

Clifton McNeill, Jr.
Chair
Cumberland County

Charles C. Morris, Vice-Chair
Town of Linden
David Averette,
Dr. Marion Gillis-Olion
Roy Turner,
Cumberland County



COUNTY of CUMBERLAND

Planning and Inspections Department

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

Joe W. Mullinax,
Town of Spring Lake
Donovan McLaurin,
Wade, Falcon & Godwin
Harvey Cain, Jr.
Town of Stedman

MINUTES

April 19, 2005

Members Present

Mr. Clifton McNeill, Chair
Mr. Charles Morris, Vice-Chair
Mr. David Averette
Mr. Harvey Cain, Jr.
Dr. Marion Gillis-Olion
Mr. Donovan McLaurin
Mr. Joe W. Mullinax
Mr. Roy Turner

Others Present

Ms. Nancy Roy, Director
Mr. Tom Lloyd, Deputy Director
Ms. BJ Cashwell
Ms. Donna McFayden
Mr. Grainger Barrett, Co. Atty.
Ms. Diane Wheatley, County
Commissioner

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Averette delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd asked that Case No. P05-16 be moved to Public Hearing items as people had signed up in opposition. A motion was made by Vice-Chair Morris and seconded by Dr. Olion to approve the Agenda as amended. The motion passed unanimously.

II. PUBLIC HEARING DEFERRALS

Mr. Lloyd requested that Case No. P05-09 be deferred two weeks to the May 3, 2005 meeting as requested by the applicant. A motion was made by Mr. Averette and seconded by Mr. McLaurin to defer the case two weeks. The motion passed unanimously.

III. ABSTENTIONS BY BOARD MEMBERS

Mr. Averette said that he would abstain from discussion and voting on Case 05-042. He asked that the Board vote on the case separately from the other Consent items. Mr. McLaurin said that he would abstain from discussion and voting on Case No. P05-16. A motion was made by Mr. Mullinax and seconded by Mr. Cain to approve the abstention requests by Mr. Averette and Mr. McLaurin. The motion passed unanimously.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the Board's policy regarding public hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF APRIL 5, 2005

A motion was made by Mr. Mullinax and seconded by Mr. Averette to approve the Minutes of April 5, 2005 as printed. The motion passed unanimously.

REZONING CASES

- B. P05-19: REZONING OF 4.27 ACRES FROM R6 AND R6A TO C(P), OR A MORE RESTRICTIVE ZONING DISTRICT, AT 123 NAUTIQUE DRIVE, SUBMITTED BY AMAR PATEL, OWNED BY MANJULA PATEL, ET AL. (SPRING LAKE)

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

1. The Spring Lake Land Use Plan calls for heavy commercial use at this location; and
2. Site plan review is desirable in this area.

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

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

- D. P05-24: REZONING OF TWO PARCELS TOTALING 1.44 ACRES FROM A1 TO RR, OR A MORE RESTRICTIVE ZONING DISTRICT, SOUTH OF JOHN HALL ROAD, BETWEEN MYRTLE LANE AND NEY COURT, OWNED BY CHARLES A. JORDAN AND WIFE.

The Planning staff recommended approval of the RR Residential District based on the finding that the uses allowed in the RR District are consistent with those in the surrounding neighborhood.

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

A motion was made by Mr. Averette and seconded by Mr. McLaurin to follow the staff recommendation and approve the RR Rural Residential District. The motion passed unanimously.

- E. P05-25: REZONING OF 12.45 ACRES FROM A1 TO R20, OR A MORE RESTRICTIVE ZONING DISTRICT, NORTH OF RAMSEY STREET, SOUTHWEST OF WEST REEVES BRIDGE ROAD, SUBMITTED BY 4D SITE SOLUTIONS, OWNED BY SOUTHEAST DEVELOPMENT OF CUMBERLAND, LLC.

The Planning staff recommended approval of the R20 District based on the finding that the uses allowed in the R20 District are compatible with the existing uses in the area.

The Planning staff found that the subject property is also suitable for the R40 and R40A Districts.

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

A motion was made by Mr. Averette and seconded by Mr. McLaurin to follow the staff recommendation and approve the R20 Residential District. The motion passed unanimously.

PLATS AND PLANS

- A. 95-186: McDONALD'S C(P) SITE PLAN REVISION REVIEW AT THE NORTHEAST QUADRANT OF BLACK & DECKER AND LEGION ROADS FOR ALTERNATE YARD REQUIREMENTS (44-FOOT FRONT YARD WHERE 50 FEET ARE REQUIRED), ALLOWED UNDER SECTION 12.45, "PLANNED COMMERCIAL AND INDUSTRIAL DISTRICTS," CUMBERLAND COUNTY ZONING ORDINANCE.

A motion was made by Mr. Averette and seconded by Mr. McLaurin to follow the staff recommendation and approve the alternate yard requirements. The motion passed unanimously.

- B. 05-042: TEAKWOOD FOREST ZERO LOT LINE SUBDIVISION/GROUP DEVELOPMENT REVIEW AT THE EAST END OF PALMERLAND DRIVE, SOUTH OF BLACK & DECKER ROAD, FOR VARIANCES FROM SECTION 3.2, "RELATION OF PROPOSED STREETS TO ADJOINING STREET SYSTEM," AND SECTION 3.17.C, "STREET DESIGN, CUL-DE-SAC," CUMBERLAND COUNT SUBDIVISION ORDINANCE.

A motion was made by Vice-Chair Morris and seconded by Mr. McLaurin to follow the staff recommendation and approve the variances. The motion passed unanimously. Mr. Averette abstained from voting on this matter.

- C. 05-050: WINDSOR PARK SUBDIVISION REVIEW ON THE NORTH SIDE OF RAMSEY STREET, SOUTHWEST OF WEST REEVES BRIDGE ROAD, FOR A VARIANCE FROM SECTION 3.17.C, "CUL-DE-SAC," CUMBERLAND SUBDIVISION ORDINANCE.

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

- D. 05-057: WILLIAM GREENE SUBDIVISION REVIEW ON THE SOUTH SIDE OF BLOSSOM ROAD, WEST OF BUTLER NURSERY ROAD, FOR A VARIANCE FROM SECTION 4.2.C(C), "PRIVATE STREET," CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

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

VII. PUBLIC HEARING ITEMS

- A. P04-76: REZONING OF 1.43 ACRES FROM M2 TO R6A, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 4001 LOFTON STREET, OWNED BY GERALD E. CREECH. (WADE)

Mr. Lloyd explained that the case had been deferred to allow the owner more time to clean up the property.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the R6A District and approval of the R6 District based on the following:

1. The 2010 Land use Plan calls for medium-density residential use at this location; and
2. The uses allowed in the R6 District are compatible with the surrounding neighborhood.

The public hearing was opened.

Mr. Gerald Creech appeared before the Board and said he has owned the property for the last 40 years. He informed the Board that he had spent thousands of dollars trying to bring the property up to Code. He explained that he had talked with the EPA about the property, and they informed him they had no plans to test the site.

Mr. Russell McLaurin appeared before the Board and said at a previous meeting there was concern regarding an EPA hazard, and the EPA had no concern about the site. He said at the last meeting the recommendation was R6A, and now the recommendation is R6. He said the property is on the corner and is surrounded with R6A zoning.

Mr. Huell Aekins, Mayor of Wade, appeared before the Board in opposition. He explained that in the 80s, there were stick-built homes on the site. He said for the future and betterment of the town that he was in favor of the R6 zoning. He said the property consists of two stick-built homes, one duplex and no mobile homes and requested the Board deny the R6A zoning and the approve R6 zoning.

The public hearing was closed.

Mr. Averette said the staff recommended R6 zoning as the 2010 Land Use Plan calls for medium-density, but both R6 and R6A are considered medium density. He said the major zoning in the area is R6A other than the commercial and industrial.

A motion was made by Mr. Averette and seconded by Mr. Turner to approve R6A Residential District.

Mr. McLaurin explained that when Church Street was zoned, there was only one mobile home on the street, and the area was zoned R6A in 1980. He said the Town is trying to look toward the future and to protect property values. He said mobile homes and stick-built homes should be kept separate. He said Mr. Creech's property consists of two stick-built houses and a stick-built duplex. He explained that he felt it was not appropriate to mix manufactured homes and stick-built homes together.

A substitute motion was made by Mr. McLaurin and seconded by Mr. Mullinax to follow the staff recommendation to deny R6A Residential District and approve the R6 Residential District.

Chair McNeill asked why the staff changed their recommendation to R6. Mr. Lloyd said it was to not allow manufactured homes or a mobile home park.

Vice-Chair Morris asked if there were any manufactured homes within the 600-foot radius. Mr. Lloyd said the map shows them as SW or DW. Vice-Chair Morris said the map shows the nearest manufactured home next to the Fire Department of the last case. Mr. Lloyd said that was correct.

Upon a vote on the substitute motion, it passed five to three with Chair McNeill, Vice-Chair Morris and Messrs. Cain, McLaurin and Mullinax voting in favor and Dr. Olion and Messrs. Averette and Turner voting in opposition.

- B. P05-16: REZONING OF 1.02 ACRES FROM R6A TO M2, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 3926 CHURCH STREET, SUBMITTED BY DONOVAN MCLAURIN, OWNED BY WADE COMMUNITY FIRE DEPARTMENT. (WADE)

Mr. McLaurin left the room.

Mr. Lloyd informed the Board that this case was deferred from the previous meeting to adjust the zoning classification.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the M2 Industrial District based on the finding that the site is adjacent to existing M2 zoning.

The public hearing was opened.

Mr. Huell Aekins, Mayor of Wade, appeared before the Board and explained that the Fire Department has been on the site for many years. He said that the R6A zoning would not be suitable for the future development of the Town. He said the site is adjacent to M2 industrial zoning, and the requested zoning is appropriate for the area.

Chair McNeill said one of the reasons for deferral of the case was to renotify the residents of the area. He asked Mayor Aekins if adequate notice had been given. Mayor Aekins said he felt enough notice had been given.

Mr. Russell McLaurin appeared before the Board and said that there is only a 60-foot piece of property adjacent to the tract that is zoned M2, and all the surrounding property is zoned R6A. He said he was not opposed to the rezoning but was concerned about what would be done with the property once the Fire Department was gone. He said at the last meeting, he asked that a 1,000-foot radius notification be done, but the same people were notified of the meeting.

Vice-Chair Morris asked Mr. McLaurin if he thought that the rail line would be considered an industrial use. Mr. McLaurin said it would. Vice-Chair Morris explained that property adjacent to a rail line is not suitable for single- or multi-family development.

The public hearing was closed.

Chair McNeill explained normally a 600-foot radius notification of owners is done and the Board felt that 1,000 feet was inappropriate, and notification should not be done differently from any other case.

Mr. Lloyd said the staff explained to Mr. McLaurin that a 1,000-foot radius notification is only done in very rural areas where houses may be 500 feet apart. He added that the property is also posted.

A motion was made by Vice-Chair Morris and seconded by Mr. Cain to follow the staff recommendation and approve the M2 Heavy Industrial District. The motion passed unanimously.

Mr. McLaurin returned to the meeting.

- C. P05-20: REZONING OF 100.79 ACRES FROM RR AND R15 TO R10, OR A MORE RESTRICTIVE ZONING DISTRICT, NORTH OF SUNNYSIDE SCHOOL ROAD, WEST OF I-95, SUBMITTED BY DIANE A. YOUNTS, OWNED BY MILDRED C. ALLEN.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the R10 District and approval of the R15 District for the entire tract based on the following:

1. The 2010 Land Use Plan calls for low-density residential development at this location;
2. Water and sewer are available to the site; and
3. There is other R15 zoning in the area.

The public hearing was opened.

Mr. Joe Gillis, representing Mildred Allen, appeared before the Board said that Ms. Allen would like to develop the land for single-family residences. He said the homes would be from 1,500 to 2,000 square feet. He explained when the property was initially zoned RR, water and sewer were not available to the area.

Mr. McLaurin asked if this would be a zero lot line development. Mr. Gillis said it possibly could, but no engineering had been done on the site.

Ms. Barbara Shamway appeared before the Board in opposition and said that this was a rural community, and the rezoning change would affect the animal habitat. She said the developer wants to place 300 to 500 homes on the property, and this would be a high-density development. She informed the Board that the school would be inadequate to accommodate that many homes. She said they had adequate wells and septic systems.

She told the Board that many people are retired and on fixed incomes, and the water and sewer extension was unwanted.

Mr. Averette asked if she was opposed to any rezoning. Ms. Shamway said the property should remain as farmland because the neighborhood is very rural and a wetlands area.

Chair McNeill asked her if she was aware that the parcel was zoned RR which allowed one-half-acre developments. Ms. Shamway said she understood.

Mr. Tony Nobles appeared before the Board in opposition and said that he has lived there for 15 years. He said he wanted to be off the road and felt this would only benefit the developer and owner.

Mr. Jerry Britt appeared before the Board in opposition and said the road name was changed to Sunnyside School Road due to the drugs and substandard housing on Sapona Road toward the city. He said he has lived in the area for 40 years, and if this development is allowed, the area will be just like East Fayetteville. He asked why the residents were not informed of water and sewer extensions being available to the area. He said he was concerned about environmental issues that would be caused by this development and how they would handle the water runoff.

Mr. Edward Wallace appeared before the Board in opposition and said that he has lived in the area for 31 years. He explained that when it rains, the water backs up in his yard. He informed the Board that in the 70s, he built a 14X20-foot barn and when there is a heavy rain, there are about eight inches of water in it. He told the Board that if the houses are built with paved roads, the water will dump into the canal.

Mr. Gillis appeared before the Board in rebuttal and explained that this development would not harm the area, but would enhance it. He told the Board that when the streets are constructed, that they would be engineered to handle the water. He said all the facilities would be done to comply with the state standards. He said putting homes in smaller areas saves the farmland.

Mr. McLaurin said he has seen many R10 subdivisions developed with zero lot line standards with no play area for the children. He asked how far the parents have to go for recreation. Mr. Gillis said it would be about five miles.

Mr. Turner asked if Mr. Gillis knew how many acres were in the wetlands area. Mr. Gillis said it was about eight to ten acres.

Chair McNeill asked if R15 would be suitable to the owner. Mr. Gillis said the family still wanted the R10 zoning.

The public hearing was closed.

Mr. McLaurin said it was a rural area, and the County Commissioners' have expressed interest in larger lot developments as the County grows. He said R10 developments designed with zero lot line standards leave nowhere for the children to play except in the street.

A motion was made by Mr. McLaurin and seconded by Dr. Olion to follow the staff recommendation to deny R10 Residential District and approve the R15 Residential District.

Mr. Averette explained that the density calculations provided by staff are not lots but how many units could be placed on the site. He said the difference between the R10 and R15 zoning was the density, and zero lot line development could be done in any district.

Chair McNeill said R15 zoning adjoins the tract, and there is no R10 zoning in the area.

A substitute motion was made by Mr. Averette and seconded by Mr. Turner to approve the rezoning to R10 Residential District. The motion failed two to six with Messrs. Averette and Turner voting in favor and Chair McNeill, Vice-Chair Morris, Dr. Olion and Messrs. Cain, Mullinax and McLaurin voting in opposition.

Dr. Olion said that staff had provided information on the school enrollment, and it showed that Sunnyside School is almost at capacity. She said she felt the additional children would place a burden on the schools with the R10 zoning.

Mr. Averette said they did not know if the schools could handle the number of units allowed from any of the other zoning classifications, and they had not heard from the School Board on how much could be supported.

Upon a vote on the original motion, it passed six to two with Chair McNeill, Vice-Chair Morris, Dr. Olion and Messer Cain, Mullinax and McLaurin voting in favor and Messrs. Averette and Turner voting in opposition.

- D. P05-23: REZONING OF 11.83 ACRES FROM A1 TO RR, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 7043 GOLDSBORO ROAD, OWNED BY YOLANDA BAREFOOT, ET. AL.

Mr. Lloyd informed the Board that there is an ongoing minimum housing case on the house, and the open storage is a zoning violation that is going to be cited.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the RR District and approval of the R40A District based on the finding that the density allowed in the R40A District is more consistent with the lot sizes in the surrounding area.

The public hearing was opened.

Ms. Yolanda Barefoot appeared before the Board and said that the property belongs to the children. She explained the RR zoning would allow the land to be divided up into smaller parcels that could be given to their children or grandchildren. She said that the house on the site was used as a rental, and the previous tenant had damaged it. She said that they were waiting for the County Inspectors to determine if the house could be repaired or demolished. She told the Board that her father repaired the vehicles on the property, and he kept some of them.

Mr. McLaurin asked Ms. Barefoot if she would like to be given time to clean up the site. Ms. Barefoot said that once the status of the house is determined, they would clean up the house. Mr. McLaurin asked if they were zoned for a junkyard. Ms. Barefoot informed the Board that they have a salvage permit.

Mr. McLaurin said the vehicles are in violation, and Mr. Lloyd said they were unaware of this until the field survey had been done.

The public hearing was closed.

Vice-Chair Morris said that he had been to the site and felt that the property was not appropriate for any type of residential development. He said if the zoning remained A1, it would allow her to divide it into four lots.

A motion was made by Vice-Chair Morris and seconded by Mr. Mullinax to deny the request.

Chair McNeill said he felt the case should be deferred to allow the applicant time to clean the site to make it more feasible for residential development and opposed the motion.

Mr. Averette said he felt the request should be considered on the basis of zoning and not whether there are violations on the site.

Upon a vote on the motion, it passed five to three with Vice-Chair Morris, Dr. Olion and Messrs. Cain, McLaurin and Mr. Mullinax voting in favor and Chair McNeill and Messrs. Turner and Averette voting in opposition.

VIII. DISCUSSION

A. CONTINUED DISCUSSION OF ZONING ORDINANCE AMENDMENTS

Following a lengthy discussion on the remaining items for the complete Zoning Ordinance revision, the Board agreed on the following:

1. Density Developments:
 - a. The required buffer would be included as part of the 40 percent required open space.
 - b. The front buffer (along the road) would be changed from 20 feet to 40 feet.
 - c. There would be no restrictions as far as percent of wetlands to be included in the buffer.
2. The density in A1A will be reduced to one dwelling unit per acre.
3. The A1 District will remain one dwelling unit per two acres.
4. The previously discussed R87 District will not be recommended.
5. Zoning permits (as described in the Ordinance) will remain valid for six months.
6. Ms. Roy was asked to word a Resolution for the Board's consideration regarding a review of the Ordinance at the end of one year and who would be responsible for this.
7. Regarding the Amendment to Article VII, Density Development: It will be adopted as written along with the following provision...the developer and/or seller will be able to actively use the open space for pasture land or agriculture for up to 10 years (no change in number of years)

Chair McNeill asked that a Final Draft be mailed to the Planning Board for their May 3, 2005 meeting.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Ms. Roy discussed the upcoming Walkable Communities Workshops to be held during the first week of May, which is also Air Quality Week.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 10:45 p.m.

