

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  
Patricia Hall,  
Town of Hope Mills



## COUNTY of CUMBERLAND

### *Planning and Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

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

### MINUTES

June 19, 2007

#### Members Present

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

#### Others Present

Mr. Thomas Lloyd, Director  
Mr. Cecil Combs, Deputy Director  
Mrs. Laverne Howard  
Mr. Grainger Barrett, County Attorney  
Ms. Patricia Speicher  
Commissioner Diane Wheatley

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

Sara Piland delivered the invocation and led those present in the Pledge of Allegiance.

#### II. ADJUSTMENTS TO AGENDA – Mr. Lloyd requested that case P07-51 be moved from Public Hearing consent items to Public Hearing contested items and that case P07-44 be deferred.

**A motion was made by Mrs. Epler, seconded by Mr. McNeill to accept the adjustments to the agenda. Unanimous approval.**

#### III. PUBLIC HEARING DEFERRALS

A. **P07-44:** REZONING OF 2.7+/- ACRES FROM R5 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT THE WEST QUADRANT OF MURCHISON ROAD AND CHARMAIN STREET, SUBMITTED BY BRAD YOUNG, OWNED BY ALBERT AND SHIRLEY NORTON.

Chair Morris informed the audience that P07-44 would be deferred to the July 17, 2007 meeting.

#### IV. ABSTENTIONS BY BOARD MEMBER - Mr. Turner stated that he needed to abstain from case P07-47.

**A motion was made by Mrs. Piland, seconded by Mr. McNeil to accept the abstention. Unanimous approval.**

V. POLICY STATEMENT REGARDING PUBLIC HEARINGS

Mr. Lloyd read the policy statement regarding public hearings.

VI. APPROVAL OF THE MINUTES OF MAY 15, 2007

**A motion was made by Vice Chair McLaurin, seconded by Mr. McNeill, to accept the minutes as submitted. Unanimous approval.**

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

A. **P07-47:** REZONING OF TWO PORTIONS OF A 20.26 ACRE TRACT, CONSISTING OF 9.43 ACRES AND 4.20 ACRES FROM M2 TO R7.5 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED SOUTH OF CHURCH STREET, EAST OF FREEDOM LANE, SUBMITTED BY JOSEPH H. GILLIS SR, OWNED BY GILLIS AND GILLIS INC.

The Planning & Inspections Staff recommends approval of the R7.5 district based on the following:

1. The request is partially consistent with the 2010 Land Use Plan, which calls for Low Density Residential and Open Space at this location;
2. The request is consistent with the existing zoning in the area; and
3. Public utilities are available to the subject property.

There are no other suitable zoning districts to be considered for this site.

**A motion was made by Mrs. Epler, seconded by Mrs. Piland, to follow the staff recommendation and approve case P07-47 as submitted. Unanimous approval.**

B. **P07-48:** REZONING OF A .92 ACRE PORTION OF A 5.5 ACRE TRACT FROM C(P) TO O&I(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 3551 DUNN ROAD, SUBMITTED BY CHUCK FURR, OWNED BY EASTOVER DEVELOPMENT PARTNERS, LLC.

The Planning & Inspections Staff recommends approval of the O&I(P) district based on the following:

1. Although the request is not consistent with the Eastover Study Area Detailed Land Use Plan, which calls for Heavy Commercial at this location, the request is more restrictive; and
2. The subject property is located on a Major Thoroughfare.

There are no other suitable zoning districts to be considered for this site.

**A motion was made by Mrs. Epler, seconded by Mrs. Piland, to follow the staff recommendation and approve case P07-48 as submitted. Unanimous approval.**

- C. **P07-49:** REZONING OF A .50 ACRE PORTION OF A 1.33 ACRE TRACT FROM R10 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 3209 CEDAR CREEK ROAD, OWNED BY RICHARD W. AND LAURA R. KING.

The Planning & Inspections Staff recommends approval of the C(P) district based on the following:

1. Although the request is not consistent with the 2010 Land Use Plan, which calls for Low Density Residential at this location, the remaining portion of this parcel is currently zoned commercial and approval of the request will allow for the entire tract to be zoned as consistently as possible; and
2. Cedar Creek Road is identified as a Major Thoroughfare.

There are no other suitable zoning districts to be considered for this site.

**A motion was made by Mrs. Epler, seconded by Mrs. Piland, to follow the staff recommendation and approve case P07-49 as submitted. Unanimous approval.**

## VIII. PUBLIC HEARING CONTESTED ITEMS

### REZONING CASES

- A. **P07-51:** REZONING OF 3 PARCELS TOTALING 6.71 ACRES FROM A1A TO R40A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF HAWKINS ROAD, EAST OF MCBRYDE STREET, SUBMITTED BY MICHAEL J. ADAMS, OWNED BY MARY A. WILSON.

The Planning & Inspections Staff recommends approval of the R40A district based on the following:

1. The request is consistent with the 2010 Land Use Plan, which calls for "farmland" at this location; and
2. The request is consistent with the zoning within the general area and the current use of the property.

There are no other suitable zoning districts to be considered for this site.

Mr. Lloyd stated there was one person to speak in favor and one person to speak in opposition.

Public Hearing opened.

Michael J. Adams, the applicant stated that he was here because of a misunderstanding about zoning. The applicant stated that they applied for the wrong zoning last year and asked that zoning be changed to R40A. He stated that his client did not understand exactly what a Class A mobile home was.

Michelle Messer appeared before the Board in opposition. Ms. Messer stated that she feels if the zoning is graded down to R40A that would cause a decrease in property values by allowing Class B mobile homes. She also stated that rezoning should not be used to correct zoning violations. Ms. Messer stated that the request was not compatible

with the surrounding area which consisted of one home on large lots. Ms. Messer feels that R40A zoning is not in the best interest of the community of Linden.

Mr. Ken Wilson spoke in rebuttal; Mr. Wilson and his wife are the owners of the property. Mr. Wilson stated that at the time of the survey he was not aware that mobile homes with metal roofs were not approved. All he is trying to do is get zoning changed back to A1.

Vice Chair McLaurin asked Mr. Wilson if the original zoning district was suitable for him.

Mr. Wilson stated that it was fine with him.

Mr. Lloyd questioned Mr. Wilson to clarify that he understood that A1 would only allow 3 units total, two acres per unit.

Mr. Wilson said he understood and they were willing to amend the application to A1 zoning.

Public Hearing closed.

Chair Morris clarified for Ms. Messer that the applicant was requesting the original zoning of A1 which will only allow him to have 3 structures on the property.

**A motion was made by Vice Chair McLaurin to deny the request for R40A and approve A1 zoning for case P07-51, seconded by Mrs. Epler. Unanimous approval.**

- B. **P07-31: REZONING OF 2.71 ACRES FROM A1 TO R30A OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 1188 CYPRESS LAKES ROAD, OWNED BY JOHN L. MCARTHUR JR.**

This case was presented to the Board at their April 17, 2007 meeting. At that time, it appeared the applicant did not have a clear understanding of what he had requested in the rezoning application. The Staff had recommended denial of the rezoning and the Board recommended a

deferral of the case so the applicant could meet with Staff concerning his application. The applicant agreed to the deferral.

The applicant has verbally told Staff via telephone that he would like for his application to proceed as it was originally submitted primarily because he would like to have the option of creating three lots and constructing either "stick built" homes or placing manufactured homes on two of the lots.

The Planning & Inspections Staff recommends denial of the R30A district but approval of the R30 district based on the following:

1. The request and the recommendation are not consistent with the Land Use Plan; however, this area has transitioned from rural and farmland uses to single family residential lots with "stick built" homes; and
2. The request is not consistent with the zoning and the uses in the surrounding area; and
3. Public water is available to this site, upon development connection will be required.

The only other suitable zoning district to be considered for this application would be R40.

Mr. Lloyd stated that there was one person in favor to speak and one person to speak in opposition.

Public Hearing opened.

Mr. John Lee McArthur, Jr., the applicant, stated that he doesn't feel that his request is unusual. He has been acquainted with manufactured homes, mobile homes, and modular homes for years. Mr. McArthur is willing to compromise and build stick or modular home on the property, whatever is necessary to get the required zoning.

Joe Christopher appeared before the Board in opposition. Mr. Christopher asked that nothing be approved with an "A" on the end of the zoning and stated that this was the only mobile home in the entire area. Mr. Christopher feels that R30A would create a mobile home park. He feels that R40 zoning will allow the applicant to put 2 dwellings on the property and keep property values up.

Mr. McArthur spoke in rebuttal. He stated that he disagreed with Mr. Christopher about how many manufactured homes are actually in the area. He stated that there are two, one at the corner of Sand Hill and Cypress Lakes Roads, it had been bricked in.

Chair Morris asked the applicant if he was comfortable with R30 zoning.

Mr. McArthur stated that he would agree to R30 zoning.

Public Hearing closed.

Mr. McNeill said that the applicant has cleaned up the property and that it looks really good.

**A motion was made by Mr. McNeill, seconded by Vice Chair McLaurin, to follow the staff recommendation and approve case P07-31 for R30. Unanimous approval.**

- C. **P07-45:** REZONING OF A 2.68 ACRE PORTION OF A 49.87 ACRE TRACT FROM A1 TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED EAST OF LANCELOT COURT, NORTH OF PALESTINE ROAD, SUBMITTED BY 4D SITE SOLUTIONS, OWNED BY JOHN C. CULBRETH.

The Planning & Inspections Staff recommends denial of the R15 district and approval of the R20 district based on the following:

1. Although the request is not consistent with the 2010 Land Use Plan, which calls for "farmland" at this location, the R20 zoning district is in character with the residential zoning adjacent to the subject property;
2. Town of Linden water is available and upon development, extension will be required to serve the subject property; and
3. R20 zoning is more consistent with the tentative measures included in the draft 2030 Land Use Plan for this area when public water is available.

The A1A, R40, and R30 zoning districts are the only other suitable zoning districts to be considered for this site.

Mr. Lloyd stated that there was one person in favor to speak and one person to speak in opposition.

Public Hearing opened.

Chris Manning, the applicant, stated that they just wanted to finish off their subdivision with the entire development having the same zoning. They currently have 105 lots and only want three more, they were originally approved for R15 a few years ago. He feels that the recommendation for anything other than R15 is insane.

John Streit spoke before the Board in opposition. Mr. Streit stated that he agrees with the staff recommendation for R20 zoning. He feels that the adjacent properties need to be protected and R20 zoning will do that by keeping the properties larger in size.

Public Hearing closed.

Mr. Lloyd explained that the staff recommendations for R20 zoning will accommodate the applicant's stated desire to only add three more lots. Staff is concerned about allowing R15 to encroach into the agricultural and rural area.

Mrs. Piland stated that she agrees with the staff concerns, and the concerns are valid.

**A motion was made by Mr. McNeill, seconded by Mrs. Piland, to follow the staff recommendation and approve case P07-45 for R20. Unanimous approval.**

- D. **P07-22: REZONING OF 2.2 ACRES FROM A1 TO R20 OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 871 REMELY COURT, OWNED BY BRIAN DAIGNEAULT.**

This case was presented to the Board on April 17, 2007 and at that time the applicant amended the request to the R40 zoning district. After considerable discussion, including the applicant stating that the NC Department of Transportation (NCDOT) had assumed maintenance of the private street, the Board recommended a deferral in order for Staff to verify the NCDOT's assumption of Remley Court for maintenance purposes or for the applicant to submit an application for a Conditional Use District and Permit (CUD&P) indicating the precise plans for this tract. The applicant agreed to the deferral.

Attached to this memorandum is a copy of the letter, dated April 16, 2007, from the NCDOT District Engineer to the applicant; the letter is a denial of the request for the NCDOT to assume maintenance of Remley Court.

The applicant subsequently submitted a CUD&P application restricting any structure on Lot 2 to a minimum of 1,600 square feet, along with a site plan showing two lots. Included with the application is a waiver request for the applicant to be permitted to create an eighth lot on a Class "C" private street.

The Planning & Inspections Staff recommends denial of the R40/Conditional Use District for two lots at this location even though the request is consistent with the Land Use Plan based on the following:

1. Consideration of the R40 district for this tract is arbitrary, not compatible with the uses in the neighboring districts, and is not a use that could be extended to every property owner in the immediate area;

2. Granting the use would not serve a viable public interest;
3. In its present state the subject property cannot meet the ordinance standards;
4. Allowing this use along an un-improved private right-of-way qualifies this request as being unreasonable.

The Planning & Inspections Staff also recommends denial of the Conditional Use Permit based on the following:

1. The use if approved could materially endanger the public safety, in that allowing an excessive number of lots along un-improved streets having no set criteria for maintenance would be prohibitive to emergency response vehicles;
2. In its current state the use cannot meet all required conditions and specifications;
3. The use will not maintain or enhance the value of adjoining or abutting properties and is not a public necessity;
4. The location and character of the use, if developed according to the plan as submitted and recommended, will not be in harmony with the area in which it is to be located and in general conformity with Cumberland County's most recent Land Use Plan and adopted planning policies.
5. The degree of difference in the specific use requested as related to the allowable existing surrounding uses makes this request unreasonable.

Inherent with this recommendation of denial of the rezoning request, the Staff recommends denial of the waiver request to allow an eighth lot on the existing Class "C" private street. The Staff is of the opinion that once the street is upgraded and paved to NCDOT standards, the rezoning application would most likely receive a more favorable recommendation.

There are no other suitable districts to be considered for this request.

Mr. Lloyd stated there was one person to speak in favor and no one to speak in opposition.

Mr. McNeill, Mr. McLaurin, and Chair Morris had ex parte communication with the petitioner but there was no discussion about the case.

Public Hearing opened.

Brian Daigneault appeared before the Board and Ms. Speicher read a statement that he had prepared. The statement described the maintenance of the dirt street, the adjacent properties and that the petitioner had amended his original request and now only wanted to be approved for two lots. The statement also asked the Board for their approval.

Mr. Barrett asked the petitioner if the evidence presented was what he wrote and if it was authentic.

Mr. Daigneault said it was to the best of his knowledge.

Public Hearing closed.

Chair Morris stated that they have had the discussion about fire and rescue. When you go to eight lots, safe streets need to be provided and adequate for emergency vehicles. If this case is approved the Board would be creating an exception to their own rules.

Mr. McNeill stated that he believed an unpaved road approved today could only accommodate four lots. If a fifth lot is added, gravel is required, and anything above seven lots the road would need to be paved to State standards. Mr. McNeill could not take the position to grant any kind of waiver, because they have worked hard to get the standards to what they are now. Mr. McNeill agrees with the staff recommendations.

Mrs. Epler in response to the written statement Mr. Daigenault provided each Board member at the April 17<sup>th</sup> meeting, stated that she was employed by Larry King and Associates and does not own that company. Her company did survey, engineer and help construct Lynn Meadows Subdivision (south of the subject property), but Lynn Meadows Subdivision is not like anything that the petitioner is proposing. Mrs. Epler also stated that her work on Lynn Meadows Subdivision had no bearing on her decision as a Board member on the petitioner's case.

**A motion was made by Mr. McNeil and seconded by Vice Chair McLaurin to follow the staff recommendations and deny R40/Conditional Use District based on the finding that the Joint Planning Board failed to find that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. Unanimous denial.**

Mr. Lloyd stated that there was something left out of the petitioner's statement when it was read. There was a request that if the case was denied would the Board consider a deferral for the petitioner to amend his request again; this time so the Board could consider allowing the applicant approval of two units on one lot and that he agrees to not subdivide the property until the road is upgraded.

Chair Morris stated that the petitioner was asked if the statement was accurate by the County Attorney and the petitioner said that it was. Chair Morris advised that the case would go before the County Commissioners at the next meeting.

## IX. DISCUSSION / DIRECTOR'S UPDATE

### A. JULY PLANNING BOARD MEETING

Without objection by the Board, the meeting for July 3, 2007 was cancelled.

### B. SEWER POLICY

Mr. Lloyd advised the Board that the Sewer Policy was completed and would be emailed to the Board members.

### C. COMMISSIONER UPDATE

Mrs. Epler passed around the agenda from the June 18, 2007 County Commissioners meeting and the Commissioners' final decision as to the Planning Board's recommendations.

## X. ADJOURNMENT



There being no further business, the meeting adjourned at 8:30 p.m.