

Clifton McNeill, Jr.,
Chair
Cumberland County

Charles C. Morris, Vice-Chair
Town of Linden
David Averette,
John M. Gillis, Jr.
Marion Gillis-Olion
Cumberland County



COUNTY of CUMBERLAND

Planning and Inspections

Nancy Roy, AICP,
Director
Planning & Inspections

Joe W. Mullinax,
Town of Spring Lake
Jerry Olsen,
Wade, Falcon & Godwin
Frank Underwood,
Town of Stedman

MINUTES
July 1, 2003
7:00 p.m.

Members Present

Clifton McNeill, Jr., Chair
David Averette
John M. Gillis, Jr.
Joe W. Mullinax
Marion Gillis-Olion
Frankie Underwood

Members Absent

Charles Morris, Vice-Chair
Representative from
Falcon, Godwin and Wade

Others Present

Nancy Roy, Director
Hope Barnhart
Edward Byrne
Will A. Denning
Thomas J. Lloyd
Barbara Swilley
Denise Sykes

I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

II. APPROVAL OF AGENDA/ADDITIONAL ITEMS

A motion was made by Mr. Mullinax and seconded by Mr. Gillis to approve the Agenda as submitted. The motion passed unanimously. Dr. Olion was not present for the vote.

III. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF JUNE 17, 2003

Mr. Averette clarified a statement that he had made. A motion was made by Mr. Averette and seconded by Mr. Mullinax to approve the Minutes of June 17, 2003 with the clarification. The motion passed unanimously. Dr. Olion was not present for the vote.

IV. PLATS AND PLANS

A. 03-115: CONSIDERATION OF THE LLOYD GROOMS SUBDIVISION REVIEW ON THE NORTH SIDE OF TISSHUVAH LANE, EAST OF PARKTON ROAD FOR A VARIANCE FROM SECTION 3.2, "LOT STANDARDS," CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

Mr. Lloyd explained that the property under consideration is landlocked, served by an easement, and the property owner wants to subdivide the tract. He said that this case falls under similar cases that he and Mr. Barrett wanted to clarify for the Board. Mr. Barrett gave the Court's criteria in judging neighborhood public roads: They must 1) be outside city or town limits; 2) serve as public use as opposed to a private drive; 3) serve as a means of ingress/egress for one or more families; and 4) have existed for at least 20 consecutive years from 1921 to 1941.

Mr. Barrett explained the history on using a public road and how the courts determined the criteria. He said that he is leery of subdividing property based on kinship. He said that an easier way is to treat the land as a minor subdivision, and this would be allowed through the Class C Private Street process.

Mr. Lloyd said that there is an easement in this case. Mr. Barrett said that prescriptive easement is adverse possession of an easement. He said that there must be open and fixed boundaries, maintained and go back 20 years.

Mr. Lloyd said that there are many landlocked lots like this one throughout the County, even in the Urban Services Area, where Class C Streets are not allowed. Mr. Barrett said that the Ordinance is specific about public roads. Mr. Lloyd said that the Ordinance doesn't allow a subdivision off of an easement, but a group development is allowed and would give the landowner an additional unit.

Mr. Lloyd Crooms appeared before the Board and said that he has access to the property from Parkton Road along Tisshuvah Lane. He said that the police and fire departments use the lane as well as the private landowners. He said that the easement has been used for many years—since the time his grandparents owned the land, but it was just recently named. Mr. Crooms said that most of the property was farmed in the early years, where tenant farmers lived there and used the lane. He said that it has always provided access for more than one family. He said it has been used as a community pathway and went through his land, but he closed it off.

Mr. Barrett asked if Mr. Crooms' understanding of the use of the property came from his grandparents and parents, and Mr. Crooms said that it did, and he was born in 1931.

A motion was made by Mr. Gillis and seconded by Mr. Mullinax to approve the request after the finding that the lane was outside of the city limits, existed between 1921 and 1941 and served a number of families as an ingress/egress off of Parkton and Muscat Roads for more than 20 years.

Mr. Averette said if it is determined that Tisshuvah Lane is a public road, then the staff has the right to approve the request without the Board. He asked if the road would be shown when the subdivision is platted. Mr. Barrett said that it would be shown and have to be labeled as a public road. He said it would also be useful to further provide reference to the CCJPB meeting minutes of July 1, once the road is indicated through the first lot to the back lot. Mr. Averette said that going through the first lot wouldn't be allowed. Mr. Byrne said that it could be used as a flag lot. Mr. Averette said that he didn't have a problem with it. Mr. Barrett said that they would just be extending the neighborhood public road.

Upon a vote on the motion, it passed unanimously.

Chair McNeill referred the issue to the Comprehensive Planning Committee to look at creating a section of the Ordinance to establish minor subdivisions.

V. DISCUSSION

A. WADE AREA PLAN—WILL DENNING

Mr. Denning gave a presentation on the Wade Area Detailed Land Use Plan. He said that the 2010 Land Use Plan outlined areas that needed detail planning, and the Wade area was the next in line. He said that Studies were already completed on Spring Lake, North Fayetteville, Eastover, Stedman and Vander.

Mr. Denning said that the Wade area boundaries were the Cape Fear River, Eastover Study area and the roads joining the two. He said that there are 1,500 people in the study area,

which covers 24 square miles and 15, 580 acres. He said that there was a 50 percent growth in population between 1970 and 2000.

Mr. Denning reviewed slides with statistics on: population, labor force, housing characteristics, conditions and year built, water and sewer, transportation, existing zoning and land use, rezoning cases, utility providers, fire protection, soils, floodplain, septic tank suitability, farmland characteristics, open space, historic and scenic sites, the Town's Master Plan for Open Space and the Town's Master Park Plan.

Mr. Denning reviewed the recommendations made by the Eastover Committee including continuance of the Urban Services concept, Municipal Influence Area, nodal commercial corridors, development of a water and sewer plan, transportation plan, promoting industrial use, using smart growth policies and establishment of a Wade Study Area Citizens' Planning Committee. He said that the main goals of the Committee were health and public safety, utilities, residential areas and parks and recreation.

Mr. Denning said that the action plan for the Town included:

- Developing a zoning ordinance
- Creating standards for entrance corridors
- Developing a landscape ordinance
- Creating methods for farmland protection
- Expanding the Municipal Influence Area
- Including road improvements in the Thoroughfare Plan;
- Pursuing a spur off of the CSX Railroad
- Connecting to a more reliable water source
- Developing incentives for development
- Developing a neighborhood improvement plan
- Preserving the historic and scenic sites

Chair McNeill asked how large the committee was that helped to form the Plan. Mr. Denning said that it started out with 25 or 30 and dwindled to six or seven.

Mr. Barrett said that in order to preserve the very sensitive area of the river, it may be necessary to look at the area designated for industrial use. Mr. Gillis said if the river was navigable by large barges, there would be a large bearing on the industrial use. Mr. Barrett said that it would be a serious problem in maintaining the bluffs.

Mr. Averette asked if the committee had access to the paper written on Municipal Influence Areas. Mr. Denning said that they did not. Mr. Averette said that the residents need to know that they're taking on a lot of responsibility with an MIA. Mr. Denning said that if the Town keeps the same standards as the County, it shouldn't be a problem. Mr. Averette said that he was referring to water and sewer.

Chair McNeill referred the Plan to the Comprehensive Planning Committee

B. STATE LAWS REGARDING GROUP HOMES—GRAINGER BARRETT

Mr. Barrett said that Federal law requires accommodations for handicapped and advocates for disabled and handicapped populations have been very aggressive across the country using provisions of the Fair Housing Act to attack zoning laws that don't allow group homes. He said that they usually win, and they win large settlements. He said that the County could not discriminate against group homes in residential settings just because they're group homes.

Mr. Barrett said when neighborhoods express apprehension, they're basing their apprehension solely on it being a group home. He said when the Planning Board and County Commissioners

agree on this basis, it is grounds for a lawsuit. He said that the Fair Housing Act makes group homes tricky and could be a dangerous issue. He said that group homes are: large (more than six persons; up to six persons; and therapeutic foster homes (no more than two foster children with one live-in foster parent).

Chair McNeill asked if all are required to have supervision 24 hours per day, seven days a week. Mr. Barrett said that they are.

Mr. Barrett said that the state licenses and regulates the physical facilities and training. He said that group homes must be a permitted use in all residential districts. He said that handicapped (physically, mentally and emotionally—whether temporarily or permanently) persons are allowed in the group homes unless they are dangerous to others. This involves serious bodily harm to another and extreme destruction of property.

Mr. Barrett said that the Commissioners adopted a ½-mile distance requirement between group homes last year. He said that there may be a need to assess annually whether anyone is in a group home who is considered dangerous. He said that the staff also needs to review the logistics of the permitting process. He said that the County school system is very good with educating “handicapped” persons, so this draws children from outside the County who need places to live, and thus the need for so many group homes.

VI. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Ms. Roy reported that the Committee on MIA met once and scheduled a second meeting for July 23. She said that the intention is to bring something back to the Joint City and County Planning meeting.

Ms. Roy said that four staff persons and Messrs. Averette and Gillis attended a seminar on preserving rural areas held in Wilmington by Randall Aerndt. She said that the seminar was very beneficial, and she has tentatively reserved Mr. Aerndt for a similar seminar for Cumberland County on October 28. She said that it would be advantageous to the County for as many people as possible to attend. Mr. Gillis said that he would notify the Homebuilders' Association, and Mr. Averette said that he would contact the surveyors and engineers. It was also suggested that farmers, elected officials, developers and anyone interested in growth in the County be contacted.

Dr. Olion said that there are several large theater-type areas at Fayetteville State that could possibly accommodate the seminar. Ms. Roy said that she would look into where the best place to hold the seminar would be.

A motion was made by Mr. Averette and seconded by Dr. Olion to support Randall Aerndt's visit on October 28, and to encourage others in the community to attend. The motion passed unanimously.

Ms. Roy reported that the entire staff attended a workshop with Glen Harbeck on customer service. She said that Mr. Harbeck covered information on one-on-one customer relations as well as how to deal with difficult customers at public meetings. She said that the workshop was very beneficial.

VII. ADJOURNMENT

There being no further business, the meeting adjourned at 9:45 p.m.