

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

Walter Clark,  
Roy Turner,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

## COUNTY of CUMBERLAND

### *Planning and Inspections Department*

**MINUTES**  
November 18, 2008

#### **Members Present**

Mr. Donovan McLaurin, Chair  
Mrs. Lori Epler, Vice-Chair  
Ms. Patricia Hall  
Mr. Roy Turner  
Mr. Charles Morris  
Mr. Benny Pearce  
Mr. Garland Hostetter  
Mr. Harvey Cain, Jr.  
Mr. Walter Clark

#### **Others Present**

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

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

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

Mr. Lloyd advised the Board that case P08-56 would be moved from Public Hearing Consent Items to Public Hearing Contested Items.

**Vice-Chair Epler made a motion to approve the adjustments to the agenda, seconded by Ms. Hall. Unanimous approval**

#### III. PUBLIC HEARING DEFERAL – APPLICANT REQUESTED UNTIL FEBRUARY 17, 2009

**P08-51:** REZONING OF 47.70+/- ACRES FROM RR RURAL RESIDENTIAL & CD CONSERVANCY DISTRICT TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH SIDE OF CAMDEN ROAD AND THE EAST SIDE OF THE HOKE COUNTY LINE, SUBMITTED BY BILLY E. DEES, OWNED BY JOHN D. BEASLEY AND BILLY E. DEES.

**Vice-Chair Epler made a motion to accept the deferral, seconded by Mr. Hostetter. Unanimous approval.**

#### IV. ABSTENTIONS BY BOARD MEMBERS

There were none.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF OCTOBER 21, 2008

**Mr. Turner made a motion to approve the minutes as submitted, seconded by Mr. Cain. Unanimous approval.**

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASE

- A. **P08-57:** INITIAL ZONING OF 29.85+/- ACRES TO R5A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTH AND SOUTH SIDES OF SPRING AVENUE (SR 1602) AND THE WEST SIDE OF SOUTH PINE TREE LANE, OWNED BY MCCORMICK FARMS LP PROPERTY.

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

1. Although the request is not consistent with the Spring Lake Land Use Plan which calls for low density residential at this location, the request is consistent with the zoning and land uses in the general area; and
2. This request was initiated by the Town of Spring Lake.

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

**A motion was made by Vice-Chair Epler, seconded by Ms. Hall, to follow the staff recommendation and approve case P08-57. Unanimous approval.**

- B. **P08-58:** REZONING OF 2.06+/- ACRES FROM R6A RESIDENTIAL TO C1(P) PLANNED LOCAL BUSINESS OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2944 & 2960 CUMBERLAND ROAD, SUBMITTED AND OWNED BY SHIRLEY DEES & J.L. TROGDON.

The Planning & Inspections Staff recommends approval of the request for C1(P) Planned Local Business district based on the following:

1. Although the request is inconsistent with the 2010 Land Use Plan, which calls for heavy commercial at this location, the requested district is in character with the current zoning and uses of the adjacent properties;
2. The request is also consistent with previous rezonings in the area; and
3. The subject property is located on a major thoroughfare.

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

**A motion was made by Vice-Chair Epler, seconded by Ms. Hall, to follow the staff recommendation and approve case P08-58. Unanimous approval.**

#### VIII. CONSENT PLATS & PLANS

- A. **CASE NO. 08-158.** CONSIDERATION OF BELINDA YOWELL PROPERTY, GROUP DEVELOPMENT REVIEW, REQUEST FOR A WAIVER FROM SECTION 2306.A,1, COUNTY SUBDIVISION ORDINANCE, REGARDING CONNECTION TO PUBLIC WATER; ZONING: R6A; TOTAL ACREAGE: 0.67 +/-; LOCATED ON THE SOUTH SIDE OF SR 1003 (CAMDEN ROAD), ACROSS FROM INTERSECTION WITH FAME LN.

A group development was approved on the subject property on October 10, 2008 with Condition No. 3 – see attached Condition Sheet - requiring connection to public water; the developer is requesting approval of a waiver from this requirement. Public water exists in SR 1003 (Camden Road).

The subject property has an existing well that serves the existing house and previously served a manufactured home, which was removed more than a year ago. The applicant is requesting to be able to connect the proposed manufactured home to the same existing well. A copy of the developer's waiver application and their justification for this request is attached.

In accordance with Section 2601, Waivers, Cumberland County Subdivision Ordinance, the Planning Board may waive the requirements of this Ordinance, where it finds by resolution that:

- a. **Because of the size of the tract to be subdivided, its topography, the condition or nature of the adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this Ordinance would cause a special hardship to the property owner and be inequitable, and**
- b. **The public purposes of the Subdivision Ordinance and the Zoning Ordinance would be served to an equal or greater degree, and**
- c. **The property owner would not be afforded a special privilege denied to others.**

The Planning and Inspections Staff recommends approval of the waiver request based on the following:

- a. Because connection to the public water line will require extension of the line across SR 1003 (Camden Road), past the existing home served by an existing functional private well and approximately 250 feet into the subject property coupled with the fact that the proposed manufactured home is essentially a replacement structure, strict compliance with the provisions of the ordinance would cause a special and unnecessary hardship and be inequitable

- b. The purposes of the Subdivision and Zoning Ordinances are being served to an equal or greater degree, in that there are no known issues with the ground water in this immediate area; and
- c. The property owner is not being afforded a special privilege denied to others since ordinarily, except for the lapse of time, the developer would have been able to replace the structure without first obtaining any formal approval and utilizing the existing private well and septic system.

The subject property is located within the Hope Mills *Municipal Influence Area*, but both the County and the Town has the same standard for public water/sewer connection; the Town's Plan Review Committee has no objections to this request.

**Vice-Chair Epler made a motion, seconded by Mr. Hostetter to follow the staff recommendation and approve the waiver request. Unanimous approval.**

- B. CASE NO. 08-159. CONSIDERATION OF THE B3 PARTNERS, LLC PROPERTY, C(P) SITE PLAN REVIEW, REQUEST FOR ALTERNATE FRONT (46.8' WHERE 50' REQUIRED) AND REAR (10' WHERE 30' REQUIRED) YARD SETBACKS SECTION 1404.A, COUNTY ZONING ORDINANCE, ZONING: C(P); TOTAL ACREAGE: 0.92 +/-; LOCATION AT THE SOUTHWEST QUADRANT OF NC HWY 210 (MURCHISON ROAD) AND SR 1445 (BERNADINE ROAD), NORTHWEST OF SR 1444 (CHARMAIN STREET).**

The developer is requesting approval of alternate 46.8 foot front yard and 10 foot rear yard setbacks for the above referenced property. The C(P) zoning district requires the front yard setback to be 50 feet and a rear setback of 30 feet. The width of the subject property along NC HWY 210 (Murchison Road) is 96.8 feet and SR 1445 (Bernadine Road) has 412 feet of frontage. The subject property was rezoned to C(P) on August 21, 2006 (Rezoning Case No. P06-46).

This staff sent a first class letter explaining the request along with a copy of the proposed site plan to the owners (Mike J. and Angelina Sill) of the affected adjacent property in an effort to elicit a response from them concerning their opinion regarding this request; however, we have not heard from them. The adjacent tract is zoned R6A and is developed with eight residential apartment units.

The developer has listed several items purporting to justify this request and a copy of this justification is attached to this memorandum.

**In accordance with Section 1404, Planning Board Consideration, of the County Zoning Ordinance, the Planning Board may approve alternate yard requirements of Article XI if such approval will provide a more logically planned development.**

The Planning & Inspections Staff recommends approval of the request for the alternate front and rear yard setbacks based on the following.

- a. The width of the subject property severely limits the buildable area on the lot, which is a width of 16.8 feet;
- b. The proposed structure location accounts for the front yard setback from the major thoroughfare;

- c. There is sufficient room for light and air between the proposed structure and the structures located on the adjacent property with the nearest existing structure being located approximately 33 feet from the common property line; and
- d. The proposed site layout is logical.

This staff recommendation does not include a recommendation of approval of an alternate yard for the front yard setback off of NC HWY 210 (Murchison Road). The proposed structure location will have to be shifted a minimum of 20 feet to the west to allow for the 20 foot reservation required for the expansion of the right-of-way of NC HWY 210 (Murchison Road) – see Condition No. 13 on the attached draft conditions of approval.

**Vice-Chair Epler made a motion, seconded by Mr. Hostetter to follow the staff recommendation and approve the request for alternate front and rear yard setbacks. Unanimous approval.**

#### IX. PUBLIC HEARING CONTESTED ITEMS

**P08-56:** REZONING OF 1.11+/- ACRES FROM CD CONSERVANCY DISTRICT & R10 RESIDENTIAL TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTH SIDE OF SR 1122 (WOODINGTON ROAD), WEST OF SR 1123 (MONTICELLO AVENUE), SUBMITTED AND OWNED BY GLENN AND SANDRA DEW.

Mr. Lloyd reviewed the site information and stated the staff recommends approval of the request for RR Rural Residential district based on the following:

1. Although the request is inconsistent with the 2010 Land Use Plan which calls for open space at this location, the requested district is consistent with the zoning and approved uses in the immediate area; and
2. The request is reasonable and in character with the adjacent properties.

For this request, the R40A Residential zoning district could also be found suitable at this location.

There was one person present to speak in favor and one person to speak in opposition.

Mr. Morris stated that the subject property doesn't appear on any flood map.

Mr. Lloyd stated that that was correct. This CD was based on elevation. The zoning cases that we have now; if there is CD on the subject property we rezone the CD back to the actual elevation.

Mr. Morris stated that CD traditionally follows the one year flood line.

Mr. Lloyd stated yes.

Vice-Chair Epler asked Mr. Lloyd if the front part of the subject property was currently zoned as R10.

Mr. Lloyd stated yes.

Mr. Harold Dew spoke in favor. Mr. Dew stated that he only wanted rezoning for one manufactured home, one small doublewide manufactured home to help a family member.

Vice-Chair Epler asked Mr. Dew if R40A zoning would be suitable for him.

Mr. Dew stated that that would be fine with him if that was the only option available.

Ms. Doretha Browning spoke in opposition. Ms. Browning submitted photographs and handouts to the Board members. The handouts contained a letter opposing the rezoning and the reasons for the opposition. The map shows the homes in the area that have well water. Ms. Browning stated that there is no well water in the area. The community is dependent on any water that is there. The dots on the handout represent the people that oppose the rezoning. Ms. Browning read the letter to the Board. The letter stated that when Mr. Dew bought the property he knew it was zoned CD Conservancy District, he has already used it any way he desired, he has cut trees and shrubs and filled in the land. Several houses have been moved and stored on this property, and no one has seen them moved out. Hopefully they are not part of the landfill there. There is an apartment on the subject property with unapproved sewer and water in one of the buildings already there. The apartment is in the CD and there are tenants living there. The land involved in the rezoning has been inspected by the Health Department and has been approved for a septic system. Although this is possible at this time, we have been in a drought for 2 years and the water table may still be low where they perked. There is an overspill from the lake across the road and it's built up, and seems sturdy, but even the dam in Hope Mills broke, and in one of the pictures you will see the pipe coming out of the lake. If this broke, it could go across and any septic system around it could be affected. The land is in a low gully with runoff water from the properties high above. Ms. Browning stated that the crime rate is high in the area, which is attributed to absent landlords who rent mobile homes and do not live in the area. Mr. Dew has a nice home in Hope Mills and would not live here to monitor his property. If the rezoning is approved Mr. Dew could put several mobile homes on the land.

Ms. Hall asked if someone was living there now.

Ms. Browning stated yes.

Vice-Chair Epler pointed out the tract that Mr. Dew was asking to be rezoned, and asked Ms. Browning if the residence was on that piece of property.

Ms. Browning stated that there was no residence on that tract.

Chair McLaurin asked Ms. Browning how long she lived in the area.

Ms. Browning stated that she bought her land in the early 1990's.

Chair McLaurin asked if the property was in the same condition as it is now.

Ms. Browning stated that there were a lot more trees and a lot more brush. For a while a lot of old houses.

Mr. Clark asked about Ms. Browning's comment about fill being brought in on the property.

Ms. Browning stated that she couldn't prove it.

Mr. Clark asked Ms. Browning if she saw any fill operation on the subject property.

Ms. Browning stated no.

Mr. Dew spoke in rebuttal. Mr. Dew stated that he didn't know where Ms. Browning was getting her information from. He did store a few houses on the property which were moved at a later date. There has never been a mobile home there and he has not cleared any land.

Mr. Clark asked if there were renters on the property.

Mr. Dew stated that there are renters, but they are not on the subject property.

Public Hearing closed.

Mr. Morris stated that in the past CD zoning had no restrictions whatsoever on it. When the ordinance was revised two years ago restrictions were placed on CD zoning. It was policy that the CD follows the 100 year flood plain. This leads to two questions, should the CD be there at all? And the second question is: are we looking at R10 rezoning or RR rezoning?

Vice-Chair Epler stated that Mr. Morris was right; we have in the past moved the CD line to the one hundred year flood line. Vice-Chair Epler stated that she doesn't have a problem doing that on the property that the applicant is requesting for rezoning. Vice-Chair Epler doesn't feel that the entire tract should be removed from the CD unless the applicant decides to come back and ask for that rezoning at a later date.

Mr. Morris stated that he wasn't suggesting that.

Vice-Chair Epler stated that the applicant is essentially asking that the CD zoning be moved from the front portion of the property.

Mr. Morris stated that there are two actions: move the CD and determine the underlying zoning.

Vice-Chair Epler stated that she understands Ms. Browning's concerns and understands what happens to a neighborhood when you get property owners and it turns into rental property. However, this area is what it is and there are already double wide mobile homes out there, this property owner could have asked to have the whole piece of property rezoned if he wanted to. He only wants to put one manufactured home there. There is RR zoning across the way from him, to the north of him and to the west of him. R6A is even less restrictive than the RR, it will allow a mobile home park. Vice-Chair Epler stated that she felt Mr. Dew's request is reasonable and if the rezoning was granted he wouldn't be getting anything that the people around him hadn't already taken advantage of.

Chair McLaurin stated that he did not know that it has been, but from all indications a lot of this area has been filled. As far as the area today, the property has gum trees, maple

trees, and there is a good stream of water running through there. Everything that has been said is true about the zoning in the area. If Mr. Dew wants to put one dwelling there, the zoning would be appropriate.

**Mr. Clark made a motion, seconded by Vice-Chair Epler to deny the request for RR zoning and approve R40A rezoning. The motion passed with seven voting in favor and Mr. Morris opposed.**

Mr. Morris stated if we pick R40A it will be the only R40A on the map, and it looks like spot zoning. Ms. Hall agreed with Mr. Morris. Mr. Morris stated that if we go that route it needs to be made clear that that option was not previously available.

Mr. Lloyd stated for clarification that spot zoning occurs if it affords the property owner special use of the property that other property owners in the area wouldn't be able to do, and with the RR and R6A in the area they would be able to do what they can do in the RR.

Mr. Morris stated that he agrees, but feels that R40 will stick out, and the record should be clear that with initial zoning in this area R40A was not available.

Vice-Chair Epler stated that when the ordinance was revised with the new zoning R40A, by Mr. Morris's definition, spot zoning would occur no matter what piece of property is zoned with R40A.

Mr. Barrett stated that maybe Mr. Morris meant to say that we were introducing a new zoning that is not out there yet. By introducing a new zoning, he is asking you to think about the future effect of that in the area.

Chair McLaurin stated that most of the area is RR or R6A, if I was in this area I would want it to cascade to R40A.

Mr. Morris stated that we just need to be careful and look at the future. Mr. Morris stated that he didn't disagree with the motion.

X. DISCUSSION

XI. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Mr. Lloyd stated that the two Adhoc committees did a good job with the Land Use Policies Plan and the Bylaws.

XII. ADJOURNMENT

There being no further business, the meeting adjourned at 7:48 p.m.