

Clifton McNeill, Jr., Chair
Cumberland County

Charles C. Morris, Vice-Chair
Town of Linden
David Averette,
John M. Gillis, Jr.
Dr. Marion Gillis-Olion
Cumberland County



Nancy Roy, AICP, Director
Thomas J. Lloyd
Deputy Director

Joe W. Mullinax,
Town of Spring Lake
Donovan McLaurin,
Wade, Falcon & Godwin
Frank Underwood,
Town of Stedman

COUNTY of CUMBERLAND

Joint Planning Board

MINUTES
February 17, 2004

Members Present

Mr. Charles Morris, Vice-Chair
Mr. David Averette
Mr. John M. Gillis, Jr.
Dr. Marion Gillis-Olion
Mr. Donovan McLaurin
Mr. Frankie Underwood

Members Absent

Mr. Clifton McNeill, Chair
Mr. Joe W. Mullinax

Others Present

Ms. Bonny Collins
Mr. Wayne Dudley
Mr. Matt Rooney
Ms. Patti Speicher
Ms. Barbara Swilley

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Gillis delivered the invocation, and Vice-Chair Morris led those present in the Pledge of Allegiance.

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Ms. Speicher reported that Case Nos. P04-010 and P04-13 had been withdrawn. A motion was made by Dr. Olion and seconded by Mr. Gillis to approve the Agenda with the above changes. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board members.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Ms. Speicher read the Board's policy regarding public hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF FEBRUARY 3, 2004

REZONING CASES

- A. P04-14: REZONING OF AN 88.83-ACRE PORTION OF A 132.43-ACRE TRACT FROM RR TO R10 OR TO A MORE RESTRICTIVE ZONING DISTRICT, EAST AND WEST OF HOKE LOOP ROAD, NORTH OF RAEFORD ROAD, OWNED BY JOHN A. WILLIAMS, JR. ET. AL.

The Planning staff recommended approval of the R10 Residential District based on the following:

1. The 2010 Land Use Plan calls low- and suburban- density at this location;

2. Public water and sewer are available to the site; and
3. The uses allowed in the R10 District are consistent with the development and land use in the area.

No one appeared in favor of or in opposition to the request.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and approve the R10 District. The motion passed unanimously.

- B. P04-15: REZONING OF 38.0 ACRES FROM A1 TO R40 OR A MORE RESTRICTIVE ZONING DISTRICT AT 2729 CHICKEN FOOT ROAD, OWNED BY ANNIE R. CANADY.

The Planning staff recommended approval of the R40 Residential District based on the following:

1. The uses allowed in the R40 District are consistent with the land use, development and lot sizes in the area; and
2. This is a high growth area, and the R40 District is appropriate.

No one appeared in favor of or in opposition to the request.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and approve the R40 District. The motion passed unanimously.

- C. P04-16: REZONING OF 1.56 ACRES FROM R10 TO C(P) OR A MORE RESTRICTIVE ZONING DISTRICT AT 7595 CLINTON ROAD, OWNED BY THE STEDMAN FIRE DEPARTMENT.

The Planning staff recommended approval of the C(P) Planned Commercial District based on the following:

The uses allowed in the C(P) District are consistent with the recommendations of the Stedman Land Use Plan.

No one appeared in favor of or in opposition to the request.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and approve the C(P) District. The motion passed unanimously.

CONDITIONAL USE OVERLAY CASES

- A. P04-17: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW A NURSERY OPERATION IN C1 AND C3 DISTRICTS ON .85 ACRES AT 3610 CUMBERLAND ROAD, OWNED BY GLADYS A. BLANTON.

The Planning staff recommended approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

The Planning staff recommended approval of the Conditional Use Overlay Permit based on the findings that the proposal:

1. Will not materially endanger the public health and safety;
2. Will not substantially injure the value of adjoining or abutting property;
3. Will be in harmony with the area in which it is to be located; and
4. Will be in conformity with the 2010 Land Use and Thoroughfare Plans.

The Planning staff recommended that the following condition be attached to the Conditional Use Overlay Permit:

A buffer shall be provided and maintained in accordance with Sections 7.27 and 10.2 of the County Zoning Ordinance.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and approve the Conditional Use Overlay District after finding that the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. The motion passed unanimously.

A motion was made by Dr. Olion and seconded by Mr. Gillis to approve the Conditional Use Overlay Permit after finding that when completed, the proposed: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 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 included the condition that a buffer be provided and maintained in accordance with Sections 7.27 and 10.2 of the County Zoning Ordinance.

The motion passed unanimously.

PLATS AND PLANS

A. 04-013: VILLAGE AT ASPHENS CREEK ZERO LOT LINE SUBDIVISION REVIEW ON THE SOUTH SIDE OF SANDHILL ROAD, EAST OF CYPRESS LAKES FOR A VARIANCE FROM SECTION 3.18, "BLOCK LENGTH," CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and grant the variance. The motion passed unanimously.

B. 04-016: JAMES E. SIMON GROUP DEVELOPMENT REVIEW ON THE NORTH SIDE OF MARK TWAIN LANE, EAST OF HOLLOW BRIDGE ROAD FOR A VARIANCE FROM SECTION 3.2.d, "LOT STANDARDS," CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and grant the variance. The motion passed unanimously.

C. 04-019: WALTER E. THOMAS SUBDIVISION REVIEW ON THE EAST SIDE OF NC HWY 210, SOUTH OF CARL FREEMAN ROAD FOR A VARIANCE FROM SECTION 3.17.c "STREET DESIGN", CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and grant the variance. The motion passed unanimously.

D. 04-022: BERLINE UNDERWOOD SUBDIVISION REVIEW ON THE EAST SIDE OF CUSTER AVENUE, SOUTH OF BEARD ROAD FOR A VARIANCE FROM SECTION 4.2.c.B, "PRIVATE STREETS," CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and grant the variance. The motion passed unanimously.

VII. PLATS AND PLANS

- A. 03-240: BRIAN WATSON C(P) SITE PLAN REVIEW ON THE NORTH SIDE OF ANGELIA M. STREET, WEST OF WHITEHEAD ROAD FOR ALTERNATE YARD REQUIREMENTS FROM SECTION 12.45, "PLANNED COMMERCIAL AND INDUSTRIAL DISTRICTS," CUMBERLAND COUNTY ZONING ORDINANCE.

Ms. Speicher explained that the staff recommended approval of the Site Plan Review after discovering that there is a similar business on the same street that also does not meet the setbacks.

A motion was made by Mr. McLaurin and seconded by Mr. Averette to follow the staff recommendation and approve the Site Plan Review. The motion passed unanimously.

VIII. PUBLIC HEARING ITEMS

- A. P03-91: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW A JUNK YARD AND OPEN STORAGE OF EQUIPMENT IN AN A1 DISTRICT ON 3.21 ACRES ON THE NORTHEAST SIDE OF WHITEHEAD ROAD, NORTH OF NC HIGHWAY 24, OWNED BY ZARKO JOHNSON.

The public hearing was opened, and Ms. Speicher asked that the packet materials be introduced into the record. Ms. Speicher explained that the case had been before the Board, and the Board asked that the applicant request a Conditional Use Overlay District and Permit rather than rezoning. Maps and slides were displayed indicating the zoning and land use in the area.

Ms. Speicher reported that the Planning staff recommended approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

The Planning staff recommended approval of the Conditional Use Overlay Permit based on the findings that the proposal:

1. Will not materially endanger the public health and safety;
2. Will not substantially injure the value of adjoining or abutting property;
3. Will be in harmony with the area in which it is to be located; and
4. Will be in conformity with the 2010 Land Use and Thoroughfare Plans.

The Planning staff recommended that the following conditions be attached to the Conditional Use Overlay Permit:

1. No more than 20 cars allowed on the site at one time, and no more than the existing equipment is allowed stored on the site;
2. The building is to be demolished and removed from the site within 30 days;
3. The buffer is to be in accordance with the site plan; and
4. No commercial operations other than those allowed in the A1 District and specifically listed in the application shall be allowed.

Ms. Speicher said that the applicant agrees to all of the conditions except removing the existing building.

Mr. Zarko Johnson appeared before the Board and said that the building was not complete when he purchased the property 10 years ago, and he would like to use it to park cars inside. He said that the building is a solid cinderblock building, and he would like it to serve as a garage to do repair work. Mr. McLaurin asked why the staff was recommending that the building be demolished. Ms. Speicher said that there is no roof, and trees are growing up through the building. Mr. Johnson said that he wants to fix it by adding a roof, finishing the front wall and putting in concrete flooring.

Mr. Averette asked how long it would take to complete the building. Mr. Johnson said that he has many projects and he is trying to keep his other business running. He noted that the building isn't visible from the road, and he said it would take about a year to complete.

No one appeared in opposition to the request.

The public hearing was closed.

Mr. Gillis said he'd rather see the applicant given time to complete the construction with the appropriate permits rather than demolish the building. Ms. Speicher said that zoning permits are good for six months.

Mr. Gillis asked if permits would be required if the building was used strictly for storage. Ms. Speicher said that zoning, building, electrical, mechanical and plumbing permits could possibly be needed.

A motion was made by Mr. McLaurin and seconded by Mr. Averette to follow the staff recommendations and approve the Conditional Use Overlay 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. McLaurin and seconded by Dr. Olion to approve the Conditional Use Overlay Permit after finding that when completed, the proposed: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 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 stated that all conditions recommended by staff pertain to the Conditional Use Overlay Permit.

Mr. Averette said he'd rather see the building brought up to standards within a specified time frame.

A substitute motion was made by Mr. Averette and seconded by Mr. Gillis to approve the Conditional Use Overlay Permit after finding that when completed, the proposed: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 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 included all conditions recommended by staff except that rather than demolishing the building, Mr. Johnson be given six months to complete the building and obtain all necessary permits, or it is to be demolished 30 days after the six-month period. The motion passed five to one with Mr. McLaurin voting in opposition.

B. P04-05: REZONING OF .56 ACRES FROM RR TO R10 OR A MORE RESTRICTIVE ZONING DISTRICT, AT 2643 LAKEVIEW DRIVE, OWNED BY ROSINA NEWTON.

The public hearing was opened. Maps and slides were displayed indicating the zoning and land use in the area. Ms. Speicher reported that the Planning staff recommended denial of the R10 Residential District based on the following:

1. The site does not contain water and sewer; and
2. The uses allowed in the R10 District are not in character with the existing development of the neighborhood.

Ms. Speicher explained that the property is in violation of the Zoning Ordinance because a multi-family unit is on the site, and multi-family use is not allowed in the RR District.

Ms. Rosina Newton appeared before the Board and said that the house was built in 1978. She said that the garage was built later, and her husband lived in it. She said the use has existed for 20 years, and she didn't realize it was a violation.

Ms. Christina Engle, daughter of Ms. Newton, appeared before the Board and said that the violation is due to lack of water and sewer. She said since her mother was informed of the violation, she has installed a new septic tank to serve the house so that each dwelling has its own septic tank, and they share a well. She said that taxes have been paid on the property for 20 years without being notified there was a violation.

Mr. Kenneth Praschan, attorney representing Ms. Newton, appeared before the Board and said that both septic systems checked out fine, and the well has been serving both structures for many years. He said Ms. Newton wants to be in compliance. He said that there are two one-bedroom apartments with one individual in each. He said that the units don't create extra traffic or noise. He said that Ms. Newton wants the R10 rezoning and will comply with all regulations and obtain the necessary permits.

Mr. Virgil Pender appeared before the Board in opposition. He said that he lives nearby, and vehicles speed down the road and will soon cause an accident. He said that the renters don't care about the neighborhood.

In rebuttal, Ms. Newton said that she screens her renters, and there are no children, and only one person living in each apartment. She said that the rental units do not create a nuisance.

The public hearing was closed.

Dr. Olion asked if staff verified the new septic tank. Ms. Speicher said that they did. She said that a permit was issued on January 20 of this year for a new septic tank for the home. She said that the older tank serves the apartments. Dr. Olion asked if staff wanted to change the recommendations. Ms. Speicher said that they are still sharing a well, and the staff's primary concern was opening the area up for more density, which is against the 2010 Land Use Plan. She added that a majority of the subject property is within a flood area.

Mr. Morris asked how power was provided to the structure if no permits were pulled. Ms. Newton said that the inspectors approved the structure for power. Ms. Speicher added that the unit was originally used for storage and became dwelling units over time.

Ms. Engle said that flooding hasn't been a problem even with the dam's recent break. She said if flood insurance is needed, it will be purchased. Ms. Speicher said if the rezoning is approved, a variance will be needed from the Board of Adjustment.

Mr. Averette asked Ms. Engle to indicate where water is on the property. Ms. Engle said before the dam ruptured, there wasn't even water on the property. She indicated that water reaches the lower property line and added that both septic tanks are within the floodplain. She said that the Health Department approved both.

Mr. Gillis asked if requesting a Conditional Use Overlay District and Permit was addressed. Ms. Speicher said that the County Attorney said Conditional Use Overlay Permits may not be used to vary density.

Mr. Averette asked if the R20 District would allow enough density. Ms. Speicher said it would not—only the R10 will allow the three units.

Mr. Gillis asked at what point the storage unit was converted into a residential unit. Ms. Newton said that the first unit was created in about 1985, and the second around 1987. She said that inspectors came to the site at that time.

Mr. Gillis said that request is difficult for the Board because of the precedent set in that approval will legalize a structure that violates all building regulations. He said if the Board approves the request, then they wouldn't be able to deny any similar requests from neighbors in the future. Ms. Speicher said that the Board should consider all uses allowed in the R10 District, and not just those requested in this case. Mr. Gillis said that the County Attorney has admonished the Board numerous times that their job is to enforce the Ordinance.

A motion was made by Mr. Gillis and seconded by Mr. McLaurin to follow the staff recommendation and deny the R10 District rezoning. The motion passed five to one with Mr. Underwood voting in opposition.

C. P04-08: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW AUTOMOBILE SALES IN AN R40 DISTRICT ON 1.01 ACRE AT 10725 CLAYFORK HILL ROAD, OWNED BY WILLIAM JEFFREY SIMPSON.

The public hearing was opened, and Ms. Speicher asked that the packet materials be introduced into the record. She said she would explain Cases P04-08 and P04-09 together, as the same applicant submitted them, the properties are next to each other, and the requests are similar.

Maps and slides were displayed indicating the zoning and land use in the area. Ms. Speicher reported that the Planning staff recommended approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

Ms. Speicher stated that the Planning staff recommended approval of the Conditional Use Overlay Permit based on the findings that the proposal:

1. Will not materially endanger the public health and safety;
2. Will not substantially injure the value of adjoining or abutting property;
3. Will be in harmony with the area in which it is to be located; and
4. Will be in conformity with the 2010 Land Use and Thoroughfare Plans.

Further, she stated that the Planning staff recommended that the following conditions be added to the Conditional Use Overlay Permit:

1. A buffer in accordance with the Zoning Ordinance is to entirely surround the property except for the cemetery and road frontage;
2. One sign not to exceed 10 square feet shall be permitted;
3. No more than 18 vehicles are to be parked on the premises at one time;
4. All lighting is to be directed inward;
5. No employees are allowed to be employed at the business; and
6. All vehicles parked on the site are to be licensed and operable.

Mr. Jeff Simpson appeared before the Board and said that his family has owned the property for 30 years, and there is a \$50,000 building located on one of the tracts. He said that his brother lives on the property, and he plans to build a home in the future on the other site. He said that the building has heat and air conditioning on a portion that will be used for an office. He said that he owns all the surrounding land and the cemetery. He said that the Condition on P04-09 allows only four parking spaces, and doesn't allow him to sell cars from the site. He said if he builds a home on the other site, he'll have to give up the auto sales business because he won't be able to sell cars next to his residence. He said he wants to have car sales on both lots with two employees and enough parking spaces for the cars and his 12 farm vehicles.

Mr. Morris noted that the aerial photo doesn't line up with the site plan. Ms. Speicher said that staff followed the plan prepared by the surveyor.

Mr. Morris asked Mr. Simpson exactly what his objections were to the conditions. Mr. Simpson said that they want to sell cars from both lots, use the office on one of the lots, and they don't want to buffer the cemetery or between the structure and his brother's home. In addition, he said that he wanted more parking spaces.

Mr. McLaurin asked about the buffer between the structure and his brother's home. Mr. Simpson said that there is only 20 feet between the two buildings, and his brother also doesn't want the buffer. Mr. McLaurin asked about the buffering on P04-08. Ms. Speicher said the staff is requesting that it be from the cemetery to the road. Mr. Simpson said he didn't want that buffering either. Mr. McLaurin said that buffering is required to separate commercial from residential uses. Mr. Simpson said that he owns all the property. Mr. McLaurin said it's not an ownership issue—it's to separate the uses, and the Board didn't want to set a precedent. Mr. McLaurin asked about the number of parking spaces, and Mr. Simpson said he could live with less on P04-08, but needed more than four spaces on P04-09.

No one appeared in opposition to the request.

The public hearing was closed.

Mr. Averette again repeated what the applicant wanted and asked how many parking spaces he would like on each lot. Mr. Simpson said he'd like to have 20 spaces on each lot. Ms. Speicher said that the most he could get on P03-08 is 18.

Mr. Underwood said years ago, there were 150 vehicles parked on the lot on Saturday evenings (site was formerly a restaurant). He said that the lot holds more than 18 cars, and he didn't think 20 was unreasonable.

Mr. Gillis said when the DMV reviews structures for licensing; the site has to be properly zoned. He said that the buffer was his only concern. He said it isn't a problem in this case because all of the land is family owned. He asked if there was a way to require buffering if some of the land was sold in the future. Ms. Speicher said that it wouldn't be possible to track future transactions.

Mr. Underwood asked if the mobile home was going to be replaced with a stick-built home and was told that it was not.

A motion was made by Mr. McLaurin and seconded by Mr. Gillis to follow the staff recommendations and approve the Conditional Use Overlay District after finding that the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. The motion passed unanimously.

A motion was made by Mr. McLaurin and seconded by Mr. Gillis to approve the Conditional Use Overlay Permit after finding that when completed, the proposed: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 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 following conditions were added to the Conditional Use Overlay Permit:

- 1. One sign not to exceed 10 square feet shall be permitted;**
- 2. No more than 18 vehicles are to be parked on the premises at one time;**
- 3. All lighting is to be directed inward;**
- 4. All vehicles parked on the site are to be licensed and operable.**

The motion passed unanimously.

- D. P04-09: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW CAR SALES, AN OFFICE AND A DETAIL SHOP IN AN A1 DISTRICT ON 1.0 ACRE ON THE WEST SIDE OF CLAYFORK HILL ROAD SOUTH OF BEAVER DAM CHURCH ROAD, OWNED BY WILLIAM JEFFREY SIMPSON AND TONY DEREK SIMPSON.

The public hearing was opened, and Ms. Speicher asked that the packet materials be introduced into the record. She said she would explain Cases P04-08 and P04-09 together, as the same applicant submitted them, the properties are next to each other, and the requests are similar.

Maps and slides were displayed indicating the zoning and land use in the area. Ms. Speicher reported that the Planning staff recommended approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

The Planning staff recommended approval of all uses requested in the the Conditional Use Overlay Permit based on the findings that the proposal:

1. Will not materially endanger the public health and safety;
2. Will not substantially injure the value of adjoining or abutting property;
3. Will be in harmony with the area in which it is to be located; and
4. Will be in conformity with the 2010 Land Use and Thoroughfare Plans.

The Planning staff recommended that the following conditions be added to the Conditional Use Overlay Permit:

1. A buffer in accordance with the Zoning Ordinance is to entirely surround the property except the road frontage;
2. No more than four vehicles are to be parked on the premises at one time;
3. All lighting is to be directed inward;
4. A sign is not allowed at this location;
5. No vehicle sales shall be permitted on the site;

6. No more than two employees are allowed to be employed at the business; and
7. All vehicles parked on the site are to be licensed and operable.

See Case P04-08 for discussion regarding this case.

No one appeared in opposition to the request.

The public hearing was closed

A motion was made by Mr. McLaurin and seconded by Mr. Gillis to follow the staff recommendations and approve the Conditional Use Overlay District after finding that the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. The motion passed unanimously.

A motion was made by Mr. McLaurin and seconded by Mr. Gillis to approve the Conditional Use Overlay Permit after finding that when completed, the proposed: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 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 following conditions were added to the Conditional Use Overlay Permit:

1. A buffer in accordance with the Zoning Ordinance is to entirely surround the property except the road frontage;
2. No more than 28 vehicles are to be parked on the premises at one time;
3. All lighting is to be directed inward;
4. A sign is allowed that complies with DMV minimum size;
5. No more than four employees are allowed to be employed at the business; and
6. All vehicles parked on the site are to be licensed and operable.

Dr. Olion asked about the number of vehicles. Mr. McLaurin said 28 would be a fair number. Mr. Gillis said that he was inclined to exempt farm vehicles from the count, but this takes the staff out of determining whether the vehicles are farm-related.

Mr. Averette said that he would like to eliminate the buffer.

Mr. Gillis withdrew his second.

Mr. Underwood asked that the motion be amended to eliminate the buffer.

A motion was made by Mr. McLaurin and seconded by Mr. Underwood to approve the Conditional Use Overlay Permit after finding that when completed, the proposed: 1) will not materially endanger the public health and safety; 2) will not substantially injure the value of adjoining or abutting property; 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 following conditions were added to the Conditional Use Overlay Permit:

1. No more than 28 vehicles are to be parked on the premises at one time;
2. All lighting is to be directed inward;
3. A sign is allowed that complies with DMV minimum size;
4. No more than four employees are allowed to be employed at the business; and
5. All vehicles parked on the site are to be licensed and operable.

The motion passed five to one with Vice-Chair Morris voting in opposition.

- E. P04-10: REZONING OF 3.99 ACRES FROM A1 TO R40A OR A MORE RESTRICTIVE ZONING DISTRICT AT 5929 ZYLPHIA LANE, OWNED BY JOSEPH A. AND ARMANDE J. SHIELDS.

This case was withdrawn at the request of the applicant.

- F. P04-13: REZONING OF 92.0 ACRES FROM RR AND CD TO R6 AND A CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO DEVELOP AT R6 DENSITY WITH THE EXTENSION OF WATER AND SEWER AT THE EAST END OF BAY SHORE DRIVE, EAST OF LAKE UPCHURCH ROAD, OWNED BY BAY SHORE PROPERTIES LLC.

This case was withdrawn at the request of the applicant.

- G. P04-18: REZONING OF 5.18 ACRES FROM RR TO R6, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 7315 ROCKFISH ROAD, OWNED BY IRINA ANDERSON.

The public hearing was opened. Maps and slides were displayed indicating the zoning and land use in the area. Ms. Speicher reported that the Planning staff recommended denial of the R6 Residential District and approval of the R10 Residential District based on the following:

The 2010 Land Use Plan calls for low-density development at this location, and the R10 District is consistent with this density.

Mr. Stuart Clark, attorney for the applicant, appeared before the Board and said that Ms. Anderson owned the property for a number of years and operated a dog kennel for many years. He said that the tract contains five acres and is impractical at R10 zoning. He said that Ms. Anderson is requesting the R6 to allow multi-family use in front of the school. He said that there is no other real use for the acreage unless it was a convenience store.

No one appeared in opposition to the request.

The public hearing was closed.

Mr. Averette said that the land is on Rockfish Road, and when the 2010 Land Use Plan was created, the school wasn't there, the road has been redone since then and a turning lane added, and there was no water and sewer in the area. He said that three major subdivisions have recently been approved in the area, and it is a much higher density now. He added that the 2010 Land Use Plan is outdated.

A motion was made by Mr. Averette and seconded by Mr. Gillis to approve the R6 Residential District. The motion passed unanimously.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 8:25 p.m.