

Donovan McLaurin,  
Chair  
Wade, Falcon & Godwin

Lori Epler,  
Vice-Chair  
Cumberland County

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman  
Patricia Hall,  
Town of Hope Mills  
Charles C. Morris,  
Town of Linden



## COUNTY of CUMBERLAND

### *Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

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

Benny Pearce,  
Town of Eastover

### MINUTES January 15, 2008

#### Members Present

Mr. Donovan McLaurin, Chair  
Mrs. Lori Epler, Vice-Chair  
Mr. Clifton McNeill  
Mrs. Patricia Hall  
Mr. Garland Hostetter  
Mr. Harvey Cain, Jr.  
Mr. Benny Pearce  
Mrs. Sara Piland

#### Others Present

Mr. Cecil Combs, Deputy Director  
Ms. Donna McFayden  
Mr. Grainger Barrett, County Attorney  
Commissioner Diane Wheatley  
Mrs. Laverne Howard  
Ms. Patricia Speicher, Land Use Codes

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

Vice – Chair Epler delivered the invocation and led those present in the Pledge of Allegiance.

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

Ms. Speicher advised the Board that Case P08-06 was pulled from consent items and moved to contested items.

**Mrs. Piland made a motion to accept the adjustments to the agenda, seconded by Vice – Chair Epler. Unanimous approval.**

#### III. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions.

#### IV. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Ms. Speicher read the policy statement.

#### V. APPROVAL OF THE MINUTES OF DECEMBER 18, 2007

**A motion was made by Mrs. Piland, seconded by Mrs. Hall, to accept the December 18, 2007 Board minutes as submitted. Unanimous approval.**

VI. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P08-01:** REZONING OF 4.12 ACRES FROM C(P) PLANNED COMMERCIAL TO R5A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF ODELL ROAD, WEST OF LAKETREE BOULEVARD, SUBMITTED BY W. H. OWEN, OWNED BY STEWART AND EVERETT THEATRES, INC. (SPRING LAKE).

The Planning & Inspections Staff recommends approval of the R5A Residential District based on the following:

1. The request is consistent with the Spring Lake Area Detailed Land Use Plan, which calls for "high density residential" at this location;
2. The request is consistent with the zoning and the uses within the surrounding area; and
3. Public utilities are available to the site.

The O&I, C1, R15, R10, and R6 zoning districts could also be found to be suitable at this location.

**A motion was made by Vice-Chair Epler, seconded by Mr. McNeill to follow the staff recommendation and approve case P08-01 as submitted. Unanimous approval.**

- B. **P08-02:** REZONING OF .95 ACRES FROM A1 AGRICULTURAL TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF SR 1876 (BOYKIN ROAD), WEST OF SR 1828 (JAMES DAIL ROAD), SUBMITTED AND OWNED BY J. DUANE GILLIAM (EASTOVER).

The Planning & Inspections Staff recommends denial of RR Rural Residential and approval of the R40A Residential district based on the following:

1. The request is not consistent with the Eastover Area Detailed Land Use Plan, which calls for "farmland" at this location; R40A would be consistent with the plan; and
2. The recommendation is consistent with the zoning and uses of the surrounding area; and

The R40 Residential District could also be considered suitable for this location.

Staff contacted the applicant regarding this recommendation and the applicant agrees with the recommendation to R40A.

**A motion was made by Vice-Chair Epler, seconded by Mr. McNeill to follow the staff recommendation and approve rezoning to R40A for case P08-02. Unanimous approval.**

- C. **P08-05:** REVISION AND AMENDMENT TO THE JUNE 20, 2005 CUMBERLAND COUNTY ZONING ORDINANCE, 2007 JOINT PLANNING BOARD'S ANNUAL REVIEW.

The Codes Committee presented the changes to the Cumberland County Zoning Ordinance, 2007 and noted that a complete copy of the changes can be viewed on the Planning & Inspections website.

**A motion was made by Vice-Chair Epler, seconded by Mr. Hostetter to follow the staff recommendation and approve case P08-05 as submitted. Unanimous approval.**

## VII. CONSENT PLATS & PLANS

- A. **CASE NO. 07-195:** WAIVER REQUEST FOR CAMDEN WOODS, SECTION 3 (ZERO LOT LINE SUBDIVISION REVIEW) FROM SECTION 3.20.2 "MUNICIPAL INFLUENCE AREA COMPLIANCE", COUNTY SUBDIVISION ORDINANCE; ZONING: R10; TOTAL ACREAGE: 17.43 +/-; LOCATION: SOUTH END OF FALLBERRY DRIVE AND ON THE SOUTH SIDE OF SR 1003 (CAMDEN ROAD), WEST OF SR 1113 (WALDOS BEACH ROAD).

The Planning & Inspections Staff support the agreement between the Town of Hope Mills Board of Commissioners' and the developer, essentially withdrawing the sidewalk waiver, and recommend approval of the waivers from the concrete curb and gutter and two access points provisions, based on the following:

1. Because of the condition or nature of the adjoining areas being developed without concrete curbs and gutters and primarily due to the Town's recommendation and support for the developer's request, as amended, strict compliance with the MIA provisions of the County Subdivision Ordinance would cause a special and unnecessary hardship to the property owner and be inequitable;
2. The purposes of the Subdivision Ordinance and Zoning Ordinance will be served to an equal or greater degree, since the MIA provisions were adopted by the County Commissioners to facilitate the growth of the areas outlying the towns to that particular town's standards;
3. The property owner is not being afforded a special privilege denied to others since other developments have been approved in this area, receiving waivers from the Planning Board when a similar set of facts and circumstances exist.

**A motion was made by Mr. McNeill, seconded by Mrs. Piland, to follow the Hope Mills Board of Commissioners and the staff recommendation and approve the waiver for Plat & Plan Case 07-195. Unanimous approval.**

## VIII. PUBLIC HEARING CONTESTED ITEMS

- A. **P08-03:** REZONING OF .23 ACRES FROM R10 RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT

3080 LEGION ROAD, SUBMITTED AND OWNED BY JAMES E. AND PEGGY L. EMANUEL.

Ms. Speicher reviewed the site information and stated the staff recommends denial of C(P) Planned Commercial district based on the following:

1. The request is not consistent with the 2010 Land Use Plan which calls for “low density residential” at this location; and
2. The subject property cannot comply with the district dimensional requirements for the district requested.

The Planning Staff discussed submission of a “Conditional Use District and Permit” application in great detail with the applicant; however, the applicant stated that he did not want the uses of the C(P) district restricted for the property.

Public Hearing opened.

James Emanuel, the owner spoke in favor. Mr. Emanuel stated that the only thing he wants to do is put an ice house with an ice machine on the property to help supplement his income. Mr. Emanuel stated the ice machine is 11’ x 40’ and presented drawings of his plans.

Mr. McNeill asked Mr. Emanuel why he objected to the Conditional Use District and Permit, if his intention was to just have the ice house and ice machine.

Mr. Emanuel stated that if he has to he would apply for the Conditional Use District and Permit, but he didn’t want to limit himself to not being able to put anything else on the property, or if he sells it, he didn’t want the potential buyer’s uses be restricted.

Mr. McNeill stated for clarification that Mr. Emanuel didn’t have to be limited to one thing, he would just be eliminating some uses.

Mr. Emanuel stated that he would agree to Conditional Use District and Permit as long as he can put the ice house and ice machine.

Public Hearing closed.

Ms Speicher stated that there is a fee difference between a rezoning and conditional use application. We typically charge just the difference between the submission of rezoning and conditional use.

**A motion was made by Mr. McNeill, seconded by Mrs. Hall to defer case P08-03 for thirty days to allow the applicant time to submit a Conditional Use District and Permit application and to only be charged the difference in the fee. Unanimous approval.**

- B. **P08-06: REZONING OF A 10.0 ACRE PORTION OF A 176.92 ACRE TRACT FROM A1 TO R40 OR MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF COUNTY LINE ROAD, EAST OF CHICKEN FOOT ROAD, SUBMITTED BY FRANKLIN JOHNSON, OWNED BY JFJ III INVESTMENTS LLC.**

Ms. Speicher reviewed the site information and stated the staff recommends approval of the R40 Residential 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 and land uses within the general area.

The A1A Agricultural district could also be considered suitable for this location.

Public Hearing opened.

Trey McLean (James A. McLean III) spoke in favor and represented the applicant Mr. Johnson. Mr. McLean stated that this land is basically used for timber. The applicant wants to rezone because he wants the density to increase a little. There are no particular plans right now for the types of residences; he does envision single family residences sometime in the future. We don't think this will be detrimental to the community. In the long run we believe this area will go more residential than agricultural. These kinds of open lots would be viewed more favorably by the public.

Debra Stewart spoke in opposition. Ms. Stewart stated that an irrigation pond exists on the proposed property for rezoning, and this pond connects to an elaborate system of drainage ditches, some of which cut through her property. During hurricane season and wet weather, the pond overflows and floods the surrounding land. For this reason alone Ms. Stewart doesn't think this site is suitable for family dwellings. Some of Ms. Stewart's other concerns are well water quality with increasing number of homes and septic tanks, especially on a tract of land known to flood, increasing number of wells being established in a drought stricken area, the overall environmental impact on humans and wildlife, rapid growth and development of subdivisions that strip the community of natural resources and beauty, the disappearance of farms and woodland that is replaced by a housing market where the supply far exceeds the demands. Ms. Stewart stated that she is against the rezoning because of its tendency to flood, the increased risk of well water contamination, the risk of diminishing well water availability, and the destruction of the natural habitat.

James Creager spoke in opposition. Mr. Creager stated that the landowner should keep the tracts of land as A1 zoning, single family dwellings not manufactured homes. Mr. Creager feels that the land owner and Mr. Johnson want to develop the land in order to profit as much as possible. Mr. Creager feels that this development will be a strain on the water table. Mr. Creager told the Board that Beverly's Tanning and Beauty Salon has had to close her business after remodeling it, it is located at County Line and Chicken Foot Roads, because of the water quality. Another concern of Mr. Creager's is that the United States Department of Agriculture has classified the soil type as Lynchburgh sandy loam, which they state this land is nearly unsuitable for development or somewhat poorly drained soil. This soil is poorly suited to most urban and recreational uses because of the wetness and this type of soil is unsuitable for building.

Mr. McLean spoke in rebuttal. Mr. McLean stated that they were only trying to rezone ten acres which is a difference of three or four houses at most. There will not have a huge impact in that area. Density is just the beginning, there's a whole series of things that

have to happen in terms of permitting wells, getting the land to perk, and getting a septic permit. All of those things will prevent development, if it's going to be a hazard to human life. This is about density, not so much a hazard to human life. Mr. Johnson, who inherited the land, is not attempting to degrade the community. If anything he is trying to deal with the necessity of life, which is there are more people who need a place to stay. He believes that you can develop in essentially one acre zoning in density, to a standard that is both rural and livable for both the surrounding community and the people who are coming in.

Mr. McNeill asked Mr. McLean if the pond that is there now, if it was dug and no real outlet.

Mr. McLean responded it is a dug out pond and there is no outlet.

Public Hearing closed.

Mr. McNeill asked the difference between hydric inclusion soil and hydric soil.

Ms. Speicher responded that hydric soils are poorly suitable for development. Hydric inclusion maybe poorly suited. The key word being "maybe".

Mr. McNeill asked as far as buildable, it's more likely that you can build on hydric inclusion soils than hydric soils.

Ms. Speicher responded yes.

Mr. McNeill stated that Gray's Creek is one of two sections in the county that is the most desirable place to live. People are going to move out there. The applicant is smart enough to know that there is probably going to be development in the future. With that you get other things such as road improvements and utilities. At the previous hearing on this case, some of the people who live in the immediate area were concerned that A1A rezoning would allow manufactured housing, they felt that that wouldn't be good. They were not opposed to the rezoning and these were people who lived in very close proximity to this piece of land. So I think that Mr. Johnson has taken this into account and gone back and changed the rezoning to something that would guarantee that no manufactured homes can be placed on this tract. Really there is no place in the County, that an acre sized lot wouldn't accommodate a well and septic tank. The question of the hydric inclusion soils, there is some chance that this will not be the most desirable building location. But, that determination will have to be made by the Health Department, if at such time he does develop and request a septic tank permit. Mr. Johnson's track record, and the developments that I have seen of his are all upscale. I think that he has good intentions here. At least under R40 it would have to be stick built homes, I think that a good compromise has been reached, with his determination to submit this as R40 rather than the A1A.

**A motion was made by Mr. McNeill, seconded by Vice – Chair Epler to follow the staff recommendation and approve case P08-06 as submitted. Unanimous approval.**

## IX. DISCUSSION

Commissioner Wheatley stated that when someone takes out a square of land like that, you know that that is just the beginning. Commissioner Wheatley stated that with R40 zoning you think they will put stick built homes, but modular homes end up being placed there.

Mr. McNeill agreed with Commissioner Wheatley, but he also stated that one reason he made the motion was because he has never seen this developer do anything like that. All he's ever built are two hundred thousand dollar homes and he lives in the area.

Chair McLaurin agreed with Mr. McNeill.

Ms. Speicher stated for clarification that modular homes are allowed in every residential zoning district that allows a stick built home. They're governed by the State building Code which doesn't allow us to make the difference between the two.

Chair McLaurin asked if there could be a list showing the jurisdiction for cases and expected dates and time of meetings on a separate sheet.

Ms. Speicher stated that we could provide the information for the different town meetings.

## IX. FOR YOUR INFORMATION

### A. DIRECTOR'S UPDATE

Mrs. Howard advised the Board that the American Planners Association Conference in Las Vegas would be coming up in April and they needed to decide which three members would be going.

## X. ADJOURNMENT

There being no further business, the meeting adjourned at 7:45 p.m.