

Roy Turner,
Chair
Cumberland County

Walter Clark,
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

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon, & Godwin

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES

April 17, 2012

Members Present

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

Members Absent

Mrs. Patricia Hall
Mr. Harvey Cain, Jr.
Mr. Charles Morris

Others Present

Mr. Thomas Lloyd
Ms. Patricia Speicher
Ms. Donna McFayden
Mrs. Laverne Howard
Mr. Rick Moorefield,
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mrs. Epler delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mr. Lloyd stated that cases P12-16, P12-19, and P12-22 would be pulled from consent items and moved to contested items.

Mrs. Epler made a motion, seconded by Mr. McLaurin to approve the adjustments to the agenda. Unanimous approval.

III. PUBLIC HEARING DEFERRAL/WITHDRAWAL

P11-56: REZONING OF 34.55+/- ACRES FROM A1 AGRICULTURAL TO R20 RESIDENTIAL/DD DENSITY DEVELOPMENT/CZ CONDITIONAL ZONING DISTRICT FOR A 56 LOT RESIDENTIAL SUBDIVISION OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED EAST OF SR 2252 (CHICKEN FOOT ROAD), SOUTHWEST OF SR 2233 (SCHOOL ROAD); SUBMITTED BY ROGER SHAH ON BEHALF OF OM NAMH SHIVAAY, LLC (OWNER). DEFERRED UNTIL 10-16-2012

Mr. McLaurin made a motion, seconded by Mrs. Piland to approve the deferral. 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 MARCH 20, 2012

Mrs. Epler made a motion to accept the minutes as submitted, seconded by Mr. McLaurin. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

CONDITIONAL ZONING DISTRICT

- A. **P12-11:** REZONING OF .90+/- ACRES FROM R6A RESIDENTIAL TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 4807 AND 4817 SOUTH MAIN STREET, SUBMITTED BY BILLY RAY AND JIMMIE A. BAREFOOT (OWNERS).

On March 3, 2012 the property owner/applicant amended the original application and is now requesting your consideration of a favorable recommendation for a C2(P) Planned Service and Retail/CZ Conditional Zoning District [C2(P)/CZ] for two real estate offices on the subject properties. The Planning and Inspections Staff recommends denial of the requested rezoning to C2(P) Planned Service and Retail/CZ but approval of O&I(P) Planned Office and Institutional/CZ Conditional Zoning for two offices based on the following:

1. The request is not consistent with the location criteria for light commercial as listed in the Land Use Policies of the 2030 Growth Vision Plan, specifically public water and sewer is not available in this area; the zoning would not serve as a transition between heavy commercial, office & institutional or residential; and the use could not be considered as a "convenience good or service" for the surrounding neighborhood.
2. The recommendation of O&I(P) Planned Office and Institutional/CZ Conditional Zoning is consistent with the Land Use Policies Plan of the 2030 Growth Vision Plan and reasonable because the subject property is of a size and shape that the yard setbacks for the O&I(P) zoning district can be met and all required improvements such as off-street parking, landscaping, buffering, etc. can be provided on-site; and
3. 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, will provide a transition from a proposed commercial node in the draft Southwest Cumberland Area Plan and the site in general will be developed in conformance with the development ordinances and adopted planning policies.

There are no other zoning districts suitable as related to this request and the property owner/developer has verbally agreed to all attached Ordinance Related Conditions as well as the staff recommendation of O&I(P) Planned Office and Institutional/CZ Conditional Zoning for two offices.

Mrs. Piland made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve O&I(P) Planned Office and Institutional/CZ Conditional Zoning for two offices, seconded by Mr. Clark. The motion passed with a unanimous vote.

REZONING CASES

- B. **P12-17:** REZONING OF .52+/- ACRE FROM RR RURAL RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH EAST SIDE OF US HWY 301 SOUTH, WEST OF SR 2274 (MARRACCO DRIVE); SUBMITTED BY DAVID M. AND KELLI W. HAWLEY (OWNERS).

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

1. Although the request is not entirely consistent with the location criteria for “heavy commercial” as listed in the Land Use Policies of the 2030 Growth Vision Plan, which calls for public water and sewer – sanitary sewer is not available;
2. The C(P) Planned Commercial district is consistent with the zoning for adjacent property under the same ownership; and
3. The location and character of the use will be in harmony with the surrounding area.

There are no other districts considered suitable for this request.

Mrs. Piland made a motion, to recommend the adoption and approval of the consistency and reasonableness statements and to approve C(P) Planned Commercial, seconded by Mr. Clark. The motion passed with a unanimous vote.

- C. **P12-20:** REZONING OF 3.38+/- ACRES FROM A1 AGRICULTURAL TO C2(P) PLANNED SERVICE AND RETAIL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTH SIDE OF NC HWY 24 (CLINTON ROAD), WEST OF WINDWOOD DRIVE; SUBMITTED BY STEWART M. BELL (POA) ON BEHALF OF WILLIAM M. BELL JR. (OWNER).

The Planning & Inspections Staff recommends approval of the C2(P) Planned Service and Retail district for this request based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “community growth” at this location and meets the location criteria of the Policies Plan for “light commercial” since the subject property has access to public water and sewer, direct access to a collector street, borders a major thoroughfare, is of sufficient size for buffering, screening and landscaping;
2. Although the request is not consistent with the Stedman Detailed Land Use Plan which calls for “low density residential, the area has significantly transitioned to commercial since the plan’s adoption and this can be attributed to the imminent improvements of NC Hwy 24.
3. The location and character of the use will be in harmony with the surrounding area; and
4. The request is consistent with recent rezonings in the general area.

The C1(P) Planned Local Business district could also be considered suitable for this request.

Mrs. Piland made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve C2(P) Planned Service and Retail, seconded by Mr. Clark. The motion passed with a unanimous vote.

- D. **P12-21:** REZONING OF .46+/- ACRE FROM A1 AGRICULTURAL TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 8843 AND 8853 CLINTON ROAD AND ON THE NORTH SIDE OF NC HWY 24 (CLINTON ROAD), SOUTH WEST OF SR 1853 (JOHN NUNNERY ROAD); SUBMITTED BY LEVIE EVANDER AND HELEN S. JOHNSON (OWNERS) AND ROBERT M. BENNETT.

The Planning & Inspections Staff recommends approval of the RR Rural Residential district for this request based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as well as meeting the location criteria for suburban density residential development as listed in the Land Use Policies Plan; and
2. The request is reasonable since approval will cure the impending nonconformity of the existing use of the property that will be created by of the widening of NC Hwy 24.

There are no other districts considered suitable for this request.

Mrs. Piland made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve RR Rural Residential, seconded by Mr. Clark. The motion passed with a unanimous vote.

VIII. PUBLIC HEARING CONTESTED ITEMS

- A. **P12-16:** REZONING OF 1.00+/- ACRE FROM A1 AGRICULTURAL AND A1/CU AGRICULTURAL/CONDITIONAL USE OVERLAY FOR A RESTAURANT AND CATERING BUSINESS TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 10785 DUNN ROAD, SUBMITTED BY DAVID AND SUSAN WALL (OWNERS).

Mr. Lloyd stated that the Planning & Inspections Staff recommends approval of the A1 Agricultural district based on the following:

1. Although the request is not consistent with the 2030 Growth Vision Plan or the Northeast Cumberland Plan, which calls for conservation area/open space at this location, the request is consistent with an objective of the Land Use Policies Plan for agricultural areas in that the A1 zoning district is designed to preserve the rural character of the County; and
2. The request is reasonable because the uses conditionally approved are no longer in operation at this location and rezoning to the A1 district will ensure comparable uses and lot sizes with the surrounding area.

There are no other districts considered suitable for this request.

There were people signed up to speak in favor and in opposition.

Mr. David Wall, applicant, spoke in favor. Mr. Wall stated that he was just requesting removal of the catering and restaurant uses because they are not intending on using those functions.

Mr. Talmage Baggett spoke in opposition. Mr. Baggett stated that his concerns were that rezoning to A1 opens it up to other uses. There is no guarantee that the business will stay a restaurant. Mr. Baggett feels that conditional use permit would be a better option for any reasonable use that the applicants would want for the subject property. The property can't be used for any agricultural purposes. Mr. Baggett stated that the same things can be accomplished with a conditional use placed on the subject property.

Mr. Wall rebutted by restating that they only plan on using the subject property as a gathering place.

Mrs. Piland asked if he couldn't do what he was planning to do with the current zoning.

Mr. Wall stated that they were told that they would need a special event permit to use it for gathering purpose and had to remove the restaurant and catering business in order to keep from having to get special event permits for every event.

Mr. Lloyd explained that they could only use it right now for what the conditional use is for.

Mrs. Piland asked Mr. Wall if he considered conditional zoning.

Mr. Wall stated that his wife's understanding, when speaking with staff, was the recommendation to have this removed so they wouldn't have to get a special event permit for every event.

Ms. Speicher stated that there was one option which had been explained to Mr. Wall's wife. But, staff would be willing to work with the applicants on the conditional zoning application if they're willing to do that.

Mrs. Epler asked if the applicants would be able to use the same site plan.

Ms. Speicher stated that they would have to check the parking, but staff could help them if they needed to modify the site plan.

Mrs. Piland asked Mr. Wall what he thought.

Mr. Wall stated that they would be willing to do that.

Mrs. Piland made a motion, seconded by Mr. McLaurin to defer Case P12-16 for one month to give the applicants' time to work with staff on a conditional zoning application. Unanimous approval.

B. P12-19: REZONING OF 1.98+/- ACRES FROM A1 AGRICULTURAL TO R40A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2498 JOHN HALL ROAD, SUBMITTED BY JIMMIE N. JR. & DEBORAH L. GRIFFIN (OWNERS).

Mr. Lloyd stated that the Planning & Inspections Staff recommends approval of the R40A Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as well as meeting the location criteria for "rural density residential" development as listed in the Land Use Policies Plan; and
2. The location and character of the use will be in harmony with the surrounding area.

There are no other districts considered suitable for this request.

There were people present to speak in favor and in opposition.

Mr. Jimmy Griffin, applicant, spoke in favor. Mr. Griffin requested that the Board approve the request for rezoning.

Buck Pearson spoke in opposition. Mr. Pearson stated that he doesn't want a bunch of rental properties in the area. It may be zoned A1, but there are covenants that say you can't have more than one dwelling.

Dwight Lucas spoke in opposition. Mr. Lucas stated that he didn't want more mobile homes being brought in. Everyone has one dwelling on their property; if you let the applicant put more than everyone around will start doing the same thing. We just want it to stay like it is.

Mr. Griffin denied his opportunity to rebut the opposition.

Mrs. Epler asked the difference between a class "A" and class "B" manufactured home.

Ms. Speicher explained the differences.

Mrs. Epler asked if the request was for density.

Mr. Lloyd stated that was correct.

Mrs. Piland asked Mr. Pearson about the covenant.

Mr. Pearson described the covenants and stated that they only allow for one unit per lot.

Mrs. Epler asked if the subject property was part of the Dudley land and if there are restrictive covenants.

Mr. Griffin stated that the subject property was part of the Dudley land and that he believed there are covenants.

Mrs. Epler asked if the lot was created prior to it being zoned.

Mr. Griffin stated yes.

Mr. Pearce asked if the Board could go against restrictive covenants.

Mrs. Epler stated that in her experience zoning is a rule enforced by the County, the County does not enforce restrictive covenants; however, if the property is rezoned and he puts another manufactured home on that tract and another property owner within those covenants wants to fight him, they can do that.

Mrs. Piland stated that she couldn't find a compelling reason why they would act contrary to the covenant.

Mr. Lloyd stated that staff would like to see the covenants and go over them so that the Commissioners' can be given an accurate answer.

Mr. McLaurin made a motion to recommend not to adopt and approve the consistency and reasonableness statements because the request even though is consistent with the Land Use Plan; it is not reasonable and will not be in harmony with the surrounding area, seconded by Mrs. Epler to deny the request for rezoning. The motion passed with a unanimous vote.

- C. **P12-22: REZONING OF 10.96+/- ACRES FROM R10 RESIDENTIAL TO R5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 5290 CHURCH STREET, SUBMITTED BY FORREST T. AND DARLENE HARDIN (OWNERS) AND THOMAS GOODEN.**

Mr. Lloyd stated the Planning & Inspections Staff recommends approval of the R5 Residential district for this request based on the following:

1. Although the district requested is not entirely consistent with the location criteria of the Land Use Policies Plan of the 2030 Growth Vision Plan, it is consistent with the 2030 Plan having this area designated for urban development;
2. The subject property meets or exceeds the mandated location criteria of the Policies Plan, in that:
 - a. Public water and sewer is available,
 - b. The site is within one half mile of a neighborhood shopping area,
 - c. Is within an area that has non-residential uses (electric transformer, two religious worship facilities, salon and a school),
 - d. Is within one quarter mile of an existing major thoroughfare,
 - e. Church Street is a collector street serving South Main and Cameron Road,
 - f. Is within two miles of a public recreation area,
 - g. Not located within any military or airport critical area, and
 - h. There are no hydric soils located on this site; and
3. The request is reasonable and could provide a viable public purpose by ensuring quality rental housing is available in this area.

The R6 and R5A districts could also be found suitable for this request.

Darlene Hardin, applicant, spoke in favor and stated that over the last five to ten years she has seen the neighborhood go from primarily a single-family to multi-family residential area. Hope Mills has become an attractive location for people to live, due to the growth of businesses and the excellent schools in the area. Mrs. Hardin stated that in her job she frequently hires people who don't necessarily want to live in Fayetteville, but are looking for a more suburban environment and always recommends Hope Mills. The area is growing and thinks it would be in the best interest of Hope Mills to keep development with someone who was born and raised in Hope Mills and has a history there instead of waiting for a big developer from outside of Hope Mills. Mrs. Hardin feels that this will offer a much needed affordable alternative.

Mrs. Epler asked Mrs. Hardin if she knew that there would be opposition to the rezoning request.

Mrs. Hardin stated that she didn't know for sure.

Mrs. Epler asked Mrs. Hardin to consider a conditional use or a density development, where it could be seen exactly what they want to do. Mrs. Epler stated she thought it was a good idea and something that is needed in Hope Mills, however, the opposition is going to come from people who don't know what the Hardin's are going to do.

Mr. Tom Gooden spoke in favor. Mr. Gooden stated that there are a lot of things that are unique about the subject property as far as development concerned. The quality of the land is sloping and sandy loam type land which is ideal for developing these types of property, and it does abut the school system and is all for foot traffic to school. The main purpose for the request is the ever increasing cost of development, because of the cost and requirements that they are operating under the goal is to be able to reach a certain level of density to be able to supply the return for the investment into the property and putting infrastructure in and putting all the necessary amenities that will be required. They haven't sat down and come up with a conceptual design, but the Hardin's intent is multi-family and have a nice upscale community that is attractive for everyone in the community. As we know, traffic is a major obstacle, it's going to be there. The attractive thing about this property is that they do have Department of Transportation (DOT) access to Cameron Road.

Mr. James Clark, Jr. spoke in opposition. Mr. Clark stated that he was not anti-development, but his concerns are that there are already 200 units at one end of the street, and traffic is already bad, traffic will be even worse if the rezoning is approved. Mr. Clark's final concern is with the possible radiation effects from the cell phone tower that the applicants had built on their property.

Mrs. Hardin denied the opportunity to rebut the opposition.

Mr. Hostetter made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve R5 Residential, seconded by Mr. McLaurin. The motion passed with Mrs. Piland voting in opposition.

IX. PUBLIC HEARING WAIVER REQUEST

CASE NO. 12-038. CONSIDERATION OF THE GLENN E. & ROBIN R. ODOM PROPERTY, REQUEST FOR A WAIVER FROM THE REQUIREMENT TO HAVE A MINIMUM OF 20 FEET OF STREET FRONTAGE TO EITHER AN APPROVED PRIVATE STREET OR A PUBLIC STREET; COUNTY SUBDIVISION ORDINANCE, SECTION 2303.C STREET FRONTAGE; ZONED: A1; TOTAL ACREAGE: 1.00+/-; LOCATED AT 9567 NC HWY 210 S; SUBMITTED BY GLENN E. & ROBIN R. ODOM (OWNERS). (COUNTY JURISDICTION)

Chair Turner swore in staff.

Ms. Speicher presented the case information and stated that the applicant was requesting a waiver from the requirements to have a minimum of 20 feet of street frontage to either an approved private street or a public street.

Mrs. Epler stated that she knew the applicants, but would be able to make a fair and impartial vote.

Mr. Charles Gardner spoke in favor (Chair Turner swore in Mr. Gardner). After giving some history about the property, Mr. Gardner stated that he would like for the applicants to have the property and asked the Board to approve the waiver.

Robin Odom, applicant, spoke in favor (Chair Turner swore in Mrs. Odom). Mrs. Odom stated that they bought the subject property with the intent to build a house and to live in the community. The house they previously owned was destroyed in the tornadoes of April 2011. Mrs. Odom asked the Board to approve the waiver request.

Mr. McLaurin made a motion, seconded by Mrs. Piland that the Joint Planning Board for the County of Cumberland, having held a public hearing to consider the waiver request for Case No. 12-038 requesting to not be required to have the mandatory 20 feet of road frontage and develop the subject property in a manner not permissible under the literal terms of the County Subdivision Ordinance, and having heard all of the evidence and arguments presented, I move that the board makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

- 1. It is the Planning Board's CONCLUSION that, Because of other unusual physical conditions; strict compliance with the provisions of the County Subdivision Ordinance would cause a special hardship to the property owner and be inequitable; this finding is based on the following CONDITIONS:**

The lot was originally conveyed on December 17, 1986, the area was not zoned at that time and permits were issued for a residential structure to be located on the lot - the County staff did not have access to databases to check the validity of lots in 1986. In 1986 the lot also was permitted for a private well and septic. The lot was conveyed from Cumberland County to Mr. Gardner who sold the lot to the current owners in 2011 as a site for their new home to be constructed;

2. It is the Board's **CONCLUSION** that the public purposes of the County Subdivision and County Zoning Ordinances would be served to an equal or greater degree; this finding is based on the following **CONDITIONS**:

The public purposes of the ordinances are met because of the recorded 35 foot ingress/egress easement which protects the access rights of the property owners, whereas the ordinances require a minimum of 20 feet of frontage; and

3. It is the Board's **CONCLUSION** that the property owner would not be afforded a special privilege denied to others; this finding is based on the following **CONDITIONS**:

Although the permits were issued for a residential structure in 1986, the lot is currently vacant. A reasonable person, having prior knowledge of the previous home existing on the subject property, had no reason to expect issues with obtaining a permit for this site. In addition, there are numerous properties within the rural county area that are occupied with residences that do not have direct access to a public street or an approved private street.

Because of the foregoing, I move that the request for waiver be approved. Unanimous approval.

X. DISCUSSION

DIRECTOR'S UPDATE

- Mr. Lloyd reminded the Board that their respective towns need to turn in their work programs.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 8:17 p.m.