

Clifton McNeill, Jr.  
Chair  
Cumberland County

Charles C. Morris, Vice-Chair  
Town of Linden  
David Averette,  
Dr. Marion Gillis-Olion  
Roy Turner,  
Cumberland County



## COUNTY of CUMBERLAND

### *Joint Planning Board*

Nancy Roy, AICP  
Director  
Thomas J. Lloyd,  
Deputy Director

Joe W. Mullinax,  
Town of Spring Lake  
Donovan McLaurin,  
Wade, Falcon & Godwin  
Harvey Cain, Jr.  
Town of Stedman

#### MINUTES

October 19, 2004, 7:00 p.m.  
Historic Courthouse, Room #3

#### Members Present

Mr. Clifton McNeill, Chair  
Mr. Charles Morris, Vice-Chair  
Mr. David Averette  
Mr. Harvey Cain, Jr.  
Dr. Marion Gillis-Olion  
Mr. Donovan McLaurin  
Mr. Joe W. Mullinax  
Mr. Roy Turner

#### Others Present

Ms. Nancy Roy, Director  
Mr. Tom Lloyd, Dep. Director  
Ms. Donna McFayden  
Ms. Barbara Swilley  
Mr. Grainger Barrett  
County Attorney

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

#### II. WELCOME NEW MEMBER FROM STEDMAN

Chair McNeill welcomed Mr. Harvey Cain, Jr., the new member representing the Town of Stedman.

#### III. APPROVAL OF/ADJUSTMENTS TO AGENDA

Chair McNeill asked that Case P04-67 be moved from the Consent items to Public Hearing items because people signed up in opposition. A motion was made by Vice-Chair Morris and seconded by Mr. Turner to approve the Agenda as amended. The motion passed unanimously.

#### IV. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

#### V. ABSTENTIONS BY BOARD MEMBERS

Mr. Turner said that he would abstain from discussion and voting on Case P04-60.

#### VI. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

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

#### VII. CONSENT ITEMS

##### A. APPROVAL OF THE MINUTES OF SEPTEMBER 21, 2004

A motion was made by Mr. Averette and seconded by Dr. Olion to approve the Minutes of September 21, 2004 as written. The motion passed unanimously.

## REZONING CASES

- A. P04-68: REZONING OF A 25.48-ACRE PARCEL, A 9.31-ACRE PORTION OF A 28.69- ACRE TRACT AND AN 8.73-ACRE PORTION OF A 30.33-ACRE TRACT, TOTALING 43.52 ACRES, FROM RR TO R10 OR A MORE RESTRICTIVE ZONING DISTRICT ON OLTED ROAD, WEST OF RIM ROAD, SUBMITTED BY CRAWFORD B. MACKETHAN.

The Planning staff recommended approval of the R10 Residential District based on the following:

1. The uses allowed in the R10 District are compatible with the surrounding land use; and
2. The 2010 Land Use Plan calls for low-density residential development at this location.

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

**A motion was made by Mr. Averette and seconded by Mr. Mullinax to follow the staff recommendation and approve the R10 Residential District. The motion passed unanimously.**

- B. P04-69: REZONING OF A .31-ACRE PORTION OF AN 18.0-ACRE TRACT FROM RR TO C1 OR A MORE RESTRICTIVE ZONING DISTRICT AT 2258 NORTH BRAGG BOULEVARD, OWNED BY MARGO PROPERTIES, LLC.

The Planning staff recommended approval of the C1 Local Business District based on the following:

1. The subject property is adjacent to C1 District zoning; and
2. The C1 District recognizes an existing nonconforming use.

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

**A motion was made by Mr. Averette and seconded by Mr. Mullinax to follow the staff recommendation and approve the C1 Local Business District. The motion passed unanimously.**

## PLATS AND PLANS

- A. 04-155: MARINERS POINTE SUBDIVISION REVIEW SOUTH OF CAMDEN ROAD, SOUTHWEST OF MILL CREEK ROAD FOR A VARIANCE FROM SECTION 4.3.G, "FIRE HYDRANTS," CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

No one appeared to speak regarding this case.

**A motion was made by Mr. Averette and seconded by Mr. Mullinax to follow the staff recommendations and approve the variance. The motion passed unanimously.**

## VIII. PUBLIC HEARING ITEMS

- A. P04-60: REZONING OF 19.25 ACRES FROM RR TO C(P), OR A MORE RESTRICTIVE ZONING DISTRICT, AT 8024 RAEFORD ROAD, OWNED BY ANN P. KIRBY.

Mr. Turner left the room.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the C(P) Planned Commercial District based on the following:

The 2010 Land Use Plan adheres to nodal commercial development with transitional zoning, so medium- and high-density residential development is appropriate.

The public hearing was opened.

Mr. Stacey Weaver appeared before the Board representing the owner and proposed developer. He said that this is an extremely high demand area for commercial development. He said since Walmart opened, there has been a sharp increase in demand for commercial property in the area. Mr. Weaver pointed out some of the commercial development in the area and said that there is a lot of activity near the site. He said that the subject property joins C(P) to the east and west, and a portion of the property across the street is zoned C(P)/CU. He said that the northern boundary of the subject property joins the Westpoint Subdivision. Mr. Weaver said that the applicants invited 80 residents to a meeting last week, and five attended the meeting. Mr. Weaver said that his client would like to put in a first class development that will be useful to the neighborhood. He again said that demand is high in the area, especially as the population increases. He pointed out that the average daily traffic count on Raeford Road is 15,000. He said that there is currently sufficient buffering between the subject property and the Tunbridge Subdivision, and the owner is willing to buffer the tract from the Westpoint Subdivision. He said that the property is not suitable for residential use because it is located on a busy thoroughfare. He said that the request fills an existing need, fits in with the character of the neighborhood, will increase the tax base and makes good planning sense.

No one appeared in opposition to the request.

The public hearing was closed.

Mr. Averette said that this is an ideal location for commercial development, and it will not put a demand for additional schools. He said that there is currently good buffering, and the Ordinance will require any additional buffering needed.

**A motion was made by Mr. Averette and seconded by Mr. McLaurin to approve the C(P) Planned Commercial District.**

Dr. Olion asked about the one home next to the site and was told that they were notified of the rezoning, and they would also be buffered from the subject property.

**Upon a vote on the motion, it passed unanimously.**

Mr. Turner returned to the room.

B. P04-66: REZONING OF 8.50 ACRES FROM RR TO C(P), OR A MORE RESTRICTIVE ZONING DISTRICT, AT 5270 CLINTON ROAD, SUBMITTED BY JOSEPH P. RIDDLE III.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the C(P) Planned Commercial District based on the following:

1. The Highway 24/Maxwell Road Land Use Plan Update shows Highway 24 as a boundary for commercial use; and
2. The Planning staff has traditionally followed the nodal philosophy of land use, and this tract is not located within a designated activity node.

The public hearing was opened.

Mr. Joe Riddle appeared before the Board and said that the newspaper reported on this case, and there is some opposition from officials in the Town of Stedman. He said that all of the residents of Vander supported the commercial rezoning for the shopping center that is across the road from the subject property. Mr. Riddle showed the land use in the area and said that he has the largest

investment in Vander and Stedman except for the schools. He said that he has no plans to develop the tract at the present time and plans to purchase only if he can get it rezoned. He said that four and one-half of the eight and one-half acres are actually useable. He said that the back portion of the tract is wet, and he owns the land behind. He said that there is a lot of frontage and not much depth, and heavy traffic—all of which make the property not suitable for residential use. Mr. Riddle said that owner of an adjacent tract contacted him and also wants to rezone her 12 acres. He said that he doesn't need Stedman utilities because spent \$400,000 to bring utilities to the area when he developed the shopping center across the road. He said that he canvassed the properties along Highway 24 in Stedman, and not one commercial establishment looked as good as any he has built. He said that he saw many violations in the Town of Stedman and questioned why they hadn't been cited for Code violations. He said that he doesn't want to build in Stedman. He said that the planners identified the commercial node because he found the property and proposed it for commercial use.

Mr. Ken Freeman appeared before the Board in opposition and said that Stedman isn't a hole in the road. He said that he lives one mile from Stedman and is concerned about the additional traffic that another commercial development will bring to the area. He said that the traffic is already bad, and there has been an increase in accidents at the sharp and dangerous curve.

Mr. Billy Horne appeared before the Board in opposition. He said that he is the Mayor of Stedman, but was appearing to speak for himself—not as mayor. He said that he drives by this site two to six times a day, and traffic congestion has been created by the Food Lion in the shopping center across from the subject property. He said that Mr. Riddle still owns undeveloped commercial property in the area. He said that he didn't object to his buying the property, but he should wait to rezone it until there is a need. He submitted a letter from his son who lives on property near the subject site.

Mr. Donald Carr appeared before the Board in opposition and said he lives in the property that joins the shopping center that houses the Food Lion. He said that he was in favor of that rezoning, and he had no problem with Mr. Riddle purchasing the property, but he is concerned about what he intends to do with it. He said that the residents of the area don't need additional traffic. He said that more traffic could be a big problem because he sometimes can't get out of his driveway with the current traffic.

The public hearing was closed.

Mr. Averette asked about how the future widening of the highway will affect the subject property. Mr. Riddle said that the road is not proposed to change, just to be widened. He said that he put in every turn lane required when he developed the shopping center, and it was a busy road before the Food Lion even went in.

Mr. Averette said that the property is not within the node, but it is adjacent to it. He said the reality is that the whole area should be considered. He said that the subject property isn't good for residential use, and the best use would be commercial.

**A motion was made by Mr. Averette and seconded by Mr. McLaurin to approve the C(P) Planned Commercial District.**

Mr. Cain, representative from Stedman, said that he is not opposed to development, but the applicant has already rezoned property two miles from the Town, and the commercial establishments should be within the Town of Stedman.

**Upon a vote on the motion, it passed four to three with Dr. Olion and Messrs. Cain and Turner voting in opposition.**

- C. P04-67: CONDITIONAL USE OVERLAY DISTRICT AND PERMIT TO ALLOW MINING, QUARRYING, PROCESSING, SALES, ASPHALT AND CONCRETE PRODUCTION ON 700+/- ACRES IN THE A1, RR AND CD DISTRICTS ON THE NORTH SIDE OF MCCORMICK BRIDGE ROAD, EAST OF LILLINGTON HIGHWAY, SUBMITTED BY NEIL YARBOROUGH.

Maps and slides were displayed indicating the zoning and land use in the area. Mr. Lloyd reported 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. Applicant must keep an updated copy of his State permit and conditions on record with the County Planning and Inspections Department; and
2. Applicant must provide to the Planning and Inspections Department prior to application for a zoning permit, documentation from NCDOT that the public thoroughfare to which the operation has access has sufficient load carrying capacity to support the traffic generated by the operation, or that load limits are acceptable.

The public hearing was opened. Packet materials were introduced for the record.

Mr. Neil Yarborough appeared before the Board and introduced the following individuals who were present to answer questions regarding various aspects of the case: Paxton Batham, Mike Jones—economy, Steve Chapel; Steve Reel; Mike Horn—traffic; Chris Reinhart—hydrogeology; Steve Whitt; Dean Wingard—safety; Tom Keith—land value; and Tom Brooks.

Mr. Yarborough said that the 700-acre tract is as remote an area as possible that is close to a major traffic area. He said that it is critical for the County's economic development to have raw materials with which to build. He said that this is one of the few sites that contains the hard rock needed for nearly all construction projects. He said that construction prices escalate if the rock has to be hauled long distances. He added that the proposal is compatible with the Joint Land Use Study conducted with the military.

Mr. Paxton Batham appeared before the Board and said that his Company started in 1939 in North Carolina and was bought by Martin-Marietta. He said that in the 90s, the company split, and sold this section that is now called Martin-Marietta Materials. He said that they began with two quarries and now have more than 430 throughout the United States, with 39 operating quarries in North Carolina. He said that the hard rock is difficult to find and is used in all construction projects—roads, driveways, etc. He said if the rock has to be hauled more than 25 miles, the trucking costs are higher than the product costs.

Mr. Yarborough said he had letters of support from local people who need the product.

Mr. Burgess Marshbanks appeared before the Board in opposition. He said that he served on the Planning Board in Harnett County for many years. He said that he found it interesting that

mounds of paperwork were submitted, and so many experts in their various fields were present, yet he lives next to the subject property and didn't know anything about the proposal until a week ago. He said that he has a high regard for the McCormicks and was glad to hear that they approved the project. He said he wasn't opposed to the project, but wanted to know more about it. He offered his 132-acre tract for sale and said that would show if the proposal would affect the land values.

Mr. Yarborough appeared before the Board in rebuttal and said that they went through the application process and left it to the Planning Department to notify the neighbors. He said that the proposal shouldn't have a negative effect on the surrounding property. He said he would give a copy of all of the documentation to Mr. Marshbanks.

In responding to a question regarding buffering, Mr. Keith said that there is a 350-foot buffer between the quarry operations and Mr. Marshbanks' property. After further discussion, it was determined that some of the buffer was as narrow as 100 feet.

The public hearing was closed.

Vice-Chair Morris asked what would happen to the property when the quarry operations were completed. Mr. Batham said that it will take more than two years to even begin the process, and after permitting, it should take about 50 to 60 years to complete the project. He said that the Reclamation Plan includes rehabilitation of the site to include a large lake and soil stabilization. He said that the mining process is almost like an environmental impact statement and involves approval of seven agencies. He said that the rezoning is the first step.

Chair McNeill said that there is an increasing need for materials of this type, e.g. the Outer Loop and most construction projects.

Mr. Turner asked about the 350-foot buffer from Little River. He asked if any of the river could be polluted. Mr. Batham said that there normally isn't much pollution from quarry operations. Mr. Turner asked how the water is screened from the quarry before it goes into the river. Mr. Steve Whitt, Manager of Environmental Services for Martin-Marietta, said that the water from the pit is sent to a settling cell 300 to 400 feet deep, and only the cleanest water at the top is discharged into the river.

**A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and approve the Conditional Use Overlay District because the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. The motion passed unanimously.**

**A motion was made by Dr. Olion and seconded by Mr. Averette to follow the staff recommendation and approve the Conditional Use Overlay Permit after finding that when completed, 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 land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners. The motion included adding the following conditions:**

- 1. Applicant must keep an updated copy of his State permit and conditions on record with the County Planning and Inspections Department; and**
- 2. Applicant must provide to the Planning and Inspections Department prior to application for a zoning permit documentation from NCDOT that the public thoroughfare to which the operation has access has sufficient load carrying capacity to support the traffic generated by the operation, or that load limits are acceptable.**

**The motion passed unanimously.**

IX. DISCUSSION

A. UPDATE FROM THE LAND USE CODES COMMITTEE—DAVID AVERETTE

Mr. Averette reported that the Land Use Codes Committee has met twice since the last Planning Board meeting. The first meeting involved input from various members of the development community as well as the public. He said that the meeting held earlier this evening was an opportunity for the members to review the staff's recommendations for each of the comments received from the engineers, surveyors, homebuilders, etc. He said that the staff did a good job, and the next meeting was scheduled for November 8, 2004 at 3:00 p.m.

X. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Ms. Roy gave out copies of the Annual Report to the Board members and reviewed each of the sections. She said that copies would be given to the various municipalities' Boards. The Board commended staff on an outstanding job.

XI. ADJOURNMENT

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