

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Patricia Hall,
Town of Hope Mills
Charles C. Morris
Town of Linden



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce
Town of Eastover

MINUTES December 18, 2007

Members Present

Mr. Donovan McLaurin, Chair
Mrs. Lori Epler, Vice-Chair
Mr. Clifton McNeill
Mrs. Patricia Hall
Mr. Garland Hostetter
Mr. Harvey Cain, Jr.
Mr. Roy Turner
Mrs. Sara Piland
Mr. Benny Pearce

Others Present

Mr. Thomas Lloyd, Director
Ms. Donna McFayden
Mr. Grainger Barrett, County Attorney
Commissioner Diane Wheatley
Mrs. Laverne Howard

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Benny Pearce delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF/ADJUSTMENTS TO AGENDA

Mr. Lloyd advised the Board that Case P07-100 was withdrawn. It will come before the Planning Board at the January 15, 2008 meeting, resubmitted as R40.

Mrs. Piland made a motion to accept the adjustments to the agenda, seconded by Mr. Hostetter. Unanimous approval.

III. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions.

IV. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS

Mr. Lloyd read the policy statement.

V. APPROVAL OF THE MINUTES OF NOVEMBER 20, 2007

A motion was made by Vice-Chair Epler, seconded by Mrs. Piland, to accept the November 20, 2007 Board minutes as submitted. Unanimous approval.

VI. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P07-94:** REZONING OF 1.8 ACRES FROM A1 TO R40A OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 10484 NC HIGHWAY 210 SOUTH, SUBMITTED BY STACEY M. MELVIN, OWNED BY JOSEPH G. MELVIN.

The Planning & Inspections Staff recommends approval of the R40A Residential District based on the following:

1. The request is consistent with the 2010 Land Use Plan, which calls for Farmland at this location – 2010 Land Use Plan specifies R40A as suitable in the designated farmland areas; and
2. The request is consistent with the uses and lot sizes of properties within the general area.

The R40 Residential District is also suitable for this area.

A motion was made by Vice-Chair Epler, seconded by Mr. Hostetter to follow the staff recommendation and approve case P07-94 as submitted. Unanimous approval.

- B. **P07-95:** REZONING OF TWO PARCELS TOTALLING 3.93 ACRES FROM R6 TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 150 AND 220 WEST MOUNTAIN DRIVE, SUBMITTED BY CHARLES E. HORNE, OWNED BY CHARLES E. HORNE AND BILLY D. AND FAY J. HORNE.

The Planning & Inspections Staff recommends approval of the C(P) Planned Commercial District based on the following:

1. Even though the request is not consistent with the 2010 Land Use Plan, which calls for Medium Density Residential at this location, the area is transitioning to non-residential uses at this location;
2. West Mountain Drive is identified as a major thoroughfare; and
3. Public utilities are available to the site.

The R5 and R5A Residential, O&I(P) Office and Institutional, and C1(P) Local Business districts could also be found suitable for this area.

A motion was made by Vice-Chair Epler, seconded by Mr. Hostetter to follow the staff recommendation and approve case P07-95 as submitted. Unanimous approval.

- C. **P07-96:** REZONING OF .94 ACRES FROM R10 TO R6A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTHWEST SIDE OF CAMDEN ROAD, EAST OF VICTOR HALL LANE, OWNED BY WOODROW AND GLADYS M. SWEAT.

The Planning & Inspections Staff recommends approval of the R6A Residential District based on the following:

1. Even though the request is not consistent with the 2010 Land Use Plan, which calls for Low Density Residential at this location, the request is consistent with the zoning and land uses within the general area; and
2. There are no hydric soils limiting the development of the subject property.

The R6 Residential District could also be found suitable for this site.

A motion was made by Vice-Chair Epler, seconded by Mr. Hostetter to follow the staff recommendation and approve case P07-96 as submitted. Unanimous approval.

- D. **P07-99:** REZONING OF .002 ACRES FROM C(P)/CU TO C(P), LOCATED WITHIN THE PUBLIC RIGHT-OF-WAY OF US HIGHWAY 13 (GOLDSBORO ROAD) / I-95 INTERCHANGE, STAFF INITIATED. (EASTOVER)

The Planning & Inspections Staff recommends approval of the C(P) Planned Commercial District based on the following:

1. This rezoning will remove a Conditional Use Overlay previously approved on this property "to allow an off-premises high-rise advertising sign" (Case No. P97-52); and
2. The subject property is now within the public right-of-way and the sign has been removed.

There are no other suitable zoning districts to be considered for this site.

A motion was made by Vice-Chair Epler, seconded by Mr. Hostetter to follow the staff recommendation and approve case P07-99 as submitted. Unanimous approval.

VII. CONSENT PLATS & PLANS

- A. **CASE NO. 07-161:** CONSIDERATION OF CROSSWINDS, SECTION FOUR, ZERO LOT LINE SUBDIVISION REVIEW, WAIVER FROM SECTION 3.20.2 "MUNICIPAL INFLUENCE AREA" (HOPE MILLS – SIDEWALKS & CONCRETE CURB & GUTTER), COUNTY SUBDIVISION ORDINANCE, LOCATION: BOTH SIDES OF PHILODENDRON DRIVE AND NORTH OF SR 2997 (HEIDELBERG DRIVE), EAST OF SR 1132 (LEGION ROAD).

At the November 20, 2007 meeting of the Joint Planning Board, the Board members present requested that the Town Board of Commissioners make a formal recommendation concerning the applicant's request for waivers from the Town's sidewalk and concrete curb and gutter provisions.

Staff tried to get this case on the December 3rd Hope Mills agenda; however, the agenda packet had already been prepared and the schedule was full.

A motion was made by Mr. McNeill, seconded by Mr. Hostteter, to follow the Hope Mills Board of Commissioners and the staff recommendation and approve the waiver for asphalt curbs with swales but not the sidewalks for Plat & Plan Case 07-161. Unanimous approval.

- B. **CASE NO. 07-192:** WAIVER REQUEST FOR THE RONALD L. WILLIAMS PROPERTY (SUBDIVISION REVIEW) FROM SECTION 4.2.C "PRIVATE STREETS" (NUMBER OF LOTS), COUNTY SUBDIVISION ORDINANCE; ZONING: A1; TOTAL ACREAGE: 86.9 +/-; LOCATION: NORTH SIDE OF BOYCES LANDING ROAD (CLASS C PRIVATE STREET), EAST OF SR 1825 (SOUTH RIVER SCHOOL ROAD).

The developer is requesting approval of a sixth lot on an existing Class "C" (dirt) private street. The private street was approved and recorded providing access for five lots in 1998. At that time Class "C" private streets could be approved for serving a maximum of seven lots; the maximum number of lots served by a Class "C" private street was reduced to four in 2000.

The developer's request is based on the fact that they agreed to allow the Class "C" private street to be created traversing their property to serve five large tracts at end of the street which, at that time, were and continue to be owned by other individuals. Additionally, the developer has used and continues to use the Class "C" private street – once a farm road - for access to the farm structures.

The Planning & Inspections Staff recommends approval of the waiver from Section 3.20.d based on the following:

1. Because of the existence of other unusual physical conditions, in that: the roadway within the private street served the farm buildings prior to approval as a street and has continued to do so since the street was approved, denying the developer the ability to subdivide the farm property from the parent tract would cause a special and unnecessary hardship to the developer and would be inequitable;
2. The purposes of the Subdivision Ordinance and Zoning Ordinance will be served to an equal or greater degree because the amount of traffic along the street will not be increased as a direct result of subdividing the land where the farm structures are located from the parent tract;
3. The property owner will not be afforded a special privilege denied to others since this development will not cause the private street to serve more lots than what would have been allowed at the time the private street was submitted for approval and subsequently recorded on public record and in this type of situation with a similar set of facts and circumstances, the Staff recommendation would be the same.

A motion was made by Mr. McNeill, seconded by Mr. Hostteter, to follow the staff recommendation and approve the waiver for the 6th lot on a Class "C" private street for Plat & Plan Case 07-192. Unanimous approval.

- C. **CASE NO. 07-197:** WAIVER REQUEST FOR THE DONNIE J. & SHARON BOWDEN PROPERTY (GROUP DEVELOPMENT REVIEW) FROM SECTION 3.20.D "LOT STANDARDS" (ACCESS), COUNTY SUBDIVISION ORDINANCE; ZONING A1; TOTAL ACREAGE: 16.14+/-; LOCATION: EAST SIDE OF BUTCHER HOLLOW ROAD, SOUTHWEST OF SR 1609 (E REEVES BRIDGE ROAD).

The developer is requesting approval for a second dwelling unit on property that cannot comply with the minimum 20-foot lot frontage standard of the ordinances. The subject property's access is protected by a recorded ingress/egress easement.

The request is supported by the fact that the subject property is an existing legal lot under the state statute that except tracts of land greater than ten acres from local jurisdiction's definition of "subdivision."

The Planning & Inspections Staff recommends approval of the access waiver based on the following:

1. Because of the size of the tract being developed, strict compliance with the group development provisions of the Subdivision Ordinance would cause a special and unnecessary hardship to the property owner and be inequitable;
2. The purposes of the Subdivision and Zoning Ordinance are being served to an equal or greater degree, in that the access to the subject property is protected by means of a 20-foot recorded ingress/egress easement; and
3. The property owner is not being afforded a special privilege denied to others since the Board's past practice has been to grant such waivers in cases with a similar set of facts and circumstances.

A motion was made by Mr. McNeill, seconded by Mr. Hostetter, to follow the staff recommendation and approve the access waiver for Plat & Plan Case 07-197. Unanimous approval.

- D. **CASE NO. 07-198:** WAIVER REQUEST FOR THE JOE & CRYSTAL HEATH PROPERTY (GROUP DEVELOPMENT REVIEW) FROM SECTION 3.20.D "LOT STANDARDS" (ACCESS), COUNTY SUBDIVISION ORDINANCE; ZONING: A1 AND CD; TOTAL ACREAGE: 10.5+/-; LOCATION: NORTH OF VAULT FIELD ROAD, EAST OF SR 1609 (COLLIERS CHAPEL CHURCH ROAD).

The developer is requesting approval for a second dwelling unit on property that cannot comply with the minimum 20-foot lot frontage standard of the ordinances. The subject property's access is protected by a recorded ingress/egress easement.

The request is supported by the fact that the subject property is an existing legal lot under the state statute that except tracts of land greater than ten acres from local jurisdiction's definition of "subdivision."

The Planning & Inspections Staff recommends approval of the access waiver based on the following:

1. Because of the size of the tract being developed, strict compliance with the group development provisions of the Subdivision Ordinance would cause a special and unnecessary hardship to the property owner and be inequitable;

2. The purposes of the Subdivision and Zoning Ordinance are being served to an equal or greater degree, in that the access to the subject property is protected by means of a 20-foot recorded ingress/egress easement; and
3. The property owner is not being afforded a special privilege denied to others since the Board's past practice has been to grant such waivers in cases with a similar set of facts and circumstances.

A motion was made by Mr. McNeill, seconded by Mr. Hostetter, to follow the staff recommendation and approve the access waiver for Plat & Plan Case 07-198. Unanimous approval.

- E. **CASE NO. 07-201:** WAIVER REQUEST FOR THE GRADY E. CHAMBERS & PRISCILLA C. LINDBOM PROPERTY (GROUP DEVELOPMENT REVIEW) FROM SECTION 3.20.D "LOT STANDARDS" (ACCESS), COUNTY SUBDIVISION ORDINANCE; ZONING: A1; TOTAL ACREAGE: 11.41+/-; LOCATION: NORTH SIDE OF VAULT FIELD ROAD, EAST OF SR 1705 (LOOP ROAD).

The developer is requesting approval for a second dwelling unit on property that cannot comply with the minimum 20-foot lot frontage standard of the ordinances. The subject property's access is protected by a recorded ingress/egress easement.

The request is supported by the fact that the subject property is an existing legal lot under the state statute that except tracts of land greater than ten acres from local jurisdiction's definition of "subdivision."

The Planning & Inspections Staff recommends approval of the access waiver based on the following:

1. Because of the size of the tract being developed, strict compliance with the group development provisions of the Subdivision Ordinance would cause a special and unnecessary hardship to the property owner and be inequitable;
2. The purposes of the Subdivision and Zoning Ordinance are being served to an equal or greater degree, in that the access to the subject property is protected by means of a 50-foot recorded ingress/egress easement; and
3. The property owner is not being afforded a special privilege denied to others since the Board's past practice has been to grant such waivers in cases with a similar set of facts and circumstances.

A motion was made by Mr. McNeill, seconded by Mr. Hostetter, to follow the staff recommendation and approve the access waiver for Plat & Plan Case 07-201. Unanimous approval.

VIII. PUBLIC HEARING CONTESTED ITEMS

- A. **P07-92:** REZONING OF AN 8.21 ACRE PORTION OF A 34.99 ACRE TRACT FROM R10 TO R6A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF SELMA DRIVE, EAST OF I-95 BUSINESS SOUTH, OWNED BY WEDTEC INC.

Mr. Lloyd reviewed the site information and stated the staff recommends denial of the R6A Residential District based on the following:

1. The request is not consistent with the 2010 Land Use Plan, which calls for Low Density Residential at this location; current zoning is consistent;
2. Public sewer is not available to serve the subject property upon development; and
3. Hydric soils are present on the southern portion of the subject property.

There are no other suitable zoning districts to be considered for this site.

Public Hearing opened.

Mr. Wilbur Dees spoke in favor. Mr. Dees stated that there are thirty four acres on this piece of property that is zoned R10, of the thirty-four acres, there are twenty acres of swampland, lowland and wetlands. There is about twelve acres that is very good land. Mr. Dees stated that under the R10 zoning the density would allow two hundred and two units. Mr. Dees is requesting R6A zoning, on eight acres of the tract, where you would be allowed eight units per acre, which would provide a density of 64 units. But I am only asking for a total of 19 units. If you should approve the zoning, I would agree to limit the number of units that could be based in there on that basis. Mr. Dees provided a layout showing how many units he is proposing.

Vice-Chair Epler asked Mr. Lloyd if the staff did any calculations as to density on R20A or RR.

Mr. Lloyd responded no, because we usually don't zone down the existing zoning. It should be more restrictive.

Vice-Chair Epler asked Mr. Dees if he was planning to put manufactured homes on this property.

Mr. Dees stated yes.

Vice-Chair Epler stated that she wasn't supposed to ask that, but if that is his plan maybe there is something that the Board can do for him.

Chuck Romans spoke in opposition. Mr. Romans read a statement written by his wife. The concerns are about how any construction will affect the wetlands behind his home. When Mr. Romans bought his home, he was told there would be no building behind him, because of the wetlands. Mr. Roman's is also concerned about the changes in the landscaping. He feels that the clearing of trees and building up on lots will affect drainage. Mr. Romans stated that he is all for progress, but not at the expense of the wetlands and his own personal property.

Mr. McNeill asked if Mr. Romans was on public sewer.

Mr. Romans responded that he was on septic.

Mr. McNeill asked if the drainfield was in his backyard, and if he'd had any problems with it.

Mr. Romans stated that the drainfield was in the backyard and he had not had any problems with it.

Charles Thaggard spoke in opposition. Mr. Haggard stated that the Lake Lynn subdivision has an active homeowners association to help protect the residents' property rights. Mr. Thaggard feels that this development will be an infringement on his property values and property rights.

Robert Howard spoke in opposition. Mr. Howard stated that he thinks the mobile homes would take away from the homes already in the area.

Roberto Barron spoke in opposition. Mr. Barron stated that the number of units Mr. Dees wants to add keeps fluctuating. He feels that once Mr. Dees gets approved for a certain amount of units, he will keep adding more and end up with around two hundred units.

Suzanne Barron spoke in opposition. Mrs. Barron stated that from her house you will be looking right into the trailer park. Mrs. Barron stated if that mobile home park is built her stick built home won't be worth anything.

Walter Cline spoke in opposition. Mr. Cline stated that he owns a few lots on a three acre portion of land, where you will be able to see the mobile home park. Mr. Cline presented a picture of his home and stated that a mobile home park will cause a 25-30% devaluation of the value of his house.

John Griffith spoke in opposition. Mr. Griffith stated that the Lake Lynn subdivision will be affected by this mobile home park. Mr. Griffith stated that the area surrounding the subdivision is very swampy and doesn't feel that the land will perk for septic. Mr. Griffith feels that the development of this mobile home park will bring down the tax value of the surrounding properties.

Mr. Dees spoke in rebuttal. Mr. Dees stated that he is aware of all the rules regarding building and wetlands. Mr. Dees stated that all the land is usable land, whether it's used for manufactured homes or low rent housing. Mr. Dees restated that he would agree to a maximum of nineteen units.

Public Hearing closed.

Mr. Barrett reminded the Board that even though they were shown a site plan, the case before them is a general rezoning, and a decision cannot be based on the site plan.

Mr. McNeill asked if the R6A on Huntsville and Alabama roads was in place when the initial zoning was done.

Mr. Lloyd stated that he believes it was.

Mrs. Hall asked Mr. Lloyd if the R10 zoning is the current R7.5 zoning, and if the only difference that is being requested is that the R6A will allow manufactured homes.

Mr. Lloyd stated that that was correct and in addition would allow more units.

Mr. McNeill asked if the large tract of land zoned as R10 was initially zoned in 1979, and if Mr. Lloyd had any guesses as to why it was initially zoned R10.

Mr. Lloyd stated that he didn't know why it was initially zoned that way.

Vice-Chair Epler stated that if her calculations were correct, she believes the applicant can get fifteen units on that property at R20A. With that and the consideration of the hydric soils, given that neighborhood, I can understand their concerns. But the hydric soils, and what appear to be wetlands on the aerial photo will give them a little bit of relief there, as far as a buffer is concerned.

Mr. Lloyd stated for clarification that R20A will allow Class "A" only, doublewide.

Mr. Barron was allowed to speak again. Mr. Barron asked to see the hydric soils again.

Vice-Chair Epler explained that even though hydric soils are shown, there is no sewer available. So the applicant, wherever he decides to put a home it will have to have a septic tank and it will have to perk. If those are hydric soils than he most likely will not be able to build on it.

A motion was made by Chair McLaurin, seconded by Mrs. Piland to follow the staff recommendation and deny the request for rezoning to R6A for case P07-92. The motion passed with 8 voting in favor and 1 opposed.

IX. DISCUSSION

Chair McLaurin brought up the issue of time limits. Chair McLaurin asked for some guidance from the Board as to what to do when speakers exceed the time limits.

Mrs. Piland said we should stay with the policy.

Mr. Turner said the policy statement states the time limits and speakers should be held to that.

Mr. Lloyd stated that it's okay to remind speakers to present new information, not to repeat what has already been said.

Mrs. Piland stated that she felt once the public hearing has been closed, it should remain closed.

Mr. Turner gave an update on the County Commissioner's meeting. Mr. Turner stated that all of the rezoning cases that went before the Commissioners went just like the Planning Board voted on.

Chair McLaurin asked the Board if they wanted to cancel the January 1, 2008 Planning Board meeting.

A motion was made by Mr. Hostetter, seconded by Mrs. Piland to cancel the January 1, 2008 Planning Board meeting. Unanimous approval.

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

X. ADJOURNMENT

There being no further business, the meeting adjourned at 8:10 p.m.