

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



**CUMBERLAND**  
★ **COUNTY** ★  
NORTH CAROLINA

*Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Lori Epler,  
Sara E. Piland,  
Vikki Andrews,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin,  
Wade, Falcon & Godwin

**MINUTES**

February 19, 2013

**Members Present**

Mr. Walter Clark, Chair  
Ms. Patricia Hall, Vice Chair  
Ms. Vikki Andrews  
Ms. Lori Epler  
Mrs. Sara Piland  
Mr. Garland Hostetter  
Mr. Benny Pearce  
Mr. Charles Morris  
Mr. Harvey Cain, Jr.  
Mr. Donovan McLaurin

**Members Absent**

**Others Present**

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

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Morris 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 P13-02 would be pulled from Consent Items and moved to Contested Items.

III. PUBLIC HEARING WITHDRAWAL / DEFERRAL

A. **P12-25:** REZONING OF 2.94+/- ACRES FROM R6A RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 3404, 3420 AND 3424 CUMBERLAND ROAD; SUBMITTED BY CHARLES L. MCBRIDE (OWNER). WITHDRAWN

B. **P13-02.** REZONING OF 4.21+/- ACRES FROM HS(P) PLANNED HIGHWAY SERVICES AND A1 AGRICULTURAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 4838 J T MATTHEWS ROAD, SUBMITTED BY ROGER AND JEANETTE F. CORNETT ON BEHALF OF CORNETT PROPERTIES, LLC (OWNER). **DEFERRED UNTIL MARCH 19, 2013**

**Mr. McLaurin made a motion, seconded by Mrs. Epler to approve the deferral. Unanimous approval.**

IV. ABSTENTIONS BY BOARD MEMBERS

Mrs. Epler stated that she would abstain from voting on Case P12-68.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF DECEMBER 18, 2012

**Ms. Hall made a motion to accept the minutes as submitted, seconded by Mr. Hostetter. Unanimous approval.**

VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P12-68:** REZONING OF 6.55+/- ACRES FROM C1(P) PLANNED LOCAL BUSINESS AND R6 RESIDENTIAL TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 140 FARMERS ROAD AND ON THE NORTH SIDE OF SR 1612 (FARMERS ROAD), WEST SIDE OF US 401 (RAMSEY STREET); SUBMITTED BY BUTCH DUNLAP ON BEHALF OF GCMMB LLC. (OWNER).

Mr. Lloyd presented the site information and stated the Planning and Inspections Staff recommends denial of the request for the C(P) Planned Commercial district but approval of the C2(P) Planned Service and Retail district based on the following:

1. Although the C(P) Planned Commercial district in this area would be consistent with the location criteria of the Land Use Policies Plan of the 2030 Growth Vision Plan, all uses within the C(P) district would not be desirable nor compatible with other land uses in the general area; and
2. The recommendation of the C2(P) Planned Service and Retail district is consistent with the location criteria for the Policies Plan since the subject property has access to public water and sewer, direct access to a collector street and the recommended district would be reasonable allowing for the provision of convenient goods and services to the immediate surrounding neighborhood.

The C1(P) Planned Local Business district could also be considered suitable for this request.

The applicant has verbally agreed to the recommendation for the C2(P) Planned Service and Retail district.

**Mrs. Piland made a motion, to recommend the adoption and approval of the consistency and reasonableness statements and to approve C2(P) Planned Service and Retail district, seconded by Ms. Hall. The motion passed with a unanimous vote, with Mrs. Epler abstaining from voting.**

- B. **P13-03:** REZONING OF 1.99+/- ACRES FROM A1 AGRICULTURAL TO R40A RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED 3061 JOHN MCMILLAN ROAD, SUBMITTED BY CAROL Y. JACKSON (OWNER).

Mr. Lloyd presented the site information and stated the Planning and Inspections Staff recommends approval of the R40A Residential district based on the following:

1. The district requested is consistent with the 2030 Growth Vision Plan, which calls for "rural" at this location, as well as meeting 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.

**Mrs. Piland made a motion, to recommend the adoption and approval of the consistency and reasonableness statements and to approve R40A Residential district, seconded by Ms. Hall. The motion passed with a unanimous vote.**

#### CONDITIONAL USE DISTRICT AND PERMIT

- C. **P13-01:** INITIAL ZONING OF 2.65+/- ACRES TO M1(P) PLANNED LIGHT INDUSTRIAL/CUD CONDITIONAL USE DISTRICT FOR MINI-WAREHOUSING AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED BETWEEN NC HWY 210 (LILLINGTON HWY) AND SR 1601 (CHAPEL HILL ROAD), NORTH OF SAMUEL DRIVE; OWNED BY PARMOUNT INVESTMENTS, LLC. (SPRING LAKE)

Mr. Lloyd presented the site information and stated the Planning and Inspections Staff recommends approval of the initial zoning to M1(P) Planned Light Industrial/ CUD Conditional Use District for mini-warehousing based on the following:

1. The zoning district is consistent with the 2030 Growth Vision Plan, which calls for “urban” land uses at this location, as well as meeting the location criteria for a “light industrial” development; and
2. Approval of the M1(P)/CUD for mini-warehousing is reasonable as it will ensure consistency with the previous zoning approvals on the subject property.

The Planning & Inspections Staff also recommends approval of the Conditional Use Permit based on the declaration of a vested right by the property owner who desires to develop under the County approval and the following:

1. The use will not materially endanger the public health or safety if located according to the plan submitted;
2. The use will meet all required conditions and specifications if developed according to the site plan and application – a copy of the ordinance provisions in which the County approval pertaining to this site was conditioned upon are attached;
3. The use will maintain or enhance the value of adjoining or abutting properties in that this is a quality, well planned development that, if allowed to continue as approved, will compliment the area in which it is proposed; 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 conformity with the 2030 Growth Vision Plan and adopted planning policies.

The effective date of annexation was December 10, 2012. There are no other suitable districts to be considered for this request. The property owner has agreed to all Ordinance Related Conditions.

**Mrs. Epler made a motion to recommend the adoption and approval of the consistency and reasonableness statements, and to incorporate by reference the motion from case no. P10-07, which received a unanimous vote for recommendation of approval on March 16, 2010 making the same findings as for the original request for the subject**

**property; and therefore, following the staff recommendation for the current case, P13-01. The motion was seconded by Mr. Morris and passed unanimously.**

## VIII. PUBLIC HEARING CONTESTED ITEMS

### REZONING CASE

- D. **P13-04:** REZONING OF 10.36+/- ACRES FROM A1 AGRICULTURAL TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 820 AND 840 SAND HILL ROAD; SUBMITTED BY SARA C. DONALDSON, WAYMON W. AND MARGARET C. WOOD TRUSTEES (OWNERS) AND MARK CANDLER.

Mr. Lloyd presented the site information and stated the Planning and 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” 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
3. Public utilities are available to the subject property.

There are no other districts considered suitable for this request.

There were people present to speak in favor and in opposition.

Mr. Chris Pusey spoke in favor. Mr. Pusey, with 4D Site Solutions, stated that if the request was approved his company would be the consultants for the job. Mr. Pusey said that he was present to answer any questions the board might have. Mr. Pusey stated that there are wetlands in the back that will have to be dealt with, very conducive to the storm water ordinance that they will have to work with because of the fall of the land, and it looks like they will be able to get about eighteen to twenty lots into the development.

Mr. John R. Faatz, Sr. spoke in opposition. Mr. Faatz stated that he was opposed to the rezoning request. His property backs up to the wetlands just south of the subject property. Mr. Faatz stated that he bought his property because of the rural area and it is disturbing to see how much of the woods are coming down, but understands there must be progress and it will be in addition to the current rezoning request. Mr. Faatz stated that this progress is encroaching on the habitat of the wetlands and wonders how much we will encroach until we stop.

Mr. John R. Faatz II spoke in opposition. Mr. Faatz stated that he was speaking for himself and his brother. Mr. Faatz stated that he asked his parents if he could share a brief statement and ask that the board deny the request. Ever since the land beside Grays Creek High School was cleared it has been hard for his parents to explain why the neighborhood has been changing. He and his brother spend a lot of time exploring the wetlands and enjoy the wildlife that lives there. Mr. Faatz read a quote from a Dr. Suess book “The Lorax” and asked that the request be denied.

Mr. Pusey stated that he thought that a good portion of two lots would be left as farmland.

Ms. Hall stated that it looked like there was a buffer that would remain there.

Public hearing closed.

Mrs. Epler asked Mr. Pusey if there had been any preliminary layouts done on the lots and how much of the rear property would not be included in the development.

Mr. Pusey stated that he didn't have the exact dimensions, but they would have to stay outside of the wetlands and have allowed about two hundred feet for storm water ponds, before starting lots.

Mr. Lloyd reminded the board that unless there was something definite they couldn't rely on those statements.

Mrs. Piland complimented Mr. Faatz II for coming forward and speaking.

**Mrs. Epler 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. Morris. The motion passed with a unanimous vote.**

#### TEXT AMENDMENT

- E. **P11-20:** REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, AMENDING ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS BY INSERTING IN ALPHABETICAL ORDER THE TERM AND DEFINITION FOR "FIRING RANGE, OUTDOOR;" AMENDING ARTICLE IV PERMITTED, CONDITIONAL, AND SPECIAL USES, SECTION 403. USE MATRIX BY INSERTING IN ALPHABETICAL ORDER A NEW ROW ENTITLED "FIRING RANGE, OUTDOOR (SEC. 907.1)" IN THE LAND USE COLUMN AND ALLOWING THIS USE AS CONDITIONAL ZONING BY INSERTING A "Z" IN THE A1 AGRICULTURAL AND M1(P) PLANNED LIGHT INDUSTRIAL ZONING DISTRICT COLUMNS ON THIS SAME ROW; AMENDING ARTICLE IX INDIVIDUAL USES BY CREATING AND INSERTING IN NUMERICAL ORDER A NEW SECTION ENTITLED: SECTION 907.1 FIRING RANGE, OUTDOOR, WITH SUB-SECTIONS "A" THROUGH "J;" AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

Mr. Lloyd presented the case information and reviewed the changes and stated the Land Use Codes Committee has considered the above referenced text amendment to the County Zoning Ordinance and recommends forwarding the attached proposed amendment to the Joint Planning Board.

The amendment is necessary to ensure that the Cumberland County Zoning Ordinance contains specific provisions related to the land use impacts resulting from the operation of outdoor firing ranges. If adopted the provisions are intended to ensure the ranges are in an appropriate location with sufficient land area, have appropriate safety measures in place and provide a safe environment for the users of the facility as well as the occupants/owners of surrounding properties.

The committee recommends the review process require Planning Board consideration with the board's recommendation presented to the County Commissioners at public hearing for final determination.

Mr. Morris stated that he wanted to make sure that the definition did not include occasional target practice by any individual, property owned or leased by individuals, or individual's immediate family, temporary turkey shoots conducted on a property for more than twelve days in a calendar year, this is for more of a business operation, not family use.

There were people present to speak in favor and in opposition.

Mr. Tom Brooks spoke in favor. Mr. Brooks presented copies (exhibit 1) of a letter he wrote with his recommended changes to the amendment. Mr. Brooks stated that he was in favor of the changes to the ordinance, but would like to expand on one thing, the board should accept firing activities and shooting activities that are done by hunting clubs and hunting preserves on property where they have hunting leases of no less than 100 contiguous acres. Mr. Brooks owns McCormick Farms and he stated that they have four leases with four separate hunt clubs and the members use target ranges on the farm to zero their rifles, and kids sometimes skeet shoot. Mr. Brooks would like this amendment to accept those activities.

Mr. Clark asked if his business was a commercial business.

Mr. Brooks stated that the hunt clubs were not-for-profit hunt clubs, McCormick Farms leases their property to the hunt clubs.

Mr. Clark asked if that would be done, if there were a firing range involved or not.

Mr. Brooks stated yes leasing property to hunt clubs is a significant part of their income.

Mr. Pearce asked if bullets could be projected off of the property.

Mr. Brooks stated that at the only site they can target shoot they built a berm and have a place where they can shoot and the bullets would travel the length of the property. They don't use the target range like they do at Ft. Bragg firing ranges or other commercial ranges, then they go hunting.

Mr. Clark asked if there was a charge for hunters to come and zero their weapons.

Mr. Brooks said only members and their guests may come and use the property for hunting and shooting.

Mr. Henry Campen spoke in favor. Mr. Campen stated that he was counsel to Tiger Swan and they support the proposed changes. Mr. Campen suggested changes to section H of the ordinance and presented copies of his recommended changes (exhibit 2). Mr. Campen suggested adding "of the change or expansion" and "such" to section H. Mr. Campen also asked the board to consider making this a permitted use because this is a stringent ordinance with very specific criteria, there's no room for subjectivity.

Mr. Scott Manning spoke in opposition. Mr. Manning stated that he was the president of the Stedman Gun Club, which is just starting; the gun club was started due to the difficulty of joining the other clubs due to their membership roles being full. Mr. Manning stated the main objective of the club is to promote and teach gun safety and to promote and protect our second amendment rights; the secondary objective is to provide a social environment for the entire family where they can safely shoot their firearms and have a better knowledge in the safe handling and proper care of firearms as well as a place to improve their marksmanship skills. Mr. Manning is opposed to the five hundred acre requirement; this prevents them from purchasing a new site.

Mr. Morris asked Mr. Manning if his primary objection is the acreage.

Mr. Manning stated yes.

Mr. Clark asked Mr. Manning who would be allowed to shoot at his range.

Mr. Manning said the members would be allowed to shoot.

Mrs. Epler asked Mr. Manning if his was a commercial business.

Mr. Manning stated that his company was a 501(c)3.

Mr. Rick Smith spoke in opposition. Mr. Smith stated that his club offered the same as others and is well supervised. They offer matches to the public and assorted types of shooting. Mr. Smith said the issue was really about range safety, if this amendment goes forward as it is, it will limit future organizations from opening a range. Mr. Smith questions surface danger zones – what are the requirements? fencing – what type? Mr. Smith feels that this issue should be further researched and discussed before making a final decision. There is also no grandfather clause in the proposed amendment, if we are grandfathered in, what exactly must be done to satisfy the ordinance? Mr. Smith said that this is a great document but he just disagrees with the content.

Mr. Morris asked Mr. Smith if his site was forty acres.

Mr. Smith said yes.

Ms. Hall asked if Mr. Smith charged the public or if it was only by membership.

Mr. Smith said that membership is \$150 a year, when there is a match they charge a nominal fee. There are other fees for various activities.

Mrs. Piland asked Mr. Smith what kind of residential development was around his facility.

Mr. Smith stated that it was all farmland and wetlands behind but couldn't say where the closest residential development was located.

Mr. Clark asked if there were any instances of problems at Mr. Smith's club.

Mr. Smith stated no.

Mr. Lloyd stated that the Department of Energy (DOE) guidelines regulate people's access to the surface danger zones it doesn't say that the property has to be fenced, there could be some control measures, if the control measures aren't effective to regulate people getting into those surface danger zones then the area has to be fenced to keep people away, but not the entire site.

Mr. Calvin Poole spoke in opposition. Mr. Poole stated that he represented the Stedman Gun Club and the Stedman Community. Mr. Poole requested that the board not create obstacles that would make it impossible for them to start a club.

Mr. Kevin West spoke in opposition. Mr. West said that he was present representing a group of citizens that he asked to stand up. Mr. West also presented a list of concerns for the board (exhibit 3) along with suggested changes. Mr. West agreed that any firing range should come before the board and the County Commissioners, but feels that there are shortcomings in what has been proposed.

Mrs. Piland thanked Mr. West for pointing out the definition of the Agricultural district, and is not in favor a firing range being in an Agricultural district, feels that M1(P) is more appropriate.

Mr. Morris asked Mr. West if he felt M1(P) and M(P) are better suited for firing ranges.

Mr. West said yes.

Ms. Julia Faircloth spoke in opposition. Ms. Faircloth stated that she agrees with the previous speaker and feels that additional limitations and protections should be added in the text amendment and referenced page 3 section A of exhibit 3 which lists suggested additions to the amendment.

Mr. Sam Fort spoke in opposition. Mr. Fort stated that he felt that the five hundred acre requirement is designed for large firing range operations and designed to prohibit smaller operations which seem to represent a majority of firing ranges and was a little concerned about that. The proposed amendment doesn't address size of firing range facility or hours of operation. There were several other concerns that Mr. Fort mentioned and asked the board consider everything before making a final decision.

Public hearing closed.

Mr. Morris said that as Chair of the Land Use Codes Committee, after hearing all of the public comments in favor of and in opposition, he felt that it would be appropriate for this board to defer this back to committee and come back with a revised document.

**Mr. Morris made a motion, seconded by Mrs. Epler to defer Case P11-20 back to the Land Use Codes Committee for revision.**

Mrs. Piland said that the current version of the text amendment seems to be geared towards a large scale operation that would have a lot of resources, more than the hunting clubs have, hopefully the committee will address that.

Mr. Morris said that would be the purpose of the committee.

Mr. Pearce stated that he believed there were firing ranges in operation that were not listed, and it appears that they would be grandfathered in, somebody needs to do an exhaustive search of who might be grandfathered in.

Mr. Clark asked staff if there have been any problems in the County regarding firing ranges.

Ms. Speicher stated that they requested that the Sherriff's Office do a search where individuals were hurt or any property damage reports and they didn't find anything. They did note that there were individuals hurt or killed by hunters.

Ms. Hall asked if the committee could be furnished with the zoning of the list of shooting clubs.

Ms. Speicher said that could be provided.

Mr. Clark reminded the board that there was a motion on the floor to refer the P11-20 back to the Land Use Codes Committee for further review.

**The board unanimously approved the motion to refer Case P11-20 back to the Land Use Codes Committee.**

#### IX. PUBLIC HEARING WAIVER REQUEST

**CASE NO. 12-099.** CONSIDERATION OF THE ROSIE FORD PROPERTY; GROUP DEVELOPMENT REVIEW; REQUEST FOR A WAIVER FROM THE REQUIREMENT TO HAVE A MINIMUM OF 20 FEET OF STREET FRONTAGE ABUTTING EITHER A PUBLIC OR PRIVATE STREET; COUNTY SUBDIVISION ORDINANCE, SECTION 2302.A MUNICIPAL INFLUENCE AREAS (MIA) AND SECTION 2401.D STREET ACCESS;



ZONED: A1; TOTAL ACREAGE: 5.20+/-; LOCATED AT 3700 HARDEEWOOD DRIVE;  
SUBMITTED BY ROSIE H. FORD (OWNER) AND GARY LEE FORD.

Mr. Lloyd reminded the board that this case was heard in August of 2012 and stated that the applicant was requesting a waiver from the requirements to have a minimum of 20 feet of street frontage to either an approved private street or a public street.

Mrs. Epler made a motion, seconded by Mr. Morris that the Joint Planning Board for the County of Cumberland, having held a public hearing to consider the waiver request for **Case No. 12-100** requesting to not be required to have the mandatory 20 feet of road frontage and develop 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 arguments 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; Because of other unusual physical conditions;** strict compliance with the provisions of the County Subdivision Ordinance **would** cause a special hardship to the property owner and be inequitable; this finding is based on the following **CONDITIONS**:

**The lot was originally created on October 6, 1969 prior to the County Subdivision Ordinance being fully in effect (August 1984) and it would be inequitable to not allow a second unit on the existing 14 plus acre tract;**

2. It is the Board's **CONCLUSION** that the public purposes of the County Subdivision and County Zoning Ordinances **would** be served to an equal or greater degree; this finding is based on the following **CONDITIONS**:

**The public purposes of the ordinances are met because there is a recorded 30 foot wide ingress/egress easement that protects the access rights of the occupants; and**

3. It is the Board's **CONCLUSION** that the property owner **would not** be afforded a special privilege denied to others; this finding is based on the following **CONDITIONS**:

**The board has set precedence for allowing a second dwelling on tracts greater than ten acres in size when a minimum 20' wide access easement assures access to the subject property. Because of the foregoing, I move that the request for waiver be approved. Unanimous approval.**

## IX. DISCUSSION

### DIRECTOR'S UPDATE

- Mr. Lloyd updated the board on the Board of Adjustment training on March 21, 2013 and let them know that they were welcome to attend.
- Mr. Lloyd asked the board when they would like for staff to do their presentations. The board agreed to do that at the March 19<sup>th</sup> meeting.

## X. ADJOURNMENT

There being no further business, the meeting adjourned at 8:40 p.m.