

Charles C. Morris
Chair
Town of Linden

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



COUNTY of CUMBERLAND

Planning and Inspections Department

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

Clifton McNeill, Jr.,
Roy Turner,
Dr. Marion Gillis-Olson,
Lori Epler,
Cumberland County

MINUTES August 2, 2005

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Mr. Harvey Cain, Jr.
Mr. Clifton McNeill
Mr. Joe W. Mullinax
Mr. Roy Turner
Ms. Lori Epler

Others Present

Ms. Nancy Roy, Director
Mr. Tom Lloyd, Dep. Dir.
Mr. Grainger Barrett,
County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Epler delivered the invocation, and Chair Morris led those present in the Pledge of Allegiance.

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

A motion was made by Mr. Cain and seconded by Vice-Chair McLaurin to approve the Agenda as submitted. The motion passed unanimously.

III. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF JULY 19, 2005

A motion was made by Mr. McLaurin and seconded by Mr. McNeill to approve the Minutes of July 19, 2005 with the noted changes. The motion passed unanimously.

IV. ITEMS FOR DISCUSSION WITH THE COUNTY ATTORNEY

A. P05-63: PROPOSED REVISION TO SUBDIVISION ORDINANCE SECTION 6.1 VARIANCES

County Attorney Grainger Barrett explained that this section of the Subdivision Ordinance has been problematic for some time. He recommended the Ordinance be revised to remove the term “variance” and insert the term “waiver”. By giving a waiver from standards in the Ordinance, the Planning Board would not need to consider the traditional variance standards when granting a waiver. Also inserted was the word “inequitable” since it relates to fairness and in most of these situations, the Board is simply trying to be fair to applicants. Mr. Barrett explained that these cases are finalized by the Planning Board and need no Board of Commissioner approval. He did note that motions to approve these Waivers should be made in the form of a resolution, e.g., “I move that the Board by resolution find that this waiver be granted” Chairman Morris directed the staff to set a public hearing on this revision to the Subdivision Ordinance.

B. QUASI-JUDICIAL HEARING PROCEDURES

Chairman Morris stated that changes are occurring and he requested that County Attorney Grainger Barrett spend some time explaining new procedures we will be using for Conditional Use District hearings.

Mr. Barrett explained that a quasi-judicial hearing would now be required for all applications for Conditional Use Districts (Density Developments, Mixed Use Districts, PNDs, and others) and a good term to use would be Evidentiary Hearing. The evidentiary hearing differs from a legislative hearing in that the decision is based on “reliable evidence presented at a hearing where all parties have the right to contest and test the evidence.” Mr. Barrett reviewed his memo to the Planning Board regarding Quasi-Judicial Hearing Procedures, two handouts from the School of Government and a script for the chairman’s use during the hearing. It was noted that Board members should disclose any visits to sites and conversations with applicants should be avoided. When approving the permit it is good practice to summarize the evidence presented, but when denying the permit it will be essential to summarize the evidence used to deny. Mr. Barrett also suggested that notice of these hearings highlight the fact that the hearing is evidentiary in nature and suggested that the staff prepare some guidelines for the public so they understand the procedure and the type of evidence they will need to provide.

V. DISCUSSION

Members used some actual prior cases to further discussed the new guidelines and clarify how certain types of evidence should be treated.

VI. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Chairman Morris presented the Committee Assignments for 2005-2006.

VII. ADJOURNMENT

There being no further business, the meeting adjourned at 8:25 p.m.