

Diane Wheatley,
Chair,
Cumberland County

Carl Manning,
Vice-Chair
Cumberland County

Jami McLaughlin,
Town of Spring Lake

Jordan Stewart.,
Town of Stedman

Mark Williams
Wade, Falcon & Godwin

Thomas Lloyd,
Town of Linden



CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

Planning & Inspections Department

Rawls Howard,
Director

Vacant,
Deputy Director

Vikki Andrews,
Lori Epler,
Cumberland County

Stan Crumpler,
Town of Eastover

Patricia Hall,
Town of Hope Mills

MINUTES
December 17, 2019

Members Present

Mrs. Diane Wheatley – Chairman
Mr. Carl Manning – Vice-Chair
Mr. Stan Crumpler
Dr. Vikki Andrews
Mr. Thomas Lloyd
Mr. Jordan Stewart
Mrs. Lori Epler
Ms. Patricia Hall
Mr. Mark Williams

Members Absent

Mrs. Jami McLaughlin

Others Present

Mr. Rawls Howard
Ms. Annie Melvin
Mr. Edward Byrne
Mrs. Laverne Howard
Mr. Rick Moorefield,
County Attorney
Mr. Trey Smith
Mr. Tracy Jackson

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. SWEARING IN OF NEW BOARD MEMBER

Chair Wheatley swore in Mr. Williams.

III. APPROVAL OF / ADJUSTMENTS TO AGENDA

Mrs. Epler made a motion seconded by Mr. Manning to approve the agenda. Unanimous approval.

IV. PUBLIC HEARING WITHDRAWAL / DEFERRAL

There were none.

V. ABSTENTIONS BY BOARD MEMBERS

There were none.

VI. APPROVAL OF THE MINUTES OF NOVEMBER 19, 2019

Mr. Lloyd made a motion, seconded by Ms. Hall to approve the minutes as submitted. Unanimous approval.

VII. CHAIRMAN'S WELCOME AND RULES OF PROCEDURE

Chair Wheatley read the welcome and rules of procedures.

Mrs. Epler reminded the board that the minutes from the October 15, 2019 meeting needed to be approved. They were approved by email, but it was discussed with Mr. Moorefield that they would need to be approved at this meeting by vote.

Mr. Byrne said that was correct.

Mrs. Epler said she didn't see it on the agenda and didn't know when it would take place.

Mr. Howard said that it could be added to the agenda and be done tonight.

Dr. Andrews said there was a motion on the floor to approve the minutes, so we need to address that motion first.

Mr. Lloyd made a motion to rescind the approval of the minutes, seconded by Ms. Hall. Unanimous approval.

Dr. Andrew made a motion to amend the agenda to add the approval of the October 15, 2019 minutes for tonight's meeting, seconded by Mrs. Epler. Unanimous approval.

Mrs. Epler made a motion to approve the minutes as revised and previously dispersed of the October 15, 2019 Planning Board meeting, seconded by Ms. Hall. Unanimous approval.

VIII. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENT

- A. **P19-49.** REVISION AND AMENDMENT TO THE TOWN OF STEDMAN ZONING ORDINANCE AMENDING ARTICLE XI. BOARD OF ADJUSTMENT, SECTION 11.1 ESTABLISHMENT OF BOARD OF ADJUSTMENT AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (STEDMAN)

In Case P19-49, the Planning and Inspections staff recommends approval of the text amendment to the Stedman Zoning Ordinance and find this text amendment consistent with the adopted 2030 Growth Vision Plan (2009) goal of local government boards and commissions comprising of membership representative of their constituents and further finds approval of this amendment is reasonable and in the public interest because it will allow Board of Adjustment cases within Stedman's jurisdiction to be efficiently processed with full board membership.

This proposed text amendment would not cause any changes to the Stedman Land Use Plan map.

In Case P19-49, Mr. Lloyd made a motion, seconded by Mr. Manning to approve the text amendment to the Stedman Zoning Ordinance and find this text amendment consistent with the adopted 2030 Growth Vision Plan (2009) goal of local government boards and commissions comprising of membership representative of their constituents and further finds approval of this amendment is reasonable and in the public interest because it will allow Board of Adjustment cases within Stedman's jurisdiction to be efficiently processed with full board membership. Unanimous approval.

REZONING CASE

- B. **P19-47.** REZONING OF 0.46+/- ACRES FROM R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 5034 US HWY 301 SOUTH, SUBMITTED BY ELLA H. MCARTHUR (OWNER) & KRISTIN BARFIELD (AGENT).

In Case P19-47, the Planning and Inspections staff recommends approval of the rezoning from R6A Residential to C(P) Planned Commercial and find this request consistent with the adopted Southwest Cumberland Land Use Plan (2013) which calls for "Heavy Commercial" at this location, C(P) Planned Commercial is listed as an associated district with this designation, and further finds that approval of the request is reasonable and in the public interest because the requested district is in harmony with surrounding existing land uses and zoning districts.

In Case P19-47, Mr. Lloyd made a motion, seconded by Mr. Manning to approve the rezoning from R6A Residential to C(P) Planned Commercial and find this request consistent with the adopted Southwest Cumberland Land Use Plan (2013) which calls for "Heavy Commercial" at this location, C(P) Planned Commercial is listed as an associated district with this designation,

and further finds that approval of the request is reasonable and in the public interest because the requested district is in harmony with surrounding existing land uses and zoning districts. Unanimous approval.

IX. PUBLIC HEARING CONTESTED ITEMS

REZONING CASE

- C. **P19-43.** REZONING OF 2.25+/- ACRES FROM A1 AGRICULTURAL TO R40A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2130 MONTANA ROAD, SUBMITTED BY VANCE U. TYSON JR. (OWNER) & ANNIE MAE EFIRD (AGENT).

Mr. Byrne reminded the board that this case came before them at the November 19, 2019 meeting and was deferred to give the applicant and staff time to get more information on the septic tank issues and get a health department representative to come and answer questions.

Mr. Byrne presented the case information and photos.

In Case P19-43, the Planning and Inspections staff recommends approval of the rezoning from A1 Agricultural to R40A Residential and find:

- a. The approval is an amendment to the adopted current South Central Land Use Plan (2015) map; and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request;
- b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: the parcel does not meet the minimum criteria for "low density residential" defined in the Land Use Policies Plan (2009): *public or community water and public sewer required, must have direct access to a public street;*
- c. And, this rezoning approval is reasonable and in the public interest because the district requested is in harmony with surrounding zoning, existing land uses, and the maximum number of dwelling units allowed per lot on a Class "C" private street.

There were people signed up to speak.

Mrs. Epler asked if there were two residential structures on the lots.

Mr. Byrne said there were two structures combined into one..

Mr. Howard told the board that someone from the Health Department was present to speak to the board and answer any questions they may have.

Mr. Byrne said the public hearing for this case was already opened and closed so you would have to reopen it to hear any outside speakers.

Mrs. Epler asked how many of the properties that they are looking at have two residential structures on them.

Mr. Byrne said that there were two other lots that had two structures on them.

Chair Wheatley opened the public hearing to allow the representative from the Health Department to speak and answer questions. Chair Wheatley said that since the board already heard from the people signed up to speak at the previous meeting, they would only hear information from the speaker for the Health Department.

Mr. Fred Thomas, Environmental Health Specialist with the Cumberland County Health Department said that he had done some research and didn't have any good records on the septic systems along Montana Road, because it's based on old rural routes. It's not uncommon to go onto a large tract of land like this, where somebody wants to bring in a second structure, but we won't know anything about the soils

until they make application with us and we go out there and do the soil evaluation. There is a well already out there and if it was already permitted for the second structure, they could use the existing well and wouldn't have to put another well. There are standard setbacks, fifty feet from any well, the adjacent parcel at the end has a well close to the property line, but still fifty feet is the setback for any well from a septic system.

Mr. Lloyd asked what the setback requirement was for a septic system, if you were putting a second septic system

Mr. Thomas said twenty feet. Mr. Thomas went on to say that if they make application with the Health Department standard procedure is to make the applicant find existing septic system for them and they map it out so that they have a record of it.

Mr. Williams asked about the option of adding a second dwelling to the existing septic system.

Mr. Thomas replied that they could do that, but it changes the setback for the well becomes one hundred feet.

Mr. Lloyd asked if Mr. Thomas knew how far the well was from the adjacent property, the property to the west on the corner.

Mr. Thomas said it was several hundred feet. Mr. Thomas said he would assume their well is one hundred feet from their septic system. When these were permitted there was a requirement for one hundred feet, which has changed to a minimum of fifty feet or most feasible distance.

Mr. Lloyd asked if the slope of the land and the direction of underground water flow has no bearing on the separation, is that correct?

Mr. Thomas said only if they find a static water table or the modeling is set for the trenches as far as the setbacks.

Ms. Hall asked Chair Wheatley if one of the complaints was that the flow was draining onto the adjoining neighbors land.

Mr. Byrne said that was the testimony of one of the opponents, he was saying that the septic tank was located along the property line of their property and the septic tank was leaking towards their property or flowing towards their property.

Mr. Crumpler asked if the septic tank has a pump system that could be pumping towards his property and it comes back on their property.

Mr. Byrne said there were no records to know that.

Mrs. Epler said that they don't know anything more because they didn't make application.

Mr. Manning asked if the applicants were waiting for the board's approval before they apply.

Mr. Byrne said yes.

Mr. Howard said in some regard if there's any restrictions on the site it would almost be a self-correcting action. Even if it is approved, they are still responsible for whatever rules the Health Department has for a system, if they can't get a septic they wouldn't be able to have a second home.

Ms. Hall clarified with Mr. Thomas that the septic tank had to be one hundred feet from the well.

Mr. Thomas said only if they join two systems together. Right now it's fifty feet.

Ms. Hall asked what happens if there is encroachment onto a neighbor's well.

Mr. Thomas said it's fifty feet.

Mrs. Epler asked if the Health Department takes into consideration the contour of the property and the direction of the drainage or the direction of the seepage from that drainage system.

Mr. Thomas said not the seepage, they are required to follow the contours of the land as much as possible. Every septic system is designed to where that effluent is potable water after fifty feet.

Mrs. Epler asked in Mr. Thomas's analysis that if the soil is suitable for a septic system and that soil allows that water to go fifty feet through it before it gets to another well, by the time that drainage gets to that well it's potable.

Mr. Thomas said according to the state.

Ms. Hall said that one of the complaints was that the system is not a traditional system, it's a pump system it takes an electric motor and a reservoir and pumps it uphill to his property line and then it seeps out.

Mr. Thomas said he hadn't been on the property. If they do apply, and he finds that they will have to fix the original septic system, a two-pump system is very common.

Ms. Hall asked if it does encroach on that neighbor's well would it not be approved.

Mr. Thomas said that was correct.

Mr. Manning said if we knew how far the septic tank is now from the well.

Mr. Thomas said we do not.

Mr. Stewart said that if the complaint is that the septic is draining onto the property the best thing for the other landowner would be for the applicant to make application with the Health Department because anything that is faulty would have to be fixed.

Mr. Crumpler asked if they would have to apply for a permit.

Mr. Howard responded yes.

Mr. Lloyd stated that after the last hurricane and flooding we heard about effluent coming to the surface, if it came to the surface than it would follow the contours, which in this case it would flow towards the neighbor's property. If it goes through the soil fifty feet it's considered potable, but not if it comes through the surface.

Mr. Thomas said that was correct.

Mrs. Epler said if the applicant had made application for a permit, the Health Department would have done their research and had answers tonight.

Mr. Thomas said yes.

Public hearing closed.

Dr. Andrews wanted the record to show that there were people signed up to speak, but they were the same people who spoke in the last meeting.

Mrs. Epler made a motion, seconded by Mr. Lloyd to recommend denial of the rezoning from A1 Agricultural to R40A Residential and find it is not consistent with the adopted South Central Land Use Plan(2015) which calls for “low density residential” at this location; and further find that denial of the rezoning is reasonable and in the public interest because although the existing zoning is also not consistent with the “low density residential” designation, possible runoff onto adjacent properties due to the sloping topography is better mitigated by larger lot sizes with less development and the request is not in harmony with the surrounding existing land uses of one dwelling unit per lot. Mrs. Epler stated that the last time the applicants were before this board it was evident from our conversation with them that we wanted to have a level of comfort before the board approved this and the only way they could have a level of comfort is for the health department to tell the board it was safe for them to add on to that existing septic system or add another septic system and the applicant failed to do that.

Mr. Lloyd said that he believed that was the issue last year, and that’s why it was denied then.

Mr. Stewart said that he would be in favor of approving because then the applicant would be required to get the septic repaired and it would cure any existing conditions.

Ms. Hall asked staff what the basis of their recommendation of approval was based on.

Mr. Howard said one, we look at our land use plan which does call for this type of density out there, secondly, we look at the land use and like Mr. Stewart said, they must get a permit and go through the separate process. We are not the permitting agency, we’re just looking at the land use and if it meets our plan. We also look at the zoning map and there is already R40 zoning out there, so the precedence has been set. We thought it was plan compliant and we didn’t have a problem sending it forward as such.

Ms. Hall said that they are looking at zoning, and the objections are a lot of if’s and but’s.

Mr. Lloyd said this was a public hearing and this is where a lot of information comes out that staff doesn’t have when they make their recommendation.

Mr. Stewart said their job is to consider zoning not the environmental impact, that’s another department that would have to be permitted.

Mrs. Epler said that was not entirely true, it’s a very important part.

Mr. Lloyd said we have things like soil type that if we needed, we could ask for it and get that would tell us things like perk and Mr. Lloyd’s concern is when we have flooding and it comes to the surface it’s going to run to the neighboring property, and like Lori said the plan might say that but when this subdivision was designed it shows one unit on these lots.

Mrs. Epler said that at the last meeting the opposition had legitimate concerns about their property values and what it was going to do to them that’s why we asked for additional information from the Health Department.

Mr. Manning asked if he approved it and went to apply for a permit from the Health Department, they would be forced to take care of that situation to complete the process. If it’s denied than nothing will happen except, they would have to wait a year before coming back with the same issue. If the Commissioners deny it.

Mr. Howard said yes.

Mrs. Epler said that nothing guarantees that they will fix the problems.

Mr. Moorefield said the discharge of sewage to the surfaced is a violation of existing state statutes. If there is a problem out there now it prompts a report to Environmental Health, so there is a remedy for that.

Chair Wheatley called for a vote on the motion.

The motion passed to deny the request with Mr. Stewart, Ms. Hall, and Dr. Andrews opposed.

X. PUBLIC HEARING ITEM

STEDMAN AREA LAND USE PLAN

Mr. Smith, Planning Manager of Comprehensive Planning presented the draft plan. He gave a brief summary of the subjects covered in the plan such as Stedman Area Plan Boundary, the planning process, review of existing plans, demographics, existing land use, current zoning, utilities, the Municipal Influence Area, farms & agriculture, transportation, flood zones and wetlands, conservation value, hydric soils, areas with potential impediments to development, retail market and industry, economic development portion and other items that are covered in the plan.

Mr. Howard said they had been receiving a lot of inquiries as this area is close to the Bethany area and we will be kicking off a Bethany Plan January 28, 2020.

Public hearing opened

There were no speakers.

Public hearing closed.

Mr. Manning made a motion, seconded by Mrs. Epler to approve the draft plan as presented and move forward to the Town of Stedman. Unanimous approval.

XI. DISCUSSION

There was none.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 7:00 pm.