



Members:

George Quigley, Chairman
John R. Swanson, Vice-Chair
Oscar Davis, III
Melree Hubbard Tart
Joseph Dykes

Alternates:

Horace Humphrey
Martin J. Locklear
Randy Newsome
William Lockett Tally
Carrie Tyson-Autry

Cumberland County Board of Adjustment

130 Gillespie Street
Fayetteville, NC 28301
(910) 678-7603

MINUTES
FEBRUARY 18, 2010
7:00 P.M.

Members Present

George Quigley, Chair
John Swanson, Vice-Chair
Oscar L. Davis, III
Melree Hubbard Tart
Horace Humphrey
Carrie Tyson-Autry(non-voting)

Absent Members

Joseph Dykes, (excused)

Staff/Others Present

Patricia Speicher
Pier Varner
Angela Perrier
Laverne Howard
Harvey Raynor, County Attorney

Chair Quigley called the meeting to order at 7:00 p.m. in Public Hearing Room # 3 of the Historic Courthouse.

1. ROLL CALL

Mrs. Varner called the roll and a quorum was present.

2. ADJUSTMENTS TO THE AGENDA

There were none.

3. APPROVAL OF THE JANUARY 21, 2010 MINUTES

Mr. Davis asked that the January 21, 2010 minutes be adjusted to reflect Randy Carpenter's description as a Certified Residential Appraiser on page 10.

A motion was made by Mr. Davis and seconded by Ms. Tyson-Autry approving the minutes as amended. The motion passed unanimously.

4. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board Members.

5. PUBLIC HEARING DEFERRALS

There were no deferrals.

6. BOARD MEMBER DISCLOSURE

There were no Board Member disclosures.

7. POLICY STATEMENTS REGARDING APPEAL PROCESS

Mrs. Varner read the Board's policy regarding the appeal process to the audience.

8. PUBLIC HEARING(S)

Opened Public Hearing

- **P10-05-C/SL:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A MIXED USE BUILDING IN A C(P) PLANNED COMMERCIAL DISTRICT ON 1.31 +/- ACRES, LOCATED AT 2240, 2254 AND 2258 NORTH BRAGG BOULEVARD, NORTH OF MARANATHA CIRCLE; SUBMITTED BY QUALITY OIL COMPANY, LLC. AND OWNED BY JAMES C. AND NOLA L. CATOE AND MARGO PROPERTIES.

Mrs. Varner presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: Advised the Board that this case falls into two jurisdictions, Spring Lake and Cumberland County. The Spring Lake Board of Adjustment approved the case on February 12, 2010. The Text Amendment for the mixed use building in the County was approved by the Board of Commissioners on January 19, 2010.

CHAIR QUIGLEY: Asked to see the floor plan of the residential unit. This is within the requirements of what's required for commercial and residential use.

MR. SWANSON: Why didn't condition #23, the 6' buffer, apply within this particular circumstance, why was it not applicable? The 6' buffer where it abuts the residential property.

MRS. VARNER: We didn't see that the applicant shows the buffer on the side and the rear of the subject property, and he has to comply with those requirements, according to the County ordinance. So we put it as a condition, and that's why we are asking him to re-submit a revised site plan showing the buffer.

MR. SWANSON: So if the revised site plan shows that it abuts residential properties, then condition #23 could be imposed?

MRS. VARNER: Yes, he will have to follow that condition.

MS. SPEICHER: All of these conditions do apply, and staff has gone over each of them with the applicant and made sure he understood them and agrees to every one of them.

MR. SWANSON: Could you roughly show where C1 ends and where the portion that is zoned RR begins, roughly.

MRS. VARNER: Indicated on the site map the portion that is in the County and the portion that is in Spring Lake and the Spring Lake portion was just approved, the whole site is zoned C(P).

MR. DAVIS: It's concurrent jurisdiction, who has lead authority?

MS. SPEICHER: The Town of Spring Lake. It will be if it hasn't already, petitioned for annexation.

MRS. TART: Were letters sent out to the adjoining property owners?

MS. SPEICHER: Yes, we mailed a total of 34 letters first class. On each and every one of these cases we mail out a radius of 500 ft to 1100 ft surrounding the subject property, State Law requires adjacent property owner notification, as a policy we feel it's important to mail out to a larger radius.

MRS. TART: Does that apply when you have a municipality involved plus the County?

MS. SPEICHER: Yes ma'am we do. The only municipality we are not responsible for planning functions is the City of Fayetteville. Even if it was adjacent to Fayetteville we would notify those residents as well.

MR. SWANSON: Could we look at the zoning portion of the evidence that you have prepared? The portion in red is in the County, is that correct?

MRS. VARNER: Yes, these two lots are in the County (indicated on map).

MR. SWANSON: So you know the approximate size of the triangular shaped parcel? If the parcel wasn't combined with other adjoining parcels, would it have any use other than being a pie shaped piece of land? Could you build on it?

MRS. VARNER: If the case is approved these lots will be recombined, which is addressed by condition #2.

CHAIR QUIGLEY: (Swore in Mr. Ron Sutphin)

MR. SUTPHIN: My name is Ron Sutphin, Jr. my address is 1540 Cylus Creek Pkwy, Winston-Salem, NC. I am an employee of the applicant, Quality Oil Company. This is a very complex piece of property, because it's several different parcels, so I just wanted to be here if there were any questions.

MR. SWANSON: With regards to the surrounding properties, do you have any information as to whether or not there is any impact, either adversely or positively on the value of adjoining or abutting property?

MR. SUTPHIN: I would hate to speculate on the impact that we would provide to other adjoining properties; however, I would say I don't think we would bring a negative impact to any property in the adjacent areas. We are just north of a commercial area and Spring Lake's

growth plans provided for commercial development along this particular corridor. We will take the necessary steps to segregate ourselves from the residential portions that will lie to the rear of us or to the east of this particular property using both fencing and natural woodland. The piece directly to the south of the subject property is a piece owned by the Riddle family, (indicated portion of property zoned commercial) would be adaptable for development in the future at some point. The particular parcel in the rear has soil problems and water retention problems that are not shown on the map, but you can see some of the soil issues there. We looked at this property first, from a size perspective. We moved north to the Catoe property, which is the larger portion of what we are purchasing, and tried the layout on it. We are set to purchase that property within the next week.

MS. SPEICHER: Added for the record that all of the owners of the property signed the application for the Special Use Permit.

MR. SWANSON: Approximately, in North Carolina, how many existing, similar operations does your company have?

MR. SUTPHIN: This will be number 50.

MR. SWANSON: Is there any evidence of a decline in values of adjoining properties?

MR. SUTPHIN: I would say no. Quality Oil Company is a family owned oil company out of Winston-Salem. We started out in 1929 in the home heating business; from there we branched into the service station business throughout the forties through the sixties. When self serve became popular in the retail gasoline business in the early seventies right around the first shortage that we all know about, we branched out along with other retailers into the self serve business which caused your modern day convenience store to evolve. We have evolved as a company through that also, we are still privately owned, family held, we're owned by the Bennett family and the Glenn family, both from Winston-Salem. We have 49 of these particular properties scattered throughout North Carolina and Southern Virginia. The greater Fayetteville region is currently an area of development that we are very pro-development on and we like this particular development. It's not an area that we have developed into before. We focused on Western North Carolina for a while. Generally what we see is areas where we put this type of development, which is what we call our quality plus family of development; we usually put those in places where people are going somewhere. In this particular case we want to catch the customer who ideally is working in Spring Lake and/or Fort Bragg, who is going home on Highway 87 everyday. So we choose locations that we deem people are going places, and it may not have as much dense development at that particular time, we do that for traffic and ease of convenience for the customer. What we find is that we sometimes drag other people with us in time, such as other retailers that might have similar effect, such as a Dollar General or somebody like that. We don't think that is a negative impact, but that's of a biased opinion. I'd hate to answer that.

MR. SWANSON: What time of the day are the tanks on the property typically filled? Do you have any evidence or complaints that the operation of filling tanks is obnoxious to the surrounding or abutting residential areas?

MR. SUTPHIN: I wouldn't think so, the tank location, you can see on this particular drawing (indicated on drawing where the tanks would be located) the tanker would pull in at the lower

entrance, which is an ingress only, on the lower drive, and will circle through as the customers do to the exit drive on the north. But those tanks are placed there, and the customer can't easily maneuver around the tanker as he is dropping his load. What we find is, they generally just blend in with the environment and we don't have any adverse effects. As to a specific time of day we would like to time it where we fuel in the middle of the night, because it takes away a lot of liability that we have to the customer and to the property. But that's not always the case, I don't want to stand here and tell you that we only fuel between 2 am and 6 am that would be false.

MR. SWANSON: In cases where you do refuel between 2 am and 6 am do you have any noise complaints that you are aware of?

MR. SUTPHIN: When you take into account the locations that we have, such as Highway 87, and you take on just the noise itself that is present any time of day on a road that has that type of activity, I don't think you will have any complaints. The loudest sound that you will hear in those cases is the sound of the truck idling as the driver unloads.

Public Hearing closed

MR. HUMPHREY: I had a chance to read this packet, and it seems that staff has done a good job on what has to be done, it's quite thorough.

MR. SWANSON: The thing that struck me here and looking at the requirements for a Special Use Permit, is one of the things we are supposed to look at is the condition created by the person seeking the permission, well those parcels and the way that it's laid out, this is one of those cases where if it's not combined, you don't get to use.

Mr. Swanson made a motion, seconded by Mr. Davis, that Case P10-05-C/SL be approved based on the following facts for your consideration, (1) the proposed use will not materially endanger the public health or safety if located to the plan submitted and recommended, in fact this particular petitioner has to jump two hurdles in the form of he has to meet the requirements of the Town of Spring Lake and he has to meet the requirements of the Cumberland County Board of Adjustment, both agencies work in the same direction looking for public health and safety, there has been no evidence either from any information from Board action conducted by the Town of Spring Lake nor any evidence presented here tonight that would indicate that the proposed use of the three parcels will do that (2) based on the information presented by the staff that the use and the conditions that may or may not be imposed will meet all of the required conditions and specifications ultimately going back to Spring Lake (3) that the use will maintain or enhance the value of adjoining or abutting properties, in fact the petitioner when he provided information said that through forty-nine different properties, that he had no information that abutting properties were adversely impacted by similar types of operation, and that finally, (4) the location and character of use if developed according to the plan as submitted will be in harmony in the area in which it is to be located and in general conformity with Cumberland County's most recent Land Use Plan. The applicant must comply with the conditions.

Quigley: Yes
Swanson: Yes
Davis : Yes
Tart : Yes
Humphrey: Yes

The motion was approved unanimously subject to the conditions that were mentioned.

9. DISCUSSION

There was none.

10. UPDATES

MS. SPEICHER: Gave the Board an update on the status of Isaac Williams, according to Code Enforcement, a criminal civil summons had been issued in his case. There was no activity on the property. It will go before Judge Tucker sometime in March.

11. ADJOURNMENT

There being no further business; the meeting adjourned at 7:40 p.m.