

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

Walter Clark,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES
August 19, 2008

Members Present

Mr. Donovan McLaurin, Chair
Mrs. Lori Epler, Vice-Chair
Mr. Walter Clark
Mr. Roy Turner
Mr. Charles Morris
Mr. Benny Pearce
Mr. Garland Hostetter
Mr. Harvey Cain, Jr.
Mrs. Sara Piland

Others Present

Mr. Tom Lloyd, Director
Ms. Patricia Speicher
Mr. Cecil Combs
Mr. Grainger Barrett, County Attorney
Mrs. Laverne Howard
Ms. Donna McFayden

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that case P08-37 would be moved to Consent Items, due to recent communication with the Town of Eastover and their stated consent to the request, staff would like to change the recommendation to approval. There was no one signed up to speak in opposition.

Plats & Plans case 08-056 would be moved to Consent Items with the same provisions that were imposed by the Town of Hope Mills that the developers agreed to, that is: sidewalks to be provided on one side of all streets, concrete curbs and gutters be installed, and the street extensions would be waived.

Vice-Chair Epler made a motion to approve the agenda with changes, seconded by Mrs. Piland. Unanimous approval

III. PUBLIC HEARING WITHDRAWAL – STAFF INITIATED

P08-35: REZONING OF 0.70+/- ACRES FROM RR RURAL RESIDENTIAL TO R6A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2642 PINECREST DRIVE, SUBMITTED AND OWNED BY JEFFREY M. BRYANT.

Vice-Chair Epler made a motion to accept the withdrawal, seconded by Mr. Hostetter. Unanimous approval.

IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF AUGUST 5, 2008

On page 5 of 9, Vice-Chair Epler's statement should read "We are not trying to put you out of business or out of your home".

On page 8 of 9, Ms. Hall's question should read "This would be underwritten by the County?"

Vice-Chair Epler made a motion to approve the minutes with the changes, seconded by Mr. Clark. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

AMENDMENTS

- A. **P08-39:** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, ADOPTION AND ESTABLISHMENT OF AN AIRPORT OVERLAY DISTRICT (AOD) BY AMENDING THE COUNTY ZONING MAP, CREATING THE OVERLAY DISTRICT LAYER; AND AMENDING ARTICLE II, INTERPRETATIONS, CALCULATIONS AND DEFINITIONS; ARTICLE III, ZONING DISTRICTS; CREATING ARTICLE VIII.I, OVERLAY DISTRICTS; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

A motion was made by Mrs. Piland, seconded by Mr. Hostetter, to recommend approval of the revision and amendment to the Cumberland County Zoning Ordinance, adoption and establishment of an Airport Overlay District (AOD) in the current form and forward it to the Cumberland County Board of Commissioners. Unanimous approval.

- B. **P08-43:** REVISION AND AMENDMENT TO THE TOWN OF FALCON ZONING ORDINANCE ESTABLISHING AND ENACTING PROVISIONS FOR CONDITIONAL USE DISTRICTS AND PERMITS AMENDING ARTICLE II, GENERAL ZONING DISTRICT CLASSIFICATIONS, SECTION 2.1. STATEMENT OF INTENT, PURPOSE AND ZONE CHARACTERISTIC, CREATING SUB-SECTION 2.18, CONDITIONAL USE DISTRICTS; AMENDING ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 3.1 TABULATION OF PERMITTED USES; AMENDING THE ENTIRE ORDINANCE BY REPLACING THE TERMS "SPECIFIED CONDITIONAL USE(S)" WITH "SPECIAL USE(S); AMENDING ARTICLE IV. OVERLAY DISTRICTS IN ITS ENTIRETY ESTABLISHING PROVISIONS FOR COMPANION DISTRICTS-CONDITIONAL USE DISTRICTS; AMENDING ARTICLE X. DEFINITION OF TERMS, SECTION 10.2. DEFINITIONS OF SPECIFIC TERMS AND WORDS, INSERTING IN ALPHABETICAL ORDER AND AMENDING SPECIFIC

TERMS RELATED TO THE CONDITIONAL USE DISTRICT PROVISIONS; ARTICLE XII. ADMINISTRATIVE PROVISIONS, SUB-SECTION (B), SECTION 12.5. AMENDMENTS, SUB-SECTION 12.51. SUBMISSIONS TO AND CONSIDERATION THEREOF BY THE PLANNING BOARD AND SUB-SECTION (C) OF 12.53. APPROVAL BY THE TOWN COUNCIL; UPDATING THE TABLE OF CONTENTS AS APPROPRIATE AND MODIFYING THE TOWN'S ADOPTED FEE SCHEDULE.

A motion was made by Mrs. Piland, seconded by Mr. Hostetter, to recommend approval of the revision and amendment to the Town of Falcon Zoning Ordinance, in the current form and forward it to the Town of Falcon Board of Commissioners. Unanimous approval.

- C. **P08-44:** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, AMENDING ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203 DEFINITIONS OF SPECIFIC TERMS AND WORDS REGARDING THE DEFINITION OF "KENNEL"; ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, SECTION 403 USE MATRIX, CREATING A FOOTNOTE TO THE USE LISTED AS "KENNEL OPERATIONS"; AMENDING ARTICLE IX INDIVIDUAL USES, SECTION 912 KENNEL OPERATIONS, BY CREATING SUB-SECTION G TO ALLOW IN CERTAIN CIRCUMSTANCES THE TEMPORARY USE OF RESIDENTIALLY-ZONED PROPERTIES AS A KENNEL OPERATION.

A motion was made by Mrs. Piland, seconded by Mr. Hostetter, to recommend approval of the revision and amendment to the Cumberland County Zoning Ordinance, in the current form and forward it to the Cumberland County Board of Commissioners. Unanimous approval.

REZONING CASE

- D. **P08-37:** REZONING OF 0.34+/- ACRES FROM C(P) PLANNED COMMERCIAL TO C1(P) PLANNED LOCAL BUSINESS OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 3849 DUNN ROAD, SUBMITTED AND OWNED BY PHILIP N. & JONI L. SMITH.

Mr. Lloyd advised the Board that case P08-37 would be moved to Consent Items, due to recent communication with the Town of Eastover and their stated consent to the request, staff would like to change the recommendation to approval. There was no one signed up to speak in opposition.

A motion was made by Mrs. Piland, seconded by Mr. Hostetter, to follow the staff recommendation and approve case P08-37. Unanimous approval.

- E. **P08-38:** REZONING OF 0.92+/- ACRES FROM O&I(P) PLANNED OFFICE AND INSTITUTIONAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF DUNN ROAD, BETWEEN CHURCH STREET AND SCHOOL STREET, SUBMITTED BY CHUCK FURR, OWNED BY EASTOVER DEVELOPMENT PARTNERS, LLC.

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

1. The recommendation is consistent with the Eastover Area Detailed Land Use Plan, which calls for heavy commercial at this location;
2. The request, if approved, will allow for the property under the same ownership to have consistent zoning; and
3. The subject property is located on a major thoroughfare.

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

A motion was made by Mrs. Piland, seconded by Mr. Hostetter, to follow the staff recommendation and approve case P08-38 as submitted. Unanimous approval.

CONDITIONAL USE DISTRICT AND PERMIT

- F. **P08-32:** REZONING OF 9.57+/- ACRES FROM R40A RESIDENTIAL/CU CONDITIONAL USE OVERLAY (EQUIPMENT STORAGE) AND R40A RESIDENTIAL TO M INDUSTRIAL DISTRICT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 6657 KING STREET; SUBMITTED BY ENOCH ENGINEERS, PA; OWNED BY MARTIN'S PORK PRODUCTS, INC. (FALCON)

The Planning & Inspections Staff recommends approval of the requested rezoning to M Industrial/Conditional Use District (M/CUD), for abattoir operations and other permitted uses; all other uses allowed within the M Industrial district being prohibited, based on the following:

- Although the request is only partially consistent with the 2010 Land Use Plan, which calls for heavy industrial and low density residential at this location, the request is compatible with the existing use and will allow for most of the property under the same ownership to have consistent zoning.

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, though this type of operation is strictly monitored by the State and outside the scope of zoning, the applicant/property owner has agreed to all ordinance requirements;
2. The use will meet all required conditions and specifications if developed according to the site plan, application and conditions – a copy of the *Ordinance-Related Conditions* pertaining to this site is attached;
3. The Planning & Inspections Staff recommend that prior to application for any permits, the applicant/owner clean up the site which will enhance or maintain the value of the adjoining or abutting properties and the owner has agreed to construct or put in place all zoning measures intended to protect adjacent properties – see attached *Ordinance-Related Conditions*; 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 and in

general will be brought into conformance with the development ordinances and adopted planning policies.

The property owner has verbally agreed to all *Ordinance-Related Conditions*.

A motion was made by Mrs. Piland and seconded by Mr. Turner to follow the staff recommendations and approve M Industrial/Conditional Use District (M/CUD), for abattoir operations and other permitted uses because the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. Unanimous approval.

A motion was made by Mrs. Piland and seconded by Mr. Hostetter to approve the Conditional Use Permit as recommended by the staff for abattoir operations and other permitted uses after finding that when completed, 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 land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners, and she noted that the applicant had agreed to all recommended conditions. Unanimous approval.

VIII. CONSENT PLATS & PLANS

- A. **CASE NO. 08-056:** CONSIDERATION OF WEST HAMPTON, ZERO LOT LINE SUBDIVISION REVIEW, WAIVER REQUEST FROM SECTION 3.20.2 MUNICIPAL INFLUENCE AREA COMPLIANCE, COUNTY SUBDIVISION ORDINANCE, REGARDING: CONCRETE SIDEWALKS ON BOTH SIDES OF ALL STREETS AND CONCRETE CURBS AND GUTTERS SECTIONS [86-122(G) & 86-128(C)] SUBDIVISION CHAPTER, HOPE MILLS CODE OF ORDINANCES; ZONING: R10 & RR; TOTAL ACREAGE: 36.6+/-; LOCATED ON BOTH SIDES OF HACKBERRY DRIVE, EAST SIDE OF MISSION HILL ROAD, SOUTH OF CHERRY BLOSSOM LANE AND RUSTIC RIDGE.

The developer of the above referenced case is requesting your approval of a 116 lot zero lot line subdivision and waiver requests from the sidewalk, curb and gutter, and the requirements. The proposed subdivision is located within the jurisdictions of Hope Mills and Cumberland County. The developer's waiver request applications and the developer's justification for each request are attached to this memorandum.

Because the County portion of this development is located within the Hope Mills Municipal Influence Area, the Planning & Inspections Staff recommends that the Planning Board's ruling be same as the Town Board's. This case is scheduled for the Hope Mills Board of Commissioners meeting on August 18, 2008; their decision will be presented to you at your August 19, 2008 meeting. The County Planning & Inspections Staff is also recommending, as shown on the draft condition sheet, that the developer submit for annexation of the County portion of the development into the Town of Hope Mills.

Mr. Lloyd stated that Plats & Plans case 08-056 was being moved to Consent Items with the same provisions that were imposed by the Town of Hope Mills that the developers agreed to, that is: sidewalks to be provided on one side of all streets, concrete curbs and gutters be installed, and the street extensions would be waived.

Mrs. Piland made a motion, seconded by Mr. Hostetter to follow the staff recommendation and approve the waiver request with the conditions imposed by the Town of Hope Mills. Unanimous approval.

IX. PUBLIC HEARING CONTESTED ITEMS

- A. **P08-36:** REZONING OF 2.37+/- ACRES FROM R10 RESIDENTIAL AND CD CONSERVANCY DISTRICT TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF BINGHAM DRIVE, NORTH OF FISHER ROAD, SUBMITTED BY JAKE WILLIAMS, JR., OWNED BY JESUS WORLD OUTREACH CENTER, INC.

Mr. Lloyd reviewed the site information and stated the staff recommends denial of the request for C(P) Planned Commercial and recommends approval of R10 Residential for that portion of the request outside of the existing Special Flood Hazard Area (SFHA), with the relatively small portion inside the existing SFHA remaining CD Conservancy district based on the following:

1. The R10 Residential and CD Conservancy districts are consistent with the 2010 Land Use Plan, which calls for low density residential and open space at this location;
2. Rezoning to the C(P) Planned Commercial district at this location will not serve a viable public purpose and would promote strip commercial development in an area that is still primarily residential; and
3. Staff consulted with applicant on intended uses and based on the application and the statements made, all desired uses are allowed uses in the R10 Residential district.

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

There was one person to speak in favor and no one present to speak in opposition.

Mr. Jake Williams, Jr. spoke in favor. Mr. Williams stated that he was in agreement with the rezoning of R10 because they were only going to be building a church, but the information that he gave was incorrect, the fact that there was going to be a Christian book store and a fitness center also on the site was left out and neither are allowed in R10 zoning.

Vice-Chair Epler asked Mr. Williams if the book store would operate during church hours or if it would be open to the public during other hours.

Mr. Williams stated that it would be open to the public six days a week. They were negotiating to buy some acreage from the land right next to the church, which is zoned C(P) and he would like to keep all the zoning the same for all of the church property.

Vice-Chair Epler asked if Hope Mills was consulted on this, because it's in the Hope Mills MIA.

Mr. Lloyd stated that a transmittal was sent on this case, but there was no response from Hope Mills.

Mr. Lloyd stated that this has been a tough case for the staff. The staff thought the uses could be done in this district.

Vice-Chair Epler asked “knowing what the intended commercial use for the subject property is, is there any other zoning that would allow them to have the retail book store and/or fitness center?”

Mr. Lloyd stated no, the book store is the problem with the current zoning and he also reminded the board they would have to consider all uses allowed in the C(P) district.

Mr. Barrett asked for clarification, “Does the CD area include the area between this lot and the three single family homes?”

Mr. Lloyd stated yes.

Mr. Barrett asked if there could ever be any realistic development in that area.

Mr. Lloyd stated that yes there could, because most of the CD lines are based on the Special Flood Hazard lines which have recently been changed. Once a rezoning application comes in, we could move the CD line back to the special flood hazard area.

Vice-Chair Epler asked if the CD line was based on the old flood maps since the new maps show that it doesn't affect the whole strip.

Mr. Lloyd stated that that was correct.

Vice-Chair Epler stated that she is aware that there is quite a bit of residential there, a lot of single family residential; the County at some point across the road applied a PND to that piece of property, which by definition, if she isn't mistaken, allows for a certain amount of commercial. There is commercial property adjacent to this that Hope Mills actually rezoned to commercial. Vice-Chair Epler stated that she understands this is a transition area between the residential and commercial, but is also aware that the commercial piece of property has not been developed yet and it has been there for quite some time.

Mr. Morris stated that he would support the rezoning.

Vice-Chair Epler stated that she would also support rezoning because there are single family homes across the street and adjacent to this property and there is no one here to speak in opposition to it.

A motion was made by Mr. Morris, seconded by Vice-Chair Epler, to approve the petitioners request for rezoning of R10 and CD to C(P) Planned Commercial to the point of the Special Flood Hazard Area with the small portion of the property with the current Special Flood Hazard Area remaining CD Conservancy for case P08-36. Unanimous approval.

X. DISCUSSION

Mr. Bradley Whited, Airport Director, gave a brief summary on the effects of the Airport Overlay District (AOD). Mr. Whited stated that the reason for looking at the Overlay District is because the Airport Area Plan done in 1984 is a little outdated. This Overlay District pulls together some existing Federal Aviation Regulations, Part 77, is already in place and addresses height restrictions and notice of noise which may be related to airport operations. Oddly enough, federal government does recognize planning and zoning as a local issue. We felt it was important to highlight the area of impact to the airport and the airport's influence.

Vice-Chair asked how the Airport Overlay District would affect the owner of the Prince Charles Hotel, who is looking at the possibility of putting a 30 story building on that property, which is in the AOD district.

Mr. Whited stated that he would need to do calculations, but there was a proposal for a large tower in Festival Park, approximately 400 feet and it didn't present a problem.

Vice-Chair Epler asked if there was a variance process. Is there a process where an individual project can come before someone and receive approval?

Mr. Whited stated yes, there is a variance process and clarified that the Overlay District doesn't mandate uses; it identifies concerns and impacts for the Board to take into consideration.

Mr. Morris stated that this had been touched on a few years ago when there were some rezoning going on in some industrial areas. Mr. Morris's understanding was we don't want high density residential usage because of the noise complaints so instead we're asking for primarily industrial usage because it's perceived as more compatible with airport uses.

Mr. Whited stated that these particular noise contours are based on regional jet traffic.

Mr. Whited was asked about the height limitations. Mr. Whited stated that the height limitations are spelled out based on the different zones. It primarily starts at the runway elevation and 200 feet from the end of our paved surface, it starts an incline, generally a 50 to 1 slope. Height limitations are critical in terms of location.

Mr. Koneig asked Mr. Whited if there were any density issues for the people in the area.

Mr. Whited stated that the FAA has considered that and there is a runway protection zone in place.

Mr. Whited was asked how this Overlay District would affect property values to the homes already in the area.

Mr. Whited stated this Regulation, Part 77 has been in existence for a long time. It has always been there. Mr. Whited didn't believe property values would plummet and didn't feel there was anything to be alarmed about.

XI. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Mr. Lloyd advised the Board that he, Cecil Combs, and Tom Cooney attended a Public Hearing in Dublin on the Bladen Bluffs water treatment facility, which would lead to watershed regulations in the Gray's Creek area that the Board would need to become familiar with.

XII. ADJOURNMENT

There being no further business, the meeting adjourned at 8:00 p.m.