for recordation, except where a guarantee has been approved and posted as authorized in Section 86A-602.

(4) The developer shall be responsible for the entire cost of installing sidewalks and walkways within and adjacent to the subdivision or development. Payment in-lieu of sidewalk construction may be considered by the Board of Commissioners in accordance with sub-section (b) of this section.

(b) Payment in-lieu of sidewalk construction.

(1) *General.* The payment of fees in-lieu of installing a required sidewalk or walkway may be made upon written request of the developer with approval from the Board of Commissioners upon the board finding that:

a. The street is designated as a state or local road subject to widening or improvement on an officially adopted plan;

b. The right-of-way, developing lot, or lot abutting a proposed sidewalk is not suitable for sidewalks due to floodplains, wetlands, riparian buffers, required tree preservation areas, slopes exceeding 25 percent, or other unique site conditions; or

c. The area to be subdivided or developed is too small for the construction of sidewalks or walkways to be practicable.

(2) *Procedure for approval.* The payment of such fees in-lieu shall be reviewed and approved as part of the subdivision or development application submittal. A sidewalk or walkway easement shall be included on the plan in the general area where a sidewalk or walkway would have been built had the fee in-lieu not been paid. The easement shall be offered for dedication to the town or in the case of walkways required by sub-section (a)(2) above to the agency owning the public park or

school. The request to pay the fee in lieu must be attached to the plan application, in letter form and include an itemized estimate of the expected costs of sidewalk construction sealed by the developer's engineer or other qualified licensed professional. At the meeting in which the plan approval occurs, the Board of Commissioners shall also consider the request for the payment in lieu of installing the sidewalk. If the letter requesting payment in lieu of sidewalk construction is submitted on a date after the date the application is submitted, a new and separate fee equal to one-half of the original subdivision/development submittal fee shall be charged.

(3) *Time of payment.* The fees in-lieu of sidewalks shall be paid prior to the building final inspection and/or approval of each phase of the subdivision or development submitted for final plat approval as directed by the Board of Commissioners.

(4) *Use of funds.* Payments in-lieu of sidewalk construction received in accordance with this sub-section shall be used only for the development of new sidewalks or multi-use pedestrian/bicycle paths.

(c) Exemptions. The sidewalk and in-lieu fee requirements of this section do not apply to (i) existing residential subdivisions or other existing residential development, (ii) new development consisting solely of an accessory residential structure (for example a pool, garage or shed), (iii) new development consisting solely of an addition to an existing principal residential structure that is a single-family dwelling, or (liiv) the repair or reconstruction of a damaged principal residential structure, provided that the damage to the structure is 50% or less than the value of the structure at the time it is damaged. The Town Planner may determine the value of the structure using tax assessment information, an appraisal or other similarly credible sources.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2016-47
HOUSE BILL 392

AN ACT AMENDING THE CHARTER OF THE CITY OF FAYETTEVILLE TO MAKE
CHANGES RELATED TO THE MEMBERSHIP AND OPERATION OF THE PUBLIC
WORKS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter VI of the Charter of the City of Fayetteville, being Chapter 557 of the 1979 Session Laws, as amended by Chapter 756 of the 1981 Session Laws, S.L. 1998-61, and S.L. 2008-103, is repealed.

SECTION 2. The Charter of the City of Fayetteville, being Chapter 557 of the 1979 Session Laws, as amended, is amended by adding a new Chapter to read as follows:

"Chapter VIA. Public Works Commission.

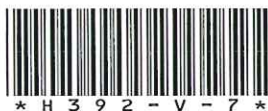
"§ 6A.1. Commission continued; election and term of members; vacancy. (a) A Commission of the City of Fayetteville to be known as the "Fayetteville Public Works Commission" (hereinafter "Commission"), as heretofore created, established, and now existing, is hereby continued and the number of members shall be four. The terms of office of each member shall be four years, and the terms shall expire four years from the date on which the appointment was originally made, provided that a member shall continue to serve until a successor is appointed. A new appointment shall be made in September of 2016, and it shall be for a term of four years. As each appointment expires, the City Council shall, at its regular meeting in September of each year, elect a member of the Commission for a term of four years to replace the expiring member. In addition, the Mayor shall annually designate a member of the City Council to serve on the Commission as an ex officio, nonvoting member.

(b) No member of the Commission may serve more than two consecutive terms. Except for the ex officio designee appointed by the Mayor, no person shall be eligible for appointment to the Commission who is an elected official of the City of Fayetteville or an employee of the City or the Commission. If a member resigns, dies, or otherwise becomes incapable of performing his or her duties, the City Council shall appoint a person to fill the remainder of the term. The four members appointed to the Commission by the City Council and the Mayor's ex officio designee shall constitute the entire Fayetteville Public Works Commission.

"§ 6A.2. Qualifications of Commissioners. The members of the Commission shall be residents of the City of Fayetteville at the time of their initial appointment and must remain so throughout their tenure on the Commission and shall be persons of recognized ability and good business judgment and standing who, in the opinion of the City Council, can and will perform their official duties (i) in accordance with prudent management and sound financial principles, (ii) in the manner provided for in this Chapter, and (iii) to the best interest of the City. If it is determined that a member of the Commission is no longer a resident of the City, that seat shall immediately become vacant and a successor shall be appointed in accordance with Section 6A.1(b) of this Chapter.

"§ 6A.3. Organization; chair, vice-chair, secretary, and treasurer. The members of the Commission shall meet as soon after their appointment as possible and shall elect out of their number a chair, vice-chair, secretary, and treasurer, each of whom shall be a different person. The duties of each shall be as prescribed by the Commission from time to time but shall not be inconsistent with the provisions of this Chapter. Each member of the Commission, including the chair, but not the ex officio City Council member, shall be entitled to vote on any question before the Commission.

"§ 6A.4. Bonds of members of the Commission. Each voting member of the Commission shall give bond to the City in the following amounts: the sum of fifty thousand dollars



accounts, and revenues) shall be and remain in the name of the City of Fayetteville. Nothing in this Chapter shall be construed as conferring upon the Commission any power or authority to convey title or ownership to sell, lease, or otherwise transfer or dispose of any property owned or held in the name of the City of Fayetteville, but under the management and control of the Commission, unless such transaction is approved by resolution of the City Council and is in compliance with the Financing Documents.

"§ 6A.10. Sale of water service. The Commission is hereby authorized and empowered to extend its water system and to sell water in any geographical area permitted in G.S. 160A-312 or other State law. The City Council shall not directly or indirectly require any individual, group, or developer to request annexation of its property by the City in order to receive water service from a water system under the management and control of the Commission. The Commission may adopt schedules of rents, rates, fees, charges, and penalties that vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the City.

"§ 6A.11. Billing electric utility customers. The Commission shall provide electric power for street lighting on all City streets and thoroughfares that are served by the Commission's electric utility service and shall bill the appropriate electric utility customer for the same, except the City of Fayetteville. The Commission shall not be responsible for providing street lighting on City streets and thoroughfares that are not served by the Commission's electric utility service.

"§ 6A.12. Budget. The Commission is a public authority as defined in G.S. 159-7(b)(10) and therefore shall prepare a budget as provided in Article 3 of Subchapter III of Chapter 159 of the General Statutes and shall publish the budget in the manner provided for in G.S. 159-12. Approval of the budget by the City Council is not required.

"§ 6A.13. Records and accounts. The Commission shall keep full and accurate minutes of all official meetings held as provided in G.S. 143-318.10 and shall exercise fiscal control related to all matters, including establishing and maintaining an accounting system and designating an official depository as provided in Part 3 of Article 3 of Subchapter III of Chapter 159 of the General Statutes.

"§ 6A.14. Receipts and disbursements. All funds handled by the Commission shall be paid over to the treasurer thereof, and all disbursements by the Commission shall only be made by order upon the treasurer, signed by the secretary, and countersigned by the chair thereof. All orders shall state for what object the same is drawn, and a record shall be kept of all such orders.

"§ 6A.15. Cash reserves. Subject to the provisions in any Financing Documents, in each fiscal year, the Commission shall maintain in the Electric Fund, the Water/Wastewater Fund, and any other utility fund established pursuant to this Chapter, sufficient cash reserves to cover not less than 90 days' operating expenses, capital outlay, and debt service on outstanding revenue bonds or notes, as shown by the budget ordinance, but shall set a target for cash reserves to cover not less than 120 days or as otherwise required by any Financing Documents.

"§ 6A.16. Remittances to City. Beginning July 1, 2016, and each year thereafter, the Commission shall, each month, if funds are available without violating the provisions of any Financing Documents, remit to the City one-twelfth of an annual amount equal to two and forty-five one hundredths percent (2.45%) of the value of the Total Net Position of the Electric Fund as reported in the Comprehensive Annual Financial Report for the Public Works Commission for each immediately preceding fiscal year ending June 30. There shall be no additional cash contributions or transfers from the Commission to the City unless the following conditions are met: (i) the Mayor declares a state of emergency under the authority granted in G.S. 166A-19.22(a) and (ii) the Commission and City Council agree on the amount of the cash contribution or transfer. No transfer of funds from the Commission to the City shall exceed the amount authorized in G.S. 159-13(14).

"§ 6A.17. Audit of books; access to financial records. At the end of each fiscal year, the books, accounts, and records of the Commission shall be audited by a certified public accountant or an accountant certified by the Local Government Commission as provided in G.S. 159-34. The City Council shall select the auditor, and the auditor shall report directly to the City Council and the Commission. Upon giving reasonable notice, the City Council shall have full access to the books, accounts, and records of the Commission.

"§ 6A.18. Quarterly and annual reports. (a) The Commission shall, on a quarterly basis, provide to the City Council a report on its activities and the utilities under its management and

- (1) The actions of the Commission authorized pursuant to the terms of this new Chapter VIA of the Charter of the City of Fayetteville shall be deemed to be caused by actions of the City.
- (2) No provisions of these amendments to the Charter shall be interpreted or applied to change the ownership or status of any revenues, plant, property, or equipment pledged as security for any outstanding indebtedness, and any such revenues, plant, property, and equipment shall remain so pledged.
- (3) The budget process, the handling of records and accounts, receipts and disbursements, maintenance of cash reserves, remittances of funds to the City, and payment of bond proceeds as set forth in Sections 6A.12 through 6A.16 and Section 6A.19 of the Charter amendments shall be subject to the terms of any Financing Documents.
- (4) Nothing herein shall be deemed to limit, impair, or alter the rights vested to bondholders or creditors under any Financing Documents.
- (5) To the extent that Section 6A.16 of the Charter is inconsistent with the document titled "Agreement Between the City of Fayetteville and the Public Works Commission of the City of Fayetteville Establishing a Formal Operating Transfer," originally dated May 12, 2008, and as amended from time to time thereafter, then the provisions of Section 6A.16 of the Charter shall control.

SECTION 5. This act becomes effective July 1, 2016.

In the General Assembly read three times and ratified this the 29th day of June,

2016.

s/ Harry Brown
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives



December 9, 2016

Ms. Amy Cannon
Cumberland County Manager
County Courthouse
117 Dick Street
Fayetteville, NC 28301

Via Hand Delivery and Courtesy Copies by Electronic Mail

Dear Ms. Cannon:

In 2015, the Hope Mills Board of Commissioners adopted a revision to our subdivision and zoning ordinance amending the requirements for sidewalks and walkways. Based on conversations with County Planning staff, it is my understanding that the Cumberland County Board of Commissioners needs to approve ordinance revisions for the Town of Hope Mills as part of the standards for Hope Mills' MIA so these requirements can be enforced in the MIA.

The revised ordinance is on the County Planning website and your planning staff is very familiar with it. They have indicated they will provide the ordinance information once the process has started. I have included the portion of our minutes indicating that the ordinance revision was approved. Accordingly, please begin the process on behalf of the Town to have these requirements included in our MIA standards. Please let me know what other actions we need to take.

As always, thank you and other County staff for all that you do for the Town of Hope Mills.

Sincerely,

John W. Ellis, III
Town Manager

Cc: Hope Mills Mayor and Board of Commissioners
Melissa P. Adams – Town Clerk
Chancer McLaughlin – Planning and Development Director
Dan Hartzog, Jr. – Town Attorney
Cumberland County Planning Staff via Patricia Speicher

Office of the Town Manager
Office (910) 426 - 4116
Electronic Mail – jwellis@townofhopemills.com

Received
12-9-16
BSS 4-14

**RESOLUTION
OF THE BOARD OF COMMISSIONERS
OF THE
TOWN OF HOPE MILLS, NORTH CAROLINA**

Resolution No. 2017-07

WHEREAS, the Town of Hope Mills has a Municipal Influence Area (MIA) agreement with Cumberland County; and

WHEREAS, Cumberland County has requested that the Town of Hope Mills re-evaluate the boundaries of the existing Municipal Influence Area; and

WHEREAS, the Town of Hope Mills is currently allocating funds for the construction of a Public Safety Facility that will facilitate an increase in emergency services personnel; and

WHEREAS, the Town of Hope Mills is currently working on a Municipal Influence Area plan in an effort to identify viable avenues of the expansion of the Town of Hope Mills limits; and


WHEREAS, Cumberland County has provided recommendations on new Municipal Influence Area boundaries while requesting that the Town of Hope Mills determine which areas to remain inside of the MIA; and

WHEREAS, the Town of Hope Mills is requesting to keep all areas of the current MIA to the south of the town limits identified by the county on the attached map (Exhibit A) as "*Planning and Hope Mills recommends removal from the MIA*", and would like to remove the remaining areas of the MIA on the attached Exhibit A to the north of the town limits identified as "*Planning and Hope Mills recommends removal from the MIA*"; and

WHEREAS, the Town of Hope Mills agrees with the Cumberland County recommendation on Exhibit A identified as "*Planning recommends addition to the Hope Mills MIA*";

NOW THEREFORE BE IT RESOLVED that the Town of Hope Mills does hereby support the above referenced changes to the Municipal Influence Area boundaries.

Adopted this 6th day of March, 2017.


JACKIE WARNER, MAYOR

ATTEST:


Deborah Holland, Interim Town Clerk



EXHIBIT A

