

Clifton McNeill, Jr.  
Chair  
Cumberland County



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

Charles C. Morris, Vice-Chair  
Town of Linden  
David Averette,  
Dr. Marion Gillis-Olison  
Roy Turner,  
Cumberland County

## COUNTY of CUMBERLAND

### *Planning and Inspections Department*

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

MINUTES  
May 3, 2005

#### Members Present

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

#### Members Absent

Mr. David Averette  
Dr. Marion Gillis-Olison  
Mr. Joe W. Mullinax

#### Others Present

Ms. Nancy Roy, Director  
Mr. Tom Lloyd, Dep. Director  
Ms. Donna McFayden  
Ms. Barbara Swilley  
Mr. Grainger Barrett, Co. Atty.

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

#### II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd reported that Case P05-09 could be moved to the Consent Items. Chair McNeill noted a letter that they received that would be discussed. A motion was made by Vice-Chair Morris and seconded by Mr. Turner to approve the Agenda as amended. The motion passed unanimously.

#### III. CONSENT ITEMS

##### A. APPROVAL OF THE MINUTES OF APRIL 19, 2005

Chair McNeill asked that the vote on Case P05-23 was incorrect and should be changed. Mr. McLaurin said on Case P04-76, the applicant made the statement that he had owned the property for 40 years. He said that the property was actually purchased by the applicant in 1998. He asked that the Minutes be changed. Mr. Barrett said that because it was said, the Minutes could not be changed; however, the correction would be reflected in these Minutes. A motion was made by Mr. Turner and seconded by Mr. Cain to approve the Minutes of April 19, 2005 with the correction to Case P05-23. The motion passed unanimously.

- A. P05-09: REZONING OF 63.81+/- ACRES FROM CD AND R10 TO R10, R5A AND C3 OR A MORE RESTRICTIVE ZONING DISTRICT, WEST OF LILLINGTON HIGHWAY, NORTH OF CHAPEL HILL ROAD, SUBMITTED BY JAMES M. KIZER, OWNED BY ALBERT ALABASTER, SR., DONALD B. OUTLAW AND HARVEY E. OUTLAW.

The Planning staff recommended approval of the R10 and R5A Districts and denial of the C3 District and approval of the C(P) District based on the following:

1. Site plan review is desirable at this location; and
2. The uses allowed in the R10 and R5A Districts are compatible with the land uses in the area.

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

**A motion was made by Mr. McLaurin and seconded by Vice-Chair Morris to follow the staff recommendation and approve the R10 and R5A Districts, deny the C3 District and approve the C(P) District. The motion passed unanimously.**

- B. 05-063: HUBERT MITCHELL BRAMBLE SUBDIVISION REVIEW ON THE WEST SIDE OF CHICKEN FOOT ROAD, SOUTH OF CANADY POND ROAD FOR A VARIANCE FROM SECTION 3.17.C, CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

**A motion was made by Mr. McLaurin and seconded by Vice-Chair Morris to follow the staff recommendation and grant the variance. The motion passed unanimously.**

#### IV. DISCUSSION

##### A. COUNTY ZONING ORDINANCE

Mr. Lloyd said that the Board members received the final draft of the Zoning Ordinance, and the R87 District was left in, but displayed in a strikeover format in case the members chose to keep it in the Ordinance.

A discussion occurred regarding farmers continuing to farm the 40 percent of a tract that is designated for open space. Mr. Barrett said, speaking as a resident of the County, not as the Board's attorney, that the provision should accomplish two goals: 1) to preserve the rural character and habitat; and 2) to preserve amenities for residents. He said that there should be a balance between the two. He said that the 40 percent open space doesn't serve as an amenity to citizens if it is exclusively in private hands. He suggested that the Board set the number of 10-year periods that be allowed to assure that the land didn't remain farmed forever. He suggested that 20 years would be fair, and no more than 30 should be allowed because the residents then rely on the County to provide their recreational space. Vice-Chair Morris asked if it was assumed that the land would end up as the responsibility of the County. Mr. Barrett said that it was not, however, once the land is no longer farmed, it reverts to open space for the property owners to use, and the balance shifts to an amenity to the property owners. Chair McNeill said if the farmers are locked into a 10-year time frame, and the homeowners' association doesn't want the land after that time, then it could become a dumping ground. Mr. Barrett said that the cases would go before the Legal Department when the density developments are formed, and the Department would require that the land automatically be sent to the homeowners' association. Vice-Chair Morris said historically, he'd never seen land of any magnitude (over 10 acres) become neglected. Mr. Barrett said that typically these cases will involve farmers selling the land for development, and the developer would allow the farmer use of the open space to continue his career for a few years. He said that the land could then remain a natural area for walking, fishing, etc. He said that the level of involvement for homeowners' associations could vary. He said that anything dealing with common area would go before the County Attorney's office.

Mr. Barrett said in terms of grammar and language corrections, they could be made at the time of the one-year review.

Ms. Roy pointed out the Resolution that was included with the Ordinances setting up an annual review of the Ordinance on the anniversary date of adoption.

Mr. Lloyd said that all of the Board's requested changes were made, and the R87 was hatched in case the Board members wanted to add it back in. He said that the Ordinance will be correct when sent to the Commissioners.

Mr. Lloyd said that the Board had asked for a 40-foot buffer along the front of a tract, and the Ordinance reads a 40-foot buffer is required around the entire tract. He said that this has been corrected, and a 20-foot buffer will be required around the remainder of the tract.

Vice-Chair Morris said that he would like to keep the R87 District because it is perfect for land that is adjacent to Fort Bragg, allowing the density that Fort Bragg prefers and allowing the property owner good use of the property. He said that the A1 District is the alternative, and it allows all kinds of uses. Chair McNeill said that he didn't see that the R87 would help the landowner. Mr. McLaurin said that the landowners could instead do a large-lot density subdivision. Vice-Chair Morris said that larger lot subdivisions with restrictive covenants are used around his home, but the Planning Board is unaware that the land is restricted when making decisions on surrounding property. Vice-Chair Morris again stated that the R87 District would meet Fort Bragg's needs and increase property values. Mr. McLaurin said the land could be zoned R40 to allow only residential and then subdivided into larger lots.

Mr. Lloyd said land value wise, the R87 would probably make the land more valuable. Chair McNeill said that it wasn't the Board's responsibility to increase property values. Ms. Roy said that the health, safety and welfare are Ordinance goals, and welfare has been interpreted as protection of property values.

Mr. McLaurin said a large-lot density subdivision would satisfy Fort Bragg. Vice-Chair Morris said that the R87 District could be a tool to meet value needs and the requests of Fort Bragg. He said if it remains in the Ordinance and is not used, it can be eliminated.

When Chair McNeill asked who wanted to keep the R87 District in the Ordinance, Vice-Chair Morris was the only one who responded.

Chair McNeill asked if in Section 309D, PND would become the R10 District. Mr. Lloyd said that it would because of the mixed-use district alternative and the fact that the density of the PND is that of the R10 District. Vice-Chair Morris said that the PND allows five percent commercial use. Ms. Roy said that it had not been used. Chair McNeill said that he understood that the PND would be treated as a dormant district. Vice-Chair Morris agreed and said that zoning shouldn't be changed. Chair McNeill said that changing the HS(P) and C3 to C(P) was agreed to by the Board, but he didn't remember agreeing to change the PND to R10. Vice-Chair Morris said that there is a lot of PND property in Linden that would become R10. Chair McNeill pointed out if a property owner intended to ultimately develop the five percent commercial, he wouldn't be able to do so if the zoning

is changed to R10. He said that the Board would prefer to treat the PND as a dormant district, rather than change it to R10. Ms. Roy questioned keeping the PND in the Ordinance, and Vice-Chair Morris said that there would be no new applications, so it wouldn't require monitoring. All members agreed that the PND should be treated as a dormant district.

Chair McNeill then asked in what districts density developments would be allowed. Mr. Lloyd said that they would be allowed in all residential districts, treated as a Conditional Use District, so they would become R5CUD or R6CUD. Ms. Roy said it wouldn't be feasible to use the density developments in some districts because the lots would be too small. Mr. Lloyd said that they probably would not be used in districts requiring lot sizes smaller than the R10 District. Chair McNeill said he thought the proposal was originally created for use in the A1, R40 and R20 Districts. Mr. Lloyd said that it was, but staff decided it could be used in other districts as well once the double density requirement was changed to. Chair McNeill asked if the Board would have the discretion of how much the density was increased. Mr. Lloyd said that it would, and would also approve the plans.

Vice-Chair Morris asked about high-rise apartments being allowed in the density developments. Mr. Lloyd said that they would because multi-family uses are allowed in all residential districts except the RR. He added that plan approval would still be required.

Chair McNeill expressed concern about the Board approving a request for A1 to R30 and then a year later, the same person asking for a density development—creating an R15 density. Ms. Roy said that the Board wouldn't have to approve the second request. Chair McNeill asked if the properties would be monitored so that the Board would be made aware that it was a second request. Ms. Roy said that the staff keeps case histories on all cases. Mr. Lloyd said that the documentation is available now showing previous zoning on the cases. He said that staff could make it a policy to include the history during the public hearings.

Mr. Turner questioned whether the Board decided to restrict the 40 percent open space to a certain percentage of unusable land. Ms. Roy said that at the last meeting, they decided not to assign a percentage. Chair McNeill said that the members felt it was going too far to require a certain percentage to be useable. He added that with buffering as part of the 40 percent, it would mean that some of the land would have to be usable. Chair McNeill said that the issue should be looked at when the one-year review is made. Mr. Turner said that he thought a percentage of usable land in the 40 percent should be included. Vice-Chair Morris said that the buffer would cover it, but staff should be directed to keep a close watch on it.

Mr. McLaurin said that Zero Lot Line developments in R20 Districts were equally as important. Mr. Lloyd said that Zero Lot Line developments are included in a different Ordinance.

Chair McNeill said that it looked like everything was pretty much corrected except for the PND. He noted that the buffering requirement had already been corrected by staff. He then brought up the wording that Mr. Barrett suggested regarding the 10-year periods. Ms. Roy asked to how many 10-year periods the members wished to limit the extensions.

The members didn't think that the farmers would want to have a limit set. Vice-Chair Morris said that the homeowners' associations should have the right to determine how long the open space could be farmed. Ms. Roy explained that Mr. Barretts' concern is residents expecting the County to provide recreation. Chair McNeill said that he wasn't sure that should be a Board determination. Ms. Roy asked if the members would prefer that the time not be limited. The Board discussed it and unanimously agreed to insert a period after "agricultural uses" in the Ordinance and not limit the time that a farmer can farm the open space.

Mr. McLaurin said that the fence height around swimming pools should be 48 inches, not 42 inches as agreed upon in an early Committee meeting. Mr. Lloyd looked it up in the proposed Ordinance and found that it had already been changed to four feet. The members agreed that it should be four feet.

**A motion was made by Vice-Chair Morris and seconded by Mr. McLaurin to accept the Ordinance as amended and recommend the annual review process and forward the Ordinance and Resolution to the Commissioners. The motion passed unanimously.**

Chair McNeill thanked the staff for their hard work on the monumental task and directed Ms. Roy to relay his thanks to the staff involved.

V. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Ms. Roy said that the Commissioners don't meet in July. She asked if the Planning Board wanted to cancel their July 5<sup>th</sup> meeting. A motion was made by Vice-Chair Morris and seconded by Mr. Turner to cancel the July 5, 2005 meeting. The motion passed unanimously.

Ms. Roy suggested that Glenn Prillaman from Fort Bragg give a presentation to the Board on the greenbelt around Fort Bragg that is treated as a pathway for birds. Chair McNeill said that Fort Bragg is under the gun to meet criteria for the red cockaded woodpecker. Ms. Roy agreed and said if they don't, Fish and Wildlife could disallow building on certain property on Fort Bragg.

Ms. Roy said that at the first meeting in June, Ms. Chapman is to give a TIP presentation. She suggested that Mr. Prillaman also give a presentation on that date. The Board members agreed and asked Ms. Roy to contact Mr. Prillaman and also invite the Spring Lake Board.

VI. ADJOURNMENT

There being no further business, the meeting adjourned at 8:25 p.m.