

MINUTES
OCTOBER 18, 2005

Members Present

Mr. Charles Morris, Chair
Mr. Donovan McLaurin, Vice-Chair
Mr. Clifton McNeill
Ms. Sara Piland
Ms. Lori Epler
Mr. Garland Hostetter
Ms. Diane Wheatley, County Commissioner

Others Present

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

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. McNeill delivered the invocation, and led those present in the Pledge of Allegiance. Chair Morris welcomed Mr. Garland Hostetter to the Board.

II. APPROVAL OF/ADJUSTMENT TO AGENDA

Mr. Tom Lloyd notified the Board that Case P05-75 had been pulled from the agenda by staff. The subject property is to be included in an overall zoning case in the town of Wade, at a later date.

A motion was made by Mr. McNeill and seconded by Ms. Piland to approve the agenda as submitted. The motion passed unanimously.

III. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

IV. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions.

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 OCTOBER 04, 2005

A motion was made by Ms. Lori Epler and seconded by Mr. McLaurin to approve the Minutes of October 04, 2005 as written. The motion passed unanimously.

REZONING CASES

- A. P05-70: INITIAL ZONING OF 8.88 ACRES TO R6A AND C(P), LOCATED EAST OF DUNN ROAD, NORTH OF OLIVE STREET, SUBMITTED BY THE TOWN OF WADE. (WADE)
- B. P05-78: REZONING OF A 1.51 ACRE PORTION OF A 34.92 ACRE TRACT FROM R10/CU TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT LOCATED AT THE SOUTHWEST QUADRANT OF NC HWY 87 SOUTH AND DOC BENNETT ROAD, SUBMITTED BY TERRI J. HART, OWNED BY CARRIAGE CROSSING, INC.

CONDITIONAL USE DISTRICT AND PERMIT

- A. P05-77: REZONING OF 46.26 ACRES FROM R10 TO A MIXED USE DEVELOPMENT/CONDITIONAL USE DISTRICT AND PERMIT, LOCATED SOUTH OF THE HOPE MILLS ROAD BYPASS, NORTH OF SYCAMORE DRIVE, SUBMITTED BY MATTHEW A. CRUMP, OWNED BY CROSSPOINTE CHURCH.

A motion was made by Ms. Piland and seconded by Ms. Epler to to approve the items on the consent agenda.

Mr. McNeill noted that the CU District and Permit should be voted on separately. This was verified by Mr. Barrett. Ms. Piland amended her motion to exclude P05-77. Amended motion passed unanimously.

P05-77 Conditional Use was reintroduced. Mr. McLaurin made a motion to find that the Conditional Use District application is reasonable, not arbitrary nor unduly discriminatory, and in the public interest, and that the Conditional Use be approved . Seconded by Mr. McNeill. Motion carried unanimously.

Chair Morris stated that the plan presented before the Board and detailed in the newspaper was refreshing to see.

P05-77 Conditional Use Permit was reintroduced. Mr. McLaurin made a motion to find that the Conditional Use Permit will not materially endanger the public health and safety, will not substantially injure the value of adjoining or abutting property and will be in harmony with the area in which it is to be located, and will be in conformity with the land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners, and that it be approved. Seconded by Mr. McNeill. Motion carried unanimously.

Chair Morris notified the audience that cases P05-70, P05-77, and P05-78 would be presented to the County Commissioners at their 11-21-05 meeting. A public comment period begins at 6:45 and the meeting begins immediately following the comment period. The audience was given an opportunity to exit the meeting.

VII. PUBLIC HEARING ITEM

- A. P05-62: REZONING OF 24.20 ACRES FROM A1 TO R10 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED NORTH OF CYPRESS LAKES ROAD, WEST OF SOUTH FORTY DRIVE, SUBMITTED BY JAMES A. MCLEAN III, OWNED BY FRANKLIN R. FOWLER.

Mr. Lloyd presented maps and slides illustrating the general location, zoning, and land use in the area. He specified that the developer would be required, by the Subdivision Ordinance, to provide PWC sewer to the property by bringing it under Cypress Lakes Road. Mr. Lloyd reported that the Board had originally seen this case presented at the August 16, 2005 meeting and at that time the Board, as well as the staff, was concerned with the increased development on this site and the limited access to the property. The Board had requested that the petitioner work on the access points. The petitioner now shows the proposed access as a private street coming through the ball field off of Delancy Drive, which is a public street. The private street will be developed in accordance with NCDOT standards. Mr. Lloyd further noted that there were currently no pictures of where the access road would be on the property.

Mr. Lloyd stated that the staff had recently discussed new information and had agreed that they would be amenable to R10 or R15, especially R15, based on the following: (1) the petitioner is required by the Ordinance to provide water and sewer, (2) the property is located within the Urban Services Area, and (3) the 2010 Plan calls for low-density residential development.

Mr. Lloyd stated that the original staff recommendation was denial of the R10 District and approval of the R20 District based on the finding that the R20 District is in character with current development in the immediate area. He stated that the R15 District was suitable.

The Public Hearing was opened.

Mr. James A. McLean III spoke in favor of the rezoning request. He stated that he was surprised to hear that the staff was more amenable to R15. He noted that R15 had originally been presented as a compromise to R10. His client has agreed that R15 is best suited for the development in the area. His developers are members of the community and certainly care about it. They want to put in something that is an asset to the community. They basically want to develop high-end homes in the R15 zoning district with not very large yards. They plan to market to empty nesters but not skimp on the housing. Their market range will be \$200,000 to \$250,000. They certainly don't want to develop any kind of multi-family properties. His clients believe R15 is very appropriate. Mr. McLean further stated that the developer needed the number of lots to recoup the cost of providing utilities.

Chair Morris interjected at this time to ask if the speaker was amending his petition to R15 at this time. Mr. McLean stated that he was.

Paperwork was circulated to the Board reflecting the provision of a private access street. Mr. Barrett stated that with all due respect, the Board must disregard the paperwork as it was unsupportable and undetailed and therefore not a legally enforceable document of provision of access.

Mr. McNeill asked for clarification that the access is required for the property to be developed. Mr. Barrett answered that the statement was correct and that the type of development would depend on the type of access provided.

Chair Morris requested that Mr. Lloyd clarify the difference between R10 and R15. Mr. Lloyd stated that if the access road were a private street, then 100 lots would be allowed on the property if zoned at R10, and 67 lots would be allowed on the property if zoned at R15. Therefore the difference would be 33 lots greater with R10.

Barbara Jones appeared before the Board in opposition to the request. She is in favor of an R20 District, due to the surrounding area being zoned R20. Ms. Jones was concerned with the amount of traffic that would be generated and stated that the original street was not made for this volume of traffic.

Hubert Turner spoke in opposition to the request. His concern was to assure that the property was not zoned R10, and noted that the surrounding development is built to R20 standards. Mr. Turner stated that he appreciated R15, but would prefer R20. He urged the Board to rezone the property as high as was reasonably possible. Mr. Turner expressed his concern with maintaining his property value.

Bobby Lockamy spoke in opposition to the request. He stated that he was opposed to R10 and would prefer R15 or greater. He understood that the last Board meeting had closed with the indication that the Board would hear the case again with the consideration of R15 or greater. Mr. Lockamy noted that the access road was a concern for those with restrictive covenants in place along Kiara Drive, and that the corner lot being considered as an access point. He stated that R15 or R20 would be of greater conformity to the community standards that have already been set.

Jack Priester spoke in opposition to the request. His concern was also the access to the property. He noted that the previous Board meeting had left him with the understanding that the property would be reconsidered at a zoning of R15 or better. Chair Morris interjected that the petitioner had amended his request to reflect R15, although the original request was R10.

Herb Beckwith appeared to speak in opposition to the request. His concern was the point of access. He noted that Kiara Drive should be left the way it is.

In rebuttal, Mr. McLean reiterated for the record that R15 is what they had planned on and what they want. His client's major concern is the financial

expense of providing water and sewer. That cost is the deciding factor in complying with the regulations. The access Mr. McLean has been instructed by his client to talk about is the one near the ball field. That access point is where his client is planning to proceed. Mr. McLean reiterated that R15 is what his client wants and is a justifiable compromise.

The Public Hearing was closed at 7:47 p.m.

Mr. McNeill asked for clarification that under the regulations set by the County Ordinance, either R15 or R20 will require the developer to provide water and sewer. Mr. Lloyd confirmed that statement. Mr. McNeill expressed his opinion on the increased development in the area and stated that it wouldn't be too many years before there would be no more large tracts available. Mr. McNeill noted that he was inclined to go along with R15 and that R10 was too high-density for that area.

Mr. McNeil presented a motion, seconded by Ms. Epler, to deny the R10 District and approve an R15 District. The motion passed unanimously.

Chair Morris stated that the recommendation for this property to be rezoned to an R15 District would be heard before the Board of County Commissioners at 6:45 p.m. on November 21, 2005.

VIII. DISCUSSION

Mr. McNeill updated the Board on the 10-17-05 County Commissioners meeting. He noted that several cases were contested. The Commissioners did approve the R40/CUD and Mr. McNeill stated that he considered that first approval to be a milestone. Mr. McNeill questioned Mr. Wiggins statement at the previous Board meeting as to his client's approval of the R40/CUD. Mr. McNeill stated that the minutes reflected that the Eastover Group was in favor of the staff recommendation, not the petitioner, as he had understood Mr. Wiggins to say. He noted that the Board should be more careful to read the minutes for accuracy instead of quickly approving them without paying enough close attention. Mr. McNeill noted that he would have liked for the Commissioners to have seen that Mr. Wiggins made that statement.

Ms. Piland questioned whether the minutes should be corrected. She further agreed with Mr. McNeill's statement on what Mr. Wiggins actually said.

Ms. Roy stated that the tapes would be listened to and the information would be gleaned to ascertain what was actually said.

Ms. Epler noted that the CUD is a new concept and stated that although it was not the Board's job to make sure that the developers and attorneys understand what they are applying for before they agree to it, the Board does have a responsibility to clarify it for them.

Ms. Epler stated that the minutes did reflect that Mr. Wiggins stated that the Eastover group was in favor of the R40/CUD. She further stated that Mr. McNeill may have been referring to Mr. Wiggins' rebuttal to the Board.

Mr. Lloyd stated that the staff would take special care to review the minutes in the future.

Mr. McNeill also reviewed the Zarco Johnson case, which was heard by the Commissioners.

Ms. Wheatley asked what the next step would be in the Johnson case. Ms. Roy and Mr. Lloyd noted that Mr. Johnson now has a zoning violation on that property. The property will be monitored by staff and Mr. Johnson would be cited in violation if the junked vehicles are not moved. Ms. Roy noted that there were several tools available for the staff to utilize, including the issuance of fines and Environmental Court.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

Ms. Roy reported to the Board that the Planning Conference was a huge success. She noted that Commissioner Diane Wheatley gave the welcome on behalf of the County Commissioners and did a wonderful job. Ms. Roy stated that she had received absolute rave reviews about the conference and thanked the Board members for their support.

Ms. Roy informed the Board that she felt that conference attendees who had arrived here with thoughts of "Fayettenam" and Rick's Lounge left the conference with changed opinions.

Mr. McLaurin noted that the Cape Fear River tour was very nice.

X. ADJOURNMENT

There being no further business, the meeting adjourned at 8:28 p.m.