

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
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



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Sara E. Piland,
Cumberland County

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES
September 18, 2007

Members Present

Mr. Donovan McLaurin, Chair
Mrs. Lori Epler, Vice-Chair
Mr. Roy Turner
Mr. Clifton McNeill, Jr.
Mrs. Patricia Hall
Mr. Garland Hostetter
Mr. Harvey Cain, Jr.
Mr. Charles C. Morris
Mrs. Sara Piland

Others Present

Mr. Thomas Lloyd, Director
Mr. Cecil Combs, Deputy Director
Mr. Grainger Barrett, County Attorney
Commissioner Diane Wheatley
Mrs. Laverne Howard
Ms. Donna McFayden

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Clifton McNeill, Jr. delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd requested that Plats & Plans Case 07-060 be deferred for one month until October 16, 2007.

III. ABSTENTIONS BY BOARD MEMBERS

Vice-Chair Epler stated that she needed to abstain from Case P07-71 and Mr. Turner stated he needed to abstain from Case P07-47.

A motion was made by Mr. Hostetter, seconded by Mrs. Piland to accept the abstentions. Unanimous approval.

IV. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement regarding public hearings.

V. APPROVAL OF THE MINUTES OF SEPTEMBER 4, 2007

A motion was made by Mr. Turner, seconded by Vice-Chair Epler, to accept the September 4, 2007 Board minutes as submitted. Unanimous approval.

VI. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P07-69:** REVISION AND AMENDMENT TO THE TOWN OF SPRING LAKE, NORTH CAROLINA CODE OF ORDINANCES, CHAPTER 156: ZONING CODE, AMENDING §§ 156.007, APPLICATION OF CHAPTER; 156.008, DEFINITIONS; 156.020, STATEMENT OF DISTRICT INTENT; PURPOSE AND ZONE CHARACTERISTICS; 156.035, DISTRICT USE REGULATIONS; REPEALING: OVERLAY DISTRICTS §§156.065, GENERALLY AND 156.066, SITE PLAN REQUIRED; CREATING: SUBCHAPTER “CONDITIONAL USE DISTRICTS AND PERMITS”, §§ 156.064, COMPANION DISTRICT – CONDITIONAL USE DISTRICT; 156.067, MIXED USE DEVELOPMENT – CONDITIONAL USE DISTRICT; 156.068, PLANNED NEIGHBORHOOD DEVELOPMENT – CONDITIONAL USE DISTRICT; AND 156.069, DENSITY DEVELOPMENT – CONDITIONAL USE DISTRICT; REPEALING § 156.072, PLANNED NEIGHBORHOOD DEVELOPMENT (PND); AMENDING §§ 156.087 DISTRICT DIMENSIONAL PROVISIONS AND 156.149, FEES; REPEALING § 156.154, PLANNED NEIGHBORHOOD DEVELOPMENT; GENERAL DEVELOPMENT PLAN; CONTENT; AND UPDATING THE TABLE OF CONTENTS TO REFLECT CHANGES. (SPRING LAKE)

The Planning & Inspections Staff recommends approval of the text amendment based on the following:

1. The amendment introduces Conditional Use Districts and Permits to the Town of Spring Lake Zoning Code and establishes standards for compliance with the plan;
2. The amendment will promote Traditional Neighborhood Development by providing infill and cluster development;
3. Approval of the amendment will enhance the Town’s ability to promote a healthy lifestyle by promoting walkable communities and air quality measures; and
4. The amendment will avoid creating nonconformities in the event the town annexes properties previously approved under the Conditional Use District and Permit standards.

A motion was made by Mr. Turner, seconded by Vice-Chair Epler, to follow the staff recommendation and approve case P07-69 as submitted. Unanimous approval.

- B. **P07-70:** REVISION AND AMENDMENT TO THE TOWN OF SPRING LAKE CODE OF ORDINANCES, CHAPTER 155: SUBDIVISION REGULATIONS, AMENDING § 155.04, COMPLIANCE OF CHAPTER REQUIRED; § 155.06, DEFINITIONS, DELETING “TOWNHOUSE DEVELOPMENT” AND INSERTING “ZERO LOT LINE DEVELOPMENT”; AMENDING § 155.52, LOT STANDARDS, SUB-SECTIONS (B) AND (C); AMENDING § 155.54, VARIABLE LOT RESIDENTIAL DEVELOPMENTS, DESIGN STANDARDS BY RE-NAMING AND CREATING “ZERO LOT LINE DEVELOPMENTS” PROVISIONS AND DELETING “VARIABLE LOT RESIDENTIAL DEVELOPMENTS, DESIGN STANDARDS” PROVISIONS; REPEALING § 155.56, TOWNHOUSE DEVELOPMENTS,

REQUIREMENTS; AMENDING § 155.67, SPECIFIC IMPROVEMENTS, SUB-SECTION (H); AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (SPRING LAKE)

The Planning & Inspections Staff recommends approval of the text amendment based on the following:

1. The amendment introduces the Zero Lot Line to the Town of Spring Lake Zoning Code and establishes standards for compliance with the plan;
2. The amendment will compliment the current and proposed new standards of the Zoning Code by helping to preserve valuable open space areas while still adhering to strict standards of the public health, safety and welfare for the citizens;
3. This amendment allows the Town of Spring Lake to retain its unique standing while its regulations become more consistent with the County; and
4. The amendment will avoid creating nonconformities in the event the town annexes properties previously approved under the Zero Lot Line standards.

A motion was made by Mr. Turner, seconded by Vice-Chair Epler, to follow the staff recommendation and approve case P07-70 as submitted. Unanimous approval.

- C. **P07-72:** REVISION AND AMENDMENT TO THE TOWN OF FALCON ZONING ORDINANCE, ARTICLE II. GENERAL ZONING DISTRICT CLASSIFICATIONS, SECTION 2.1. STATEMENT OF INTENT, PURPOSE AND ZONE CHARACTERISTIC, BY CREATING SUB-SECTION 2.17. CD CONSERVANCY DISTRICT; ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 3.1. TABULATION OF PERMITTED USES, BY CREATING TABLE 1-I PERMITTED AND SPECIFIED CONDITIONAL USES, CD CONSERVANCY DISTRICT; ARTICLE VII. LOT AND YARD REGULATION, SECTION 7.3. DISTRICT DIMENSIONAL PROVISIONS, BY CREATING SUB-SECTION 7.19.1 LOT AREA EXCEPTION IN CONSERVANCY DISTRICTS; ARTICLE VII. LOT AND YARD REGULATION, SECTION 7.3. DISTRICT DIMENSIONAL PROVISIONS, BY CREATING DIMENSIONAL STANDARDS FOR THE CD CONSERVANCY DISTRICT; ARTICLE X. DEFINITION OF TERMS, SECTION 10.2. DEFINITIONS OF SPECIFIC TERMS AND WORDS, BY INSERTING IN ALPHABETICAL ORDER, AMENDING, OR DELETING TERMS RELATED TO THIS AMENDMENT; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (FALCON)

The Planning & Inspections Staff recommends approval of the text amendment based on the following:

1. The amendment introduces the CD Conservancy District to the Town of Falcon and establishes standards for compliance with the plan;
2. This amendment promotes the preservation of “environmental corridors” as listed in the 2010 Land Use Plan; and
3. The amendment for the CD Conservancy District was requested by the Town of Falcon in a letter dated August 8, 2007.

A motion was made by Mr. Turner, seconded by Vice-Chair Epler, to follow the staff recommendation and approve case P07-72 as submitted. Unanimous approval.

- D. **P07-73:** REVISION AND AMENDMENT TO THE TOWN OF FALCON SUBDIVISION ORDINANCE, AMENDING SECTION 1.6. COMPLIANCE WITH ORDINANCE REQUIRED; SECTION 1.8. DEFINITIONS; SECTION 3.20. LOT STANDARDS; CREATING SECTION 3.23. ZERO LOT LINE DEVELOPMENTS; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (FALCON)

The Planning & Inspections Staff recommends approval of the text amendment based on the following:

1. The amendment introduces the Zero Lot Line Developments to the Town of Falcon Subdivision Ordinance and establishes standards for compliance with the plan;
2. The amendment for the Zero Lot Line Developments was requested by the Town of Falcon in a letter dated August 8, 2007.

A motion was made by Mr. Turner, seconded by Vice-Chair Epler, to follow the staff recommendation and approve case P07-73 as submitted. Unanimous approval.

- E. **P07-74:** REZONING OF TWO PARCELS TOTALING 1.76 ACRES FROM C3 TO RR OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTHWEST SIDE OF CLINTON ROAD, EAST SIDE OF BLADEN CIRCLE, OWNED BY DELLA MOL AND AMANDA R. WATSON.

The Planning & Inspections Staff recommends approval of the RR district based on the following:

1. Although the request is not consistent with the 2010 Land Use Plan, which calls for Heavy Commercial at this location, the request is consistent with the zoning of the adjacent properties; and
2. The RR district is in character with the current uses and zoning of the general area.

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

A motion was made by Mr. Turner, seconded by Vice-Chair Epler, to follow the staff recommendation and approve case P07-74 as submitted. Unanimous approval.

- F. **P07-77:** REZONING OF 1.42 ACRES FROM R6A TO C1(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 3680 CUMBERLAND ROAD, SUBMITTED BY WILLIAM D. DECARLO, OWNED BY GRANVILLE T. AND EVELYN M. JACKSON.

The Planning & Inspections Staff recommends approval of the C1(P) district based on the following:

- Though the request is not consistent with the 2010 Land Use Plan which calls for Heavy Commercial at this location, the request is more suitable and in character with the zoning and uses in the area.

The O&I(P) is the only other zoning districts suitable for this site.

A motion was made by Mr. Turner, seconded by Vice-Chair Epler, to follow the staff recommendation and approve case P07-77 as submitted. Unanimous approval.

CONDITIONAL USE DISTRICT

- A. **P07-71:** REZONING OF TWO PARCELS TOTALING 7.93 ACRES FROM R6 AND C1(P)/CU TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF ANDREWS ROAD, EAST SIDE OF MCARTHUR ROAD, OWNED BY CREEKWOOD CAR COMPANY, LLC. AND JACQUELINE C. ANDREWS.

The applicants originally submitted an application requesting the C(P) zoning district. After discussion with Planning & Inspection Staff, the applicants amended their request to a C(P)/Conditional Use District, excluding: Bars & Night Clubs, Bingo, Bus Station Activities, Cemetery, Club or Lodge, Kennel Operations, Research Laboratory, allowing for the expansion of the existing mini-warehouse operations and other uses, with the Permit being contingent upon staff approval of the site plan per ordinance regulations, to include the County's Water Supply Watershed Management and Protection Ordinance.

The applicants have also agreed to exclude from this request that portion of land to the east of the northeastern most point of the existing C(P) to the south of the subject property to the southeastern most point of the subject property tract identified as Parcel Identification Number 0521-60-4650 and following along the eastern boundary of parcel (0521-60-4650).

Considering this amended application, the Planning & Inspections Staff recommends approval of the request based on the following:

1. The request is partially consistent with the 2010 Land Use Plan, which calls for Heavy Commercial along McArthur Road, and Low Density Residential and Open Space for the remaining portion;
2. The amended request protects the general area from encroachment of non-residential uses into the residential areas; and
3. Restriction of some uses allowed within the C(P) district will protect the neighboring properties from seemingly unwanted or "obnoxious" uses within this area.

The Planning & Inspections Staff further recommends approval for the Conditional Use Permit based upon:

1. The use will not materially endanger the public health or safety if located according to provisions of the County regulations and recommended in that a site plan review will be required prior to any development of the subject property;
2. The Staff will ensure the use meets all required conditions and specifications prior to issuance of any permits;

3. The use will maintain or enhance the value of adjoining property in that the application specifies the current type of use and prohibit any uses deemed “obnoxious” or unwanted at this location; and
4. The location and character of the use will be in harmony with the area in which it is to be located and in general conformity with Cumberland County’s most recent Comprehensive Land Use Plan and adopted planning policies.

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

A motion was made by Mr. McNeill and seconded by Mr. Hostetter to follow the staff recommendations and approve C(P)/Conditional Use District because the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. The motion passed unanimously.

A motion was made by Mr. McNeill and seconded by Mr. Morris that the Joint Planning Board finds that this Conditional Use Permit Application, if completed as proposed and subject to the conditions recommended by the Planning & Inspections staff (1) Will not materially endanger the public health and safety, and (2) will not substantially injure the value of adjoining or abutting property, and (3) will be in harmony with the area in which it is to be located, and(4) will be in conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by the Board of Commissioners. The motion passed unanimously.

- B. **P07-75: REZONING OF TWO PARCELS TOTALING 11.66 ACRES FROM RR AND C(P) TO C(P)/CONDITIONAL USE DISTRICT AND PERMIT TO ALLOW MINI-WAREHOUSING, RETAIL/OFFICE SPACE, SECOND FLOOR DWELLING UNIT AND CAR WASH OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT THE SOUTH QUADRANT OF ROCKFISH AND CAMDEN ROADS, SUBMITTED BY BRADLEY W. YOUNG, OWNED BY USA STORAGE CENTER LLC.**

The Planning & Inspections Staff recommends approval of the C(P)/Conditional Use District, with the uses of mini-warehousing, retail/office space, second floor dwelling unit and car wash, excluding all other uses allowed in the C(P) district, based on the following:

1. Although the request is not consistent with the 2010 Land Use Plan, which calls for Low and Medium Density Residential and Light Commercial, the subject properties are located at an intersection of two Major Thoroughfares; and
2. Consideration of the C(P)/Conditional Use District for this area, is reasonable in that this area is no longer suitable for residential zoning and the proposed uses will serve the immediate neighborhood.

The Planning & Inspection 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 and recommended in that the plan layout is providing only one access to the heavily utilized intersection so as to not impede the traffic in the public right-of-way; and

2. The use meets all required conditions and specifications.
3. The use will maintain or enhance the value of adjoining property in that the development is at a location that has continuously been used in contradiction to the ordinances for road side sales, dumping, etc., and the partial upgrading of Applegate Road will provide for a more aesthetically pleasing and usefulness of the right-of-way.
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 and in general conformity with Cumberland County's most recent Comprehensive Land Use Plan and adopted planning policies.

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

Note: The Town of Hope Mills recommends approval of the site plan and the proposed uses because it is now in harmony with the area in which it is located and will comply with the Town's development standards.

A motion was made by Vice-Chair Epler and seconded by Mrs. Piland to follow the staff recommendations and approve C(P)/Conditional Use District because the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest for the uses as set forth in staff memorandum. The motion passed unanimously.

A motion was made by Vice-Chair Epler and seconded by Mrs. Piland that the Joint Planning Board finds that this Conditional Use Permit Application, if completed as proposed and subject to the conditions recommended by the Planning & Inspections staff (1) Will not materially endanger the public health and safety, and (2) will not substantially injure the value of adjoining or abutting property, and (3) will be in harmony with the area in which it is to be located, and(4) will be in conformity with the Land Use Plan, Thoroughfare Plan or other plan officially adopted by the Board of Commissioners. The motion passed unanimously.

VII. CONSENT PLATS AND PLANS

- A. **CASE NO. 02-223:** CONSIDERATION OF MILTON L. & DEBORAH M. UNDERWOOD PROPERTY, GROUP DEVELOPMENT REVIEW, REQUEST FOR WAIVER FROM SECTION 4.3 G, "OTHER REQUIREMENTS," FIRE HYDRANTS, COUNTY SUBDIVISION ORDINANCE, LOCATION: NORTH OF SR 1730 UNDERWOOD ROAD, WEST OF SR 1728 (MIDDLE ROAD).

A motion was made by Mr. McNeill, seconded by Vice-Chair Epler, to follow the staff recommendation and approve the waiver for Case 02-223. Unanimous approval.

- B. **CASE NO. 07-137:** CONSIDERATION OF ROBERT WILLIAMS PROPERTY, C(P) SITE PLAN REVIEW, A WAIVER FROM SECTION 4.3.(2) & 4.3.G, WATER & SEWER & FIRE HYDRANTS, COUNTY SUBDIVISION ORDINANCE AND ALTERNATE YARD REQUIREMENTS FROM SECTION 1102.G, BUFFER. COUNTY ZONING ORDINANCE,

LOCATION: EAST SIDE OF SR 1003 (CAMDEN ROAD), SOUTH OF SR 1344 (BLACK & DECKER ROAD).

A motion was made by Mr. McNeill, seconded by Vice-Chair Epler, to follow the staff recommendation and approve the waiver for Case 07-137. Unanimous approval.

VIII. PUBLIC HEARING CONTESTED ITEMS

A. P07-22: REZONING OF 2.2 ACRES FROM A1 TO R20 OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 871 REMLEY COURT, OWNED BY BRIAN DAIGNEAULT.

This case was presented to the Board on April 17, 2007 and at that time the applicant amended the request to the R40 zoning district. After considerable discussion, including the applicant stating that the NC Department of Transportation (NCDOT) had assumed maintenance of the private street, the Board recommended a deferral in order for Staff to verify the NCDOT's assumption of Remley Court for maintenance purposes or for the applicant to submit an application for a Conditional Use District and Permit (CUD&P) indicating the precise plans for this tract. The applicant agreed to the deferral.

Attached to this memorandum is a copy of the letter, dated April 16, 2007, from the NCDOT District Engineer to the applicant; the letter is a denial of the request for the NCDOT to assume maintenance of Remley Court.

The applicant subsequently submitted a CUD&P application restricting any structure on Lot 2 to a minimum of 1,600 square feet, along with a site plan showing two lots. Included with the application is a waiver request for the applicant to be permitted to create an eighth lot on a Class "C" private street.

The Planning & Inspections Staff recommended denial of the R40/Conditional Use District and Permit for the two lots at this location, and the Planning Board subsequently recommended denial as well.

At the August 20, 2007 County Commissioner's meeting this case was sent back to the Planning Board so the applicant could revise his application to allow for a group development. The applicant has amended his application to request an A1A/Conditional Use District and Permit (CUD&P) to allow a group development and place restriction on further subdividing the subject property until such time as the existing Class "C" private street is upgraded and capable of complying with the ordinances.

The Planning & Inspections Staff recommends approval of the A1A/Conditional Use District for a group development of two structures at this location based on the following:

1. The A1A district is consistent with the Land Use Plan which calls for "farmland" at this location;
2. The A1A district is compatible with the uses in the neighboring districts, and is a use that could be extended to every property owner in the immediate area; and
3. The subject property will be able to meet the ordinance standards;

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 and recommended since the applicant has agreed to mandatory upgrading of the private street prior to submitting for any division of the subject property;
2. The use meets all required conditions and specifications;
3. The use will maintain or enhance the value of adjoining or abutting properties; and
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.

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

Mr. Lloyd stated that the Board had in their packets a synopsis of the background of this case, which the Board would remember so he didn't need to go through it date by date. This is probably the third time that the case had been before the Board. The applicant is here, but staff would do the presentation and Mr. Daigneault would be available for questions. At the end of the last Planning Board meeting the applicant thought that he might want to go for A1A/CUD, at the Commissioners meeting he did request that. The reason the CUD would be on there is to limit this to group development and the permit will say that he will never subdivide that lot until the road is upgraded. Mr. Lloyd went over site information to refresh the Board's memory. Mr. Lloyd reminded the Board that the subject property is 2.2 acres only allowed to have one unit. A1A is one acre per dwelling, so 2.2 acres he would be allowed to have 2 dwellings. He's asking for A1A/CUD and the permit is on there with the restriction that he can't subdivide this property in the future unless the road is upgraded. This is a group development CUD. Mr. Lloyd showed new photos to reflect what the applicant had done as far as cleaning up the property since the last time the Board saw photos. The applicant at the request of staff has cleaned up the subject property. Mr. Lloyd reminded the Board that it has been the policy that under 10 acres when someone requests rezoning that if it's under 10 acres to go with A1A instead of R40.

Mr. Lloyd stated that Brian Daigneault was present to speak in favor.

Mr. McNeill asked Mr. Lloyd if this request is approved for the A1A district and does that mean that if a manufactured home is used as a second dwelling does it have to be a Class "A".

Mr. Lloyd stated yes it does.

Mr. McNeill stated that he noticed that one of the reasons for approval is that the A1A district is compatible with the uses in the neighboring district and is a use that could be extended to every property owner in the immediate area, by my count there are 7 lots on Remley Court, if every property owner was extended this same district that would be 14 homes served by a private unpaved street.

Mr. Lloyd stated if all of them were two acres.

Mr. McNeill asked if the staff would feel that way if everyone down there wanted two homes.

Mr. Lloyd stated no.

Mr. McNeill stated that they feel like it is acceptable for 14 dwellings to be served on an unpaved private street.

Mr. Lloyd stated yes, because the ordinance actually reflects that change. Even when we had Class "C" back when this was approved as a dirt street, we quite often had two houses for all seven lots, if they were large enough. As a matter of fact, back then you could do as many as you wanted if the lot was large enough. With the new ordinance we limited it to two, it didn't go up to seven lots but we limited group development to two units. So I guess to answer your question, they would give it to anyone else's.

Chair McLaurin asked Mr. Daigneault if he understood that if his second dwelling is a manufactured home it has to be a Class "A".

Mr. Daigneault stated that he would be building a brand new house. There will be no trailers or anything, a brand new house. Mr. Daigneault also apologized to the Board members for disagreements that they may have had in the past.

Mr. Morris stated that he was amazed that they were having this discussion, 4 years ago the Board said that private dirt roads were a hazard for fire and rescue and now we're discussing someone increasing the number of homes on that road without upgrading the road even to a gravel road. We've even got language in the staff recommendations that allow everybody on that road to do it and we will set that precedent in the area. I'm amazed we're having this discussion because of safety issues regarding fire and rescue.

Mr. Daigneault stated that if it meets zoning then it shouldn't be an issue, if it meets zoning, which it does.

Vice-Chair Epler asked Mr. Lloyd if this was a Class "C" street right now and asked how many lots can be served according to the ordinance today on a Class "C" private street.

Mr. Lloyd stated four lots.

Vice-Chair Epler stated which would allow more than eight units if everyone in that neighborhood were afforded the same. But because this subdivision was created on this private street prior to our current ordinance those are all legal lots, so they could have fourteen units, but our ordinance today, if someone were creating this subdivision they would only be allowed eight.

Mr. Lloyd said on a dirt road.

Vice-Chair Epler stated that she like Mr. McNeill have a lot of reservations about opening that door for fourteen dwellings units and fourteen families to use that driveway.

Mr. Morris stated that it appears by the information here that all the property owners own to the center of that road. So basically we've got general maintenance issues on any

private dirt road where the neighbors own to the middle of it and we're creating more volume on that road and open the door for future things. I disagree with the recommendation.

Chair McLaurin asked Mr. Lloyd if the right of way for a Class "C" street was 45'.

Mr. Lloyd stated 60' when this was approved.

Chair McLaurin asked who owned the right of way.

Mr. Lloyd stated everybody owning property being served by the private street owns the street.

Chair McLaurin stated when it goes to a Class "B" it switches over to actual deeded right of way, is that correct.

Mr. Lloyd stated not necessarily, the new standard would be gravel.

Chair McLaurin, but the standard says it still has to be a deeded right of way, off to the center, Class "A"?

Mr. Lloyd said it could still be a Class "A", but a Class "A" is paved and they would be required to create a home owners association that would take care of the maintenance of the street.

Public Hearing closed.

Mr. McNeill stated that he didn't express as much concern about opening the door on this as did the staff recommendation, because the staff was a driving force behind the four lot rule that we're under now. I do understand that this particular subdivision predates the change in the ordinance and also I don't believe there's a dwelling on every lot at this point. So in one sense of the word I was being a little satirical, but I do think when you make a statement as staff did about the privilege being extended to everyone that they need to do a little figuring on what that may entail, dwelling wise. Then decide if the recommendations that they made previously on limiting unpaved Class "C" streets to four lots, if it's a solid thing. That's the reason I made that point. I would compliment Mr. Daigneault on the clean up that he's done on this lot. I think that it has been good for the area down there to do that. I hope regardless of the outcome of this case you continue on that route. I don't have a problem with a second dwelling being on this lot to be honest. But, I think that as it is right now, there are some less than Class "A" manufactured homes on that street already, in one regard the A1A/CUD offers a little protection for the neighborhood.

Mr. Morris made a motion to deny the staff recommendation for approval, seconded by Vice-Chair Epler. The motion passed unanimously.

- B. **P07-47:** REZONING OF TWO PORTIONS OF A 20.26 ACRE TRACT, CONSISTING OF 9.43 ACRES AND 4.20 ACRES FROM M2 TO R7.5 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED SOUTH OF CHURCH STREET, EAST OF FREEDOM LANE, SUBMITTED BY JOSEPH H. GILLIS SR, OWNED BY GILLIS AND GILLIS INC.

This case was presented to the County Commissioner's at the August 20, 2007 meeting. Because of opposition raising issues which were not previously addressed by the Planning Board, the Commissioner's referred the case back to the Board for re-consideration.

Mr. Lloyd stated that there was a lot of criticism of the Planning Board's decision by those in opposition. This property was posted with a sign and signs can be moved and, everybody within 500 ft of this case was notified by mail to the address that appears on the tax rolls. Thirdly, there are new FEMA maps (flood maps) that are out. It was told to the Commissioners that a lot of this area is located in a flood plain; none of it is located within a flood plain, according to the new flood maps. Also, I did explain we did not have the input at the time, we being the staff or this Board, of any new information that came out at the Commissioners meeting. Hope Mills just got back into the Planning Board, the process is still young they are still trying to figure out how to get with their Town Board and then back to us with their recommendations. The process is new and it didn't happen with this case through no fault of this Planning Board. This Board made their recommendation and vote based on information that the staff had, as well as what was presented to you.

Mr. Lloyd presented the site information.

Mr. Lloyd stated that the issue of a proposed subdivision was going to come up. Its approval is contingent upon rezoning. What is shown with this blue line is the best, in reference to the map shown, that we can approximate the water level when the Hope Mills Lake #2 was full. If the lake was filled back to the 84 msl, which is what we feel it was in the past, we plotted it out and you can see that where it goes up into the subject property is all designated as wetlands, with the exception of four lots, because they were not wetlands, the lots could be filled anyway. We received new information today, and that is this 30' utility easement. This easement occurred when the sewer line was laid in 1987. After talking to PWC today and I did express this to the Mayor of Hope Mills, PWC frowns upon putting water on top of sewer lines let alone a reservoir. So what you see shown in red, is where the easement is for the sewer line and the water would cover it and most of the area long before it would go into the subject property. PWC did state that you could do this, but it would be very costly, and again this is all speculative when and if this ever occurs. Nevertheless PWC's engineers did say that they do try to dissuade very strongly putting any body of water on top of a sewer line. Now, new information that we have, which came up at the Commissioners meeting was the flood, the flood line and the water level. We saw in the map of where the flood line is. The staff recommendation remains unchanged, because the issue here before you tonight is that of zoning, what can be placed on the ground. Not necessarily where anything may go, it's the uses that are permitted.

Due to the permitted and special uses allowed in M2 district, the Planning and Inspections Staff recommendation has not changed; therefore, the Planning & Inspections Staff recommends approval of the R7.5 district based on the following:

1. The request is partially consistent with the 2010 Land Use Plan, which calls for Low Density Residential and Open Space at this location;
2. The request is consistent with the existing zoning in the area; and
3. Public utilities are available to the subject property.

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

Mr. Lloyd stated there was one speaker in favor and three speakers opposed.

Mrs. Hall asked where the sewer easement is in relation to the flood map.

Mr. Lloyd stated in most of the area toward the property lines and south.

Mrs. Hall asked if just a portion would be underwater, not the entire sewer easement just a portion of it?

Mr. Lloyd stated that the flood line would change if the lake was full. But as it stands now the sewer line follows the subject property and does cut through the property, then follows the southern portion.

Vice-Chair Epler stated that there was a clearing on the aerial photo that shows where the sewer line is.

Mr. Lloyd stated that he had spoken to the Mayor of Hope Mills; it may come down in the future that if this project does take place that they may have to lower the water level of that proposed reservoir because of the sewer line issue.

Mr. Barrett stated that more of the utility easement would be underwater if the lake was refilled.

Mrs. Hall asked Mr. Lloyd if he stated that none of this was located in a flood zone.

Mr. Lloyd stated that there is one small portion.

Mrs. Hall asked what the soil limitations were.

Mr. Lloyd stated that there are wetlands. No hydric soils but wetlands.

Mr. Gillis came before the Board in favor. Mr. Gillis stated that he didn't have any significant or new information. One item that was not addressed is that the Corps. of Engineers has delineated the wetlands on the property as they exist today. Those wetlands have been surveyed and included in the map of the property as we have begun the planning process. So this represents the conditions on the ground at the present time which does not reflect any future or anticipated changes.

Mr. McNeill stated that he wasn't clear on one map. All the others have clear delineation and I know they show wetlands a little different. But do any of the lots that are shown on this particular plat have wetlands?

Mr. Gillis stated yes, but the way we have subdivided the property we're allowed to use wetlands as part of the lot. The limitation is that we can't build on the wetlands. It's like if anyone lives up against the creek, they probably have some wetlands at the back of the lot. That's property that the lot owner has responsibility for. The caveat is that the inspection department in following the North Carolina building code has requirements as to where you can build a house, not only soil conditions, but also elevations of floor levels

above flood plains. All that was put into the equation as the lots were laid out on the subdivision. There are probably a couple of lots that will have difficulty siting the house, depending on how large the house is, for that lot. We understand that there may be some lots that become unbuildable in that condition, we will not be able to pull a building permit.

Mr. Lloyd advised Mr. McNeill that they had to scan the map knowing that this wasn't part of the application, knowing that this would come up. That's why the quality of this map is poor. They did delineate with a dash line on a lot of the lots where the arrow is, where the wetlands would come through on the lot itself. It's hard to see because we had to scan it.

Mr. Morris stated that this is a nice map, but this is a straight rezoning case and that has no relevance whatsoever, if we approve that he doesn't have to stick to it, he can do anything he wants to on there. Do we want this to be heavy industrial or do we want this to be residential. I don't think it's appropriate for us to go into detail on site plan that has no relevance on whatever our decision is going to be.

Chair McLaurin stated, that for clarification, that he wasn't considering the site plan as such. It was the only one that showed the wetlands and he was only trying to get a better idea on just how much wetlands were there. Chair McLaurin asked Mr. Gillis if he had any idea of how many acres of wetlands there were.

Mr. Gillis stated that he didn't have that information off the top of his head.

Mr. Lloyd stated that the reason why that map is in here was because at the Commissioners meeting much came out about this Board and staff not thinking about how that water would affect any proposed subdivision. One is proposed that has a condition on there that is approved pending this rezoning. Which you are correct, this is about the uses, not where they go. Nevertheless we included that because it came up at the Commissioners meeting.

Mr. Morris stated that he understood that the Commissioners sent this back and that they are concerned about the subdivision, they need to have us review this and go with a CUD. That's not how it's coming forth. We all know that if we make this decision that map has no relevance.

Mr. Lloyd said that he asked the applicant, Mr. Gillis to verify that if they did want to consider a CUD and Mr. Joe Gillis said no, not at this point.

Chair McLaurin stated to Mr. Gillis that the main source of water comes out of the Cape Fear River. Water comes out of the Jordan reservoir. There is a tremendous amount of pull on the Jordan reservoir. The only other source that PWC has is this small lake over on Filter Plant Drive; they say they take a minor amount of water out of there. Rockfish Creek has been said to be a good source of quality water. We had a rezoning case about a year ago, and there was much ado about leaving a wide buffer in that area. There was much said about the buffer in connection with the runoff into one of the last major streams in the County. Have you given any thought to this in respect to runoff from this subdivision and our availability of good drinking water?

Mr. Gillis responded that in their plans for this area we have not been made aware of any plans either through PWC or through the State for any other uses of that property other

than what we see there now. The dam that used to hold that lake back was breached in 1972 I believe, that's been 35 years. There have been no successful initiatives to move forward with restoring that lake. We own the property that's there, the County zoned it, and we believe that M2 zoning is not appropriate for that property in that location. There are uses that we could put there, but we don't believe is really appropriate, so we have proposed to ask to rezone it to residential that would be more compatible with plans there. If there were plans to flood the area that you could count on other than wishes that some have, then we would certainly deal with that. But there is absolutely nothing on the books that would deter our development of that area either as M2 or residential if you so recommend.

Mrs. Hall stated that there have been initiatives; in 1989 it was almost successful as a hydraulic source. Instead it was done at Lake Upchurch instead of here, because of some problems. It has been a source of conversation in the Town of Hope Mills at least since 1989 as a viable source of water. The most recent conversation is the possibility of reconstructing that dam using that and Hope Mills Lake and Lake Upchurch as a reservoir for this County. That's the only reservoir that this County could have. I beg to differ, that there has been a lot of discussion. But you're right it's been within the boundaries of Hope Mills.

Vice-Chair Epler asked Mr. Gillis if his rezoning attempt is successful and if he builds this subdivision, and thirty years down the road, Hope Mills decides that they have the funding and the means by which to recreate the lake for a reservoir, water source, recreation area, I know it's hard for you to tell that far down the road, but obviously your site plan, even though we can't consider it, is not making use of the area which would become the lake. If they have to stay away from the sewer line, the area they could use for that water source is outside your lots. Would you, as far as you know today, if that were to happen tomorrow, would you consider selling to them or donating to them the land that they would need?

Mr. Gillis stated that it would certainly be considered.

Chair McLaurin stated that he thought that Mr. Lloyd had stated earlier that if the lake were to be flooded, there is an area that would run over the sewer pipe. Have you ever been to Kerr Lake on the North Carolina, Virginia line at the Ivy Hill area? There's a dam there bigger than Jordan Lake Dam that holds water that's built for that very purpose.

Mr. Lloyd stated that PWC said that the standards have changed in the last four years. You can go in this county and find water on top of sewer lines, but within the last four years the state has come out with some new regulations, not to do it.

Chair McLaurin said that's why he was making that suggestion to put that dam there to hold the water back, to keep it from going out over the sewer line. If they did do it.

Michael Mitchell spoke in opposition. Mr. Mitchell stated that he was here as a concerned citizen of the Town of Hope Mills. He came to speak the concerns of the citizens wanting to preserve the lake head at #2. He was instrumental in setting up the Friends of Hope Mills Lake that now has approximately 750 members in only a year and a half. We do share your concerns about a reservoir system in Cumberland County, as you know Cary is undergoing a serious situation with their reservoir, and now Goldsboro is being affected with drops in the Neuse River. I don't know if there is a happy medium, it might not be a

matter for zoning, but I just basically came tonight to speak on the behalf of the citizens of Hope Mills that there is a strong influence to restore lake #2. We are not very concerned about the price of moving sewer lines or replacing sewer lines. We've already spent 14 million dollars on a state of the art dam for lake #1.

Mr. Morris asked Mr. Mitchell how he felt about heavy industrial zoning.

Mr. Mitchell stated that he hopes we're not presenting any environmental problems, but he imagines it would be a matter for the State and the Corps of Engineers, but I'm not real happy about that either. If we don't do something real serious as citizens we're not going to have drinking water in this County in another 20 years. It is my understanding that this is the last viable resource for water reservoir system in the County. That is my concern.

Vice-Chair Epler asked Mr. Mitchell if his group has considered purchasing from the Gillis family.

Mr. Mitchell stated that they haven't gotten to that yet. But he believes that citizens rise to the occasion to speak up for what's important, when given the opportunity. I've helped one of the largest land companies with donations of lands for preservation to receive tax credits. Friends of Hope Mills Lakes is a charitable organization as approved by the Internal Revenue Service. We would be glad to entertain that as either a purchase or donation or some combination with the Gillis family. I'd personally be glad to help.

Mr. McNeill asked when you say restore the lake, are you talking about back to somewhere around the hundred year flood plain level or are you talking about to the original structure?

Mr. Mitchell stated that I don't think that we could go with the original structure, as it would probably impede the sewer lines, but that would take a matter of planning. I don't think we could go back to the original lakebed structure without addressing the cost of replacing the sewer lines, but it would be an option.

Mr. McNeill asked if that's the case, do you see the residential development of this property as prohibiting the restoration of the lake to the approximate hundred year flood level.

Mr. Mitchell responded yes we do believe it impedes that plan. There are four or five lots shown that would and the plats that we have seen contain much more wetlands than what is shown on the screen there. Perhaps it's old data, but maybe old data is what we should be talking about if we're talking about #2.

Mr. McNeill stated that Mr. Gillis said the Corps. of Engineers, if he's not mistaken, is the ultimate authority on the wetlands, had already checked off on the preliminary plan.

Mr. Mitchell said that this may not be a matter for the zoning board to make those decisions.

Vice-Chair Epler stated that whenever you look at these two maps, wetlands does not indicate that there was ever a water line there. The two don't necessarily coincide.

Mr. Thomas Waring spoke in opposition. Mr. Waring stated that he is a lifelong resident of Hope Mills and has a vested interest in this, and owns property just a few hundred feet away from where the subdivision is going to be. To answer one of Mr. Gillis's questions, there is a motion through Representative Brisson out of Dublin. Mrs. Hall was talking about using the three lakes as a reservoir, well that's in action at this time. My wife Lisa has been in contact with him, and that is something that they are working on at this time. That's a lot of wetlands that we're going to be losing, the lake if it is refilled will affect that. If you put families in there we won't be able to raise the lake. We can deal with pipes, sewer, PWC, we can fix those, but we can't move families. My personal opinion and those of the people who are here with me tonight feel like you're just abusing the land by allowing 7500 square foot lots. You need more space. Memorial Day 2003 we lost our lake in Hope Mills, I got up that morning, I was fortunate enough to have my house on the lake. I had no water. I went to Church St. which backs up to this property to feed my horse, and I had lakefront property, which I'd never had before. All that property was under water. They say it's not a flood zone, the new maps say it's not a flood zone. But the old maps said it was. I think they are doing it by satellite or by grid. There is something wrong there. The Corps of Engineers had been contacted; they have not received a permit. Loretta Grenada was going back to some college; she did it in a quick way when they did the soil testing down there. She turned it over to another guy and it's been sitting on his desk. When we first contacted the Corps they said Mr. Gillis did have a permit and he signed off on it. Well two weeks later he admitted that he had lied, they don't have a permit. We don't think there's been enough work by your staff, by the Corps of Engineers, we don't think anyone's been out there and walked over the property to realize that its wetland. You don't put houses in a wetland. It destroys the environment, that wetland is like a sponge. It filters everything out. I'm nervous when I talk, it takes a lot nerves for me to come up here, but I feel like it's worth it.

Mr. McNeill asked Mr. Waring about Representative Brisson supposedly working on something with the legislature, has he given you any indication of when something might be forthcoming?

Mr. Waring stated that his staff is working on that and Mr. Brisson has been working on this for some time. It's not in the books as Mr. Gillis said and Alfred Bradford almost had it done in 89 and the Corps of Engineers at that time said that we could increase the size of the lake and that was after PWC had their sewer line in. They said we could go down to the bridge on Calico St. and that would make the water line a little higher, but it would give us more lake. If you raise the lake it's going to go into wetlands, and if there are people living there it's going to drown them. It's common sense. They talk about M2, M2 is our safety net. The Corps of Engineers said that no one is going to get a permit to put anything around that wetland. Industrial that's our safety net.

Mrs. Piland asked Mr. Waring if his reasoning for wanting it to remain M2 is because of the environmental protection that an M2 would provide, even if developed.

Mr. Waring stated absolutely, they wouldn't let you put anything industrial there. We talked to the Corps about that. My brother-in-law is Derrik Carter, he's head of the Southern Environmental Law Firm, he mentioned that, he said that they need to go back and do more soil testing. The soil testing has not been done correctly. I know this is hearsay, but I'm quoting him.

Commissioner Wheatley stated that she hears what Mr. Waring is saying about the soil testing, but with the studies that were done in 89 and with legislators getting involved, were there no soil tests and any reports given then? Where are they?

Mr. Waring stated that Mr. Bradford has them. We have not retrieved any of those reports. This came upon us; the only sign was hidden behind a bush. They said they mailed out all these things, but I didn't receive one. I don't think Pat Hall was notified correctly. I think the whole thing has been a mess. It needs further study. We have a chance to create something that will help the whole County. We can't let one developer make a little bit of money and ruin our chance to get it done.

Commissioner Wheatley stated going back to 1989 not retrieving the soil test, why has your community let it go, and I don't mean this in a disrespectful manner, but if this was such high priority, none of us heard about it until a meeting ago as far as Commissioners, is there no plan?

Mr. Waring said you're not hurting my feelings. It's well known that Hope Mills needs better leadership. Hope Mills has dropped the ball and we've got a dam that would of cost 1.5 million if they had went ahead and taken care of it, but they dragged their feet and now we're 14 million dollars in the hole. This thing should have been taken care of.

Mr. Lloyd stated that where there are no wetlands the Corps has no say so. The zoning does.

Mr. Billy Johnson spoke in opposition. Mr. Johnson stated that he did a little visual on Church St., from the east side to the west side about 6.5 tenths miles long. I live on the west end. We've got about nine or ten homes down there on about fifteen acres. From my house to Main St. there are 107 residents on decent sized lots. Also there are 64 apartments on the east end of Church St. as you come onto Church St. from Main St. and I've noticed before the apartments trying to access Main St. from Church St. at a particular time of day like 7:30 to 8:00 was a nightmare. Now that they have these apartments it's a terrible nightmare. There is a cut through that is an absolute nightmare of traffic and I can't imagine what it will be like if they put 61 more homes in there. You're talking about 122 vehicles if each family has 2 vehicles. I live on the old lakebed, when the water came up, when the dam breached at Lake Upchurch, we had water. It was about 8 feet from the sewer line. That lake was completely full probably higher than it was originally. I've got three manholes on my property and every one of those manholes was at least 8 feet higher than the water. There will be some wet places if these houses are put in there and something ever happens. I don't want to see anything that could possibly keep that lake from coming back in.

Commissioner Wheatley asked Mr. Johnson if he actually lives on the lake bed.

Mr. Johnson responded no.

Mr. Gillis spoke in rebuttal. Mr. Gillis stated that there were several questions about the integrity of the Corps of Engineers findings. I think that we can question people's veracity in issuing statements. But I would like to read from the report that has been quoted by the Corps of Engineers lady that did visit the site. "The wetlands on your property have been delineated and the delineation has been verified by the Corps. We strongly suggest that you have this delineation surveyed, upon completion the survey shall be reviewed and

verified by the Corps.” That’s the survey that’s on the map that is reflected in your package with those lines. As to future needs I’m sure that the people around Jordan Lake that owned property before the Jordan Lake dam was built had to deal with the issues that could in the future, that has been pointed out, have to be dealt with, in the event that the government would choose to restore Hope Mills #2 and the dam. Failing any plans for that, we believe that the use of our property as residential is reasonable, and appropriate given the circumstances. We believe that providing homes on lot sizes that home buyers choose. The market will tell us if we have lots that are too small for people, if they want big lots, they’ll go find big lots. They’ll also find homes that are nice and attractive and affordable and certainly with the growth that’s occurring the County has many opportunities as well as problems to deal with and we trust that the Planning Board and the Commissioners will use good judgment and make the decisions that are appropriate. I just request as your staff has recommended approval for rezoning and pass that recommendation to the Commissioners.

Vice-Chair Epler stated that typically whenever we survey wetlands and we get wetlands verified you get that notice that you just read to us from the Corps. You get those wetlands surveyed as flagged and then the Corps verifies that wetland location. Have all of those steps been completed? The Corps of Engineers has verified those wetlands on your survey?

Mr. Gillis stated that he didn’t have personal knowledge that the Corps has completed that, it has been submitted to their office for verification. There’s a backlog in doing those verifications. We have not gotten a current status.

Vice-Chair Epler asked that the Corps has not notified Mr. Gillis and are aware that he is proceeding.

Mr. Gillis stated that that was correct.

Mrs. Hall asked Mr. Gillis if he knew if the backyard consisted of wetlands if that had to be disclosed at the time of sale.

Mr. Gillis stated that yes, it’s all there and it’s all disclosed. In fact I live on a lot that has a creek in the backyard. That is one reason, probably the major reason that I bought that lot. Because it was an area that I knew would not have a house built on it. Wetlands can be an attractive amenity, if you will. We’ve built subdivisions in other parts of the County that have similar circumstances. And they’ve got very expensive homes backing up to a creek and they sell very quickly.

Mr. McNeill stated to Mr. Gillis that they couldn’t continue to develop until the Corps verifies it. Mr. McNeill asked if they had any sense of time. Did they give any indication of when they would be there?

Mr. Gillis responded that the Corps says it could be months. With the issues that they have to deal with in our state, sometimes they’ve turned things around in 3 or 4 months, sometimes it’s been up to a year.

Mr. McNeill stated that it’s probably safe to say that they won’t complete their work for about 6 months, as a ballpark figure.

Mr. Gillis stated that he didn't want to try and predict, but the way they are proceeding, they will adapt the actual subdivision plan to whatever the final Corps finding happens to be. The issue tonight, which has been pointed out, is clearly one of zoning. We believe that the appropriate use for that property is residential rather than heavy industrial.

Commissioner Wheatley stated to Mr. Gillis that she knows that he is a community minded individual, and she appreciates that about him and his family. Commissioner Wheatley asked Mr. Gillis if he had spoken with the Town of Hope Mills to see if there is any way to reach an agreement as far as what is about to happen as far as this rezoning that would meet with some of their expectations, and be somewhat advantageous to him as well.

Mr. Gillis stated that he has not spoken with anyone in Hope Mills, and was not sure if his brother Joe had spoken with anyone. It's a two way telephone.

Commissioner Wheatley asked Mr. Gillis if anyone had called him.

Mr. Gillis responded that no one had contacted him at all.

Commissioner Wheatley recommended a conversation to both.

Mrs. Hall stated that she thought that had been recommended, that a representative meet with them and it had not happened.

Public Hearing closed.

Mr. Morris stated that when he looks at that map as it stands today, it's just a glaring error that we have a heavy industrial use basically in the middle of a residentially zoned property. Mr. Morris asked what the original use was to have it rezoned.

Mr. McNeill stated that there was an old cotton mill there.

Mr. Lloyd stated that it was the most nonconductive companion to residential zoning, based on the uses that are permitted.

Mr. Morris commented we need to state the uses, because it's zoned heavy industrial. I agree with the comments from those in opposition. I think it makes tremendous sense for us to capture the water in the Hope Mills Lake and Lake Upchurch. My fear is that someone may not put a more appropriate use on that zoned property. Under this current usage there are a lot of things that are not conducive not only to the area but to that watershed. I also think that there's a lot of work to be done and some future planning for the Town of Hope Mills and Cumberland County when it comes to watersheds. I do think that residential rezoning is more appropriate for that area.

Mrs. Piland stated that this is a real dilemma, I would agree with you that just looking at the information that we have, that there is no question that this should go residential zoning. But, my concern in listening to all of this is environmental. My concern is that I know what the water situation is and I know what kind of crisis we are facing. Not just in this region but across the state. How do we best preserve what we have as far as water resources? And I'm just not sure about that. I certainly wouldn't want a junkyard on that

property and on the other hand I would hate for us to lose the opportunity to recreate that water in that bed.

Mr. Lloyd said that after talking to the Mayor, it's not an all or nothing situation. The issue isn't really that it has to be 84 msl; it can be lower than that. There are various degrees of levels of that lake that wouldn't even effect this property.

Mrs. Piland stated that we've talked about the importance of buffer zones and trying to protect our water resources by having buffer zones. If we build right up to that line whatever it is, there's absolutely no buffer there.

Mr. Lloyd stated that as a planner we have to balance both sides. A lot of the points made are correct. We're saying that we want to place this land on hold for how many years until somebody decides this is a go or not. Mrs. Waring called me and I asked for any new information, and I haven't received anything. The information that you have is all that is available.

Mrs. Piland asked if there was any information from the Town of Hope Mills.

Mr. Lloyd said that they actually had a meeting, it was on something else, but this actually consumed half of the meeting.

Mrs. Piland asked about their interest as best as Mr. Lloyd could tell.

Mr. Lloyd stated that there were studies done. We went back and researched and came up with the 84 msl, but that's the only new information that we have. We plotted that.

Mrs. Piland said that she thinks this is more than a rezoning case. I know what our limitations are and I don't think this is the arena in which this discussion should be held. It's a far bigger issue than what we would deal with here. It's unfortunate that it's placed in our laps.

Mr. Lloyd said that he did talk to the Mayor and the new information of the sewer line is an important issue with PWC. I agree with the buffer and what you're saying but it's difficult at this point in time to say we want this, as planners, we're going to tell the owner of this piece of land he's got to hold this land indefinitely into the future until some concrete plans are done on what's going to happen with the lake bed.

Vice-Chair Epler stated that she too knows the importance of protecting our water sources for our County. But also feels that if this area were so perfect for that up until this point PWC or the Town of Hope Mills should have stepped up and contacted this owner. Mr. Gillis is the one who has petitioned for a rezoning. When Hope Mills found out that Mr. Gillis had petitioned for that rezoning, I feel like they should have contacted him and tried to work something out. That's just my personal opinion. But this is a property owner who wants to make reasonable use of his property and he's entitled to that by law. I don't have a good feeling about telling him he has to set any portion of his property aside. But by the same token I do understand those environmental issues. If I'm not mistaken, I believe that Mrs. Hall received her packet on this particular case at the same time the rest of the Planning Board did, am I correct.

Mr. Lloyd said that Vice-Chair Epler was correct, again this came with the Commissioners' I'm going to say again for the staff, I have the mailing list right here of everybody that got notified. We do have Thomas M. Waring, two addresses that were notified by mail.

Vice-Chair Epler commented that the notifications were made not only to the individual property owners, but also to the Town of Hope Mills, through their representative on this Board, long before our Planning Board meeting. No one was here in opposition at our Planning Board meeting. There was no opposition at all from a Board member or in the audience. Just to make it known, when someone delineates wetlands, they use three criteria, they use vegetation found there, water table, and soil types. All three of those tests have been done on this piece of property in order to delineate this wetland. That's why the Corps of Engineers told Mr. Gillis to go ahead and survey your wetlands, they've been marked. So by definition, his wetlands have been shown. I think this is a man who owns a piece of property, his family owns this property they are developers by trade, and they want to develop this property. To me I think his subdivision, I know he's not tied to that subdivision, I know that he's not tied to that site plan, but what he proposed allows Hope Mills, and I think his wetlands issue allows Hope Mills the opportunity in the future to come back and recreate that lake bed.

Mrs. Hall stated that the Town of Hope Mills was mailed a notification of the first zoning that went to a PO Box which is defunct, which has not been used for many years.

Mr. Lloyd stated that the address was obtained from the tax rolls.

Mrs. Hall stated that the tax rolls have to be updated by the citizens. The County does not do it. They did not receive a notice. When it came before this Board the first time it was on the consent agenda with no one contesting it. You know Hope Mills is new on this Board; we are still trying to develop a process to keep and get everybody informed. Half of the property owners surrounding this did not receive a notice. I'm sure they were mailed; my point is the addresses in the county tax office are not up to date. When the 911 directory was changed, when they changed everyone's addresses for 911 purposes and every address in Hope Mills was affected by that. The County did that, but they did not update their own records. That is on us to do individually. I am simply trying to justify our position. Since this happened, we have tried many things to get together with the property owner, except we did not contact him directly. We asked our Planning Board to do it. Mr. Lloyd did two times and nothing has happened. I agree, I own property too and I don't want someone telling me that I cannot do something with my property. Could we postpone this for 30 days to get a chance for the Town of Hope Mills to sit down with all of these property owners and developers and work out something that is agreeable to all of us? This is a planning board, it's not a dream. We are planning for our grandchildren, for our future.

Mr. Lloyd stated that Mrs. Hall has input and Mrs. Hall can vote on standards dealing with the MIA the way the interlocal agreement is set up she can't vote on rezoning because Hope Mills has their own zoning board, which means she can't make a motion.

Mr. McNeill stated that the environmental aspects are important and I think drinking water is awfully important. I can understand that it would certainly make a good water resource for the people of the County, but I heard a comment made that keeping it M2 is our protection. That is not the proper way to do it. You do not hold somebody's property

hostage to keep the zoning the way it is, because probably won't do anything with it. That's not fair. I can understand how the town may be behind the curve on this, certainly the efforts have been focused on the dam that's being reconstructed now. On Mr. Gillis' side the question was raised about a CUD, I happen to know that Joe doesn't like the CUD. I think that in this case a CUD might be beneficial. The thing is you're not going to do anything with this in the next 6 months or so. It's not something that's going to be developed in the next 3 or 4 months. I tend to agree with the statement that residential is much better than the M2 and I really don't like holding a person's property hostage, it's just not a good way to do business. What needs to happen is the Friends of the Lake need to get some discussion going with these folks and try to work something out. I know there hasn't been a big window of time, but there's been time enough for contact to have been made. I'm sure the Gillis' have property that they want to develop, they really don't care whether it is in R7.5, or whether the town buys it, or they may have it in their hearts to donate some. I think that probably a 30 or 60 day deferral, I don't want to encourage leaving it out there too long, but I think that's probably in order. I think that the Gillis' should seriously consider if they plan to develop on R7.5 doing it on a CUD where a site plan could be put out here with definitive wetlands lines possibly voluntary buffer along that side, and a site plan that we can deal with.

Mr. Morris stated I do agree, one of my concerns is if we have another "9-11" and the world stops, and the Gillis's don't develop then you've got a piece of land and somebody comes in there now they've got M2 zoning on wetlands, could be a future lake bed and we didn't do our job. I don't want someone telling me that we had the opportunity to do something better than what we had out there and allowed it to go by. That being said, I didn't realize that interlocal agreement being such that Mrs. Hall couldn't make a motion, that by itself if Mrs. Hall would like a motion of thirty days, I'll make it.

Mr. McLaurin stated that everyone needs to remember that PWC is the water provider, PWC is the one that is distributing water. We've got to remember that this is not about the Town of Hope Mills or it's not about the developer. This is about the greater common good.

Mr. Morris made a motion to defer case P07-47 for 60 days, seconded by Vice-Chair Epler. The motion passed unanimously.

Commissioner Wheatley stated that they have been given a tremendous opportunity. She looks forward to seeing what can be worked out for the greater common good.

Mr. Barrett asked Chair McLaurin to ask Mr. Gillis if he would agree to a 60 day deferral.

Chair McLaurin asked Mr. Gillis and Mr. Gillis responded that he was not okay with that.

Mr. Gillis stated that they have been working on this project for almost a year; major investments have gone into design work. We're trying to get ready for the market a year and a half from now.

Mr. Morris asked if he would be more agreeable to a 30 day deferral.

Mr. Gillis said that he would not be interested in a 30 day deferral. We are addressing real issues and are ready to go.

Mr. Barrett stated that the zoning ordinance has a quirk in it that says that if the Planning Board does not make a recommendation within 30 days, it goes to the Board of Commissioners deemed as their recommendation for approval. The provision can be waived with the consent of the applicant, which is why I asked you to see where Mr. Gillis stands on the issue. However Mr. Gillis needs to be aware that there is no such provision limiting the Board of Commissioners. The Board of Commissioners may choose to defer a case for 30 or 60 days or any period of reasonable time. Just so this Board is aware, there is a 30 day limit on your actions. Just so Mr. Gillis is aware there is no such requirement on the Board of Commissioners.

Mr. Morris stated that he has the utmost respect for Mr. Gillis, but I think this is an important issue and both sides need to weigh in and I think it would be in the interest of the developer to be in a more receptive mode. Therefore, I want my motion to stand and allow the minutes to stand as they are and this will move to the Commissioners as basically a no vote and let the Commissioners do as they will with the unanimous approval of this Board.

Mr. Barrett restated what Mr. Morris said that he understands that technically he wants his motion voted on. He understands that technically it will be considered under the ordinance a recommendation to the Commissioners as approval. He understand it will move to the Commissioner's from this Board, but he wants the Board of Commissioners to understand that the position of this Board was that the application should be deferred for 60 days to allow the parties to discuss possible options.

Mr. McNeill stated that a 30 day deferral is not acceptable to him. If he would agree to 60 days than we could bring it back here?

Mr. Barrett stated yes.

Mr. McNeill asked Mr. Gillis again if he would consider a 60 day deferral.

Mr. Gillis responded no.

Mr. Barrett said that the status is that as a legal matter recommend that the case move to the Commissioners for the October 15th meeting with the explanation that the ordinance requires that the action of the Planning Board was to reflect a deferral for 60 days. But because of the ordinance provision and the attorney advised that the case be moved to the Commissioners.

Mrs. Piland asked with no recommendation on zoning?

Mr. Morris stated that the recommendation will be to approve with residential zoning. But that's not the motion on the floor.

Mr. Lloyd asked why shouldn't this be sent over with no recommendation from the Board, that's been done before. Not that the Commissioners necessarily like it, but it can be

explained to them that the Board wanted to see a 60 day deferral, the applicant had to agree, he didn't so this Board is not prepared to make any other recommendations.

Mr. Barrett stated that that is an option, but under the present status of the application, the Board takes no other action.

Mr. McNeill asked if they had the option of motion for reconsideration of the previous action.

Mr. Barrett stated yes.

Vice-Chair Epler asked if this goes to the Commissioners the way we left it tonight, before it goes to the Commissioner and Mr. Gillis has a change of heart and reconsiders the CUD application, it can go to the Commissioners under the same advertisement, because that is a more restrictive use it can still be heard by the Commissioners, but as a CUD. Am I correct?

Mr. Lloyd responded that the CUD is not re-advertised with a different heading, we keep the same heading, it's been done on every case we've had. It becomes a CUD and gets reviewed as such. But the heading stays the same.

Mr. McNeill made a motion to reconsider previous action, seconded by Chair McLaurin. The motion carried with 6 voting in favor and 1 opposed.

Mr. Morris asked if it was approved.

Mr. McNeill stated not necessarily, if we pass this motion it's back on the table for up or down or a motion for 30 days. The thing that I find disconcerting is that we voted on a 60 day and I would like before this Board gives up its authority to make a recommendation on it I would like to see the Town and the petitioner and interested parties get together. I think if it goes to the Commissioners and they read all this they're probably going to send it back anyway. I just think that the Board would serve its purpose much better to exhaust all possibilities here before we send it on.

Mr. Morris stated that he was comfortable with this. I don't like M2 worst case scenario, it goes to the Commissioners, and they think we haven't done our job here and it goes to residential zoning it's better than M2. Secondly, if it goes up as we voted as strongly as possible to basically have the Commissioners say to the petitioner you will have 60 days to get together and if you choose not to, then you choose not to. But I think we will be sending the correct signal regarding the position of Hope Mills and I think we're sending the correct position as to the current uses of that property. I think the petitioner would be better off working with the planning board at this level versus in the public eye at the Commissioner's level.

Mrs. Hall said that she did not like M2 either. But in reference to the statement about a safety net, is that one business owner is easier to deal with than 61 homeowners in the event the development goes on and then a lake is attempted. That was the reasoning behind us preferring the M2 instead of R7.5.

Mr. McNeill made a motion to reconsider previous action, seconded by Chair McLaurin. The motion carried with 6 voting in favor and 1 opposed.

Mr. McNeill made a motion to amend the motion for 30 day deferral to deferral for 2 weeks, seconded by Mrs. Piland. Unanimous approval.

Mr. Barrett asked Chair McLaurin if he intended to reopen the case or bring back for reconsideration.

Chair McLaurin said reopen the public hearing.

Public Hearing closed.

VI. DISCUSSION

Chair McLaurin would like for everyone to get a copy of the Chairman's script on the Conditional Use District and Permit and for everyone to read it and become familiar with it.

Mrs. Piland wanted to let the Board know that the Town of Eastover has requested a Municipal Influence Area. They have made that request to the Commissioners and they have requested that we be treated as any other small municipality and that is to have a 1 mile perimeter around the Town of Eastover, with the exception of Wade there is not that distance there and we are not going to go beyond our corporate limit as far as Wade is concerned. Wade's area stops about a half a mile from the corporate boundaries of Eastover and we're going to leave that as it is. That was supposed to go to the 2030 meeting. But it will come to the Planning Board at some point. We would certainly appreciate your support on that.

VII. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

No director's update.

VIII. ADJOURNMENT

There being no further business, the meeting adjourned at 9:20 p.m.