

A G E N D A
November 20, 2001
7:00 p.m.

Members Present

John M. Gillis, Chair
Clifton McNeill, Jr., Vice-Chair
David Averette
Dallas Byrd
Charles Morris
Marion Gillis-Olson
Jerry Olsen

Members Absent

Joe W. Mullinax

Others Present

Barry Warren, Director
Maurizia Chapman
Thomas J. Lloyd
Donna McFayden
Matt Rooney
Barbara Swilley
David Winstead
Grainger Barrett,
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

A motion was made by Mr. Olsen and seconded by Mr. Byrd to approve the Agenda as presented. The motion passed unanimously.

III. BOARD INPUT ON FY2002-08 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM—RICK HEICKSEN

Ms. Chapman asked for input from the Board for projects or suggestions for the MTIP that was handed out at the October 16 Planning Board meeting. Chair Gillis said that the Board had nothing to add to the MTIP. Ms. Chapman said she would be glad to take future comments from the Board to the TCC and TAC.

IV. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

V. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board members.

VI. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

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

VII. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF OCTOBER 16, 2001

A motion was made by Mr. Olsen and seconded by Vice-Chair McNeill to approve the Minutes of October 16, 2001 as written. The motion passed unanimously.

B. P01-91. REZONING OF .63 ACRES FROM R6A AND R6 TO C1, OR TO A MORE RESTRICTIVE ZONING DISTRICT, ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NATAL AND CHAPMAN STREETS, OWNED BY SARAH R. BARBOUR.

The Planning staff recommended approval of the C1 Local Business District based on the following:

1. The uses allowed in the C1 District are consistent with the uses and development in the neighborhood; and
2. There is a trend toward commercial and industrial use in the area.

The Planning staff found that the subject property is also suitable for the O&I Office and Institutional District.

A motion was made by Vice-Chair McNeill and seconded by Mr. Olsen to follow the staff recommendations and approve the C1 Local Business District. The motion passed unanimously.

C. P01-92. REZONING OF 1.53 ACRES FROM A1 TO R40A, OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 5348 CHICKEN FOOT ROAD, OWNED BY CARLA FRANCES GIBSON.

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

1. The uses allowed in the R40A District are consistent with the current lot size and uses in the area;
2. The 2010 Land Use Plan calls for farmland at this location, and the Board's policy is to allow small lots within farmland areas to be zoned R40 and R40A; and
3. Approval of the R40A District would be consistent with other recent rezonings in the area.

The Planning staff found that the subject property is also suitable for the R40 Residential District.

A motion was made by Vice-Chair McNeill and seconded by Mr. Olsen to follow the staff recommendations and approve the R40A Residential District. The motion passed unanimously.

VIII. PUBLIC HEARING ITEMS

A. P01-88. CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW OFFICE AND RETAIL SPACE ON 1.2 ACRES IN AN R10 DISTRICT AT 590 NORTH REILLY ROAD, OWNED BY JOE O. AMBERGER.

Maps were displayed outlining the zoning and land use in the area. Mr. Lloyd explained that the case was deferred from an earlier meeting to allow the applicant to submit a Conditional Use Overlay District and Permit. He reviewed the site plan with the members. A video of the site was shown. Mr. Lloyd said that the Planning staff recommended approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

The Planning staff recommended approval of the Conditional Use Overlay Permit based on the findings that 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 2010 Land Use and Thoroughfare Plans.

The Planning staff recommended the following conditions be added to the Conditional Use Overlay Permit:

1. Lateral access be provided to the lots to the north and south of the subject property.

The packet materials were received into the record.

Mr. Walter Smithers appeared before the Board and said that he wanted the C1 zoning in the front lot for parking.

Mr. Dan Wooster read a letter from his brother-in-law, Josef Bath, (see attached) who opposed the rezoning and is overseas and unable to attend the meeting.

Ms. Sharon Valentine submitted a list of objections from the neighborhood to the Board (see attached).

Mr. Thomas Parent appeared before the Board in opposition and said that he has appeared before the Board five times, and a good compromise was always reached. Mr. Parent said that he represented the landowners in the area. He showed pictures of the commercial properties along Reilly Road. He pointed out several vacant commercial sites and showed pictures of proposed commercial property. He said that turnoffs are an issue, and said that smaller businesses with less traffic seem to do well in the area. He said that poor planning allowed many sites to be developed that are too large for septic tanks. He said that the septic tank at Dominoes Pizza has to be cleaned out twice a week. He suggested that public sewer be extended to

the area because the septic system won't tolerate additional development. He added that the sewer system would increase property values.

A motion was made by Vice-Chair McNeill and seconded by Mr. Morris to allow Mr. Parent additional time to speak.

Mr. Parent continued that there is now a junk yard and storage of junk cars in the area. He asked that the Board allow the commercial use with good planning, and that they approve the commercial zoning only one lot deep.

The time was up for the opposition to speak. Mr. Lou Swiderski was also signed up and did not speak.

In rebuttal, Mr. Smithers stated that Mr. Parent gave a good presentation; however, Reilly Road is commercial, and the C1 zoning is needed in order to have a good business on a larger lot.

Mr. Averette asked if retail space would be allowed in the area proposed for the Conditional Use Overlay District (back portion of the lot). Mr. Lloyd said that it was not. Mr. Averette asked about a drain field for the septic system. He said that a 1,330-foot drain field would be required and would not be allowed under the parking area. It was noted that the sewer system is 1,200 feet from the subject property.

Vice-Chair McNeill asked for an explanation of the proposal. He was told that the staff recommended rezoning the front 150-feet of the lot C1 and a Conditional Use Overlay District and Permit for the rear of the lot. Vice-Chair McNeill asked what was proposed for the rear 80 feet behind the structures. He was told that there are no plans for the area. Mr. Smithers said that he would put a six-foot buffer of cypress or pine trees around the rear.

There was discussion regarding clear cutting the lot in order to accommodate the septic system. Mr. Averette said that there is only 80 feet in the rear, and the owner would need 101 feet for the septic tank drain field. It was noted that Mr. Smithers also owns the adjoining rear lot.

Mr. Byrd asked if the natural portions could be used for a drain field and if it could remain in its natural state. Mr. Averette explained that about 100 feet would be needed, and the trees would have to be removed and a buffer rebuilt.

Vice-Chair McNeill asked if the drain field is part of the CU. Mr. Lloyd said that it is not, and it would extend beyond the area covered under the CU. Vice-Chair McNeill asked the petitioner if he considered hooking up to the sewer line. Mr. Smithers said that was not possible, and he wants to do what everyone else on Reilly Road has been allowed to do.

Mr. Barrett said that this owner or subsequent owners can cut what the CU allows to be cut. He said that the extent to which future owners can cut trees depends upon the precise nature of the conditions placed at the time the CU is approved.

Chair Gillis asked where the parcel ends. After much discussion, it was determined that the lot is larger than what the request covered. There was more discussion regarding the septic system, and Mr. Barrett said that a septic easement can run with the land. Mr. Averette said that the cost to tap onto the sewer is about \$50 per foot.

Vice-Chair McNeill asked about parking, and Mr. Lloyd said that the plan indicates two more spaces than the Ordinance requires.

Mr. Byrd asked how the Board could vote on the matter without knowing whether the site meets the Health Department's guidelines for septic tanks. Mr. Lloyd pointed out that the applicant cannot get building or zoning permits without Health Department approval.

Mr. Barrett said that the Board should also concern themselves with 1) whether the commercial land is negatively affecting the environment; and 2) whether the buffer will be effective because of the required clearing for a septic field.

Mr. Averette said if the CU is approved, and the applicant cannot develop the site as he desires, he would have to go before the Board again. Mr. Warren added that any change to the proposal would require the applicant to again go before the Board.

Mr. Lloyd said that the hatched pattern covers only a portion of the 580-foot lot.

Chair Gillis said that he was comfortable with the C1 on the front portion of the lot, but he was concerned about whether leaving the back part of the lot residential or approving the CU would best serve the neighborhood. Vice-Chair McNeill said if the C1 and CU are approved, and the petitioner cannot meet the requirements under the CU, the C1 would still be in effect without the CU to the rear. Mr. Barrett said that the Ordinance allows parking in any district next to a commercial use, so if the CU fails, the R10 allows parking.

A motion was made by Vice-Chair McNeill and seconded by Mr. Morris to follow the staff recommendations and approve the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

A motion was made by Vice-Chair McNeill and seconded by Mr. Olsen to follow the staff recommendations and approve the Conditional Use Overlay Permit according to the site plan for the rear of the property (approximately 150 feet) based on the findings that 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 2010 Land Use and Thoroughfare Plans. The motion included the following condition: Lateral access be provided to the lots to the north and south of the subject property.

Dr. Olion asked about parking in the front versus the rear. She was told if the lot was left R10, the applicant could use the rear R10 lot for parking for the commercial lot.

Mr. Olsen said that there had been extensive discussion regarding septic tanks, and the other commercial lots are 150 feet by 150 feet with septic tanks. He said that this lot will be twice that size, so there would be a better chance for successful septic.

A motion was made by Mr. Olsen and seconded by Mr. Averette to call for the question. The motion passed seven to one with Mr. Morris voting in opposition.

Mr. Barrett pointed out that the Ordinance requires a semi-opaque visual screen, and this would be included as it is covered in the site plan. He also suggested leaving the existing undisturbed vegetation.

Upon a vote on the motion, it passed seven to one with Mr. Morris voting in opposition.

Chair Gillis said that the case will be scheduled to be heard by the County Commissioners on December 17, 2001.

B. P01-90. REZONING OF 1.83 ACRES FROM A1 TO RR, OR A MORE RESTRICTIVE ZONING DISTRICT, AT 3534 LACEWOOD COURT, OWNED BY UPTON TYSON.

Maps were displayed outlining the zoning and land use in the area. A video of the site was shown. Mr. Lloyd said that the Planning staff recommended recommends denial of the RR Rural Residential District and approval of R40A Residential District based on the following:

1. The uses allowed in the R40A District are consistent with the current lot size and uses in the area; and
2. The 2010 Land Use Plan calls for farmland at this location, and the Board's policy is to allow small lots within the farmland areas to be zoned R40 and R40A.

The staff found that the subject property is also suitable for the R40 Residential District.

Mr. Malcolm Smith appeared before the Board and said that his son is purchasing the property, and there is already one mobile home on the site, and he wants the rezoning so that he can put a second mobile home on the site where he would live.

Mr. Morris asked him if they only wanted two mobile homes on the site, and Mr. Smith said that was correct. Mr. Morris said that the R40A would allow a second mobile home. Mr. Smith said that the R40A would be fine.

No one appeared in opposition to the request.

A motion was made by Mr. Olsen and seconded by Dr. Olion to follow the staff recommendations and deny the RR Rural Residential District and approve the R40A Residential District. The motion passed unanimously.

C. P01-93. REZONING OF 1.3 ACRES FROM R10 TO RR, 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. A video of the site was shown. Mr. Lloyd said that the Planning staff recommended denial of the RR Rural Residential District based on the following:

1. The 2010 Land Use Plan calls for medium-density residential development at this location.

The Planning staff found that the subject property is suitable for the R15 Residential District.

Ms. Priscilla Nobles appeared before the Board and said that the original RR request was to accommodate a Head Start program, but the time ran out, and now she would like to zone the property to R6A so that she can put a nice mobile home on the site.

No one appeared in opposition to the request.

A motion was made by Mr. Morris and seconded by Vice-Chair McNeill to defer action on Case P01-93 in order to readvertise for rezoning to R6A to be heard at the December 4, 2001 meeting. The motion passed unanimously.

D. 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.

Mr. Warren introduced the initial zoning case for the rest of the unzoned area of Cumberland County. He said that the recommendation from staff is to zone the properties as they are currently used. Mr. Rooney displayed the map with the recommended zoning.

Due to the number of speakers signed up for the case, a motion was made by Mr. Morris and seconded by Vice-Chair McNeill not to follow the Board's normal policy, but instead to allow two minutes each for each speaker. The motion passed unanimously.

Mr. Billy Ray Sullivan appeared before the Board in favor of the zoning. He said that he is an appraiser, and the aerial photo showing the road is incorrect because the road has shifted and takes one or two acres from his land. He said that he wanted it straightened out while the zoning is in the early stages.

Chair Gillis explained that individual requests are to be submitted to staff after the meeting and will be received until November 30, 2001. He said that any requested changes will be covered at the December 4 Planning Board meeting.

Mr. Craig S. Purcell appeared before the Board and said that he moved to the area for the country setting. He said that the Board now has to take time again because action to zone was not taken last year when the Planning Board certified the map. He said that he wanted everyone to have what he or she wants. He said that he now has an auction and junkyard next to his home because there is nothing in place to prohibit them. He said people die, and there are no guarantees how future owners will use the land. He said that taxes shouldn't increase because of the zoning. He said that zoning applies to the entire County except in this area. He said if land is left unzoned, anything can be done on the land. He said it took many years to clean up Hay Street, and he doesn't want another Hay Street in this area. He said that the auctions next to him are not doing well, so lots of junk remains on the site. He commented on an editorial in the November 4 newspaper that pointed out that zoning is a good neighbor guarantee. He said that conflict can arise when commercial uses move into an area with no restrictions. He said that the auction contains vehicles that leak oil into the land, and another site put in a sewer that doesn't meet code because there is no enforcement.

Ms. Carole Samperton appeared before the Board and said that she agrees with Mr. Purcell. She said that zoning now may not help her area because there is already junk around her home, but it may help others.

Ms. Tracy Keys appeared before the Board and said that she lives in Riverfield Farms subdivision, and a business came with a 7,000-volt fence in her backyard. She said that she has two small children who could be harmed by the fence. She said that zoning may not help, but she hopes it will.

Mr. Brian Raynor appeared before the Board and said that he is in favor of the zoning to project property values.

Mr. Lee Richardson appeared before the Board in opposition. He said that people purchased the property knowing that it was not zoned, and many of the residents want it to stay unzoned. He said that the earlier speakers are in one small area and want to change the whole area. He said that he doesn't expect anyone to tell him how he can use his property. He said that he is retired military who fought for freedoms, and this is one. He said he strongly opposes the zoning.

Ms. Luby Ray Bowden appeared before the Board in opposition and said that people should check on zoning before they purchase property.

Ms. Alice L. Hair appeared before the Board in opposition and said that certain zoning requires two acres, and zoning is not fair for people who own less than two acres.

Mr. Ken Blackman appeared before the Board and said that he has lived in Linden for over 50 years, and the area has never been zoned. He said that he is in favor of change if it helps him and his family, and he doesn't see how zoning will help. He said that the earlier speakers should have checked on the zoning before they moved to the area.

Mr. Charles Ross appeared before the Board and said if the housing development hadn't been built in the area, zoning would not have taken place for another 75 years. He said people have pushed it and abused it. He said that he spoke for 180 people and people from Kelly Springfield. He said that the City of Fayetteville should take care of what they've got. He said that the residents don't want zoning, the City or PWC. He said if the Board will just leave it as it is for five more years, God is coming back in a couple of years, and they won't have to worry about it.

In rebuttal, Mr. Craig said that possibly they shouldn't have moved to a place with no zoning, but zoning will benefit the residents of the entire County.

Chair Gillis said that the staff will receive requests for change until November 30, if residents want zoning other than that proposed on the map.

Vice-Chair McNeill asked about a parcel northeast of the railroad by Carlos Road. He asked why it was recommended for RR. Mr. Rooney said that the area is Lake Teresa with a definite pattern of 20,000 square feet and mixture of stick-built and mobile homes.

Mr. Warren said that the staff studies many factors when making the recommendations, and there were many areas with bad soils. He said that the information is available to anyone who wants to check the potential for his or her property.

The Board will consider certification of the Map for the area at the December 4, 2001 meeting.

IX. DISCUSSION

A. UPDATE FROM LAND USE CODES COMMITTEE—JERRY OLSEN

Mr. Olsen reported that the Committee is working on the Private Street Ordinance and plans to finalize it to go before the Board for the December 18, 2001 meeting or one of the meetings in January.

B. UPDATE FROM COMPREHENSIVE PLANNING COMMITTEE—JERRY OLSEN

Mr. Mullinax was not at the meeting, so Mr. Olsen gave the update on the Comprehensive Planning Committee. He said that the Committee is working on the Maxwell Road Study and waiting for input from the Stedman Town Board.

He said that the next item on the Committee's agenda is the Spring Lake Detailed Land Use Plan.

C. REPORT ON COUNTY COMMISSIONERS' MEETING—JOHN GILLIS

Chair Gillis reported that the Commissioners followed the Board's recommendations on most of the cases. They reversed a case where the petitioner didn't attend the

Board's meeting, and the Board recommended denial. He said the Commissioners denied a C(P) to R6A request on Gillespie Street. Also a compromise was worked out on the Gillis-Hill Road case, so the Commissioners approved it.

X. FOR YOUR INFORMATION

A. TRANSPORTATION ISSUES—JERRY OLSEN

Mr. Olsen said that he wasn't really prepared to make recommendations on the MTIP, and he asked if a Transportation Committee should be formed to study transportation issues and keep the Board informed. Mr. Morris suggested creating an ad hoc committee for transportation matters when there is a need so that the Bylaws wouldn't have to be changed to create a new committee. The members agreed to the ad hoc committee.

Mr. Warren was asked to check with Mr. Heicksen on the status of the Board's request regarding the Cliffdale Road Extension.

Chair Gillis said that having the State Secretary of Transportation from Fayetteville might help Cumberland County with future transportation requests. He mentioned that there is a need to relocate the road for the new electrical generation plant.

Mr. Warren said that he attended a meeting in Wilmington on Monday. He said that Fayetteville representatives are lobbying to get a rail system through Fayetteville rather than Goldsboro. He said that the NCDOT is considering two corridors. He added that the rail system would connect Fayetteville to Raleigh and also to a high-speed rail system from New York to Miami.

B. DIRECTOR'S UPDATE

Mr. Warren reported that the transition of combining the Planning and Inspection Department into one Department is going smoothly. He said that cross training of the inspectors is the first item being worked on, and the Minimum Housing and Zoning Officers have been combined into one section for Code Enforcement.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 9:40 p.m.