

M I N U T E S
December 4, 2001
7:00 p.m.

Members Present

John M. Gillis, Chair
David Averette
Charles Morris
Joe W. Mullinax
Marion Gillis-Olion
Jerry Olsen
Commissioner

Members Absent

Dallas Byrd
Clifton McNeill, Vice-Chair

Others Present

Barry Warren, Director
Thomas J. Lloyd
Donna McFayden
Matthew Rooney
Barbara Swilley
John Henley,

Grainger Barrett, Co. Atty.

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

Mr. Warren asked that Case P01-93 be moved from Consent to Public Hearing items due to someone signing up in opposition to the case. A motion was made by Mr. Mullinax and seconded by Dr. Olion to approve the Agenda with the above change. 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

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

VI. DISCUSSION REGARDING POULTRY OPERATIONS

Mr. Warren explained that the County Commissioners requested the Planning Board to meet with representatives from the poultry industry to discuss the affect of large poultry operations on the community. He said that concern was expressed because the operations are exempt from many regulations because they are considered bona fide farms. He said that members from the industry have offered voluntary guidelines that they would like to discuss with the Board.

Mr. Warren said that members of the poultry industry were present as well as James Cochran and George Autry from NC Cooperative Extension Service.

Mr. James Cochran appeared before the Board and said that the committee responsible for formulating the recommendations was present and could answer any questions or concerns that the Board members may have. Present were: Gary Buffkin, representing Goldkist Farms, Danny Wilson, representing Mount Airie Farms, and Harold Conyers and Doug Sealey, farmers.

Chair Gillis referred the matter to the Land Use Codes Committee to work with the representatives and present their recommendations to the full Board. A meeting was scheduled for January 8, 2002 at 7:00 p.m. Mr. Barrett was also asked to attend.

VII. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF NOVEMBER 20, 2001

A motion was made by Mr. Olsen and seconded by Mr. Mullinax to approve the Minutes of November 20, 2001 as written. The motion passed unanimously.

B. P01-96-1: REQUEST FOR R15 RESIDENTIAL DISTRICT ON 849 ACRES, PIN 0544-11-4501, OWNED BY CAROLYN R. ARMSTRONG.

The Planning staff recommended approval of the R15 Residential District based on the following:

1. The uses allowed in the R15 Residential District are consistent with the existing land use in the area;
2. The subject property is within the Urban Services Area; and
3. The subject property is adjacent to an existing subdivision developed to R15 standards

A motion was made by Mr. Olsen and seconded by Mr. Mullinax to follow the staff recommendation and approve the R15 Residential District. The motion passed unanimously.

C. P01-96-4: REQUEST FOR PND PLANNED NEIGHBORHOOD DISTRICT ON 46.87 AND 10.15 ACRES, PIN 0543-81-7662 AND 0553-01-1953, OWNED BY DAVID R. NIMOCKS AND WIFE, ELIZABETH BURNS NIMOCKS.

The Planning staff recommended approval of the PND Planned Neighborhood District based on the following:

1. The subject property is adjacent to a large tract of PND property under the same ownership

A motion was made by Mr. Olsen and seconded by Mr. Mullinax to follow the staff recommendation and approve the PND Planned Neighborhood District. The motion passed unanimously.

D. P01-96-5: REQUEST FOR A1 DISTRICT ON 132.7 ACRES, PIN 0554-56-2971 AND 0554-58-7130, OWNED BY PLATO M. WILLIAMS.

The Planning staff recommended approval of the A1 District based on the following:

1. The uses allowed in the A1 Agricultural District are consistent with the current use of the property in the area.

A motion was made by Mr. Olsen and seconded by Mr. Mullinax to follow the staff recommendation and approve the A1 Agricultural District. The motion passed unanimously.

- E. P01-96-9: REQUEST FOR R40A DISTRICT ON 25.27 ACRES, PIN 0553-90-1778, OWNED BY MARGARET AND JOHN RAYNOR

The Planning staff recommended approval of the R40A District based on the following:

1. The uses allowed in the R40A Residential District are consistent with the development in the area and appropriate in the farmland areas.

A motion was made by Mr. Olsen and seconded by Mr. Mullinax to follow the staff recommendation and approve the R40A Residential District. The motion passed unanimously.

- F. P01-96-10: REQUEST FOR C(P) DISTRICT ON 2.34 ACRES, PIN 0553-11-3775, OWNED BY JACKIE BOWDEN.

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

1. The property has an existing business on the premises; and
2. Site plan approval is desirable on commercial developments.

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

- G. P01-96-11: REQUEST FOR C(P) DISTRICT ON 2.24 ACRES, PIN 0553-22-9049, OWNED BY JAMES B. MOORE AND WIFE

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

1. The property has an existing business on the premises; and
2. Site plan approval is desirable on commercial developments.

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

- H. P01-96-13: REQUEST FOR R40 DISTRICT ON 14.26 ACRES, PIN 0543-32-4136, OWNED BY NANCY HAMMOND GATEWOOD

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

1. The uses allowed in the R40 Residential District are suitable for residential use in the farmland area.

A motion was made by Mr. Olsen and seconded by Mr. Mullinax to follow the staff recommendation and approve the R40 Residential District. The motion passed unanimously.

G. P01-96-14: REQUEST FOR R40A DISTRICT ON 4.5 ACRES, PIN 0574-76-5554, OWNED BY ROBERT AND MARCIA MASON

The Planning staff recommended approval of the R40A District based on the following:

1. The uses allowed in the R40 Residential District are suitable for residential use in the farmland area.

A motion was made by Mr. Olsen and seconded by Mr. Mullinax to follow the staff recommendation and approve the R40A Residential District. The motion passed unanimously.

H. P01-96-15: REQUEST FOR R20 DISTRICT ON PIN 0543-95-0581 (70.65 ACRES) AND PIN 0543-75-9332 (2.24 ACRES), OWNED BY ANN BLAND

The Planning staff recommended approval of the R20 District based on the following:

1. The uses allowed in the R20 District are consistent with the uses in the area; and
2. Water is available to the site

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

I. STAFF'S RECOMMENDED CORRECTIONS TO MAP

Mr. Rooney explained that due to lot sizes and existing uses, some corrections were needed to the map that was presented at the November 20, 2001 meeting in order to make sure that the sites are zoned to be in conformity. He said that a correction was also needed to accurately reflect the CD District where the river has veered from its original course. Mr. Rooney indicated each correction on the map.

A motion was made by Mr. Morris and seconded by Dr. Olion to approve the corrections to the map. The motion passed unanimously.

PLATS AND PLANS

A. 01-252. CONSIDERATION OF THE BILLY G. AND KATHY T. MANNING SUBDIVISION/RECOMBINATION REVIEW IN AN R6A RESIDENTIAL DISTRICT ON THE SOUTHWEST END OF KATHRYN STREET AND SEAWELL STREET, WEST OF US HIGHWAY 301/I-95 BUSINESS FOR AN ACCESS VARIANCE, SECTIONS 3.20 AND 7.12, CUMBERLAND COUNTY ZONING ORDINANCE.

Based on the information contained in the packets, a motion was made by Mr. Olsen and seconded by Mr. Mullinax to approve the access variance. The motion passed unanimously.

VIII. CONSIDERATION OF REQUESTS FOR CHANGE TO THE INITIAL ZONING (CASE P01-96)

Mr. Warren explained that the requests for change that did not appear as consent items (items for which the staff recommended approval) follow and will be addressed individually. He said if the Board denies a request, the person asking for the zoning will be allowed to apply for rezoning at no cost for an amount of time to be determined by the Commissioners. This will enable the case to go through the public hearing process.

A. P01-96-2: REQUEST FOR C3 DISTRICT ON 10 ACRES, PIN 0554-00-1512, OWNED BY ANDREW CAIN.

Mr. Rooney displayed maps indicating the recommended zoning for the property, current land use and soil conditions in the area. He said that the Planning staff recommended denial of the C3 Heavy Commercial District based on the following:

1. The property is located between two existing commercial nodes located at Ramsey Street and Highway 217 to the north and Ramsey Street and Elliot Bridge Road to the south; and
2. Approval of the request would promote strip commercial use between the commercial nodes.

No speakers appeared.

Mr. Averette noted that the property across the road from the subject property is zoned C3. Chair Gillis explained that in the initial zoning process, staff recommended zoning to allow the existing use.

Mr. Olsen said that the list of uses allowed in the C3 District would cover nearly anything that anyone wanted to do, and all would not be appropriate in the area.

A motion was made by Mr. Olsen and seconded by Mr. Mullinax to follow the staff recommendations and deny the C3 District request.

Mr. Averette said that C(P) would be appropriate.

Mr. Morris said that he was uncomfortable denying a request because it was not a public hearing, and the people in the surrounding areas were not notified of the requests.

Mr. Olsen said if the Board approves the request, it will become C3, and the neighbors will have no opportunity to express their opposition. He said if the Board denies the request, the applicant can apply for rezoning at no cost, and the neighbors will be notified and have an opportunity to speak at the public hearing.

Upon a vote on the motion, it passed unanimously.

B. P01-96-3: REQUEST FOR C3 DISTRICT ON 3 ACRES, PIN 0564-37-7147, OWNED BY ANDREW CAIN

Mr. Rooney displayed maps indicating the recommended zoning for the property, current land use and soil conditions in the area. He said that the Planning staff recommended denial of the C3 Heavy Commercial District and approval of the C(P) Planned Commercial District based on the following:

1. The property has an existing business on the premises; and
2. Site plan approval is desirable on commercial developments.

No speakers appeared.

A motion was made by Mr. Averette and seconded by Dr. Olion to follow the staff recommendations and deny the C3 District request and approve C(P) Planned Commercial District for the tract. The motion passed unanimously.

C. P01-96-6: REQUEST FOR M(P) DISTRICT ON 91.7 ACRES, PIN 0573-38-5058, OWNED BY ANN KEITH.

Mr. Rooney displayed maps indicating the recommended zoning for the property, current land use and soil conditions in the area. He said that the Planning staff recommended denial of the M(P) Planned Industrial District based on the following:

1. The site does not meet the criteria for industrial use: a) sites should be located on designated entrance corridors; and b) sites should be served by water and sewer;
2. The existing roads providing access to the site are not classified as major thoroughfare; and
3. The soils on the subject property have severe limitations for use with septic tanks.

No speakers appeared.

A motion was made by Dr. Olion and seconded by Mr. Mullinax to follow the staff recommendations and deny the M(P) District request. The motion passed unanimously.

D. P01-96-7: REQUEST FOR R6A, R5 and C(P) DISTRICTS ON 78.1 ACRES, PIN 0563-95-9492, OWNED BY TOM KEITH.

Mr. Rooney displayed maps indicating the recommended zoning for the property, current land use and soil conditions in the area. He said that the Planning staff recommended denial of the R6A and R5 Residential Districts based on the following:

1. The site does not meet the locational criteria for medium- and high-density residential use: a) contain public utilities; and b) fall within ¼ mile of an existing major arterial;
2. The uses allowed in the R6A and R5 Districts are not consistent with the land use in the area; and
3. The soils on the subject property have severe limitations for use with septic tanks.

The Planning staff recommends denial of the C(P) District based on the following:

1. The site does not meet the locational criteria for heavy commercial use; and

2. The uses allowed in the C(P) District are not consistent with the land use in the area.

There were no speakers.

Mr. Morris said that there is a container site across from the subject property that is owned or leased by the County. He said that there is no commercial within seven miles of the property, and there will be commercial development somewhere in the area someday. Mr. Warren said that the staff's recommendation was based on meeting the criteria at the present time. Mr. Rooney displayed the map indicating the soil suitability.

A motion was made by Mr. Morris and seconded by Dr. Olion to approve the C(P) Planned Neighborhood District and the R6A and R5 Residential Districts.

Chair Gillis noted that the residential requests would allow 80 units, and the soil suitability map indicate that the site will not be suitable for septic tank use for that number of units. He added that water would have to be brought to the area, and that wasn't likely because there is little development nearby at this time.

Mr. Morris said that he would amend his request to R40 if the density would be more suitable for the area. Mr. Olsen said that he would support commercial for the tract, and R40 would be more suitable, but the Board shouldn't set a precedence by approving a request that would allow such density with no real planning.

A motion was made by Mr. Olsen and seconded by Mr. Averette to approve the designated commercial tract for C(P) Planned Commercial District and R40A Residential District for the residential tracts. The motion passed unanimously.

E. P01-96-8: REQUEST FOR M(P) DISTRICT ON 7.08 ACRES, PIN 0573-16-2682, OWNED BY TOM KEITH

Mr. Rooney displayed maps indicating the recommended zoning for the property, current land use and soil conditions in the area. He said that the Planning staff recommended denial of the denial of the M(P) Planned Industrial District based on the following:

1. The site does not meet the locational criteria for industrial use: a) should be located on designated entrance corridors; and b) should be served by water and sewer;
2. The existing roads providing access to the site are not classified as major thoroughfare; and
3. The soils on the subject property have severe limitations for use with septic tanks.

There were no speakers.

A motion was made by Mr. Averette and seconded by Dr. Olion to follow the staff recommendations and deny the M(P) District request. The motion passed unanimously.

F. P01-96-12: REQUEST FOR C3 DISTRICT FOR THE FRONT AND C(P) DISTRICT FOR THE REAR PART OF THE PARCEL, A TOTAL OF 36.69 ACRES, PIN 0543-32-4136, OWNED BY CHARLES HAMMOND

Mr. Rooney displayed maps indicating the recommended zoning for the property, current land use and soil conditions in the area. He said that the Planning staff recommended denial of the C3 and approval of C(P) Planned Commercial District for the entire property based on the following:

1. A commercial node is anticipated at the intersection where the subject property is located;
2. Water is available to the site;
3. Site plan approval is desirable for commercial development.

Mr. Charles Hammond appeared before the Board and said that he agreed with the staff recommendation for the C(P) District for his tract.

Mr. Warren explained that part of the tract was recommended for C3 because it contains billboards. He said that the billboards will be grandfathered under the C(P) zoning, so the staff recommended zoning the entire tract C(P).

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

H. P01-96-16: REQUEST FOR C3 DISTRICT ON PIN 0564-08-8086, 0564-18-1076 AND 0564-18-6447, A TOTAL OF 25.75 ACRES, OWNED BY TARHEEL SPECIALTIES

Mr. Rooney displayed maps indicating the recommended zoning for the property, current land use and soil conditions in the area. He said that the Planning staff recommended denial of the C3 Heavy Commercial District and approval of the C(P) Planned Commercial District based on the following:

1. The uses the property is currently used for will be allowed under the C(P) District;
2. Site plan approval on commercial development is desirable.

Mr. Michael Unti, attorney representing Tarheel Specialties, appeared before the Board. He said that the owner was also present for questions. He said that the C3 District was requested to reflect past and current commercial use on the property. He said that the property was purchased from the previous owner, DGS Contractors, and the current owner took over the federal, state and local contracts from DGS. He said that Tarheel Specialties is the NC agent for storage and auction of returned vehicles returned to the State from individuals driving under the influence of alcohol. He said that they also contract with a number of counties for mowing along roadways and need storage areas for the equipment. He said that they also supply commercial laundry equipment to military bases, and approximately 1,800 to 2,000 vehicles are stored on the site. He said that the adjacent property is used for the auctions. He said that they are fully permitted and in full compliance of safety and environmental regulations. He said that the owner is diligent not to allow leakage into the groundwater.

Mr. Unti said that the owners do not want C(P) because the Ordinance limits C(P) to "retail harmonious with adjacent areas," and this is not a retail establishment. Further, Mr. Unti said that the C(P) prohibits some of the activities currently performed on the

property. He said that the owners discussed with the neighbors some of their concerns, and he has partially funded a fence to screen off some of the property.

Mr. Olsen asked what uses the C(P) would prohibit that C3 would allow. Mr. Unti said that storage of goods is prohibited.

Mr. Barrett said that he reviewed the permitted uses, and vehicle storage and sales is allowed. Mr. Rooney added that outside display of merchandise to coincide with use is permitted. Mr. Barrett said that a policy statement might be needed because storage of some of the equipment would not be considered "displaying" merchandise. He said that the Ordinance can be interpreted differently.

Mr. Warren said that he wasn't sure that the staff could recommend approval of C3 because of the conglomeration of uses allowed in the district.

Mr. Barrett said that the intent of Section 2.15 is to limit C(P) to retail, but the language does not limit, and the tables indicate the same uses as allowed in C3.

Mr. Terry Samperton appeared before the Board and said that he opposes zoning the property C3 because his property has been negatively affected by the junk and salvage yard owned by Tarheel Specialties. He said if zoning had been in place before they purchased the property, it wouldn't be there.

Ms. Faith Fish appeared before the Board and said that she lives behind the subject property and is opposed to the C3 zoning.

Mr. Unti said that his clients want assurance that the existing uses will be grandfathered. He said that they have concerns over the ambiguity or a need for a policy decision. He said that they want to preserve the uses allowed on the property.

A motion was made by Mr. Morris and seconded by Mr. Mullinax to follow the staff recommendations and approve the C(P) District for the tract. The motion passed unanimously.

I. P01-96-17: REQUEST NO ZONING FOR PARCELS: PIN 2573-46-2820, 6.93 ACRES, OWNED BY MARY HAWKINS; PIN 0572-65-5781, .9 ACRE, OWNED BY SUE GILES; AND 0573-26-7396, 34 ACRES, OWNED BY ED HAWKINS

Mr. Rooney displayed maps indicating the recommended zoning for the property, current land use and soil conditions in the area. He said that the Planning staff recommended denial of the request for no zoning based on the following:

1. The County Commissioners directed the Planning Board to zone the entire County;
2. Failure to rezone any of the County will create a lack of uniformity within the County; and
3. The Land Use Plan, required by the State of North Carolina, cannot be effectively and uniformly implemented without Countywide zoning.

No speakers appeared.

A motion was made by Mr. Olsen and seconded by Dr. Olion to follow the staff recommendations and propose A1 for the properties. The motion passed unanimously.

IX. PUBLIC HEARING ITEMS

- A. P01-93. REZONING OF 1.3 ACRES FROM R10 TO R6A, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 6217 FISHER ROAD, OWNED BY PRISCILLA GARDNER.

Maps were displayed outlining the zoning and land use in the area. Mr. Lloyd explained that the case originally requested RR and was brought back from the October 16, 2001 meeting for the Board to consider R6A. A video of the site was shown. Mr. Lloyd said the Planning staff recommended approval of the R6A District based on the following:

1. The 2010 Land Use Plan calls for medium-density residential development at this location;
2. The uses allowed in the R6A District are consistent with the existing land use in the area; and
1. Water is available to the site.

The Planning staff found that the subject property is also suitable for the R6 Residential District.

Mr. John Nobles appeared before the Board and said that the rezoning was requested in order to have two mobile homes on the site.

Ms. Stacey Brown appeared before the Board and said that she represented herself and some neighbors, and they oppose the rezoning.

Mr. Nobles in rebuttal said that Ms. Brown's property is behind his and is buffered from the mobile homes by a wooded area.

Dr. Olion asked how many mobile homes would be allowed in the R6A District. Mr. Lloyd said eight to twelve would be allowed, but a road would have to be cut if that many were placed on the site.

A motion was made by Mr. Olsen and seconded by Mr. Averette to follow the staff recommendations and approve the R6A Residential District.

It was noted that the rezoning will allow many more than just two trailers.

Dr. Olion asked why R10 was not recommended. Mr. Lloyd explained that the R10 District does not allow mobile homes, and the RR District allows many uses that are not consistent with the development in the area.

Upon a vote on the motion, it passed 4 to 2 with Mr. Mullinax and Dr. Olion voting in opposition.

- B. P01-96. INITIAL ZONING OF 38.8 ± SQUARE MILES TO A1, CD, RR, R40A, R40, R30, R20, R15, R6A, PND, PND/CU, C(P), C3, M(P) AND M2 FOR AN AREA

BOUNDED BY HARNETT COUNTY ON THE NORTH, THE CAPE FEAR RIVER ON THE EAST AND SOUTHEAST; AREA 1 ON THE SOUTHWEST AND AREAS 15A AND 15B ON THE WEST.

After the Board gave consideration to all requests for change, a motion was made by Mr. Mullinax and seconded by Dr. Olion to certify the map presented at the November 20, 2001 meeting with changes incorporated from the December 4, 2001 meeting. The motion passed unanimously.

X. DISCUSSION

A. UPDATE FROM LAND USE CODES COMMITTEE—JERRY MULLINAX

Mr. Olsen reported that the Land Use Codes Committee met prior to the Planning Board meeting and reviewed the latest draft of the minimum Design Specifications for Private Streets. The Committee did not have a quorum present, so no votes were taken.

He said that the Committee tasked staff to develop a mixed-use development district to be included in the Zoning Ordinance.

Mr. Olsen scheduled a meeting of the Committee for December 18, 2001 at 6:00 p.m. to finalize the Private Street Ordinance. He said that developers will be invited to attend the meeting and asked for input on the document before sending it to the full Board.

B. UPDATE FROM COMPREHENSIVE PLANNING COMMITTEE—JOE MULLINAX

The Comprehensive Planning Committee will meet at 5:30 p.m. on December 13, 2001 to finalize the Maxwell Road Study and resume review of the Spring Lake Land Use Plan.

XI. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Mr. Warren reported that the new County Commission Chair is Breeden Blackwell, and Tal Baggett will serve as Vice-Chair. The new Commission liaisons assigned to the Planning Board are Jeanette Council and Kenneth Edge.

B. MEETING AND DEADLINE SCHEDULES

Mr. Warren handed out the schedules for the upcoming year of Planning Board meeting and deadline dates. A motion was made by Mr. Morris and seconded by Mr. Olsen to accept the meeting and deadline schedules with a change to eliminate the January 8, 2002 meeting. The motion passed unanimously.

II. ADJOURNMENT

There being no further business, the meeting adjourned at 9:35 p.m.