

Walter Clark,
Chair
Cumberland County

Patricia Hall,
Vice-Chair
Town of Hope Mills

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



Planning & Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Vikki Andrews,
Diane Wheatley,
Carl Manning,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

MINUTES

December 17, 2013

Members Present

Mr. Walter Clark, Chair
Ms. Patricia Hall, Vice-Chair
Dr. Vikki Andrews
Mr. Benny Pearce
Mrs. Diane Wheatley
Mr. Harvey Cain, Jr.
Mr. Carl Manning

Members Absent

Mr. Charles Morris
Mr. Garland Hostetter
Mr. Donovan McLaurin

Others Present

Mr. Thomas Lloyd
Ms. Patricia Speicher
Mrs. Laverne Howard
Ms. Donna McFayden
Mr. Rick Moorefield
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Dr. Andrews 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 P13-51 would be moved to Contested Items.

III. PUBLIC HEARING DEFERRAL /WITHDRAWAL

There were none.

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 5, 2013

Ms. Wheatley made a motion to accept the minutes as submitted, seconded by Dr. Andrews. Unanimous approval.

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P99-09.** REVOCATION OF A CU/CONDITIONAL USE OVERLAY TO ALLOW OPEN STORAGE AND REPAIR OF DUMP TRUCKS REVERTING TO THE PREVIOUS ZONING CLASSIFICATION OF A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 4515 AND 4531 HUCKLEBERRY ROAD, OWNED BY STEVE AND PONDANESA CARTER.

On October 21, 2013 the Planning and Inspections Staff provided me with sufficient evidence indicating that the above referenced property is not in compliance with the conditions as approved for Case No. P99-09— the property owner erected the proposed structure without permits and not in

accordance with the conditionally approved site plan as well as allowing uses not specifically approved. Pursuant to Section 508 of the Cumberland County Zoning Ordinance, I am seeking revocation of the Conditional Use Overlay and reversion of the zoning to the A1 Agricultural district for the subject property. On October 28, 2013 the property owner was notified in writing of this revocation. The property owner was also mailed the standard hearing notice for your December 17, 2013 Board Meeting. **County Zoning Ordinance reference:** Section 508, Failure to Comply and Section 509, Validation of Existing Conditional Use Overlays

Ms. Hall made a motion to recommend the revocation of the Conditional Use Overlay and reversion of the zoning to A1 Agricultural district., seconded by Mr. Pearce. The motion passed with a unanimous vote.

- B. **P13-48.** REZONING OF 73.21+/- ACRES FROM R20 RESIDENTIAL/DD DENSITY DEVELOPMENT/CUD CONDITIONAL USE DISTRICT FOR A 125 LOT RESIDENTIAL SUBDIVISION AND THE PERMIT TO R40 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 2961 AND 2983 CEDAR CREEK ROAD AND ON THE NORTHEAST SIDE OF NC HWY 53 (CEDAR CREEK ROAD), SOUTHWEST SIDE OF SR 2011 (A B CARTER ROAD); SUBMITTED BY J. O. CARTER, JR. ET AL (OWNERS) AND DANIEL H. DEVANE.

The Planning and Inspections Staff recommends approval of the R40 Residential district based on the following:

1. Although the district requested is not consistent with the 2030 Growth Vision Plan, which calls for "urban" at this location, the request meets the location criteria for "rural density residential" development as listed in the Land Use Policies Plan; and
2. The location and character of the district is reasonable and will be in harmony with the surrounding area.

There are no other districts considered suitable for this request.

Ms. Hall made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve R40 Residential district, seconded by Mr. Pearce. The motion passed with a unanimous vote.

- C. **P13-49.** REZONING OF 1.25+/- ACRES FROM A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 8569 CLINTON ROAD, SUBMITTED BY BILLY D. AND FAY J. HORNE (OWNERS).

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

1. Although the request is not entirely consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as public water and sewer are required and sewer is not available, approval of the request would be consistent with the plan by promoting the re-development of a commercial area as the subject property contains a commercial structure previously used for religious worship and a sign company;
2. The request is consistent with the objectives for commercial development listed in the Land Use Policies Plan, specifically by promoting sufficiently zoned commercial areas to accommodate the needs of County residents and locating commercial development with the least impact on residential and other non-compatible uses; and
3. The district requested is reasonable as this area will likely transition to more non-residential uses with the imminent improvements of NC Hwy 24.

The C1(P) & C2(P) districts could also be considered suitable for this request.

Ms. Hall made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve C(P) Planned Commercial district, seconded by Mr. Pearce. The motion passed with a unanimous vote.

VIII. PUBLIC HEARING CONTESTED ITEMS

REZONING CASES

- D. **P13-51.** REZONING OF 81.30+/- ACRES FROM A1 AGRICULTURAL TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF SR 2242 (BRAXTON ROAD), NORTHWEST OF SR 2252 (CHICKEN FOOT ROAD); SUBMITTED BY PRENTICE R. BARKER ON BEHALF OF BARKER GALLBERRY FARMS, LLC. (OWNER) AND 4D SITE SOLUTIONS, INC.

Mr. Lloyd presented the case information and stated that the Planning & Inspections Staff recommends approval of the R7.5 Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for “urban” and “urban fringe” at this location, as well as meeting the location criteria for “low density residential” development as listed in the Land Use Policies Plan;
2. The location and character of the district is reasonable and will be in harmony with the surrounding area and is a logical extension of the adjacent residentially zoned subdivisions; and
3. Public utilities (voluntary extension) are available to the subject property.

The R15 district could also be considered suitable for this request.

There were people signed up to speak in favor and in opposition.

Crawford Mackethan spoke in favor. Mr. Mackethan stated that he represented the buyers in this case. If approved this would be an extension of Braxton Village. Lot sizes will not be smaller than 10,000 square feet.

Greg McLean spoke in favor. Mr. McLean stated that he had some questions about the increase in traffic, how many access points there would be into the subdivision, and if there was any consideration about schools. Mr. McLean stated that it didn't seem like those issues hadn't been addressed.

Kathy Barker spoke in favor. Mrs. Barker stated that Department of Transportation has promised a new road design which will help the traffic issues. Mrs. Barker advised the Board that Mr. Barker donated the land that the school is located on.

Scott Brown spoke in favor. Mr. Brown stated that he represented the buyer as the Civil Engineer for the site. The site will have PWC water and sewer; there will be no additional access points at this time along Braxton Road, all of the access will be through the existing subdivisions on the road.

Billie Jo Atkins spoke in opposition. Ms. Atkins stated that she moved to a rural area that is changing and no longer staying rural. The people in Grays Creek want it to stay rural. Ms. Atkins asked the board to consider schools, can they support additional students.

Mr. Cain made a motion to recommend the adoption and approval of the consistency and reasonableness statements and to approve R7.5 Residential district, seconded by Mr. Manning. The motion passed with a unanimous vote.

- E. **P13-50.** REZONING OF 1.37+/- ACRES FROM R20 RESIDENTIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 725 AND 729 SNOW HILL ROAD, SUBMITTED BY HUXLEY A. AND AHUILDA J. JONES (OWNERS).

Mr. Lloyd stated that the Planning and Inspections Staff recommends denial of the request for M(P) Planned Industrial district based on the following:

1. The district requested is inconsistent with the location criteria for "heavy industrial" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan primarily due to the tract not being of sufficient size to accommodate the M(P) setbacks and does not provide adequate area for buffering, screening, and landscaping in addition to any proposed buildings; and
2. The request is not reasonable because a permit was obtained in August 2013 for a residential structure which has been constructed and this structure will become nonconforming in use and yard setbacks if the request is approved.

Staff further recommends that if the board is considering approval of M(P) for this request and due to the proximity of the subject property in relation to the airport and existing residential in the area, the property owner modify the application to a request for Conditional Zoning. Deviation in yard setbacks can also be addressed in the Conditional Zoning application.

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

There were two speakers in favor present.

Tim Evans spoke in favor. Mr. Evans stated that the applicants intended to have their business located on the subject property behind their house. Mr. Evans advised them that there was a trucking company right behind them and the property would need to be rezoned. The applicants ran into some difficulties and changed their mind about what they wanted.

Hayward Jones spoke in favor. Mr. Jones was representing Huxley Jones, his brother and business partner. Mr. Jones stated that the applicants changed their mind; it's very difficult to get financing for a non-traditional home and more difficult with the trucking company being located right behind them.

Ahuida Jones spoke in favor. Mrs. Jones stated that they wanted a non-traditional house, but couldn't get financing for it. They want to use the building that is there right now for storage.

After discussion the applicants agreed to defer Case P13-50 for one month so the applicants can work with staff on a Conditional Zoning district application. The case will come back before the Planning Board on January 21, 2014.

IX. PUBLIC HEARING WAIVER REQUEST

CASE NO. 13-121. CONSIDERATION OF THE ERNEST A. BUNCE JR. AND RUTH H. BUNCE PROPERTY; SUBDIVISION REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO CONNECT TO PUBLIC WATER; COUNTY SUBDIVISION ORDINANCE, SECTION 2306.A.1.B, UTILITIES; ZONED: A1; TOTAL ACREAGE: 5.2+/-; LOCATED AT THE SOUTHEAST QUADRANT OF SR 1006 (MAXWELL ROAD) & SR 1843 (MAGNOLIA CHURCH ROAD); SUBMITTED BY ERNEST A. BUNCE JR. & RUTH H BUNCE (OWNER) AND WAYNE T. YOUNTS (AGENT).

Chair Clark swore in all speakers.

Mr. Lloyd presented the case information and reminded the Board that cost is not a valid reason for them to base their decision. When they make their decision there is criteria that has to be met.

Mr. Younts spoke in favor representing the applicant. They are asking for the waiver because they are trying to keep the houses priced around \$175 thousand and connecting to water would be a hardship on the owner. They wouldn't be able to keep the houses at that price and connect to public water. Mr. Younts asked that they be able to place wells on the property.

Mr. Pearce made a motion, seconded by Ms. Andrews that the Joint Planning Board for the County of Cumberland, having held a public hearing to consider the waiver request for Case No. 13-121 requesting not to be required to connect to the public water system, using private wells for each individual lot, developing the subject property in a manner not permissible under the literal terms of the County Subdivision Ordinance, and having heard all of the evidence and argument presented, I move that the board makes the following findings of fact and draws the following conclusions: 1. It is the Planning Board's conclusion that, because of the size of the tract to be subdivided and the number of lots requested strict compliance with the provisions of the County Subdivision Ordinance would not cause a special hardship to the property owner and be inequitable; this finding is based on the following conditions: it is not unreasonable to require public water connections to serve the re-division of the subject property into four lots when public water is located within the right-of-way adjacent to the subject lots and service is available. 2. It is the Board's conclusion that the public purposes of the County Subdivision & Development and Zoning Ordinances would not be served to an equal or greater degree; this finding is based on the following conditions: The primary public purpose of the ordinances as related to this matter is to promote the eventual elimination of unsafe and unsanitary conditions arising from improper land subdivision and development – the public water system is professionally monitored and should be a pre-requisite when developing residential lots if within a reasonable distance from the site. In addition to the ordinances, the adopted 2030 Growth Vision Plan, Policy 3.4 specifies that local governments within the county are to support the provision of water services throughout the county; and 3. It is the Board's conclusion that property owner would be afforded a special privilege denied to others; this finding is based on the following conditions: All development of properties proposed for two to ten lots located within 300 feet of a public water line are required to connect to the public system. Any developments within this area having a similar set of facts and circumstances have been conditioned for approval with the requirement for connection to public sewer. Because of the foregoing, I move that the request for waiver be denied. Unanimous approval.

X. DISCUSSION

- Mr. Lloyd stated that there should be an MIA Committee to look at the MIA agreement with the City. Donovan McLaurin, Charles Morris, and Carl Manning were appointed by Chair Clark with Mr. Morris as moderator of the Committee.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 8:35 p.m.