

Charles C. Morris,
Chair
Town of Linden
Donovan McLaurin,
Vice-Chair

Wade, Falcon & Godwin
Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman



COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES
JANUARY 16, 2007

Thomas J. Lloyd,
Director
Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Lori Epler,
Sara E. Piland,
Cumberland County

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Mr. Garland Hostetter
Mrs. Sara Piland
Mr. Harvey Cain, Jr.
Mr. Clifton McNeill
Mr. Roy Turner
Mrs. Lori Epler

Others Present

Mr. Cecil Combs, Deputy Director
Mrs. Annette Nunnery
Ms. Annie Faircloth

Mr. Lloyd represented the Planning Board at the County Commissioner's meeting.

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. ADJUSTMENTS TO AGENDA

Mr. Combs advised the Board that case P07-04 would be deferred to the February meeting at the request of the applicant.

Vice-Chair McLaurin made a motion, seconded by Mrs. Epler, to accept the adjustment to the agenda. Unanimous approval.

III. PUBLIC HEARING WITHDRAWALS

A. P06-81: REZONING OF THREE PARCELS TOTALLING 104 ACRES FROM A1 & RR TO R7.5 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTHWEST SIDE OF DIVISION PLACE, EAST OF CEDAR CREEK ROAD, SUBMITTED BY LIBBA PATE, OWNED BY PAULA H. FAIRCLOTH.

B. P07-08: REZONING OF 10.08+/- ACRES FROM A1 TO R30 OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 1466 TOM STARLING ROAD, SUBMITTED BY TRI STAR BUILDERS AND DEVELOPMENT, OWNED BY IRENE WILLIAMS.

IV. ABSTENTIONS BY BOARD MEMBERS There were no abstentions.

V. POLICY STATEMENT REGARDING PUBLIC HEARINGS

Mr. Combs read the policy statement regarding Public Hearings.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF DECEMBER 19, 2006

A motion was made by Mr. McNeill, seconded by Mrs. Piland, to approve the minutes as written. The motion passed unanimously.

PLAT & PLAN CASE

- B. CASE 06-166: CONSIDERATION OF THE ROBA K. MAXWELL PROPERTY, SUBDIVISION REVIEW, REQUEST FOR A WAIVER FROM SECTION 3.20.2 "MUNICIPAL INFLUENCE AREA COMPLIANCE", CUMBERLAND COUNTY SUBDIVISION ORDINANCE (CONDITIONS # 8, 9 & 10), LOCATION ON THE WEST SIDE OF SR 2020 (ROB ROAD), SOUTH OF NC HWY 24 (CLINTON ROAD).

Staff recommends approval of the waivers based on the findings that because of the condition and nature of the subject property and the adjoining areas, strict compliance would cause a special hardship to the property owner and be incompatible with the surround area since the property owner's proposed development is located at the end of a dead end road which has mainly farmland and single family homes on large lots where the sidewalks and improvements would not be consistent with the nature of the surrounding areas; the public purposes of the Subdivision and Zoning Ordinances is being served to an equal or greater degree because the property owner is in compliance with the standards of the County's regulations, and with the property being located in the Town of Stedman's *Municipal Influence Area*, the Town has recommended approval of granting the request; and the property owner would not be afforded a special privilege denied to others since the Town and the Planning staff are working on exemption standards for the Ordinances, specifically addressing issues raised by comparable developments. This property would be developed in a same or similar manner as all other properties in the general area within the County's jurisdiction.

REZONING CASES

- C. P06-78: REZONING OF 2.92 ACRES FROM R5A TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 1425 N BRAGG BOULEVARD, SUBMITTED BY JAMES H. SINGLETARY, OWNED BY BERRY E. WOODARD. (SPRING LAKE)

Staff recommends approval of the C(P) zoning district based on the findings that the C(P) zoning district is consistent with the Spring Lake Area Detailed Land Use Plan which calls for heavy commercial at this location; and the C(P) zoning district is consistent with the current zoning and character of the general area. Other suitable zoning districts to be considered for this request are O&I and C1.

- D. P07-02: REZONING OF 127 PARCELS, 60.0+/- ACRES FROM R6/MHO TO R6, LOCATED SOUTHWEST OF SAMUEL DRIVE, WEST OF LILLINGTON HIGHWAY AND EAST OF MONT DRIVE, SUBMITTED BY THE TOWN OF SPRING LAKE. (SPRING LAKE)

Staff recommends approval of the R6 zoning district based on the findings that the R6 zoning district is consistent with the Spring Lake Area Detailed Land Use Plan which calls for medium density residential at this location; and the request was initiated by the Town of Spring Lake as a result of the text for the R6/MHO zoning districts being repealed on April 10, 2006. There are no other suitable zoning districts to be considered for this request.

- E. P07-03: REZONING OF 145 PARCELS, 60.0+/- ACRES FROM R6A AND R6/MHO TO R6, LOCATED WEST OF N AND S MAIN STREET, EAST OF FORT BRAGG, NORTHWEST OF PERSON STREET AND SOUTH OF ELIZABETH STREET, SUBMITTED BY THE TOWN OF SPRING LAKE. (SPRING LAKE)

Staff recommends approval of the R6 zoning district based on the findings that although the R6 zoning district request is not consistent with the Spring Lake Area Detailed Land Use Plan, which calls for high density residential, office and institutional and open space at this location, the R6 zoning is consistent with the existing development in the area; and the request was initiated by the Town of Spring Lake as a result of the text for the R6/MHO zoning districts being repealed on April 10, 2006. There are no other suitable zoning districts to be considered for this request.

- F. P07-05: REZONING OF 72 PARCELS TOTALLING 20.0+/- ACRES FROM R6A AND R6/MHO TO R6, LOCATED BETWEEN LAKE AND PATE AVENUES, EAST OF S. THIRD STREET, WEST OF GEN SEITZ DRIVE, SUBMITTED BY THE TOWN OF SPRING LAKE. (SPRING LAKE)

Staff recommends approval of the R6 zoning district based on the findings that the R6 zoning district is consistent with the Spring Lake Area Detailed Land Use Plan which calls for medium density residential at this location; and the request was initiated by the Town of Spring Lake as a result of the text for the R6/MHO zoning districts being repealed on April 10, 2006. There are no other suitable zoning districts to be considered for this request.

- G. P07-06: REZONING OF 2.58 ACRES FROM RR TO M(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH SIDE OF W. MANCHESTER ROAD, WEST OF VETERANS DRIVE, SUBMITTED BY HERSHEL L. AND ELEANOR I. BOYD, OWNED BY JAMES LEBLANC AMERICAN LEGION POST #230.

Staff recommends approval of the M(P) zoning district based on the findings that although the request is not consistent with the Spring Lake Area Detailed Land Use Plan, which calls for planned commercial at this location, the M(P) zoning district is more compatible with the Air Installation Compatible Use Zone (AICUZ) Study of Pope Air Force Base; and the subject property is partially located within the Accident Potential Zone I and the noise contour. Department of Defense guidelines recommends against certain uses (residential, retail trade, some manufacturing, etc.) dependent upon the densities of people and/or structures. There are no other suitable zoning districts to be considered for this request.

A motion was made by Mrs. Piland and seconded by Mrs. Epler, to accept Plat & Plan case 06- 166 and rezoning cases P06-78, P07-02, P07-03, P07-05, and P07-06 as submitted. Unanimous approval.

VII. PUBLIC HEARING ITEMS

CONDITIONAL USE DISTRICT AND PERMIT

- A. P07-04: REZONING OF 46.07+/- ACRES FROM A1 TO R15/DD/CUD AND PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF OLD VANDER ROAD, NORTHWEST OF SIMMONS CARTER RD, OWNED BY GERTRUDE V. HARRIS. --- **DEFERRED TO FEBRUARY 20, 2007 MEETING** ---

REZONING CASES

- B. P07-07: REZONING OF 7.04+/- ACRES FROM R6A TO M(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 423 AND 433 DELBERT DRIVE, SUBMITTED BY STEPHEN A. CONNELL, OWNED BY RUDOLF F. AND INGE S. WEIMANN.

Mr. Combs reviewed the case information and stated that staff recommends denial of the M(P) district based on the findings that although the M(P) zoning district is consistent with the 2010 Land Use Plan, a substantial amount of residential property still exists in the area; and the subject property is located on a dirt, public road, which has not been brought up to NC Department of Transportation standards; nor is it suitable to serve industrial type uses. The R6 zoning district could be considered as suitable for this property.

The Public Hearing opened.

Mr. Stephen Connell addressed the Board in favor of the request. He stated that the property is currently for sale and that the highest and best use for the property was to have it rezoned to M(P). He stated that the request was consistent with zoning in the area. Mr. Connell

stated that he and his client were unaware of the issue with the road but that the applicant would be willing to consider any changes or improvements necessary. He further stated that the Airport Authority had no problems with this rezoning request.

Mr. Rudolf Weimann, owner, addressed the Board. He stated that he had owned the property for more than 30 years and had been trying to utilize it as an airport related parcel for the past few years. He stated that he saw no problem with the M(P) request based on the surrounding zoning. Mr. Weimann further stated that he has repeatedly fielded requests from interested persons requesting that he open an aircraft repair business on the property. He asked that the Board consider the light industrial zoning request.

Chair Morris asked if air traffic crossed the corner of this parcel. Mr. Weimann stated that it did on occasion, but not from the primary runway.

Mr. McNeill asked if the Department of Transportation currently maintained the dirt road in front of this property. Mr. Weimann answered that he maintained the road. Staff verified that this road was not state-maintained. Mr. Weimann stated that the road is heavily used by area businesses and residents.

Mrs. Epler advised the applicant that any change of use or zoning on this property would require a driveway permit by the Department of Transportation.

The Public Hearing closed.

Discussion followed on the use and maintenance of Delbert Drive. It was determined that the road did not extend to the neighboring homes and that the road was fenced to prevent access.

Mrs. Epler stated that the Department of Transportation would regulate improvements to the road if the use or zoning of the property changed. Mr. Combs clarified that if the Planning Board approved the applicant's request, a site plan would be required and street improvement would also be required as part of the permit process.

Mr. McNeill made a motion, seconded by Mrs. Epler, to approve the M(P) zoning district. Unanimous approval.

- C. P07-09: REZONING OF 1.56+/- ACRES FROM R6A TO C(P) OR A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF HUDSON STREET, NORTH OF WILKES ROAD, SUBMITTED BY WILLIAM R. DAVIS, OWNED BY THURMOND J. PRICE.

Mr. Combs reviewed the case information and stated that staff recommends denial of the C(P) zoning district based on the findings that the C(P) zoning district is not consistent with the 2010 Land Use Plan which calls for medium density residential at this location; rezoning this property will encourage commercial development in an area comprised of a residential zoning and uses; and approval of C(P) zoning will create a nonconforming situation due to the dimensional requirements and use being a residential structure. The R6 zoning district could be considered as suitable for this property.

The Public Hearing opened.

Attorney William Davis addressed the Board. He stated that the owner planned to build a dental lab on this property. He further stated that while the 2010 Land Use Plan calls for medium density residential use in this area, the requirement has not been followed. Mr. Davis pointed out that 5 commercial rezoning requests had been approved in this area over the past 10 years. He stated that due to surrounding land use this property should also be approved as an exception to the Land Use Plan requirement. Mr. Davis stated that he had questioned staff about the allowable uses for this property under the O&I(P) and that staff

had at first told him a dental lab would not be allowed. Mr. Davis stated that after he reviewed the Ordinance with them, they agreed that a dental lab could be allowed in O&I(P). He stated that while the request was not submitted as O&I(P), the applicant would accept that rezoning approval.

Chair Morris asked Mr. Davis if the entire parcel was being submitted in this request. Mr. Davis stated that only a portion of the property was to be considered for this request. Mr. Combs stated that the file indicated that the applicant had been contacted and Mr. Weimann had verified that the entire parcel was to be considered for this rezoning request. Mr. McNeill stated that one part of the property was zoned C3 and asked if the county currently had that type of zoning. Mr. Combs stated that the County did not designate C3 zoning and that the Ordinance stated C(P) would be the comparable current zoning for existing C3.

Mrs. Epler asked for verification that Mr. Weimann would be agreeable to an O&I(P) approval. Mr. Weimann stated that he would accept O&I(P).

Mr. William Vanscyoc, neighbor, addressed the Board in opposition to the request. He stated that while he did not object to the planned use of the property he did object to the commercial zoning based on the other possible uses that would allowed. He stated that the surrounding area had slowly moved to commercial and the area could not handle more. Mr. Vanscyoc stated that the current traffic problems surrounding the coliseum would only worsen with the generation of more businesses.

Chair Morris asked Mr. Vanscyoc if he would be opposed to O&I(P) zoning. Mr. Vanscyoc stated that he would not be opposed to it.

Mr. Davis, in rebuttal, stated that the owner intended to operate his own dental business and no other commercial uses would be considered. Mr. Davis further stated that O&I(P) would suffice for his client's intended purpose. Mr. Davis was asked if his client would also be open to the rezoning designation of C(P) being given to the portion of his property currently zoned C3. Mr. Davis stated that his client would accept that.

The Public Hearing closed.

Mrs. Epler asked what the differences were between O&I(P) and C(P) zoning districts regarding minimum lot size and setbacks. She asked for verification that a rezoning approval to O&I(P) would meet those requirements. Mr. Combs read the related area of the Ordinance and advised that O&I(P) would be acceptable for this parcel. He further advised the Board that site plan approval would be required as part of the permit process.

Mr. Cain made a motion, seconded by Mr. McLaurin, to approve O&I(P) for the portion of the parcel currently zoned R6A and C(P) for the portion currently zoned C3. Unanimous approval.

VIII. DISCUSSION / DIRECTOR'S UPDATE

Mr. Combs reported that Mr. Lloyd would be updating them in the near future on the recent 2030 meeting.

Mr. Combs advised the Board that the Planning Board would be sending three representatives to the 2007 APA Conference in Philadelphia, April 14- 18. Those members should contact the administrative staff as soon as possible to confirm registration and secure travel plans.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 7:50 p.m.