

Charles C. Morris
Chair
Town of Linden

Donovan McLaurin
Vice-Chair
Wade, Falcon & Godwin
Joe W. Mullinax,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman



COUNTY of CUMBERLAND

Planning and Inspections Department

Nancy Roy, AICP
Director
Thomas J. Lloyd,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Dr. Marion Gillis-Olion,
Lori Epler,
Cumberland County

MINUTES

August 16, 2005

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Mr. Harvey Cain, Jr.
Mr. Clifton McNeill
Mr. Roy Turner
Mr. Lori Epler

Member Absent

Mr. Joe W. Mullinax

Others Present

Ms. Nancy Roy, Director
Mr. Tom Lloyd, Dep. Dir.
Ms. Donna McFayden
Ms. BJ Cashwell
Mr. Grainger Barrett,
County Attorney
Ms. Diane Wheatley,
County Commissioner

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd asked that Cases P05-55 and P05-61 be moved from Consent Items to Public Hearing Items. He asked that Case P05-62 be heard as the third item under Public Hearing Items. A motion was made by Mr. McNeill and seconded by Mr. Turner to approve the Agenda with the changes. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

Ms. Epler said she would abstain from discussion and voting on Case P05-50. Mr. Cain said he would abstain from discussion and voting on Case P05-55 and P058. The Board concurred with the requests.

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 AUGUST 2, 2005

A motion was made by Mr. McLaurin and seconded by Mr. Cain to approve the Minutes of August 2, 2005 as written. The motion passed unanimously.

REZONING CASES

A. P05-56: REZONING OF TWO PARCELS TOTALING 4.18 ACRES FROM A1 TO A1A, LOCATED AT 3451 AND 3461 COUNTY LINE ROAD, SUBMITTED BY FRANKLIN JOHNSON, OWNED BY WILLA LEWIS AND GARY A. BURTON.

The Planning staff recommended approval of the A1A Agricultural District based on the following:

1. A1A zoning would be consistent with the surrounding area.
2. The rezoning would meet the purpose and intent of the A1A district.

No one appeared in favor of or in opposition to the request.

A motion was made Ms. Epler and seconded by Mr. McLaurin to follow the staff recommendation and approve the A1A Agricultural District. The motion passed unanimously.

B. P05-57: REZONING OF 1.56 ACRES FROM A1 TO RR OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED WEST OF CEDAR CREEK ROAD, SOUTH OF MCKINNON ROAD, OWNED BY ROBENA M. MCLAURIN.

The Planning staff recommended approval of the RR Rural Residential District based on the finding that the RR zoning is consistent with the surrounding zoning and development in the area.

The Planning staff found that the subject property could be suitable for R40 and R40A Residential Districts.

No one appeared in favor of or in opposition to the request.

A motion was made Ms. Epler and seconded by Mr. McLaurin to follow the staff recommendation and approve the RR Rural Residential District. The motion passed unanimously.

C. P05-58: REZONING OF 22.95 ACRES FROM M2 TO R10 OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 4810 FRONT STREET, SUBMITTED BY THOMAS J. GOODEN, OWNED BY LANDTEC DEVELOPMENT COMPANY. (STEDMAN)

The Planning staff recommended approval of the R10 Residential District based on the following:

1. The R10 zoning is consistent with the surrounding zoning in the area.

2. Stedman utilities would be extended to the property.

No one appeared in favor of or in opposition to the request.

A motion was made Ms. Epler and seconded by Mr. McLaurin to follow the staff recommendation and approve the R10 Residential District. The motion passed unanimously. Mr. Cain abstained from voting on this matter.

D. P05-59: INITIAL ZONING OF 58.14 ACRES TO R10 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED SOUTH OF CARL FREEMAN ROAD, WEST OF HORNE FARM ROAD, OWNED BY HORNE TURF LLC. (STEDMAN)

The Planning staff recommended approval of the initial zoning to R10 Residential District based on the finding that Stedman utilities would be extended to the property and is consistent with Planning Board policies.

No one appeared in favor of or in opposition to the request.

A motion was made Ms. Epler and seconded by Mr. McLaurin to follow the staff recommendation and approve the initial zoning to R10 Residential District. The motion passed unanimously.

AMENDMENT

A. P05-63: REVISION AND AMENDMENT TO THE COUNTY SUBDIVISION ORDINANCE, ARTICLE VI., LEGAL PROVISIONS, SECTION 6.1. VARIANCES, IN THAT: CHANGING THE TERM "VARIANCES" TO "WAIVERS" AND INSERTING ADDITIONAL PROVISIONS FOR GRANTING WAIVERS.

The Planning staff recommended approval of the amendments to the Cumberland County Subdivision Ordinance as submitted.

No one appeared in favor of or in opposition to the amendments.

A motion was made Ms. Epler and seconded by Mr. McLaurin to follow the staff recommendation and approve the amendments as written. The motion passed unanimously.

CONDITIONAL USE DISTRICT AND PERMIT

A. P05-60: REZONING OF .83 ACRES FROM RR TO M(P)/CONDITIONAL USE DISTRICT AND PERMIT TO ALLOW THE MANUFACTURE AND SALES OF STORAGE BUILDINGS AT 5003 US HIGHWAY 301 SOUTH, SUBMITTED BY JOSE GOMEZ, OWNED BY JOHN D. GRAHAM AND COLUMBIA O. BLANKS.

The Planning staff recommended approval of M(P) Planned Industrial District/Conditional Use District based on the findings that the request is reasonable, neither arbitrary nor unduly discriminatory and in the public interest.

The Planning staff recommended approval of the Conditional Use 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 land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners.

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

1. Limited to the manufacturing and sales of storage buildings.
2. Hours of operation: Monday thru Friday, 7:00 a.m. to 6:00 p.m. and Saturday, 7:00 a.m. to 5:30 p.m.
3. Buffer be provided on the east side as required by the Zoning Ordinance.
4. Parking: 11 spaces
5. Employees: 5
6. Signage: 4 X 6 feet detached, using existing post.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. McNeill and seconded by Mr. McLaurin to follow the staff recommendation and approve the M(P) Planned Industrial District/Conditional Use District based on the findings that the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest.

A motion was made by Mr. McNeill and seconded by Ms. Epler to approve the Conditional Use Permit 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.

The motion included the following conditions being added to the Conditional Use Permit:

1. Limited to the manufacturing and sales of storage buildings.
2. Hours of operation: Monday thru Friday, 7:00 a.m. to 6:00 p.m. and Saturday, 7:00 a.m. to 5:30 p.m.
3. Buffer be provided on the east side as required by the Zoning Ordinance.
4. Parking: 11 spaces
5. Employees: 5
6. Signage: 4 X 6 feet detached, using existing post.

The motion passed unanimously.

VII. PUBLIC HEARING ITEMS

REZONING CASES

- A. P05-55: INITIAL ZONING OF 46.63 ACRES TO R15 OR A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF BLAKE ROAD, NORTH OF CLINTON ROAD, OWNED BY RAM DEVELOPMENT INC., AND PEACHTREE CONSTRUCTION, INC. (STEDMAN)

Mr. Cain left the room.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the initial zoning to R15 Residential District based on the finding that the extension of Stedman utilities will be provided.

Public hearing was opened.

Mr. John McKinney told the Board that he owned the R15 zoned property adjacent to this tract and he was developing the property with Mr. Billy Maxwell. He informed the Board that there was opposition to the case and would like to answer any questions that they have.

Mr. Billy Maxwell told the Board that the R15 parcel to the left is partially developed as Winwood Subdivision and their site would be developed as Oaks at Winwood. He said they would be developing the same type of homes in their subdivision and it would be developed with less density than the RR to the south of the property.

Mr. Clarence Starling appeared in opposition to the request and said his property adjoined this site. He told the Board that he felt the density would allow too many houses and that it should be developed with one house per two acres. He said there was wetlands on the property and expressed concern about the drainage from the property. He asked the Board how property could be rezoned without any review of the wetlands on the property by the Corps of Engineer.

Mr. Lloyd explained when the development is submitted for subdivision review that the wetlands would be addressed and Conditions of Approval would be written.

Mr. Barrett said that the zoning addresses the density and type of dwelling to be developed. He explained under the Zoning Ordinance requirements that a subdivision plan would have to be reviewed by the Planning staff. He said a number of conditions would have to be met by the developer and one of them would be drainage.

Mr. Starling told the Board that there were already a lot of drainage problems and they did not need any more added to it.

Mr. John Burton said he lived on Blawell Circle and expressed concern about the increased density of the development and the water runoff.

Mr. McKinney appeared before the Board in rebuttal and explained that they had a wetlands survey done by a Charlotte company when they purchased the property.

He told the Board that all the wetlands had already been delineated. He said that Blawell Subdivision does not have sufficient storm drains to handle the water and the water backs up on the streets. He informed the Board that in the Windwood Subdivision that the roads have a nice crown on them with ditches on both sides and there were no water problems.

Mr. Turner asked how many acres were wetlands. Mr. McKinney said it was about 6.91 acres of the 76 acres.

Mr. McNeill asked if the location of the drainage outfall had been designated. Mr. McKinney explained that it would be towards the wetlands and there would be retention ponds around the wetlands.

Ms. Wheatley asked who would maintain the retention ponds. Mr. McKinney said the retention ponds were designed to keep the water off the roads and once the development is completed the ponds could be closed down.

Public hearing closed.

A motion was made by Mr. McLaurin and seconded by Ms. Epler to follow the staff recommendation and approve the initial zoning to R15 Residential District. The motion passed unanimously. Mr. Cain abstained from voting and discussion on this matter.

B. P05-61: REZONING OF 13.21 ACRES FROM A1 TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTHWEST OF H. BULLARD ROAD, EAST OF CYPRESS LAKES ROAD, SUBMITTED BY CHRIS ROBERTS, OWNED BY MARILYN G. BARNES.

Mr. Cain returned to the room.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the R15 Residential District based on the following:

1. There is R15 zoning adjacent to the property.
2. PWC water will be required to be extended to the site upon development.

The Planning staff also recommended the Urban Services boundary be adjusted to follow the H. Bullard Road at this location.

Public hearing opened.

Mr. Chris Roberts told the Board his house was contiguous to the property and agreed with the extension of the Urban Services boundary. He informed the Board that they wanted to include R10 and R15 in the subdivision.

Mr. Terry Spell said it did not make sense to have this property outside the Urban Services Area and felt the property should be zoned the same as the adjacent property of R15. He told the Board that Mr. Prewitt's property and this parcel were

irregular shaped and together it would be a better design and felt a medium density of R15 would be appropriate.

Mr. Robert Nelms appeared before the Board in opposition to the request and said he lived in the southwestern portion of the property adjoining this parcel. He told the Board that Marilyn Barnes owned the property and it was currently being used as pasture land for cows. He informed the Board that the property also adjoins A1 and it is a country environment. He said he was told that Cypress Lakes was developed for country living with golf courses and horses in the area. He said the proposed development would allow about 26 homes and would increase traffic in the area. He told the Board that PWC utilities had not been extended in the area and is served by well and septic tanks.

Mr. Spell appeared before the Board in rebuttal and said H. Bullard Road is a dead end road but with the combination of the Prewitt property and this parcel that there would not be any ingress or egress from this property onto H. Bullard Road. He explained that the lots would back up to H. Bullard Road but traffic would ingress and egress to an interior street. He said the parcel is being leased for pasture land and the owner lives in Texas.

Public hearing closed.

Mr. McNeill said if the property is zoned R15 would PWC water have to be extended to the site according to the regulations. Mr. Lloyd said it would.

Mr. Spell said it would be hard to have a well and septic tank with R15 zoning. He explained to the Board that a soil scientist had checked the site and it is the best property for septic tanks.

Mr. McNeill said he agreed with the Urban Services boundary being extended to H. Bullard Road and in the R15 zoning there had never been any problems with the septic tanks.

A motion was made by Mr. McNeill and seconded by Mr. McLaurin to follow the staff recommendation and approve R15 Residential District. The motion passed unanimously.

C. P05-62: REZONING OF 24.20 ACRES FROM A1 TO R10 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH OF CYPRESS LAKES ROAD, WEST OF SOUTH FORTY DRIVE, SUBMITTED BY JAMES A. MCLEAN III, OWNED BY FRANKLIN R. FOWLER.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the R10 Residential District based on the finding that there is inadequate access for increased development of this tract.

Mr. James McLean told the Board that his client has asked this case be deferred to the October 18, 2005 meeting and to amend the zoning request from R10 to R15 zoning. He explained this would allow them time to resurvey the area and resolve the road access issues.

Chair Morris informed the audience that the applicant has requested a deferral of his request to the October 18, 2005 meeting or the Board could continue to hear comments from the citizens. He asked if the citizens had any objections to the deferral or if there was a group representative that would like to make some comments.

Mr. Bobby Lockamy told the Board that the residents in the area do not want the development of the property to the R10 density. He said they would like the zoning to conform to the neighborhood with a R15 or R20 zoning. He asked the Board if the applicant had requested to amend his application from R10 to R15 zoning and a deferral to the October 18, 2005 meeting.

Chair Morris said the applicant has asked to amend his request to R15 and deferral to the October 18, 2005 meeting and this information would be included as part of the minutes. After discussion, the audience concurred with the deferral and the amendment of the zoning request to R15 Residential District.

A motion was made by Mr. McNeill and seconded by Mr. McLaurin to continue this case to the October 18, 2005 meeting with an amended request to the R15 zoning or lesser density. The motion passed unanimously.

D. P05-50: REZONING OF TWO PARCELS TOTALING 110.50 ACRES FROM RR TO R10 AND C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF MUSCAT ROAD, SOUTH OF BLACK BRIDGE ROAD, OWNED BY GRRF, LLP.

Ms. Epler left the room.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the R10 Residential District and C(P) Planned Commercial District based on the following:

1. There are currently no public utilities available to the site.

Note: If utilities were extended to the site, a Mixed Use Development/CUD could be considered.

Public hearing opened.

Mr. Tom Speight said they were working with PWC to extend water and sewer to the site and they would have to cross the railroad and had received an easement to do it. He explained that all the wetlands have already been delineated and they are requesting all R10 zoning and no commercial zoning.

Chair Morris asked if he was amending his request only to R10 zoning. Mr. Speight said that was correct.

Mr. McLaurin asked how many lots were proposed. Mr. Speight said it was about 238 lots. Mr. McLaurin said if they were only 6 lots from R15 then why were they requesting R10. Mr. Speight said they were planning on developing some multi-family units and it helps with the PWC utilities costs.

Mr. McLaurin asked if there was going to be any green space. Mr. Speight said they were not planning on having any except for the multi-family development.

Mr. Lloyd explained to the Board that if the whole tract was calculated out at R10 density zoning that there would be a total of 383 units without including any multi-family development. He said if you do a group development at R10 standards, the first unit is 10,000 square feet and every unit after that is 7,500 square feet.

Public hearing closed.

Mr. Lloyd explained that with a mixed use CUD that utilities would have to be assured and the Planning staff was concerned of lack of utilities with this R10 density development. He told the Board with a Mixed Use CUD that they could require that the utilities be in place before any permits were issued and this could not be done with a regular rezoning request. Mr. McNeill asked if the Ordinance would require the extension of utilities. Mr. Lloyd said they were outside the distance requirements.

Mr. McNeill said he would not have a problem with the R10 zoning if there was a commitment that utilities would be extended. Mr. Lloyd informed the Board that they are within the distance requirement for water to be extended.

Mr. Speight explained that they had worked with PWC to install a lift station and they also paid for the force main.

Chair Morris asked if they were providing services only for this development or is PWC upgrading to extend further services to other areas. Mr. Speight said just like any typical PWC development that sewer is put in beyond the property that is being served. Chair Morris asked the size of the piping to be done. Mr. Speight informed in Board it would be an 8" water and 8" sewer pipe.

Mr. McNeill asked Mr. Speight if he would be able to obtain a written confirmation from PWC that once they extend utilities that PWC would accept it. Mr. Speight said that they could obtain confirmation.

A motion was made by Mr. McNeill and seconded by Mr. McLaurin to approve the rezoning to R10.

Mr. McLaurin expressed concern of the density without any green space for the children to play in and did not know where the closest park was. He said that CUDs should be done but developers do not want to have to submit design plans. He said the developments are based on density and utilities and there is no consideration for the children.

A substitute motion was made by Mr. Turner and seconded by Mr. Cain to approve the R10 with the recommendation being contingent upon the Board of Commissioners receiving confirmation that water and sewer would be provided to the site prior to any Board action. The motion passed unanimously.

E. P05-41: REZONING OF TWO PARCELS TOTALING 4.59 ACRES FROM RR TO R5 AND C1(P) OR A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH OF CLIFFDALE ROAD, SOUTH OF HOPPER ROAD, SUBMITTED BY ROBERT M. BENNETT, OWNED BY HAROLD AND MARIAN F. KIDD.

Ms. Epler returned to the room.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of R5 Residential District and approval of R5A Residential District and C1(P) Planned Local Business District based on the following:

1. R5A is a good transitional zoning for the area.
2. Since the 2010 Land Use Plan there have been changes to the development of the area. (Note: Realignment of Cliffdale Road has contributed to the changes in the area.)

The Planning staff found that the subject property could be suitable for the R15, R10, and R6 Residential Districts.

Public hearing opened.

Mr. Harold Kidd told the Board that for the C1(P) zoning that they were proposing a convenience store at that location. He said for the other property that they were proposing to build apartments. He informed the Board that the apartment complex would include a office, recreation room, swimming pool, playground and a day care.

Mr. Bob Bennett said that all housing projects generate traffic. He told the Board even before the project is started that Hoke Loop Road is to be extended into Cliffdale and that intersection will be signalized. He explained that a driveway on the outside of a curve does not diminish the sight distance but increases it. He informed the Board that any turn lane off Cliffdale must have a right turn lane constructed by the developer. He said the Cliffdale Road Project is to be paved and completed by the end of the year. He told the Board that the Outer Loop (Project I-295) is to be constructed and cross Cliffdale Road and provide access to other roads.

Mr. Louis Sousa appeared before the Board in opposition and said his house has a view of this site. He told the Board the site was inappropriate for apartments when all other development in the area is for single family dwellings. He explained when Hopper Road was closed that it just created a race track and a dumping area.

Mr. Kidd appeared before the Board in rebuttal and told the Board that they were not responsible for any of the dumping of junk and if this property was developed that the dumping would stop.

Public hearing closed.

Mr. McNeill said that the Planning staff is proposing R5A for the property instead of R5 zoning and asked Mr. Kidd if he had considered R5A. Mr. Kidd explained to make the project feasible that R5 zoning was needed.

Chair Morris said that he understands the argument of only single family development in the area but the configuration of the property and the four lane highway only makes it suitable for certain development.

Mr. McNeill said that he only sees RR and no R5A or R5 zoning in the area.

Mr. Turner said he agreed that with the configuration of the property that single family development would not be appropriate.

Ms. Epler said there were 400 new single family units being developed down the road. She explained that most of the schools in the area were at or over capacity which makes the area more conducive to multi-family. She said you would not have as many school age children in multi-family development.

A motion was made by Mr. McLaurin and seconded by Mr. McNeill to approve the rezoning to R5 Residential District and C1(P) Planned Local Business District. The motion passed 5 to 1 with Mr. Turner voting in opposition to the request.

VIII. DISCUSSION

Mr. McNeill informed the Board that there will be a Land Use Codes Committee held September 6, 2005 at 6:00 p.m. to review the Landscape Ordinance.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Ms. Roy passed out copies of the Planning Conference brochure. She informed the Board that the conference would be held October 5, 6 and 7, 2005 and asked the Board to let her know by the September 6, 2005 meeting if they were planning to attend.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:15 p.m.