

Charles C. Morris,
Chair
Town of Linden
Donovan McLaurin,
Vice-Chair
Wade, Falcon & Godwin

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Pat Hall,
Town of Hope Mills



COUNTY of CUMBERLAND

Planning and Inspections Department

MINUTES
FEBRUARY 20, 2007

Thomas J. Lloyd,
Director
Cecil P. Combs,
Deputy Director

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. ADJUSTMENTS TO AGENDA

Mr. Combs advised the Board that case P07-01 would be moved from the Consent Agenda to Public Hearing.

III. PUBLIC HEARING DEFERRALS

- A. P07-04: REZONING OF 46.07+/- ACRES FROM A1 TO R15/DD/CUD AND PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF OLD VANDER ROAD, NORTHWEST OF SIMMONS CARTER RD, OWNED BY GERTRUDE V. HARRIS.
- B. P07-10: REZONING OF 5.51 ACRES FROM RR TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 6417 CAMDEN ROAD, SUBMITTED BY BRAD YOUNG, OWNED BY USA STORAGE CENTER, LLC.
- C. P07-12: REZONING OF .58 ACRES FROM R6A TO C(P) OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 144 AIRPORT ROAD, OWNED BY MARK AND KIM WARREN.

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

IV. ABSTENTIONS BY BOARD MEMBERS There were no abstentions.

V. POLICY STATEMENT REGARDING PUBLIC HEARINGS

Mr. Combs read the policy statement regarding Public Hearings.

VI. CONSENT ITEMS

A. APPROVAL OF THE MINUTES OF FEBRUARY 6, 2007

A motion was made by Mr. McNeill, seconded by Mrs. Piland, to approve the minutes as written. The motion passed unanimously.

PLAT & PLAN CASE

- B. CASE 07-005: CONSIDERATION OF THE TIMOTHY L. JOHNSON PROPERTY, SUBDIVISION REVIEW, REQUEST FOR A WAIVER FROM SECTION 3.20.2, "MUNICIPAL INFLUENCE AREA COMPLIANCE", COUNTY SUBDIVISION ORDINANCE, LOCATION: ON THE NORTH SIDE OF SR 207 (BEAVER DAM ROAD), EAST OF SR 2022 (SWEET COURT).

Staff recommends approval of the waivers based on the findings that because of the condition and nature of the subject property and the adjoining areas, strict compliance would cause a special hardship to the property owner and be incompatible with the surrounding area since the property owner's proposed development is located in an area which consist primarily of farmland and single family homes on large lots where the sidewalks and other improvements are essentially nonexistent; the public purposes of the Subdivision and Zoning Ordinances is being served to an equal or greater degree because the property owner is in compliance with the standards of the County's regulations and his proposed development is compatible with the surrounding development and land uses in the general area and the Town is recommending approval of the waivers; and the property owner would not be afforded a special privilege denied to others since the Town and the Planning & Inspections Staff are working on exemption standards for the smaller municipalities' ordinances, specifically addressing development standards for areas where increased development is not expected in the foreseeable future.

REZONING CASES

- C. P07-01: REZONING OF FOUR PARCELS TOTALING 8.47+/- ACRES FROM R40 TO R20 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTHWEST SIDE OF RAMSEY STREET, EAST OF W. REEVES BRIDGE ROAD, OWNED BY ARNELL V. BOBBITT. * *THIS CASE WAS PULLED FROM CONSENT TO PUBLIC HEARING.
- D. P07-11: REZONING OF 2.52 ACRES FROM A1 TO R40A OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 4942 TABOR CHURCH ROAD, OWNED BY JUAN A. AND ANGELA R. MARTINEZ.

Staff recommends approval of the R40A district based on the findings that the request is consistent with the 2010 Land Use Plan, which calls for "Farmland" at this location; and the R40A district is consistent with the character of the general area. The A1A zoning district is the only other suitable district to be considered for this request.

MIXED USE/CONDITIONAL USE DISTRICT AND PERMIT

- E. P07-13: REZONING OF THREE PARCELS TOTALING 79.88 ACRES FROM R10 TO MXD/CUD AND PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT, AT 5819, 5933, AND 6007 CAMDEN ROAD, SUBMITTED BY THOMAS L. BRADFORD, OWNED BY THOMAS L. BRADFORD, CLIFFORD C. AND SHARON H. MCCULLOUGH, JR, AND MARJORIE R. HANKS.

Staff recommends approval of the Mixed Use/Conditional Use District and Permit even though the request is not entirely consistent with the 2010 Land Use Plan, based on the findings that the request meets the intent of the Mixed Use District, which was adopted with the intent of allowing for innovative development by providing use flexibility while maintaining quality design; the subject property has direct access to two major thoroughfares, Camden and Rockfish Roads; the request is reasonable and in the public interest because the development plan supports several initiatives and federal/state mandates such as: air quality, walkability, Clean Water Act, storm water management, etc.; and the subject property is located within the Town of Hope Mills Municipal Influence Area and the Town has no objection to the request. There are no other suitable zoning districts to be considered for this request.

Mr. Combs advised the Board that a change had been made to the required conditions for this case. He stated that the Town of Hope Mills, the applicant, and staff had agreed to the deletion of condition #11 requiring sidewalks.

A motion was made by Mrs. Piland and seconded by Mrs. Epler, to accept Plat & Plan case 07-005, rezoning case P07-11 as submitted and case P07-13 as submitted, but with the deletion of condition #11. Unanimous approval.

VII. PUBLIC HEARING ITEMS

REZONING CASES

- A. P07-01: REZONING OF FOUR PARCELS TOTALING 8.47+/- ACRES FROM R40 TO R20 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE NORTHWEST SIDE OF RAMSEY STREET, EAST OF W. REEVES BRIDGE ROAD, OWNED BY ARNELL V. BOBBITT.

Mr. Combs reviewed the site information and stated that staff recommends approval of the R20 district based on the findings that although the R20 zoning district is not consistent with the 2010 Land Use Plan, it is consistent with the recent development and requests for approval within this area; Linden water is available and, upon development, connection will be required. The R30 zoning district is the only other suitable zoning district to be considered for this request. The Public Hearing opened.

Mr. Pete Cartelli addressed the Board in favor of the request. He stated that several buyers have expressed an interest in this property but that the demand is for smaller lots. He stated that staff has agreed with him that R20 is suitable for both the area and his need. He asked the Board to support the staff recommendation.

Ms. Arnell Bobbitt, owner, stated that her intended use for this property was as both a development for her own family and for personal investment. She stated that an adjacent developer is interested in purchasing acreage from her which would allow her to fund her development plans. She stated that she is trying to work within the scope of the Board's requirements and that she has already invested considerable time and money making this property into a great area. She also feels that she should be allowed to make a profit on her own property. She further stated that the Ordinance and Board requirements are not a problem for her and that she realizes she has much opposition without understanding why. Her home and the proposed homes are very nice modular units. She stated she was being open about her plans and was not trying to hide anything. She distributed a site plan to the Board detailing her proposed plans for the property. She stated that her long range plans included the possibility of a day care. Mr. Lloyd advised her that a future day care request would have to be heard before the Board of Adjustment as a special use. Ms. Bobbitt stated she was aware of that.

Mr. Keith Collier addressed the Board in opposition. He lives across the street from the proposed site and stated that the type of home being constructed is not the issue. His concern is the proposed density. Linden is rural and the residents are there because of the rural nature. He stated that if the Board continued to allow high density development in this area that the entire community will be changed. He also expressed his concern regarding traffic hazards.

Mr. Sherrill Collier spoke in opposition. He is an adjacent neighbor who is concerned with the requested density. He asked the Board to keep the area zoned at R40.

Mr. J. Thomas Neville spoke in opposition. He stated that the rural area of Linden would change if this type of density were to be allowed. He noted that the request was not consistent with the 2010 Land Use Plan and that the change would cause other problems. He cited concerns with drainage, runoff, and traffic safety. He further stated that future development would change the area and that even though the tract currently has a home on it, no one lives there. The house has been standing vacant. He stated that he feels the applicant's true intent and interest is to develop this property for investment purposes. He asked the Board to preserve the character of the area by denying the rezoning request.

Mr. Al Wheatley, neighboring resident, spoke in opposition. He stated that he agreed with all previous concerns mentioned. He stated that he felt that planning staff was basing their consideration on soil types and lot sizes but not on community compatibility. Mr. Wheatley stated that he sees a clear desire by the owner to commercialize a part of this property and that if that were to happen and to go before the Board of Adjustment, the neighboring residents would then have no recourse. He stated that this is unfair to the community.

Mr. Nick Angelone spoke in opposition, stating that his concern was with heavy runoff and septic problems. He urged the Board to deny this high density development request.

Mr. William Taylor spoke in opposition. He stated that he was the previous owner who had sold the property to Ms. Bobbitt and that he felt she was now stating a different plan for the property. He asked the Board to keep the community from changing by denying the request.

He further stated that an approval of the request to R20 or R30 would decrease surrounding property values and increase sewer problems.

Ms. Ellen Farr spoke in opposition. She circulated photos of her newly built home to the Board and stated that she purchased 22 acres to secure the rural setting. She has no opposition to proposed homes but is strongly opposed to destroying the rural atmosphere of the area. She requests that only stick-built homes be allowed. Ms. Farr stated that she does not object to growth but to overgrowth.

Ms. Bobbitt spoke in rebuttal. She stated that the house is currently vacant because she is still waiting on the plumbing permit to be approved and because she has had a recent injury and is unable to physically move in. She stated that she was sympathetic to the neighbor's concerns. She does plan to pave the roads in her development. She stated that she plans to proceed in phases and to do that she must sell off some of her land to raise the money to finance her development. Ms. Bobbitt told the Board that she does not intend to commercialize the area but that the day care on her plan is simply part of her future "wish list". She wants the flexibility to make the best use of her land while at the same time making a profit from it. She told the Board that she is not introducing anything to the neighborhood that is not already there.

Mr. McLaurin asked for clarification of the number of lots and homes. He verified with Ms. Bobbitt that she intended to have her home on the approximately 1.99 acre lot and two more homes on the approximately .99 acre lots as shown on her new unrecorded plat. The remainder of the approximate 11 homes would be on the approximate remaining 4.5 acres. Ms. Bobbitt also confirmed that until the development was completed she would make use of a Class B street because of financial reasons. She stated that she understood the questions that Mr. McLaurin asked and was fully intending to comply with what she had said.

Mrs. Epler asked how many lots could be served by a private street. Mr. Combs advised that 7 lots would be allowed. Ms. Epler advised Ms. Bobbitt that if R20 were to be approved she would have to upgrade the street at her own cost. Ms. Bobbitt stated that she was aware of that requirement and would meet it.

The Public Hearing closed. Mrs. Piland expressed her concern with the transitioning taking place in this area. She stated that R40 best fits the character of the community.

Mr. McLaurin noted that half of the property would be taken up by 3 dwellings and the balance of the acreage or approximately 4.5 acres would be used to try and accommodate 11 additional units with septic tanks. He expressed his concern with the high concentration of dwellings using septic tanks. He noted that the site picture of the back of Ms. Bobbitt's house showed dirt pushed up in piles close to the lake and no silt fence to prevent sediment from getting into the lake. He stated that the large volume of trucks that Ms. Bobbitt said would be on the Class B street during construction would add more sediment running toward the lake because of the sloping topography of the road to the lake. Mr. McLaurin stated that he had been in a meeting earlier in the day when a member of the city council voiced their concern of putting two or more septic systems per acre in the county when public water was available. The City of Fayetteville has had to "rescue" some subdivisions by extending sewer to developers that had done this and then run into trouble. He stated that the close proximity of septic systems combined with the heavy volume of construction traffic, creating possible flows of sediment into the lake, had the potential of creating an environmental catastrophe at this site.

Mr. McLaurin made a motion, seconded by Mrs. Piland, to deny the R20 and grant the R40 Residential District. Unanimous approval.

- B. P06-79: REZONING OF TWO PARCELS TOTALING 68.12 ACRES FROM A1 TO R20 OR TO A MORE RESTRICTIVE ZONING DISTRICT AT 2835 JOHN MCMILLAN ROAD, OWNED BY LAWRENCE C. AND PHILLIP C. SMITH.

Mr. Combs reviewed the case information and stated that staff recommendation for the November 21, 2006 Planning Board meeting was for denial of the R20 district and approval of R40 district based on the findings that the R40 zoning district is consistent with the 2010 Land Use Plan which calls for "Farmland" at this location, R20 is not; the subject property is not served by public water or sewer; Hydric soils are present on the subject property; and the

R40 zoning district is consistent with the current zoning, lot sizes and character of the general area. Due to time constraints, the applicant requested another deferral on December 19, 2006 to be heard on February 20, 2007. Subsequently, Mr. Smith has decided to request R30 on the rear 26+/- acres and R40 on the 42+/- acres. Mr. Combs stated that the staff recommendation remains unchanged – the entire tract should not be considered for a zoning district allowing for a higher density than R40, and that there are no other suitable zoning districts to be considered for this request. The Public Hearing opened.

Mr. Phillip Smith spoke in favor of the request and displayed a contour map to the Board. He stated that effective drainage would not be a problem. He further stated that he was willing to consider R30 zoning on the back portion of the property.

Ms. Patty Nunnery spoke in opposition. She stated that she wanted to preserve the rural character of the area and that the existing road is overwhelmed. She further stated that schools are already overcrowded and that area homeowners have existing drainage and runoff problems. She advised the Board that 90 new homes have been built in the last 5 years within a ½ mile radius of her home. She quoted a Greensboro study done for the Fayetteville Homebuilders Association that reported a lack of area public services in keeping with the amount of recent development. She also referred to recent newspaper articles addressing the school situation and to a previous petition for a case heard before the Board earlier this year.

Ms. Wendy Boudreaux addressed the Board in opposition. She is opposed to further development and asked that A1 zoning be preserved in the area. She noted that there are numerous vacant new homes in the area and that more construction is not needed.

Mr. Smith spoke in rebuttal and pointed out that R20 is not inconsistent with the different zonings that have been approved in the area over the years. He stated that his interest was in preserving the community and that his plans for the property would enhance the area.

The Public Hearing closed. Mr. McNeill stated that he lives in the area and is very familiar with the tract of land being considered. He shares the residents' concerns for the area but believes that Mr. Smith's development plans will actually help to improve the drainage problems in the area. He stated that he was concerned with R20 or R30 on the property and would be more willing to consider R40 for the entire tract.

Mr. McLaurin asked for the definition of hydric soil. Mr. Lloyd stated that hydric soil was considered to be soil that would not perk well during the wet season and was not suitable to supporting septic systems.

Mr. McLaurin stated that he would not be as concerned with this request if the area had public water, but that it does not. He further stated that the 68 acres has approximately 10 acres of hydric soils. This would leave only about 58 acres of possible suitable soils for septic systems. If you deduct 15% for roads this would leave approximately 49.5 acres for 58 homes, on lots averaging approximately 37,000 square feet in a zero lot line subdivision at a density of R40. Due to the lack of public water and the hydric soils he stated that 58 homes with wells and septic on 49.5 acres was probably all that should be allowed from an environmental standpoint.

Mr. McLaurin made a motion, seconded by Mrs. Piland, to deny R20 and approve R40 Residential for the entire tract. Unanimous approval.

Case P06-79: MINUTES OF NOVEMBER 21, 2006 MEETING:

Mr. Lloyd stated that the applicant had requested a deferral for P06-79 until December 19th.

Case P06-79: MINUTES OF DECEMBER 19, 2006 MEETING:

Mr. Lloyd stated that the applicant had requested a deferral for P06-79 until February 20.

VIII. DISCUSSION / DIRECTOR'S UPDATE

Mr. Combs advised the Board that Patricia Hall had been appointed as the new Hope Mills representative to the Board and would join them at the March meeting.

Mr. Lloyd stated that resident concerns expressed during tonight's Public Hearing reinforced the fact that the 2030 Plan will not solve all problems concerning community character preservation. Mr. Lloyd further stated that the citizen comments underscored the need for community involvement in the 2030 Plan development and also for area studies to be done on the Linden and Grays Creek communities.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 8:31 p.m.