

M I N U T E S
December 18, 2001
7:00 p.m.

Members Present

John M. Gillis, Chair
Clifton McNeill, Vice-Chair
David Averette
Dallas Byrd
Charles Morris
Joe W. Mullinax
Marion Gillis-Olson
Jerry Olsen

Others Present

Barry Warren, Director
Thomas J. Lloyd
Donna McFayden
Barbara Swilley
Denise Sykes

Kenneth Edge, County
Commissioner

Chair Gillis welcomed Commissioner Edge to the meeting. He will be serving as liaison at the second meetings of the month, and Commissioner Council will serve at the first meetings of the month.

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

Cases P01-94 and P01-97 and the Watershed Ordinance were moved from Consent to Public Hearing Items. A motion was made by Vice-Chair McNeill and seconded by Mr. Morris to approve the Agenda with the above changes. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board members.

V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the Board's statement regarding public hearing time limits.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF DECEMBER 4, 2001

The word "substitute" is to be added to the motion on page 7. A motion was made by Mr. Morris and seconded by Mr. Olsen to approve the Minutes of December 4, 2001 with the above correction. The motion passed unanimously.

B. WADE AREA MASTER PLAN

Ms. Sykes explained that the Wade Area Master Plan was complete and to be used to assist the Town in their request for grant funding for a park in the Town.

A motion was made by Mr. Olsen and seconded by Dr. Olion to approve the Wade Area Master Plan.

Mr. Olsen thanked the staff for the professional way in which the Plan was prepared. He said that the Town of Falcon received an \$80,000 grant when they used a similar plan prepared by staff.

Upon a vote on the motion, it passed unanimously.

C. P01-95: REZONING OF 1.5 ACRES FROM A1 TO RR, OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 6357 BRAXTON ROAD, OWNED BY ALBERT KELLY.

The Planning staff recommended approval of the RR Rural Residential District based on the following:

1. The uses allowed in the RR District are consistent with the existing development and zoning in the area.

The Planning staff found that the subject property is also suitable for the intervening districts.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Mullinax and seconded by Mr. Olsen to follow the staff recommendations and approve the RR Rural Residential District. The motion passed unanimously.

D. P01-98: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW OUTSIDE STORAGE OF PLUMBING SUPPLIES AND EQUIPMENT ON 1.0 ACRES IN A C3 DISTRICT AT 3934 LEGION ROAD, OWNED BY EARLISE JONES.

The Planning staff recommended approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

The packet materials were entered into the record.

The Planning staff recommended approval of the Conditional Use Overlay Permit based on the findings that 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 2010 Land Use and Thoroughfare Plans.

The Planning staff recommended the following conditions be added to the Conditional Use Overlay Permit:

1. A solid buffer of fence and vegetation be placed around the entire storage area; and
2. All lighting is to be directed inward away from residential properties.

No one appeared in favor of or in opposition to the request.

A motion was made by Mr. Mullinax and seconded by Mr. Averette to follow the staff recommendation and approve the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest. The motion passed unanimously.

A motion was made by Mr. Olsen and seconded by Mr. Averette to follow the staff recommendations and approve the Conditional Use Overlay Permit based on the findings that the use: 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 2010 Land Use and Thoroughfare Plans. The motion included the following conditions: 1. A solid buffer of fence and vegetation be placed around the entire storage area; and 2. All lighting is to be directed inward away from residential properties. The motion passed unanimously.

VII. PUBLIC HEARING ITEMS

A. CUMBERLAND COUNTY WATER SUPPLY/WATERSHED MANAGEMENT AND PROTECTION, APPENDIX C, CHAPTER 31A

Mr. Warren explained to the Board that the Watershed Ordinance was approved by the Board and Commissioners a few years ago; however, the State had some changes that they wanted incorporated and never approved the Ordinance. He said that Ordinance has been corrected and reflects what the State requested. Mr. Warren said that the Ordinance must first receive approval by the Board, then the Commissioners before it is sent back to the State.

A motion was made by Mr. Olsen and seconded by Mr. Byrd to approve the Cumberland county Water Supply/Watershed Management and Protection Ordinance as received by staff.

Mr. Averette asked why it was necessary to have a Watershed stamp on all plats. He said it was not required by law. Mr. Warren said that the Subdivision Ordinance didn't require the stamp, but the Watershed people in Raleigh have asked that it be on the plats. Ms. McFayden said that the stamp is not an item she is required to look for as Plat Review Officer. Mr. Warren said that he would find out if it is required.

A substitute motion was made by Vice-Chair McNeill and seconded by Dr. Olion to defer action on the Watershed Ordinance until January 15, 2002. The motion passed unanimously.

- B. P01-94: REZONING OF 13.48 ACRES FROM A1 AND R40 TO R40A, OR A MORE RESTRICTIVE ZONING DISTRICT, ON WADE-STEDMAN ROAD, NORTH OF MAXWELL ROAD, OWNED BY JOYCE AND OTIS A. THAMES AND ANN C. AND CHARLES H. AUTRY.

Maps were displayed outlining the zoning and land use in the area. A video of the site was shown. Mr. Lloyd said that the Planning staff recommended approval of the R40A Residential District based on the following:

1. The uses allowed in the R40A District are consistent with the development in the area; and
2. The R40A District is appropriate within the farmland area.

The staff found that there are no intervening districts to consider for suitability.

Mr. Otis Thames appeared before the Board and said that there are two acres in the rear of the property that contain wetland.

Mr. Bob Bennett, engineer, appeared before the Board and said that the owner intends to have occupied mobile homes on the site and does not intend to have a trailer park. He said that three of the four abutting tracts are smaller than the size required for the R40 District. Mr. Bennett said that Mr. Thames plans to develop nice mobile homes that will be an asset to the neighborhood. He added that this would be the highest and best use.

Mr. Wayne Tew appeared before the Board in opposition and said that the video wasn't a true picture of the houses in the area. He said that many of the homes have had a substantial investment--\$150,000 to \$175,000, and his concern was that mobile homes would bring transients to the area, which will mean more noise and traffic. He said that there are many areas within the County where mobile homes have been a detriment to the community.

Mr. Thomas Roth appeared before the Board in opposition and said that he owns property near the subject property, and the road will be close to his tract. He said that mobile homes would bring in kids and additional traffic. He added that 15 units are too many to allow on the tract.

Ms. Polly Woyan appeared before the Board in opposition and said that she lives on Wade-Stedman Road. She said that additional mobile homes would add an excessive amount of traffic and depreciate the value of her property. Ms. Woylan submitted a letter from other residents of the area who oppose the rezoning.

Ms. Sharon Collier appeared before the Board in opposition and said that she owns property across the road from the subject property. She said that she opposes the rezoning for the reasons given by her neighbors.

Ms. Helen Autry appeared before the Board in opposition and said that she owns the adjoining property and does not the rezoning to devalue her land. She said that there will be more transients, and she's a widow and lives alone and doesn't want to have to fear people that might live next to her.

Mr. Thames appeared before the Board in rebuttal and said that he would not be allowed to have 15 trailers on the property—five to seven would be the maximum because of the size of the tract and the wetlands contained on it.

Mr. McNeill asked Mr. Thames if he lives on the property, and he was told that he does not, but his wife was raised there. Mr. McNeill asked the size of the property, and Mr. Lloyd said that the three lots contain about 13 acres. Mr. Lloyd added that the current zoning would allow six mobile homes.

Mr. Olsen said that the current zoning would allow only one unit on each of the three lots. Mr. Lloyd explained that with rounding, two units would be allowed on each lot.

Chair Gillis closed the public hearing.

Vice-Chair McNeill said that the owners will have to consider a mobile home park if three or more trailers are placed on the property. Mr. Lloyd said if they subdivide the tract, they could have 13 lots with two Class C roads.

Chair Gillis said even though part of the property is unusable because of wetlands, the density would allow 14 to 15 units. Mr. Lloyd agreed and said that the owner could cluster them in the front of the property outside of the wetlands. He said that the allowed density is not lessened because of the wetlands.

Mr. Olsen asked where the mobile homes are located in the area. Mr. Lloyd pointed out two on the map. Mr. Olsen asked if the subject property abuts any other R40A. Mr. Lloyd said that it does not.

Chair Gillis asked how the other R40A was established in the area. Mr. Lloyd said that it was done when the property was initially zoned in 1994.

Mr. Lloyd said that a request for R40A was denied in January of 2000.

A motion was made by Mr. Morris and seconded by Vice-Chair McNeill to deny the request.

Mr. Olsen noted that there is R40A in the area, and even though it was zoned initially, he couldn't see how this request could be denied.

Chair Gillis recognized Mr. Tew for a question/comment. Mr. Tew said that the land zoned R40A contains woods and no mobile homes. He said that the owner is selling land for houses.

Vice-Chair McNeill said that there is a history of denial in the past. Mr. Lloyd said that the Commissioners denied the request, but the Board approved it. Vice-Chair McNeill said that the area is better served as A1.

Mr. Morris called for the question. Upon a vote, the call was approved 7 to 1 with Mr. Averette voting against it.

Upon a vote on the motion it passed 5 to 3 with Chair Gillis, Vice-Chair McNeill, Dr. Olion and Messrs. Morris and Mullinax voting in favor and Messrs Averette, Byrd and Olsen voting in opposition.

C. P01-97: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW AN AUTOMATIC CAR WASH ON A PORTION OF 85.66 ACRES IN AN A1 DISTRICT AT THE SOUTHWEST CORNER OF TOM STARLING ROAD AND HIGHWAY 87 SOUTH, OWNED BY MR. AND MRS. JOHN R. NUNALEE.

Maps were displayed outlining the zoning and land use in the area. A video of the site was shown. Mr. Lloyd explained that there is A1, RR and C(P) across Highway 87 from the subject property. He said that the overlay is just for a car wash. He reviewed the application with the Board and pointed out the buffering and lighting to be used towards Tom Starling Road.

Mr. Lloyd said that the Planning staff recommended approval of the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

The Planning staff recommended approval of the Conditional Use Overlay Permit based on the findings that 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 2010 Land Use and Thoroughfare Plans.

The Planning staff recommended the following conditions be added to the Conditional Use Overlay Permit:

1. A solid buffer of fence and vegetation be placed along the northwestern property line;
2. All lighting is to be directed inward away from residential properties;
3. Traffic for the car wash is to exit towards Tom Starling Road.

Packet materials were submitted into the record.

Mr. John Lennon appeared before the Board and handed out pictures and a site plan indicating the entrance and direction of traffic. He said that the car wash uses a total reclamation system. He said that DOT allowed a curb cut and required a 150-foot turn lane. He said that the investment is \$300,000, and he anticipates growth in the area. He said that the traffic signal is in place. Mr. Lennon added that the permitting process takes four to six months.

Vice-Chair McNeill asked about buffering, and Mr. Lennon said that it would not be a problem.

Mr. Ray Bean appeared before the Board and said that he is the owner/operator of the car wash. He said that there is currently a car wash on Maxwell Road and Highway 84. He said that the requested car wash will be a natural tie in to the first class convenience store, gas station and restaurant on the site.

Mr. Wilford Saunders appeared before the Board and said that he lives adjacent to the site. He thanked Messrs Lennon and Bean for going to his home before the Board meeting. He said that his concerns are drainage (because the land is low and stays wet) and property values. He said that he hoped for better drainage when the road goes in and noted that the owner will have to build up the site for their proposal. He said that he just wanted to make sure that lighting and additional traffic were also discussed at the meeting. Mr. Saunders added that the operation on Maxwell Road is excellent, and this is a good area for the same as long as drainage is resolved.

Mr. Vern Pate appeared before the Board and said he wasn't opposed but had questions, and Mr. Lennon answered them earlier at the meeting. He said that the applicant has been an excellent neighbor.

Mr. Lennon responded to the drainage issue by stating that the State dictates that they have to drain the area, and it cannot be drained on to adjacent tracts of land. He said that the culvert on Highway 87 should handle the drainage. Mr. Lennon added that he would work with Mr. Saunders to put in either solid fencing or berm the area, whatever Mr. Saunders desires.

The public hearing was closed.

A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendations and approve the Conditional Use Overlay District based on the findings that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest. The motion passed unanimously.

A motion was made by Dr. Olion and seconded by Mr. Morris to follow the staff recommendation and approve the Conditional Use Overlay Permit based on the findings that 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 2010 Land Use and Thoroughfare Plans. The motion included the following conditions be added to the Conditional Use Overlay Permit: 1. A solid buffer of fence and vegetation be placed along the northwestern property line; 2. All lighting is to be directed inward away from residential properties; and 3. Traffic for the car wash is to exit towards Tom Starling Road. The motion passed unanimously.

VIII. DISCUSSION

A. REPORT ON COUNTY COMMISSIONERS' MEETING—CLIFTON McNEILL

Vice-Chair McNeill reported that the unzoned area of the County is now zoned. He said that the hearing went very well. He said that the Commissioners followed the Board's recommendations on all but one case—C1 to CU on Reilly Road—they denied it.

Mr. Warren said that the Commissioners directed staff to look at the regulation regarding parking for commercial establishments on adjoining residential property. He said that the staff is to take it off as a permitted use. Mr. Lloyd said that staff plans to require buffering of parking lots from residential areas. Mr. Warren said that staff is to have a recommendation back to the Commissioners within 60 days.

B. REPORT ON LAND USE CODES COMMITTEE – JERRY OLSEN

Mr. Olsen reported that on January 8, 2002, the Committee will meet with representatives from the poultry industry to discuss regulation as requested by the Commissioners. He said that the meeting will also be to finish with the Private Street amendment to the Ordinance, and members of the development community are to attend the meeting.

C. REPORT ON COMPREHENSIVE PLANNING COMMITTEE – JOE MULLINAX

Mr. Mullinax reported that the Committee is currently reviewing the Spring Lake Land Use Plan. They have directed staff to condense the document by omitting much of the citizen input section, combining exhibits and maps and eliminating some of the history. They are also to add an executive summary. He said that the next meeting is scheduled for January 15, 2002.

D. MAXWELL ROAD/HIGHWAY 24 LAND USE PLAN UPDATE

Mr. Mullinax reported that the Comprehensive Planning Committee reviewed the Maxwell Road/Highway 24 Land Use Plan, and its recommendation is to hold a public hearing by the full Board on January 15, 2002. The motion passed unanimously.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Mr. Warren reported that cross training of inspectors has begun, and he is looking at a one-stop permitting process to be used by the County within the next 60 days.

Chair Gillis said that he was glad to see this matter being considered because he was concerned about the length of time it takes to obtain a Certificate of Occupancy and the amount of time it takes for a general permitting process.

Commissioner Edge said that a "user friendly" outline should be written to show step-by-step how to obtain a permit.

Vice-Chair Gillis said that there is a website (www.fayetteville.nc.net) in place that contains economic development themes and input from the Visitors' Bureau. He directed Mr. Warren to get in touch with Linda Blanton or Wick Smith, who are responsible for the website. He said that the instructions could be included under the website.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 8:50 p.m.