

M I N U T E S
February 5, 2002
7:00 p.m.

Members Present

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

Members Absent

Clifton McNeill, Vice-Chair

Staff Present

Barry Warren, Director
Will A. Denning
Thomas J. Lloyd
Donna McFayden
Barbara Swilley

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

The order of public hearings was changed to hear the Highway 24/Maxwell Road Study last; Watershed and a request from Ann Henry were added to the Discussion items. A motion was made by Dr. Olion and seconded by Mr. Morris to approve the Agenda with the above changes. 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. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF JANUARY 15, 2002

A correction was made to page three of the Minutes. A motion was made by Mr. Mullinax and seconded by Mr. Olsen to approve the Minutes as corrected. The motion passed unanimously.

B. 02-008 LEON HAIR SUBDIVISION REVIEW IN AN A1 AGRICULTURAL DISTRICT FOR A VARIANCE FROM, SECTION 3.17c, "STREET DESIGN," CUMBERLAND COUNTY SUBDIVISION ORDINANCE, AND 7.3 "DISTRICT DIMENSIONAL PROVISIONS,"

CUMBERLAND COUNTY ZONING ORDINANCE, FOR SETBACKS OF THE EXISTING LOTS ALONG THE PROPOSED CLASS "C" PRIVATE STREET ON THE NORTH SIDE OF DUCK POND ROAD, NORTHWEST OF HAIRS CHAPEL CHURCH ROAD.

A motion was made by Mr. Mullinax and seconded by Mr. Olsen to follow the staff recommendations and approve the variance. The motion passed unanimously.

VII. PUBLIC HEARING ITEMS

- A. P02-04: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW A MIXED USE DEVELOPMENT AS FOLLOWS: ALL USES ALLOWED IN R10 ON 447 ACRES; ALL USES ALLOWED IN R6 ON 20.81 ACRES; ALL USES ALLOWED IN C(P) ON 36.09 ACRES; AND ALL USES ALLOWED IN O&I ON 21.92 ACRES, AT THE INTERSECTION OF SANDHILL AND CHICKENFOOT ROADS, CONTAINING 527 ACRES, OWNED BY PREWITT LAND COMPANY, LLC AND BIRCHWOOD FARMS, INC., ALL AS MORE PARTICULARLY SHOWN ON THE SITE PLAN DATED DECEMBER 5, 2001 AND LABELED AS CYPRESS LAKES AREA CONDITIONAL USE OVERLAY.

Mr. Lloyd requested that the packet material be introduced into the record.

After a brief discussion regarding a request from Ms. Ann Henry, a motion was made by Mr. Mullinax and seconded by Mr. Byrd to allow proponents and opponents 20 minutes each to speak regarding this case. The motion passed unanimously.

Maps were displayed outlining the zoning and land use in the area. A video and slides of the site were shown. Mr. Lloyd explained that this case was heard at the last meeting, and the developers have offered a different site plan showing Ham Road as a walking path instead of a road as originally indicated. Mr. Lloyd said that the 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 recommends 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.

Mr. Jim Kizer, engineer for the project, appeared before the Board and said that he would not repeat what he said at the last meeting; however, he reminded the Board that this is a good plan, and they worked with the Planning staff to create it. He said that the adjustment to make Ham Road a walking trail and remove the roundabout was at the request of the area residents. He said that the area would have adequate area set aside for five years, and if at that time, DOT wishes to open it, it will be opened to serve as a road. Mr. Kizer said that the developers met with the residents regarding their issues. They also met with DOT, who assured them that they could use three four-way stop signs to slow the traffic. Mr. Kizer added that they have amended the request to eliminate "special entertainment uses," Section 3.4, from the uses allowed in the commercial district. He said that the plan offered is a good one that addresses the concerns of the community.

Mr. Tom Prewitt appeared before the Board and said that his family is the developer, and he lives in Cypress Lakes and was available for questions.

Mr. Tim Henry appeared before the Board and said that the residents met with the Prewitt family and didn't get real concrete answers to their questions. He said that the residents were treated to a history and future plans for the area. He said that the residents view the plan as a vision of the past. He said that DOT representatives were not present at the meeting. Mr. Henry said that the residents are not against progress, they are just against poor planning and want a 21st century plan. He said that the proposal encourages suburban sprawl. He said that a large development such as this one should have more studies to include schools, air and water pollution, crime and necessary services. Mr. Henry then asked if a good development would: turn quiet neighborhood roads into major thoroughfares; ignore state and environmental regulations; fill in wetlands; create storm water drainage problems; serve retail establishments with a two-lane road; have retail establishments in close proximity to schools; and place unnecessary burdens on taxpayers. Mr. Henry concluded by asking the Prewitts to honor the spirit of the community, and the Board to zone only the seven acre parcel indicated for an erosion and sedimentation permit to allow 80 lots to generate income for the Prewitts while the rest of their plan can be more thoroughly studied.

Mr. Morris asked what the residents thought about eliminating the circle and making Ham Road a walking trail. Mr. Henry said that it would be very helpful, and he would need time to think about it.

Ms. Nadine Kingsley appeared before the Board and said that she is the oldest resident on Ham Road. She said that she had no objection to development across the pond, but Ham Road was designed as a subdivision road—not a major thoroughfare. She said she does not approve of Ham Road being used as a thoroughfare for heavy equipment.

Mr. Allen Freeman appeared before the Board and said that he was in the meeting with the Prewitts and their engineering team. He said that there were many generalities, and the recommendation regarding Ham Road was not shown at the meeting. He said that he asked residents of Cypress Lakes if they moved to the area to get into the city or get away, and they said that they moved there to get away from the city. He said that he is not opposed to development, but the residents want to work with the developer. He said that steps have been taken to move in that direction, but there are still many unanswered questions. He presented a petition with approximately 120 signatures of Cypress Lakes residents who indicate concerns regarding the proposal. He said that projections for Chickenfoot Road indicate a traffic count of 43,993 cars after the 447 acres is developed, and this would be comparable to Skibo Road. He said that the residents want the area developed in a way that is conducive to the spirit of Cypress Lakes. He said that R10 density will allow 7,500 square foot parcels if zero lot line is used. He said that the residents don't want these homes to negatively impact their property values.

Mr. Averette asked about the petition. Mr. Freeman said that the petition does not state that residents are for or against the proposal, merely that they have concerns about the development.

Mr. Kizer appeared before the Board in rebuttal. He said that he has been working with DOT, and this proposal will not generate the trip generation count that Mr. Freeman quoted. He said that 2,000 residents are anticipated in the area. He said that 700 homes were sold in the County last year, and this development will probably sell 20 to 40 homes per year. He said that

the proposal is a 50-year plan, not an overnight development. He said that the plan proposes a properly planned community—not a fragmented one.

Mr. Morris asked about restrictive covenants, and Mr. Kizer said that they would have them. He said that this development would have water and sewer, which were not available when the R15 property was developed.

When asked about the sizes and types of homes proposed, Mr. Kizer said that there will be different housing types. Mr. Tom Prewitt said that the housing would be market generated with homes of 1,800 square feet to start with. Mr. Tad Prewitt added that there is already a lot of R10 zoning in the area.

The public hearing was closed.

Mr. Averette said that this was a public hearing for a Conditional Use Overlay District with mixed-use development, and the Board wasn't actually approving the plan as submitted. He said that the Board's job is to look at whether the uses allowed in the various districts are suitable for the area.

Mr. Olsen said that he has heard the objections and tried to get a feel for them. He said that Ham Road is no longer proposed for a thoroughfare. He asked where else in the County such a development could occur. He said that others want to get away from the city also, and he added that the proposal with schools and businesses close to schools is a very good plan.

A motion was made by Mr. Olsen and seconded by Mr. Averette to follow the staff recommendation 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. The motion passed unanimously.

A motion was made by Mr. Olsen and seconded by Dr. Olion to follow the staff recommendation and approve 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. A condition that the uses allowed under Section 3.4 of the Zoning Ordinance regarding special enter-tainment would not be allowed under the action. The motion passed unanimously.

B. P02-06: REZONING OF 25.88 ACRES FROM PND TO C(P), OR A MORE RESTRICTIVE ZONING DISTRICT, AT 4509 AND 4605 RAMSEY STREET, OWNED BY WILLIAM, JR. AND MARY SLOAN AND JOYCE S. ELLIS, TRUSTEE.

Maps were displayed outlining the zoning and land use in the area. A video and slides of the site were shown. Mr. Lloyd explained that this case was heard at the last meeting, and the Board asked that it be readvertised and considered for C(P) instead of the original request of C1. Mr. Lloyd said that the staff recommended approval of the C(P) Planned Commercial District based on the following:

1. Site plan approval is desirable at this location.

The Planning staff found that there are no suitable intervening districts.

Mr. Stacy Weaver appeared before the Board and said that he addressed the matter at the last meeting and would be available for questions.

No one appeared in opposition to the request.

The public hearing was closed.

Mr. Byrd said that the 2010 Land Use Plan recommends residential use at this location. Mr. Warren explained that strip commercial development is discouraged, and grouping of commercial use is encouraged. He said that the North Fayetteville Study covers this area and will more accurately reflect what is suitable for the area. He said that the staff feels that the area is more suitable for planned commercial development.

Mr. Will Denning is currently preparing the North Fayetteville Study. He said that the citizen committee has studied the residential areas and is now ready to look at industrial and commercial use in the area. He said that the citizens do not want to see Ramsey Street stripped. He said that they have expressed desire to have larger commercial tracts with landscaping, buffers, deceleration lanes etc. He said that he can't predict what the final proposal from the committee will be, but commercial at this location fits in with their expressed goals.

A motion was made by Mr. Averette and seconded by Dr. Olion to follow the staff recommendations and approve the C(P) District.

Mr. Olsen said that he didn't see why the site was obviously a commercial site. He said if a subdivision was proposed for the area, it would also be suitable for residential use. He said that there is a large commercial area that is partially vacant just one-half mile from the subject property. He said that this proposal seems to add to strip commercial use along the road.

Mr. Morris said that he lived in the area for many years. He reviewed the current uses surrounding the subject property including a storage facility along the rear, propane storage joining, trailer park, and abandoned trailer park nearby. He said that he would not want to develop the property for residential use.

Chair Gillis asked Mr. Denning what he looks for when forming plans. Mr. Denning said that it is customary to plan for four times more commercial area than needed to allow options. He said that the committee will consider the existing zoning and larger commercial tracts. He said that this may not be the only large tract on Ramsey Street that the Committee will recommend for commercial use.

Chair Gillis said consolidating the smaller parcels into large planned commercial areas is about the only way to use good planning with proper buffering, etc.

Mr. Warren said that strip development with numerous driveway cuts should not be encouraged through the ordinances, as they are now. He said that planned developments are preferable and will make the commercial areas more aesthetically pleasing and safer. He said that the C(P) District requires plan approval that will allow for input from planners and engineers.

Mr. Averette said that the current ordinance allows stubbing out to other lots, where they can take advantage of lateral access once the lots are developed.

Chair Gillis asked what DOT recommended for access, stop lights, etc. Mr. Joe Riddle responded that he has received approval for a signal at Meadowcroft and another at the soccer complex to tie together for lateral access. Chair Gillis asked about direct access, and Mr. Riddle said that he had not yet drawn plans for the tract. He said that there are no appropriate empty tracts available, and this was the only flat tract in the area that is suitable for a large commercial establishment such as Target or Home Depot. He said that there are also watershed issues, so large acreage is needed.

Mr. Lloyd said that it would take some effort for lateral access, and they will work with DOT to limit the curbcuts.

Mr. Byrd asked if Ramsey Street is considered a major thoroughfare, and he was told that it is. Mr. Byrd said that the Board approved a plan for the area, and now they're being asked to approve rezoning when they don't even know what the North Fayetteville Study will recommend. He asked about traffic projection and was told that this has not been studied. He expressed concern about additional traffic with three schools in the area. Mr. Lloyd pointed out that all schools are served by access from side streets.

Mr. Riddle said that Ramsey Street is a major highway to Raleigh and not appropriate for schools. He said that a small church (Northwood Temple) has turned into a huge church/school/auditorium that was not anticipated. He said that he now has 50 acres and wants to add another 25 for a well-planned development.

Mr. Byrd said that the request is against the recommendations of the 2010 Land Use Plan. Mr. Lloyd said that the plan was created years ago, and the area has changed. He said that is why the North Fayetteville Study is being prepared. Chair Gillis added that the C(P) District allows for plan approval. He said that the Board's job is to determine whether the area is suitable for commercial use.

Mr. Mullinax asked if the Board should include that the 2010 Land Use Plan be changed in the motion. Mr. Warren said that it may be an appropriate action once the North Area Study is complete.

Upon a vote on the motion, it passed 6 to 1 with Mr. Byrd voting in opposition.

C. HIGHWAY 24/MAXWELL ROAD LAND USE PLAN UPDATE

Mr. Denning reviewed the findings of the Highway 24/Maxwell Road Study. He said that from the study, two commercial activity nodes were recommended. The first is at the corner of Highway 24 and Maxwell Road to be designated as a Neighborhood Center, and the second would be a Community Center in the Town of Stedman.

No one appeared in favor of or in opposition to the Land Use Plan Update.

A motion from the Comprehensive Planning Committee recommended approval of the Highway 24/Maxwell Road Land Use Plan Update.

There was no further discussion.

Upon a vote on the motion, it passed unanimously.

VIII. DISCUSSION

A. LAND USE CODES COMMITTEE REPORT – JERRY OLSEN

Mr. Olsen reported that the Land Use Codes Committee has been reviewing the Private Street amendment and the guidelines for poultry operations. He said that the documents should be finalized and ready for public hearing by the full Board within a month.

B. COMPREHENSIVE PLANNING COMMITTEE REPORT – JOE MULLINAX

Mr. Mullinax reported that the comprehensive Planning Committee has been reviewing the Spring Land Land Use Plan. He said that it has been condensed, and he would like to have it ready for public hearing by the full Board by the March 5, 2002 meeting. He said that there are some technical items that need to be corrected, and if this cannot be done by the March 5 meeting, it will be scheduled for a later meeting.

C. REQUEST TO SPEAK FROM ANN HENRY

Ms. Ann Henry appeared before the Board and said that she had met some officials while working with the Cypress Lakes area request discussed earlier. She said that she was requested by a representative of the Division of Land Quality to ask the Planning Board to support legislation to improve water quality laws and to be more diligent with storm water drainage issues.

Mr. Lloyd said that staff gives all plans to the County Engineer, and his expertise is relied upon regarding storm water drainage issues. He explained that this is under his purview as well as floodplain issues. He said that information from the County Engineer (and State when pertinent) is incorporated into the planning process.

Chair Gillis said that Ms. Henry's message would be given to the County Engineer.

Mr. Olsen thanked Ms. Henry for her time and said that he agreed. He said every time more cement is used, the water drainage problems in the County increase.

D. CUMBERLAND COUNTY WATER SUPPLY/WATERSHED MANAGEMENT AND PROTECTION, APPENDIX C, CHAPTER 31A

Chair Gillis explained that he had received phone calls from surveyors and engineers who expressed concern about the Board's action to eliminate the Watershed stamp from plats.

A motion was made by Mr. Olsen and seconded by Mr. Byrd to reconsider the motion made on January 15, 2002. The motion passed unanimously.

Mr. Averette said that the purpose of a plat is to show matters of survey—not what an area is to be, not zoning or future use. He said that a plat is used to convey real estate and not a public notice. He said that there are stamps all over plats, and if they are used for public notice, it would be better to include a list. He said that he doesn't have a problem with the required stamps that the conditions have been met, but he'd prefer that the Watershed stamp not be required on the plat.

Mr. Lloyd agreed that there are many statements included on the plats, and most were requirements from early Planning Boards. He said that the Watershed stamp is specifically requested from the State.

Mr. Mullinax asked what the issue was, and Chair Gillis explained that the Board was reconsidering action that they took at their last meeting. He said that the Board voted to approve the watershed document recommended by the State, but to remove the section regarding a required watershed stamp on plats from the document. Chair Gillis said that after the Board's action, he received calls from surveyors and engineers who would prefer that the stamp be left on the plats in order to be sure that purchasers are aware that the property is within a watershed area.

Mr. Warren added that the State highly recommends that the stamp be on the plats. He suggested that some of the stamps could be reduced in size to address Mr. Averette's concerns. Mr. Lloyd said that many of them are more "wordy" than they need to be.

Mr. Averette said that there is no legal reason for the stamps to be included. He said that the stamps are used to inform the public and takes the responsibility off of the surveyors.

Mr. Lloyd said that the staff looks at the plat as a form of notification to the public. He said that they are not allowed to give notice on deeds. He said as planners, there is an obligation to protect the citizenry.

Chair Gillis asked if there is any other mechanism that can be used. Mr. Warren said that the Planning staff doesn't have another way. Mr. Lloyd said that the County Attorney is looking at possibly listing the statements on a separate piece of paper attached to the plat.

Dr. Olion asked if the stamp has been used, and Mr. Warren said that the staff has used it for the last few years because the Watershed Ordinance was submitted years ago, and the State hadn't notified the Department that it was not approved until recently.

Mr. Mullinax asked if the Board has the authority to change the Ordinance. Mr. Warren said that the staff drafted the ordinance as the State directed, the State reviewed the draft ordinance to make sure that it met the statutes and sent back changes. He said that the document that the Board reviewed included the State's changes, and Board and Commissioner approval is needed before it can go back to the State. Mr. Warren said that the stamp is highly recommended by the State, not mandated; however, as far as he knows all other Counties in the State use it.

Mr. Morris said that he talked with three engineers, and they all said that there are enough stamps on the plats and agreed with Mr. Averette.

Mr. Byrd said that realtors are required to expose watershed issues to their customers. Mr. Lloyd said that most realtors don't even know about watershed areas. He said that it would serve the best interest of the people if the stamp is on the plats.

There was discussion regarding the size of the plats. Ms. McFayden said that they are required to be 18 by 24 inches or 24 by 36 inches, and sometimes there is little room for the approval stamp because of all the other stamps.

Chair Gillis asked if there was a one-page requirement on plats, and Mr. Warren said that there is not. Mr. Mullinax said that space shouldn't be a problem if there can be more than one page.

Mr. Olsen said that it is important that people are informed, and Mr. Averette said that he didn't know how else they could be informed.

Mr. Warren said that surveyors can make the information fit on the plat, and space shouldn't be a problem. He said that the stamp makes the Planning Department responsible for verification and notification, and the staff would prefer that the stamp remain.

A motion was made by Mr. Mullinax and seconded by Mr. Olsen to rescind the action of the January 15, 2002 meeting regarding the Cumberland County Water Supply/Watershed Management and Protection Ordinance and approve the Ordinance as written and leave in Item D on page 1167.

Mr. Averette asked what happens if something is in the watershed area, and no plat is required. He asked how much liability the County is under if they incorrectly certify something. Mr. Warren said that the watershed boundaries were generated by the State with maps given to the Counties. He said that the staff can only be as accurate as their maps.

Dr. Olion said as a citizen, she would prefer having the information. She said leaving the stamp off reeks of "buyer beware." She said if the information is known, it should be noted.

Mr. Averette said it should be on the plat if that was the purpose of a plat; however, it's not. He said that the plat is for matters of survey for sale of property and not a vehicle for public notice.

Mr. Olsen called for the question. Upon a vote the call for question passed unanimously.

Upon a vote on the motion to rescind the previous action and approve the Cumberland County Water Supply/Watershed Management Protection Ordinance as recommended by the State and submitted by staff, it passed 4 to 3 with Messrs. Averette, Byrd and Morris voting in opposition.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Mr. Warren briefly reviewed a document regarding Fort Bragg Force Protection Needs that was given to the members. He said that the staff will be involved with the process to assist Fort Bragg with transportation issues. He said that a subcommittee of TCC members has been formed and will brainstorm to reroute roads through the military base.

Mr. Mullinax said that he would like the Planning Board to also be involved. Mr. Warren said that is why they received the copy of what Fort Bragg provided to the TCC. Mr. Mullinax said that there are alternatives to blocking the current route, and he would like to provide input.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:30 p.m.