

Charles Morris,  
Chair  
Town of Linden

Diane Wheatley,  
Vice-Chair  
Cumberland County

Jami McLaughlin,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman

Donovan McLaurin,  
Wade, Falcon & Godwin



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

*Planning & Inspections Department*

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Vikki Andrews,  
Carl Manning,  
Lori Epler,  
Cumberland County

Benny Pearce,  
Town of Eastover

Patricia Hall,  
Town of Hope Mills

**MINUTES**

March 21, 2017

**Members Present**

Mr. Charles Morris, Chair  
Mrs. Diane Wheatley, Vice-Chair  
Mr. Benny Pearce  
Mrs. Jami McLaughlin  
Mrs. Lori Epler  
Ms. Patricia Hall  
Mr. Harvey Cain, Jr.  
Mr. Carl Manning  
Mr. Donovan McLaurin

**Members Absent**

Dr. Vikki Andrews

**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

Mrs. Epler delivered the invocation and Mr. Manning led those present in the Pledge of Allegiance.

II. APPROVAL OF / ADJUSTMENTS TO AGENDA.

**Mrs. Wheatley made a motion to accept the agenda as submitted, seconded by Mrs. McLaughlin. Unanimous approval.**

III. PUBLIC HEARING DEFERRALS / WITHDRAWALS

There were none.

IV. ABSTENTIONS BY BOARD MEMBERS

Mrs. Epler abstained from Case P08-48.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

VI. APPROVAL OF THE MINUTES OF FEBRUARY 21, 2017

**Mr. McLaurin made a motion to accept the minutes as submitted, seconded by Mrs. Wheatley. Unanimous approval.**

VII. PUBLIC HEARING CONSENT ITEMS

CONDITIONAL ZONING DISTRICT

- A. **P17-10.** REZONING OF 10.08+/- ACRES FROM R7.5 RESIDENTIAL/CUD CONDITIONAL USE DISTRICT FOR NON-PROFIT RECREATION CENTER TO R7.5 RESIDENTIAL/CZ CONDITIONAL ZONING FOR NON-PROFIT RECREATION CENTER & OTHER SPECIFIC REQUESTED ALLOWED USES OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED

AT 4221 BLACK BRIDGE ROAD, SUBMITTED BY THURSTON AND CHARLOTTE ROBINSON (OWNERS). (HOPE MILLS & COUNTY)

**1<sup>st</sup> MOTION**

In addition to the above information, the Planning and Inspections Staff recommends the board approve Case No. P17-10 for R7.5 Residential/ CZ Conditional Zoning for non-profit recreation center & other specific requested allowed uses and as listed in the board's packet based on the following:

- If approved, the use will provide a valuable alternative source of organized recreation for the citizens in the surrounding community.

No other district could be considered suitable at this location. Applicant has verbally agreed to all conditions.

**2<sup>nd</sup> MOTION**

The Planning and Inspections Staff recommends the board find that approval of the request is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for "urban" development at this location. The request would also meet Vision 6, specifically 6.11 and 6.12, of the *2030 Growth Vision Plan*, which calls for exploring increased privatization of park maintenance and programming as well as encouraging public-private arrangements for park development, programming and maintenance of park and recreation facilities. Although the request is not entirely consistent with the Southwest Cumberland Land Use Plan which calls for "medium density residential and open space," the nonprofit recreation center was approved on this site in 2011 and is currently under construction. The Southwest Cumberland LUP was adopted on November 18, 2013 by the Cumberland County Board of Commissioners and March 17, 2014 by the Hope Mills Board of Commissioners.

The staff recommends the board further find that approval of this rezoning is reasonable and in the public interest because the district and uses requested for the subject property meets or exceeds the location criteria of the adopted Land Use Policies Plan, in that: *public water and sewer required, PWC water and sewer available; must have direct access to a public street, Black Bridge Road is a minor arterial street; must not be located in any defined critical area as defined by the Fort Bragg Small Area Study; desirable to not be located in the Special Flood Hazard Area (SFHA), there is no SFHA on the subject property; and must not be an area with hydric soils unless sewer is available, public sewer is available.*

**Mr. McLaurin made both of the motions referenced above, seconded by Ms. Hall, to follow the staff recommendations and approve the rezoning request. The motions passed unanimously.**

VIII. PUBLIC HEARING CONTESTED ITEMS

MODIFICATION OF PERMIT

- B. **P08-48.** MODIFICATION TO A PORTION OF THE PERMIT FOR A MXD MIXED USE DEVELOPMENT/CUD CONDITIONAL USE DISTRICT, SPECIFICALLY THAT PORTION APPROVED FOR PUTT PUTT PERTAINING TO THE EXPANSION & RELOCATION OF TRACK AND USE OF GASOLINE POWERED GO CARTS; LOCATED AT 3311 FOOTBRIDGE LANE; SUBMITTED BY DAVID CALLAHAN ON BEHALF OF MILLSTONE PARTNERS, LLC (OWNER) AND LORI EPLER ON BEHALF OF LARRY KING & ASSOCIATES (AGENT). (HOPE MILLS)

Mr. Lloyd presented the case information and photos.

Under the Conditional Use District and Permit process previously employed by the Hope Mills Board of Commissioners, two distinct separate motions were required after a quasi-judicial hearing. The first motion related to the zoning district and the uses requested to be allowed within

that district. The current P08-48 application is not a request to change the district. The second motion addressed the Permit, which included the contents of the application, site plan and ordinance related conditions, ensuring that the town's regulations were followed as well as safeguarding the surrounding properties. The subject property is a portion of the Millstone Mixed Use Development that was approved as a Conditional Use District with the Permit being approved as well.

The application before you is a request to change the Permit, specifically the site plan as originally approved, by proposing to expand the go cart track closer to the adjacent residential property and converting to gasoline powered go carts as opposed to the electric go carts originally requested and approved. Since this was a contentious issue during the original hearings on the case, the staff has set this request to change the Permit for public hearing with the final decision to be determined by the Hope Mills Board of Commissioners.

The staff recommends denial of the requested change to the Permit regarding track expansion and the use of gasoline powered go carts based on the following:

1. The request will likely materially endanger the public health and safety, in particular the detrimental effect to the nearby residential properties due to the increase in noise resulting from the use of gasoline powered engines and the track location merely being separated from the immediately adjacent residential properties by a wood privacy fence. The 2013 Noise Study attached to the application is not relevant to this request for numerous reasons. Some of which are that the study was performed for a site in Oregon, according to the study the property location is much further away from nearby residential properties, different sound barriers and berms had been erected, the topography and weather in Oregon is substantially different than in Hope Mills, all which could affect how sound travels.
2. There is no information contained within the application indicating that the request will not substantially injure the value of adjoining or abutting property, in fact the request would most likely have the opposite effect.
3. Increasing the level of sound, not just with the engine noise but the probable increase in intercom noise as well, cannot be deemed to be in harmony with the area in which it is to be located. There is potential that at some point in the future the properties along Camden Road will convert to commercial; however, the residential properties that are a part of this mixed use development to the rear and other nearby residential properties are likely to continue to be used for residential purposes and are worthy of protection.
4. This request is not in conformity with the 2030 Growth Vision Plan in that the Plan calls for consistent zoning practices protecting existing and planned neighborhoods from incompatible, large scale, developments. In addition, the Southwest Cumberland Land Use Plan has an overriding goal of protecting the existing residential areas from commercial encroachment thus maintaining *the stability, character and density of existing sound neighborhoods*.

In the event the board is inclined to recommend approval of this request, the draft Ordinance Related Conditions are attached and the property owner has verbally agreed to each condition.

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

Jeff Nobles spoke in favor. Mr. Nobles is an engineer with Larry King and Associates, who worked on the primary design of the Millstone development, Putt Putt original development and also worked through the original conditional use application. We also worked with Putt Putt to prepare the site plan revision to allow the expansion of the go-cart track. We worked to expand the go cart track, but we also revised the parking area to accommodate the added area, the changes that were proposed still meet the requirements of the conditional use district and the current ordinances. Mr. Nobles asked that the board vote in favor of the request.

David Callahan spoke in favor. Mr. Callahan stated that when they first built the facility gas carts had many more issues than they do now. They do believe now the current manufacturer, the noise factor, will not be more than what is going on now. Hopefully they can have noise studies done to prove that, as far as the lighting, all of the lighting is directed down on the property itself. It should not filter over into the surrounding neighborhoods. We've been in operation since November 2010, and to the best of his knowledge the only noise complaint received was about the gasoline blower. They feel like they have a good facility for the community, they have created a significant amount of jobs, have done a couple of expansions since they've been there, all of the partners with the exception of a few are residents of Fayetteville. When they first decided to go with battery operated carts that was for environmental reasons, but over a period of years we've got more environmental issues discarding the batteries than we have with the gasoline carts that are in operation at other locations. Mr. Callahan stated that he hoped to get the board's consideration.

Teresa Greco who signed up to speak in favor stated that she had nothing to add.

Mike Kelly spoke in opposition. Mr. Kelly stated that there is no noise during the day because the go carts are electric, but feels the change to gas will make it worse. Mr. Kelly has concerns about the lighting and noise; he stated that right now the light from the facility shines through his windows all night.

David Callahan gave his rebuttal. He restated that they have been in operation for almost seven years and to the best of his knowledge there have been no complaints. Everything that they are trying to do will enhance the guest experience.

Public Hearing closed.

Mr. Manning asked about where the noise study was done and when.

Mr. Lloyd stated that the study was done in Oregon in 2013. The electric cars may very well be no more noisy, but there's no proof of that here. We don't know how fast the cars will be going, there's no way to regulate that with this. In this study you had berms and sound barriers; the applicants only have a wooden fence. So, the burden of proof that it's not going to be any more detrimental, staff feels hasn't been met.

Ms. Hall made a statement. She stated that there is a row of houses that backs up to the fence. She realizes that eventually the entire corridor will be commercial, as it's been pointed out. However, at this time there are communities there and families living in those communities, and personally she has no objection to the racetrack, but if she lived there she would not want to hear ten or twelve lawnmowers, and that's what it would amount to and doesn't know why noise ordinances can't be enforced. Ms. Hall stated that she does think that this request would present a noise level that would not enhance the quality of life of that community.

**Ms. Hall made a motion to follow the staff recommendation and deny the request for the modification of the permit, seconded by Mrs. Wheatley. Unanimous approval for the denial.**

#### REZONING DISTRICT

- C. **P16-46.** REMOVAL OF 68.49+/- ACRES FROM THE CTOD COLISEUM TOURISM OVERLAY DISTRICT AND REZONING FROM M(P) PLANNED INDUSTRIAL, RR RURAL RESIDENTIAL AND R6A RESIDENTIAL TO M(P) PLANNED INDUSTRIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT THE NORTHWEST QUADRANT OF SR 1007 (OWEN DR) & SR 2593 (TREE FARM RD) (NC HWY 87 S SERVICE ROAD); SUBMITTED BY TOM KEITH ON BEHALF OF TREE FARMER, LLC (OWNER) AND TONY RAND, ATTORNEY (AGENT).

Mr. Lloyd presented the case information and photos.

**1<sup>st</sup> MOTION**

The Planning and Inspections Staff recommends the board find this request inconsistent with the 2030 Joint Growth Vision Plan (April 2009), specifically Policy Areas 1, *A More Diversified Local Economy*; 2, *Well-Managed Growth and Development*; 10, *Community Appearance and Image*; 16, *Intergovernmental Cooperation and Efficiency*; and 17, *An Active, Involved Citizenry*. Each of these policy areas contain provisions and actions geared toward the enhancement of areas such as the location of the subject property for economic development purposes and ameliorating the quality of life, image and cultural amenities for the citizens of Cumberland County. Policy 17.2 stresses that *public involvement shall be encouraged in decisions on land use and development*; the staff, Planning Board, Coliseum Commission and County Commissioners expended a tremendous amount of time and effort encouraging the owners of properties within the CTOD area to be involved during the drafting and ultimate adoption of provisions applied within the area. The City staff, Planning Commission and Council did the same. Concessions were made at each level based on public input that would affect reduction of the creation of nonconformities, removing certain residential properties and allowing billboards within specific areas of the CTOD, while keeping the overall purpose and intent of the district – increasing tourism, promoting economic development and clearing the area of blight – at the forefront.

The staff also recommends the board find this request inconsistent with the South Central Land Use Plan (June 2015). The South Central Plan reinforces many of the policies of the 2030 Plan as goals for this specific area, addressing the Coliseum Overlay area and acknowledging the importance of the Airport Overlay district, another joint project by the County and City, adopted as a basis for the Fayetteville Regional Airport Master Plan (2005). Both the Crown Center Complex and the Fayetteville Regional Airport, governed by two separate entities, are important for the economic health of the entire County and this region. In order for both of these facilities to serve the public and function to their highest potential, it is imperative that land use and regulatory decisions are made that positively impact the area and are compatible with the essential operations of the coliseum and airport.

The staff recommends the board further find that approval of this request is not reasonable or in the public interest because the subject property is located at the primary entrance point for the Crown Center Complex from NC HWY 87, which ultimately connects Interstate 95, the major tourist route to the complex, removal from the CTOD would defeat one of the most critical driving forces for establishment of the overlay district since protection of the NC 87/Owen Dr interchange area was the impetus for creation of the CTOD. In addition, the subject property does not meet or exceed all of the location criteria of the adopted Land Use Policies Plan (April 2009) for the M(P) Industrial zoning district, in that: *public water and sewer required*, PWC water is available but sewer is not and heavy industrial *should not be in a predominantly residential, office & institutional, or light commercial area*, the uses allowed in the Coliseum Overlay are generally light commercial tourism oriented uses.

**2<sup>nd</sup> MOTION**

In addition to the above information, the Planning and Inspections Staff recommends the board deny Case No. P16-46 for removal from the CTOD and the rezoning to M(P) Planned Industrial based on the following:

1. The primary purpose of the CTOD is to ensure development within the district boundary is compatible with the objectives of promoting the Crown Center Complex and establishing a contemporary, vibrant retail area that is harmonious with the complex events, the uses allowed within the M(P) district are not such uses as will meet these objectives. In addition to manufacturing, some of the uses allowed M(P) Planned Industrial district include: junk yards, hazardous material disposal/storage sites, and any other industrial use not prohibited by the ordinance.
2. The property owner was an active participant in the Coliseum Tourism overlay adoption process with changes made solely for the subject property's benefit, it would not be equitable to

support the removal of the subject property from the overlay district and would defeat the purpose of establishment of the district.

3. The primary purpose of the AOD is to protect the public health, safety and welfare in the vicinity of the Fayetteville Regional Airport by *minimizing .....accident hazards generated by the airport operations and to encourage future development that is compatible with the continued operation of the airport and the economic well being of the County.* All uses allowed in the M(P) Planned Industrial District are not consistent with the purpose of the Airport Overlay District or the airport's mission because some of the uses would allow for a high concentration of people in a relatively small area. In particular the subject property is located within the airport's Impact Zone 3 and the ordinance specifies that Zone 3 should allow zero to low density residential development or non-residential development ranging from 25-40 people per acre, which is likely to be far exceeded by most manufacturing uses.

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

Tony Rand spoke in favor. Mr. Rand stated that the subject property is completely undeveloped. There is no sewer. The hope is that some development might be compatible with the area. There is very little that can be done with this property except for some kind of light industrial. It has very little impact on the Coliseum District. The land is somewhat isolated.

Richard Breeden spoke in opposition. Mr. Breeden presented excerpts from the Southwest Land Use Plan for the Board. Mr. Breeden stated that residents of Dogwood Acres and pretty much Owen Drive agree with everything Mr. Lloyd said. They worked long and hard to get the CTOD to fit everybody's needs. Mr. Breeden pointed out that in the Southwest Land Use Plan, Owen Drive was considered a super street with plans to beautify because it will be a major thoroughfare. This will not only attract tourists, but it's designed to entice tourists and the public to stop off into Fayetteville. There are also plans to connect the Coliseum with the airport, so there will be a roundabout on the east side of the Coliseum. The intent is to make the whole area beautiful and continue with economic development for Cumberland County. The residents are also concerned about their property values if this is approved. There are also endangered species in the area that should be considered.

Mary Packer spoke in opposition. Ms. Packer stated that she has been in the neighborhood for fifty eight years, and the neighborhood does not detract from the plans for beautification of Owen Drive, they support the plan to beautify the corridor. Removing the subject property from the CTOD raised questions about the effect on the area. Ms. Packer feels there is nothing good about the request. Ms. Packer asked that the board deny the request.

Kendal Breedlove spoke in opposition. Mr. Breedlove stated that he agreed with the previous speakers and feels that the request can't help the neighborhood.

Public Hearing closed.

Mrs. Epler asked if there was any discussion between staff and the applicant about a buffer on the street frontages that could follow the overlay district regulations.

Ms. Speicher said that there was no discussion about a buffer. Mr. Keith was opposed to his uses being restricted to only those specifically allowed in the CTOD that was the discussion.

Mr. Lloyd stated that three years ago they worked with all the residents, property owners, and businesses that fell in this district to work with them on the whole non-conforming issue, even with the petitioner on billboards that weren't even wanted by anyone involved, but did allow them every one thousand feet along Owen Drive.

Ms. Speicher added that any new use or change in use requires a conditional zoning application and can only be approved by the Commissioner's within the CTOD.

**Mrs. Wheatley made both of motions above, seconded by Mrs. Epler to follow the staff recommendation and deny the request. Unanimous approval.**

IX. DISCUSSION

DIRECTOR'S UPDATE

Mr. Lloyd advised the Board that he would not be at the next meeting.

XI. ADJOURNMENT

There being no further business, the meeting adjourned at 7:50 pm.