

**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-Olion,  
Lori Epler,  
Cumberland County

### MINUTES July 19, 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  
Dr. Marion Gillis-Olion

#### Others Present

Ms. Nancy Roy, Director  
Mr. Tom Lloyd, Dep. Dir.  
Ms. Donna McFayden  
Ms. BJ Cashwell  
Mr. Grainger Barrett,  
County Attorney

#### I. INVOCATION AND PLEDGE OF ALLEGIANCE

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

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

Mr. McNeill asked that Case P05-51 be moved from Consent Items to Public Hearing Items and Chair Morris asked that P05-49 be heard after Case P05-51. Mr. Barrett said that Mr. Richard Wiggins, Attorney had a matter to bring before the Board and asked this item be added to the September 20, 2005 meeting. A motion was made by Mr. McNeill and seconded by Vice-Chair McLaurin to approve the Agenda with the changes. The motion passed unanimously.

#### III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

#### IV. ABSTENTIONS BY BOARD MEMBERS

Ms. Epler asked if she could abstain from discussion and voting on Cases P05-40, P05-47 and P05-50. The Board concurred with her request.

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

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

#### VI. CONSENT ITEMS

##### A. APPROVAL OF THE MINUTES OF JUNE 7, 2005

A motion was made by Mr. Mullinax and seconded by Mr. McNeill to approve the Minutes of June 21, 2005 as written. The motion passed unanimously.

#### REZONING CASES

- A. P05-47: REZONING OF 4.59 ACRES FROM R10 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT AT 4270 SWEETWATER DRIVE, OWNED BY JOSEPH P. RIDDLE III.

The Planning staff recommended approval of C(P) Planned Commercial District based on the following:

1. The North Fayetteville Study recommends heavy commercial for the area; and
2. The property is adjacent to commercial zoning on the north and south sides.

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

**A motion was made by Mr. Turner and seconded by Mr. Mullinax to follow the staff recommendation and approve the C(P) Planned Commercial District. The motion passed unanimously with Ms. Epler abstaining from the vote. Dr. Olion was not present for voting on this matter.**

- B. P05-52: REZONING OF 3.28 ACRES FROM R6A TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 102 INDIAN DRIVE, SUBMITTED BY HARVEY H. ALLEN, OWNED BY THE CUMBERLAND COUNTY ASSOCIATION FOR INDIAN PEOPLE.

The Planning staff recommended approval of the C(P) Planned Commercial District based on the following:

1. There is commercial zoning in the surrounding area; and
2. Site plan and Special Use approval is required prior to development.

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

**A motion was made by Mr. Turner and seconded by Mr. Mullinax to follow the staff recommendation and approve the C(P) Planned Commercial District. The motion passed unanimously. Dr. Olion was not present for voting on this matter.**

- C. P05-54: REZONING OF A .23 ACRE PORTION OF A .32 ACRE TRACT FROM CB TO C3 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 201 SOUTH MAIN STREET, OWNED BY TASOS HASAPIS. (SPRING LAKE)

The Planning staff recommended approval of the C3 Heavy Commercial District based on the following:

1. The Spring Lake Land Use Plan calls for downtown development at this location.

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

**A motion was made by Mr. Turner and seconded by Mr. Mullinax to follow the staff recommendation and approve the C3 Heavy Commercial District. The motion passed unanimously. Dr. Olion was not present for voting on this matter.**

#### AMENDMENT

- A. P05-46: REVISION AND AMENDMENTS TO THE STEDMAN SUBDIVISION ORDINANCE, ARTICLE I, SECTION 1.8 "DEFINITIONS", BY ADDING IN ALPHABETICAL ORDER MUNICIPAL INFLUENCE AREA, AND ARTICLE IV, SECTION 4.3 "OTHER REQUIREMENTS", BY ADDING SECTION 4.3.g "SIDEWALKS". (STEDMAN)

The Planning staff recommended approval of the amendments to the Stedman Subdivision Ordinance as submitted by the Town of Stedman staff.

**A motion was made by Mr. Turner and seconded by Mr. Mullinax to follow the staff recommendation and approve the amendment as written. The motion passed unanimously. Dr. Olion was not present for voting on this matter.**

#### PLATS AND PLANS

- A. 05-095: DAVID LEE GROUP DEVELOPMENT REVIEW LOCATED SOUTH OF FAIRCLOTH BRIDGE ROAD, EAST OF WADE-STEDMAN ROAD, FOR A VARIANCE FROM SECTION 3.20.D "LOT STANDARDS", CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

**A motion was made by Mr. Turner and seconded by Mr. Mullinax to follow the staff recommendation and grant the variance. The motion passed unanimously. Dr. Olion was not present for voting on this matter.**

#### VII. PUBLIC HEARING ITEMS

- A. P05-51: REZONING OF SEVEN PARCELS TOTALING 137.96 ACRES FROM A1 AND RR TO R10 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 5549 BRAXTON ROAD, SUBMITTED BY PATRICIA C. HOLLOWAY, OWNED BY P. R. BARKER.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended approval of the R10 Residential District based on the following:

1. The 2010 Land Use Plan calls for low density residential development at this location.

The Planning staff found that the subject property could be suitable for R20 and R15 Residential Districts.

Mr. Lloyd reviewed the location of PWC water and sewer in the area and explained that water and sewer would be extended to the site.

The public hearing was opened.

Mr. William Byrd appeared before the Board in opposition to the request and said that he lived in the Gallberry Farm Subdivision. He informed the Board that he was not concerned about the R10 zoning. He said that there was too much development being done without any road improvements. He told the Board that there was a lake behind his property and wanted to know how the proposed R10 development would effect the lake. He said there needs to be better roads and devices to handle the traffic.

Chair Morris explained that when NCDOT approves the site plan for the development that they would make sure there is adequate access to the property.

The public hearing was closed.

Mr. McNeill said that within a mile radius of this property that the Board has approved R10 zoning to allow approximately 4, 000 new homes in the past three years. He told the Board that the schools were already over capacity. He said part of the tract is zoned A1 and felt RR would be appropriate for the tract as there was other RR zoning in the area. He told the Board that the R10 zoning shown on the map was where approximately 2,200 homes and apartments would be developed. Mr. McNeill said Mr. P. R. Barker, the owner, was present and asked if he had any rebuttal to what had been said.

Mr. P. R. Barker said he owned the property and access would not be provided through Gallberry Farm Subdivision. He told the Board that water and sewer would be extended to the site. He said he had donated the land for the Gallberry Farm School and felt it was up to the School Board to provide anything further.

Mr. Lloyd explained that even though the property is adjacent to the Hope Mills City Limit that this parcel of land falls within the City of Fayetteville's territory through agreement.

Mr. P. R. Barker told the Board that he had a contract with the city to be annexed.

**A motion was made by Mr. McNeill and seconded by Mr. Turner to deny the rezoning to R10 Residential District and approval of the A1 Agricultural District to RR Rural Residential District.**

Vice-Chair McLaurin said he agreed with Mr. McNeill and told the Board that much of the rapid development of R10 zero lot line subdivisions does not allow enough area around the property for children to play.

Chair Morris said that RR is less restrictive than the R10 and allows more uses.

**Upon a vote on the motion, it passed 4 to 3 with Vice Chair McLaurin, Messrs. Cain, Turner and Mr. McNeill voting in favor and Chair Morris, Mr. Mullinax and Ms. Epler voting in opposition to the motion. Dr. Olion was not present to vote.**

- B. P05-49: REZONING OF 3.25 ACRES FROM A1 TO R40A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 4945 CEDAR CREEK ROAD, SUBMITTED BY DENVER MCCULLOUGH, OWNED BY JAMES E. DAVIS.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the R40A Residential District and approval of A1A Agricultural District based on the following:

1. The A1A zoning designation is more compatible with the surrounding zoning in this area.
2. The A1A zoning designation is intended for tracts of 10 acres or less within agricultural areas.

The public hearing was opened.

Mr. Archie Fields appeared before the Board in opposition to the request and said he lived three houses west of the property. He told the Board he was opposed to any rezoning that allowed development on less than one acre. He said smaller lot sizes would not be in keeping with what is already in the area. He informed the Board that he felt the R40A zoning would allow a trailer park type setting and lower property values. He said he was told the A1A requires one acre for development and would be more in keeping with the area. He asked what would happen with the three mobile homes and house with the zoning change.

Mr. Lloyd explained that A1A allowed double wide manufactured homes and the single wide mobile homes could only be replaced with double wide manufactured homes but anything on the site could remain. **He said with A1A density that three units are allowed and R40A would allow four units with application of the rounding provision within the Cumberland County Zoning Ordinance.**

Ms. Mary Holmes appeared before the Board in opposition and said she represented four family farms. She told the Board that she was in agreement with the staff recommendation of A1A and was opposed to R40A. She explained to the Board that A1A zoning would be more in keeping with the trend in the area. She said they were opposed to anything that would allow additional density except for the A1A zoning.

Mr. W. C. Moorman, Jr. said he was opposed to the R40A zoning and was in support of the A1A. He said if you could show pictures of the site, you would see that there are larger homes on larger sites. He informed the Board that current houses built in the area were valued at \$300,000. He said as a taxpayer that larger homes on larger sites have a smaller impact on support services. He said the roads are used heavily and A1A would not increase the density and would have less of an impact on the roads.

The public hearing was closed.

**A motion was made by Mr. Turner and seconded by Mr. Cain to follow the staff recommendation and deny the rezoning of R40A Residential District and approval of A1A Agricultural District. The motion passed unanimously.**

#### CONDITIONAL USE DISTRICT AND PERMIT

- A. P05-23: REZONING OF 11.83 ACRES FROM A1 TO RR OR TO A MORE RESTRICTIVE ZONING DISTRICT AND A CONDITIONAL USE DISTRICT AND PERMIT TO ALLOW RESIDENTIAL USE OF THE PROPERTY UPON REMOVAL OF THE SALVAGE YARD, LOCATED AT 7008 GOLDSBORO ROAD, OWNED BY YOLANDA BAREFOOT, ET. AL.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd informed the Board that after the original meeting in April, the applicant was asked to meet with staff and submitted a Conditional Use District and Permit application. He told the Board that the applicant had submitted a site plan delineating the salvage area and they were in the process of cleaning up the site. Mr. Lloyd reported that the Planning staff recommended denial of RR Rural Residential District and approval of R40A Residential District/Conditional Use District based on the findings that the request is reasonable, neither arbitrary nor unduly discriminatory and in the public interest.

The Planning staff recommended approval of the Conditional Use 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 land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners.

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

1. The old house be removed prior to any development; and
2. The salvage be relocated to the designated areas as shown on the site plan.

The Planning staff found that the subject property could be suitable for the A1A Agricultural District.

The public hearing was opened.

Mr. Jerry Olsen appeared before the Board representing Yolanda Barefoot and told the Board the purpose of the request is to give property to the children and grandchildren. He said Mr. Barefoot's father has been a mechanic and salvage person for over 50 years and still has not quit work yet. He told the Board that the original plan was to clear the site of the salvage vehicles but Mr. Barefoot's father has not yet retired. He explained to the Board that they are now moving the vehicles into the designated salvage areas as shown on the site plan. He said they had met with Planning staff and they were in agreement with the staff recommendation.

Vice-Chair McLaurin asked if the aerial photo could be shown. He said the photo shows that the whole side of the site is covered with junk vehicles and not divided in certain areas. **He questioned the wisdom of creating more density around junk vehicles where children are prone to play. He also mentioned that three little boys had suffocated in the trunk of a car.** Mr. Olsen said it was a salvage business and there was more than just vehicles on the site **such as stoves and refrigerators.** He said they were in the process of moving the salvage to the designated areas as shown on the site plan.

Vice-Chair McLaurin asked why the vehicles, which may have fluids in them, were being placed in a wet area. Mr. Olsen said it was to get the vehicles off the road and eventually they wanted to clear the site of all the salvage. He said that none of the children were in the salvage business. Mr. Lloyd told the Board that the staff felt the vehicles had been there so long that there were no fluids and no conditions needed to be required.

The public hearing was closed.

**A motion was made by Mr. McNeill and seconded by Ms. Epler to follow the staff recommendations and deny RR Rural Residential District and approval of R40A Residential District/Conditional Use District because the application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest. The motion passed with Vice-Chair McLaurin voting in opposition.**

**A motion was made by Mr. McNeill and seconded by Ms. Epler to approve the Conditional Use 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 the following conditions being added to the Conditional Use Permit:**

1. The old house be removed prior to any development; and
2. The salvage be relocated to the designated areas as shown on the site plan.

**The motion passed with Vice-Chair McLaurin voting in opposition.**

## REZONING CASES

- A. P05-40: REZONING OF A 29.93-ACRE PORTION OF A 104.64-ACRE TRACT FROM A1 TO R40, SOUTH OF HEARTPINE DRIVE, EAST OF NC HIGHWAY 87 SOUTH, SUBMITTED BY TREY MCLEAN, OWNED BY JOHNSON HUTAFF INVESTMENTS, LLC.

Ms. Epler left the room.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd said this case was heard in June and is a zero lot subdivision under development. He explained that 5.37 acres out of the 29.93 acres is be allocated for

the zero lot line density. He told the Board that the applicant has requested that the 24.56 acres be considered for the rezoning to R40. Mr. Lloyd reported that the Planning staff recommended approval of R40 Residential District on 24.56 acres of the 29.93 acre tract as shown on the revised sketch map, based on the following:

1. Development in the area has changed since the 2010 Land Use Plan.

The Planning staff recommended denial of the 5.37 acre portion of this request based on the following:

1. This land (5.37 acres) has already been used for density purposes in the first phase of this zero lot line development.

The Planning staff found that the subject property could be suitable for the A1A Agricultural District.

Chair Morris asked if the 5.37 acres could be developed. Mr. Lloyd explained that it could be developed.

The public hearing was opened.

Mr. Trey McMillan told the Board that they thought that the R40 zoning was in keeping with the character of the area. He informed the Board that they were in agreement with the staff recommendations. He said the residents in the area approved of this request.

The public hearing was closed.

**A motion was made by Vice-Chair McLaurin and seconded by Mr. McNeill to follow the staff recommendations and approve R40 Residential District for the 29.93 acres and the 5.37 to remain A1 Agricultural District. The motion passed unanimously. Ms. Epler was not present for voting or discussion on this matter.**

- B. P05-42: REZONING OF 186.0+/- ACRES FROM RR TO R10, OR A MORE RESTRICTIVE ZONING DISTRICT, ON THE NORTH AND SOUTH SIDES OF SUNNYSIDE SCHOOL ROAD, WEST OF I-95, SUBMITTED BY CHRIS PUSEY, OWNED BY C. E. JONES, JR.
- C. P05-43: REZONING OF TWO PARCELS TOTALING 83.03+/- ACRES FROM A1 AND RR TO R10 OR A MORE RESTRICTIVE ZONING DISTRICT, EAST OF L.A. DUNHAM ROAD, SOUTH OF SUNNYSIDE SCHOOL ROAD, SUBMITTED BY JIMMY HOLLAND, OWNED BY MARCUS EDWARDS DEVELOPMENT, LLC.

Ms. Epler returned to the room.

Chair Morris said that Case No. P05-42 and P05-43 would be considered together.

Maps and slides were displayed illustrating the zoning and land use in the area. He said both cases would have water and sewer extend to the properties. He told the Board that there was concern expressed by the residents about the drainage in the area. He said for this reason, the staff had recommended a Conditional Use District

that would address the maintenance of the detention ponds. He told the Board that the applicants were contacted to ask if they wanted any pictures included in the presentation tonight and none were given. Mr. Lloyd reported that the Planning staff recommended denial of the R10 Residential District based on the following:

1. The additional development that this request would allow if approved, cannot be supported by the existing public infrastructure due to the prevalence of hydric soils coupled with a lack of adequate storm water drainage.

Note: This site would be more appropriate for R15 Residential District Density Development/CUD.

The public hearing was opened.

Mr. James Smith told the Board that they wanted to develop something that would promote a nontransient setting. He said the 2010 Land Use Plan calls for low density residential development and R5 and R6 are considered high density. He said R10 to R15 is considered medium density. He informed the Board that the Planning staff recommended R15 and they felt that they could live with the R15 zoning as it would make the lots a little larger.

Mr. Lloyd explained to the Board that the Planning staff recommended a R15 Residential District Density Development/CUD. He said a plan would have to be provided and approved by the Board. Mr. Smith asked if the R15 zoning approved for Mr. Gillis had the same requirements. Chair Morris explained that the new zoning ordinance was approved June 20<sup>th</sup> that included Conditional Use District Development. Mr. Smith said there would be a homeowners' association in place to maintain all the common areas of the subdivision.

Mr. Lloyd said they still would be allowed to use the R15 density but developed on 60% of the land. He said the Board asked staff to meet with the developer to explain the regulations and the staff meet with the developers and explained the density development.

Mr. Jim Holland informed the Board that he was a member of the design team and that they had already submitted a petition for annexation. He said there was already water and sewer in the area. He told the Board the residents at the last meeting expressed concern about the water drainage. He explained that would be controlled by concrete pipes, sedimentation and detention ponds. He said they are only in the initial planning stages. He said they would accept R15 zoning as the staff recommended.

Ms. Barbara Shumway appeared before the Board in opposition to the request and said the developer had been given additional time to formulate a plan for the wetlands. She told the Board that the water from her property drains on the property proposed for development. She said the developers have not provided any concrete information on their proposed development. She said she was concerned about the displacement of the wildlife and the affect of the development on their habitat. She said the schools were already over capacity and wanted to know what would be done with the children from the additional 1,000 homes in the area.

Mr. Edward Wallace appeared before the Board in opposition to the request. He said they recently had heavy rain and they had a high water table. He asked the staff to show the pictures that he provided and reviewed them with the Board. He told the Board that farmers dug ditches just to drain the land so they could farm it. He said there is a power line in the back and a sewer line for Cape Fear High School that runs next to it. He told the Board there were two streams that ran into the woods on the 83 acre tract. He said when there is a lot rain the whole area floods and runs across Sunnyside School Road

Mr. Charlie Renzel appeared before the Board in opposition to the request. He told the Board he lived on Dunham Road and when the hurricanes come in during the fall of the year that there is so much water that he had to go on the neighbor's property to get to his property and one time had to drive a tractor to leave his property.

Mr. Ned Garber appeared before the Board in rebuttal and said the residents concern of the drainage would be resolved. He explained that the Corps of Engineers and the NC Department of Natural Resources would ensure everything is done according to the regulations. He told the Board that they were discussing a rezoning process and not an engineering process. He said the engineering part would be handled at a later time. He said he knows the Board wants additional information but that costs money. He told the Board if they spent the money for additional engineering and the rezoning fell through then that would be lost money. He explained that they were asking the Board if this would be proper zoning for the property and not what type of soils or water table were there. He informed the Board that he had talked to staff from the schools and they have never been opposed to zoning.

Mr. James Smith appeared before the Board in rebuttal and said that the development is coming and that they wanted to do it in an orderly fashion. He told the Board that if you place a lot of restrictions on development that the developers will go to Hoke, Harnett and other counties. He told the Board that you had to have a balance of industry, commercial and residential development that none of it could survive without this.

The public hearing is closed.

Mr. Turner said he has heard all the testimony from both sides and thought the applicant would have presented an engineering plan on how the water was going to be diverted. He said even with the different type of soils in the area that he felt even R15 zoning would not be appropriate. He said he would be more in favor of R20 zoning.

Vice-Chair McLaurin said that according to the minutes that Mr. Pusey indicated they were proposing about 500 houses. He said according to the information the staff provided, that R20 density allowed 469 units.

**A motion was made by Vice-Chair McLaurin and seconded by Mr. Turner to deny the rezoning to R10 Residential District and approval of R20 Residential District for Case P05-42 and Case P05-43.**

Ms. Epler told the Board that she felt they had a responsibility to the community that the drainage problems be resolved. She said if this was approved as a straight rezoning then there would be no further plan review.

Chair Morris said he agreed with the R20 zoning but felt it would be appropriate to add a Conditional Use District that would address the concerns of the community and asked Vice-Chair McLaurin if he would amend his motion. Mr. McNeill said he thought the CUD was done with the consent of the applicant.

Mr. Barrett said the philosophy behind the suggesting a CUD was with the contention that when a straight rezoning is about to be denied that the applicant would have the option to propose or consent to a CUD to address any concerns.

Mr. McNeill said the applicant has stated they were not interested in a R15 CUD. Mr. Lloyd informed the Board that he wanted the applicant to know that RR and R20 have the same density.

**Upon a vote on the motion, the vote was a tie and the motion failed.**

Chair Morris asked if they would be in agreement with a R20 CUD. Mr. Garber told Board that the Planning staff recommended an R15 CUD and they were in agreement with the staff.

**A motion was made by Vice-Chair McLaurin and seconded by Mr. McNeill to deny the rezoning to R10 Residential District for Cases P05-42 and P05-43. The motion passed 6 to 2 with Dr. Olion and Mr. Mullinax voting in opposition.**

D. P05-44: REZONING OF 2.28 ACRES FROM A1 TO R40A OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 1491 CARRISBROOKE ROAD, OWNED BY KENNETH FAIRCLOTH.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the R40A Residential District and approval of A1A Agricultural District based on the following:

1. The A1A zoning district designation is more compatible with the surrounding zoning in this area.
2. The A1A zoning designation is designed for small tracts of 10 acres or less.

The public hearing was opened.

Mr. Kenneth Faircloth appeared before the Board and said he had no problem with the staff recommendation of A1A Agricultural District. He told them it would allow him to place two dwellings on the property and that was all he needed.

The public hearing was closed.

**A motion was made by Mr. McNeill and seconded by Mr. Mullinax to follow the staff recommendation and deny the R40A Residential District and approval of A1A Agricultural District. The motion passed unanimously.**

- E. P05-48: REZONING OF .49 ACRES FROM R10 TO C1(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 607 FAIRVALE DRIVE, OWNED BY CHERYL L. JOHNSON.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of C1(P) Planned Local Business District based on the following:

1. The 2010 Land Use Plan calls for low density residential at this location; and
2. The commercial zoning would cause an encroachment into the residential area.
3. Reilly Road amendment to the 2010 Land Use Plan specifies “the commercial uses not be expanded beyond the rear lot line of the existing lots that front Reilly Road.”

The public hearing was opened.

Ms. Cheryl Flex appeared before the Board in behalf of the request and said the property zoned C1 in front has been in the family since 1963. She told the Board that someone will buy the property contingent on the zoning being approved. She said the property zoned C1 belonged to her grandmother that has recently passed away. She told the Board she lived there with her mother and her mother was in need of handicap facilities. She explained that the way the property was cut that they could not built on the site. She told the Board that she would like to have the property rezoned so that they could sell it and move to another site.

Mr. Lloyd explained that since both properties belong to the family that the properties could be recombined and meet the Reilly Road Plan guidelines.

The public hearing was closed.

**A motion was made by Chair Morris and seconded by Vice-Chair McLaurin to defer the case for 90 days or sooner to allow the applicant time to resolve the ownership issues. The motion passed unanimously.**

- F. P05-50: REZONING OF TWO PARCELS TOTALING 110.50 ACRES FROM RR TO R10 AND C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF MUSCAT ROAD, SOUTH OF BLACK BRIDGE ROAD, OWNED BY GRRF, LLP.

Ms. Epler left the room.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd informed the Board that water and sewer would be provided to the Board and falls within the Town of Hope Mills annexation jurisdiction. Mr. Lloyd reported that the Planning staff recommended denial of the R10 Residential District and C(P) Planned Commercial District based on the following:

1. There are currently no public utilities available to the site.

Note: If utilities were extended to the site, a Mixed Use Development/CUD could be considered.

Mr. Lloyd told the Board that the staff was concerned about traffic from Muscat Road. He said NCDOT may require turn lanes but they would not automatically widen the road with a new development.

The public hearing is opened.

Mr. Tom Speight told the Board that PWC would allow the water to be run across the road and PWC asked that they install a pump station and extend an 8 inch gravity line in the area. Mr. Speight presented a copy of the proposed development and stated that all the wetlands had been delineated as shown on the plan. He said according to their layout that only 225 lots could be developed along with 3 commercial lots. He explained that it would cost about \$400,000 just to extend water and sewer to the property.

Vice-Chair McLaurin said that R15 zoning would allow the same number of lots. Mr. Speight explained that the lot sizes would be different. He said in doing the development that you have to calculate for the roads and take out the property that can not be used.

Vice-Chair McLaurin asked if he would object to a CUD. Mr. Speight asked if the CUD would allow the property to be developed as presented. Mr. Lloyd explained that 15% of the property would have to be left open.

Mr. McNeill asked if he would like to defer his case to review the regulations on CUDs. Mr. Speight said he would like the Board to make a decision tonight and then he would come back and revise his request if needed. Chair Morris said no changes could be submitted for a year.

Mr. Speight said the Planning staff expressed concern about the commercial lots and asked if the Board would approve everything except the commercial out parcels. Chair Morris said you would have to wait a year before you could reapply for the commercial portion. Mr. Lloyd told the Board that Mr. Speight's office had already reviewed the CUD regulations and the CUD was not one of their options. Mr. Lloyd said the Planning staff was not in opposition to the R10 zoning. Mr. Speight said that he could not make a decision without talking with his client and asked for a deferral.

The public hearing is closed.

**A motion was made by Dr. Olion and seconded by Vice-Chair McLaurin to defer the case for 30 days. The motion passed unanimously.**

G. P05-53: REZONING OF 2.25 ACRES FROM R10 TO RR OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 4245 CAMERON ROAD, OWNED BY THOMAS O. H. BECK.

Ms. Epler returned to the room.

Maps and slides were displayed illustrating the zoning and land use in the area. Mr. Lloyd reported that the Planning staff recommended denial of the RR Rural Residential District based on the following:

1. The zoning district requested does not fit in with the character of the area.

The public hearing was opened.

Mr. Thomas Beck told the Board that this was his first home purchase and he takes care of a disabled brother. He explained that he would like to place a mobile home on the site for his mother so that he could take care of her. He told the Board that the Planning staff said RR was the zoning needed to accomplish this.

Mr. David Wilson said he used to reside at the same address and told the Board there were multi-uses and commercial in the area. He explained that they had talked with residents in the area and no one was opposed to the rezoning.

The public hearing was closed.

Mr. McNeill asked if RR allowed Class A Manufactured homes. Mr. Lloyd said yes and the R20 also allows Class A Manufactured homes.

Mr. McNeill asked Mr. Beck what type of home was he going to place on the lot. Mr. Beck said it would be a Class A Manufactured home.

**A motion was made by Mr. McNeill and seconded by Ms. Epler to deny the RR Rural Residential District and approval of the R20 Residential District. The motion passed unanimously.**

#### PLATS AND PLANS

A. 05-085: JESSE D. & PETRA NORTHWEATHER ZERO LOT LINE  
SUBDIVISION REVIEW AT THE EAST END OF RACE FAN DRIVE, EAST OF  
WAYNE LANE, FOR A VARIANCE FROM SECTION 3.20 "LOT STANDARDS",  
CUMBERLAND COUNTY SUBDIVISION ORDINANCE.

Mr. Lloyd explained to the Board that the property consists of two lots and the applicant would like to have four lots to give land to her children. He informed the Board that it was a legal nonconforming lot that existed prior to zoning. He said the applicant had approached residents in the area to pave the 30 foot easement or the access road, Race Fan Drive and the owners do not want a paved access. Mr. Lloyd reported that the Planning staff recommended denial of the variances based on the following:

1. The approval of new lots being served by easements for access will set a precedence for other similar requests and increase traffic over private property without the owner's permission.

Mr. Lloyd informed the Board he was not at that staff meeting and that the Board has already set a precedence to allow the split of legal non-conforming landlocked property into two lots in that area.

Mr. Barrett said there is case law in North Carolina that an easement over some one's property is granted for a certain burden and not further than what was originally granted. He explained by the owners of the easement not agreeing to the paving of the road that they would have legal claim to the further subdivision of the property and is a matter of private property rights. He told the Board if they approved the request that it may not resolve the issues between the owners and the applicant.

Chair Morris asked if the road would have to be done as a gravel road. Mr. Lloyd said the easement is not an approved private street but Race Fan Drive would be. Chair Morris said with the addition of these lots that Race Fan Drive should be paved. Mr. Lloyd said the road should be paved now but existed prior to the amendment.

Ms. Petra Northweather told the Board that they had built a house for their daughter and needed the Board's approval to have access to the property. She explained there was no way to build a road to access the lots and without the approval of the variance there is no access.

Mr. McNeill asked if the subdivision was approved, would they be allowed to put two dwellings per lot. Mr. Lloyd said according to private street regulations they would not. Mr. McNeill said if they were limited to one dwelling per lot then there would be one additional dwelling allowed.

Chair Morris explained that if someone from one of the lots decided to sell their property ten years from now, there would be a legal issue with the access to the property either with the easement or Race Fan Drive.

Mr. Lloyd said he was told by the applicant that they use the easement for access and not Race Fan Drive.

Ms. Northweather said the owners of the easement had no problem with them creating the lots. Ms. Epler said they just don't want to pave the road. Ms. Northweather said no that the owners did not want it paved.

Mr. McNeill asked who maintained the easement. Ms. Northweather said they maintained the easement.

Mr. Lloyd explained that there were a lot of legal nonconforming lots between King Road and Stoney Point Road that people had purchased prior to the subdivision regulations existed.

**A motion was made by Mr. McNeill to approve the variance as requested because an additional dwelling would not create a hardship on the community. He said based on the topography and the existence of other unusual physical conditions, not approving this variance would invoke unnecessary hardship to the owner.**

**The motion was seconded by Mr. Mullinax and approved subject to the Conditions of Approval. The motion passed unanimously.**

#### VIII. DISCUSSION

Dr. Olion informed the Board that she was resigning from the Board due to family obligations. She said she has enjoyed being on the Board and if the opportunity arose again that she would like to serve on the Board.

#### IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:55 p.m.