

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



Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

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

Benny Pearce
Town of Eastover

COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES
March 18, 2008

Members Present

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

Others Present

Mr. Tom Lloyd, Director
Mrs. Laverne Howard
Mr. Grainger Barrett, County Attorney
Ms. Donna McFayden

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mrs. Piland made a motion, seconded by Mr. Cain that the Agenda be adjusted to add consideration of authorizing the Chairman to send a letter expeditiously to the Cumberland County Board of Commissioners advising them of the Joint Planning Board's progress in the study, refinement and development of proposed recommendations for Municipal Influence Areas, Sewer Service Areas, and governance related thereto. Also allow the Chairman of the ADHOC Committee to give a brief report tonight. Unanimous approval.

III. PUBLIC HEARING DEFERRAL/WITHDRAWAL

There were no deferrals or withdrawals.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions.

V. APPROVAL OF THE MINUTES OF MARCH 4, 2008

Mrs. Hall stated that her statements on page 11 of the minutes were incorrect. The last sentence should read "does not think the playing field is level".

Mrs. Piland made a motion to approve the minutes with changes, seconded by Mr. Pearce. Unanimous approval.

VI. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P08-13:** INITIAL ZONING OF 0.98+/- ACRES TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 737 AND 739 BLAWELL STREET, OWNED BY DWAYNE MAXWELL, INCORPORATED.

The Planning & Inspections Staff recommends approval of the R15 zoning district based on the following:

1. The R15 zoning district is consistent with the Stedman Area Detailed Land Use Plan, which calls for low density residential at this location and is consistent with the zoning in the area; and
2. This request was initiated by the Town of Stedman.

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

A motion was made by Mr. McNeill, seconded by Mr. Hostetter to follow the staff recommendation and approve case P08-13 as submitted. Unanimous approval.

- B. **P08-14:** REZONING OF 10.57+/- ACRES FROM R10 TO R5A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF SOUTH PINE TREE LANE, SOUTH OF SPRING AVENUE, SUBMITTED BY DENVER LEE MCCULLOUGH FOR GEORGE YASMINE, OWNED BY MCCORMICK FARMS LTD.

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

1. Even though the request is not consistent with the Spring Lake Land Use Plan, the request is consistent with the zoning and land uses in the general area; and
2. Public utilities are available to the site.

The R6 Residential district could also be considered suitable for this location.

The Town of Spring Lake Staff also recommends approval of this request.

A motion was made by Mr. McNeill, seconded by Mr. Hostetter to follow the staff recommendation and approve case P08-14 as submitted. Unanimous approval.

CONDITIONAL USE DISTRICT AND PERMIT

- A. **P08-10:** REZONING OF 166+/- ACRES FROM A1 AGRICULTURAL DISTRICT TO A1/CUD CONDITIONAL USE DISTRICT, ADDITION TO AN EXISTING ADJACENT QUARRY, AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF RIVER ROAD, NORTHEAST OF GAME ROAD; SUBMITTED BY GARY T.

BIZZELL, PRESIDENT, AMERICAN MATERIALS COMPANY, L.L.C.; OWNED BY FORKS, L.L.C.

The Planning & Inspections Staff recommends approval of the requested rezoning to A1 Agricultural/ Conditional Use District (A1/CUD), with the applicant/property owner voluntarily restricting the allowable use of the subject property to an expansion and addition to an existing quarry and one existing residential dwelling unit; prohibiting all other uses allowed within the A1 Agricultural district, based on the following:

- Although the request is not consistent with the Wade Area Detailed Land Use Plan, which calls for one acre residential lots at this location, the request is consistent with the existing use of the adjacent properties and is reasonable with the use being setback from the public right-of-way and surrounding properties a sufficient width so that the adjacent and abutting properties should not be detrimentally affected.

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

1. The use will not materially endanger the public health or safety if located according to the plan submitted, though this type of operation is strictly monitored by the State and outside the scope of zoning, the applicant/property owner has agreed to all ordinance requirements;
2. The use will meet all required conditions and specifications if developed according to the site plan, application and conditions – a copy of the *Ordinance-Related Conditions* pertaining to this site is attached;
3. The use will maintain or enhance the value of adjoining or abutting properties in that the use is a continuation of the adjacent use and upon conclusion of the quarry operation, the developer/property owner is required by both local regulations and the State to reclaim the property restoring it to a suitable condition for use and the developer has agreed to construct or put in place all zoning measures intended to protect adjacent properties – see attached *Ordinance-Related Conditions*; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and in general will be in conformance with the development ordinances and adopted planning policies.

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

The *Ordinance-Related Conditions* have been explained to the applicant and he has verbally agreed with them.

A motion was made by Mr. McNeill and seconded by Mrs. Piland to follow the staff recommendations and approve C(P)/Conditional Use District for expansion and addition to existing quarry because the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. Unanimous approval.

A motion was made by Mr. McNeill and seconded by Mr. Hostetter to approve the Conditional Use Permit as recommended by the staff for expansion and addition to existing quarry 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. Unanimous approval.

VII. CONTESTED PLATS & PLANS

- A. **CASE NO. 08-033:** CONSIDERATION OF A WAIVER FOR THE BOBBY GLEN JACKSON PROPERTY, SUBDIVISION REVIEW, SECTION 4.2.C, PRIVATE STREETS, COUNTY SUBDIVISION ORDINANCE, REQUEST FOR APPROVAL OF A NINTH LOT TO BE SERVED BY A CLASS C PRIVATE STREET; ZONING: A1; TOTAL ACREAGE: 2.65 +/-, LOCATED ON THE SOUTH SIDE OF LINA DRIVE, SOUTH OF SR 1848 (FAIRCLOTH BRIDGE ROAD).

The developer is requesting a waiver to subdivide an existing 2.65 +/- acre lot into two separate lots; if approved, the additional lot would be the ninth lot served by the Class "C" private (dirt) street. Under current standards, Class "C" private streets can serve a maximum of four lots with not more than two principal structures per lot.

The existing lot has two dwelling units; both homes were existing at this location prior to the 1996 initial zoning of the subject property to A1 Agricultural. The subdivision, if approved, would create one lot with the two existing dwelling units and a vacant lot for a future dwelling unit.

In addition to receiving a favorable decision on this request and prior to any additional development of the subject property and/or any final plat approval, the developer has been made aware and understands that a rezoning to a less dense zoning district must also be accomplished.

Mr. Lloyd reviewed the site information and stated the staff recommends denial of the sidewalk waiver based on the following:

1. Because the nature of the subject lot and the adjoining area – eight existing lots, some with more than one dwelling unit – the development in this area served by the previously approved Class "C" private street doubles the acceptable number of lots allowed to be served by a dirt street, far exceeding the minimum standards of the ordinances and the number of lots should not be increased until such time that suitable access is made available;
2. The waiver, if granted, would not serve the public purposes of the ordinances, specifically those provisions intended to ensure that adequate and safe access to every lot is present especially in the event of an emergency; and
3. If the request is approved, the developer would be receiving a special privilege which could not be granted to individuals in instances of similar circumstances with the same or similar facts.

Bobby Jackson, the petitioner, spoke before the Board. Mr. Jackson stated that the only thing he is trying to do is put a single family dwelling on the property so that he can be closer to his parents and care for them. Mr. Jackson stated that he is aware of the laws and the recommendation, but he is asking if there is any way possible to get this done.

Mr. McNeill asked how many dwellings are currently on this lot.

Mr. Jackson stated there are two dwellings on the 2.65 acres.

Mr. McNeill stated that he understands Mr. Jackson's concern for his parents; he had the same concern for his own parents several years ago. Fortunately their property was a big enough tract that they deeded a lot to him, so there was no need to get a waiver. The concern Mr. McNeill has is the fact that there are a lot of unpaved roads in this County, we used to allow eight lots on an unpaved road, unfortunately none of us live forever and we have to look down the road, several years ago we changed the ordinance to reduce the eight lots to four lots on an unpaved road simply because there is not as much damage to it because there is not as much traffic. Mr. McNeill stated "I can sympathize with you, and I would love to find a way to help you out, but with that street being a dead end cul-de-sac, the flagged lot being there, and McCall Drive being a dirt road, it just seems that the only option is to get the neighbors to agree to put gravel in there and bring the road up to a standard that would come close to accommodating that. The Board might be more apt to give a waiver for one extra lot on a gravel road than they would on what would amount to nine lots when there should only be four".

Mr. McNeill made a motion, seconded by Mrs. Piland to follow the staff recommendation and deny the waiver request to create a ninth lot on a Class "C" private street. Unanimous denial.

VIII. DISCUSSION

Mr. McNeill gave an update on the County Commissioner's meeting. Mr. McNeill stated that the Consent Items passed; the Contested Item on County Line Road had some people who were there in opposition and brought up the contaminated water issue, since they were getting a report from the Water Task Force, Mr. Johnson decided he wanted to defer the case and got it deferred for two months. The other Contested Item was the crematorium case; the Commissioners deferred it for one month.

REPORT FROM ADHOC COMMITTEE

Mr. McNeill, Chairman stated that the committee has met twice and thinks progress is being made. There has been a lot of discussion, when the Committee meeting convened we had gotten a fresh draft of what we were to consider, just like the two Planning Board meetings where there were changes. Some of you may have heard that the City Council considered an Interlocal Agreement, and they may have passed it last night, which was about 90% of the words we had. There were some things that were different than the one that the Committee had worked on last week. There are still some issues to discuss including the MIA lines and Sewer Service Area lines. We brought up some issues that had not been given full thought in the past, but we are hopeful that we will continue to make progress. In the very near future we can have a document for this full Board to consider and make a recommendation to the Commissioners.

Mr. Pearce asked since the City approved a version of the agreement will it be referred to the Commissioner's for their possible approval?

Mr. McNeill stated that he wasn't sure what would happen with that version, but as far as the ADHOC Committee is concerned what they passed last night has nothing to do with

their job. We are going to continue with what we are doing. We made a request of Commissioner Henley who had scheduled ours to be heard at the Commissioners meeting on April 7, 2008, and he indicated tonight that as long as our Board and it's Committee was making good progress on finalizing this Agreement, he would not put us in the position of sending this on before we had a chance to review it.

Mrs. Piland made a motion, seconded by Mr. Cain to authorize the Chairman to send a letter expeditiously to the Cumberland County Board of Commissioners advising them of the Joint Planning Board's progress in the study, refinement, and development of proposed recommendations for Municipal Influence Areas, Sewer Service Areas, and governance related thereto and that such letter include the following: 1) That the letter is an effort to keep the Board of Commissioners apprised of the Joint Planning Board's work and was authorized by a vote of the Joint Planning Board as of this date (Tuesday, March 18, 2008) 2) That the Joint Planning Board thanks the Board of Commissioners for their confidence in the Cumberland County Joint Planning Board by allowing the Joint Planning Board time to study, refine, and develop proposed recommendations for Municipal Influence Areas and Sewer Service Areas for local municipalities 3) That the Board of Commissioners are assured that we as members of the Joint Planning Board recognize our responsibility to ensure and protect the public trust in policy development processes and to this extent that we are working diligently to provide them with proposed recommendations for Municipal Influence Areas and Sewer Service Areas for local municipalities that reflect governmental transparency and public awareness 4) That provides clarification of the Joint Planning Board's participation in the development of the proposal they received earlier and the process now taking place (as documented by the Joint Planning Board's official minutes) 5) That we anticipate finalizing our proposed recommendations within the timeline mentioned in the Joint Planning Board Chairman's previous letter to the Commissioners 6) The ADHOC Committee's recommendations will be presented to the full Joint Planning Board for adoption and subsequent submission to the Cumberland County Board of Commissioners and we expect to continue this good progress 7) That copies of the letter be forwarded to all members of the Cumberland County Board of Commissioners, all members of the Cumberland County Joint Planning Board, Cumberland County Attorney Grainger Barrett, Cumberland County Manager James Martin, and Planning and Inspections Department Director Tom Lloyd. Unanimous approval.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

There was no director's update.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 8:00 p.m.